

# BUSINESS TERMS OF COOPERATION IN THE AREA OF IT

Česká spořitelna, a.s.

## 1. General provisions

These Business Terms of Cooperation in the area of IT are issued in accordance with the provisions of Section 1751 of the Civil Code, and define the basic rights and obligations of Česká spořitelna, a.s., as the client, and of its contractual partner, as the provider, during their mutual cooperation in the area of delivery of goods and provision of services in the area of information and communication technologies.

## 2. Definition of basic terms

Unless explicitly stipulated otherwise, the following terms used in these business terms and in the Agreement have the following meaning:

**Acceptance:** procedure of handover and takeover of the Performance, which is (depending on the nature of the Performance and arrangements between the parties) contained in the Agreement or in Art. 8 of these business terms. During handover and takeover of the Performance, the provisions of Sections 1949 through 1951 of the Civil Code will not be applied.

**copyrighted work:** the work in the meaning of Section 2 of the Copyright Act. A copyrighted work also refers to a computer program in the meaning of Section 2(2) of the Copyright Act.

**Copyright Act:** Act No. 121/2000 Coll., on copyright, rights related to copyright and the amendment of certain laws, as amended.

**CNB:** Czech National Bank

**DDP:** "Delivered Duty Paid" delivery conditions according to Incoterms 2000.

**Provider:** the client's contractual partner according to the respective Agreement.

**VAT:** value added tax

**Confidential Information:** all information in oral or written form (including information in electronic form), which one contractual party provides to the other contractual party in connection to the Agreement,

regardless of the form of its depiction, including but not limited to information for which a special confidentiality regime is stipulated by legal regulations (in particular banking secrets, personal data of Client's customers), regardless of whether the providing party explicitly identified it as confidential.

However, Confidential Information does not include information that has become publicly known, if this did not occur through violation of the obligation to protect it, information obtained based on a procedure independent of the Agreement and the other contractual party, if the contractual party that obtained the information is able to prove this fact, and information provided by a third party that did not obtain such information by violating one of the contractual parties' obligation to protect such information.

**Invoice:** a tax document corresponding to the relevant tax and accounting legislation of the Czech Republic.

**HW, or hardware:** technical devices or their parts, especially computers, monitors, printers, servers, active components, peripherals, etc.

**IT or information technologies:** HW, SW or their functional interconnection; this term includes also (according to the context) communication technologies and related services.

**Workaround:** temporary removal of the impacts of defect (without removal of their source), which enables the change of categorization of the defect to the defect of lower category.

**Civil Code:** Act No. 89/2012 Coll., Civil Code, as amended.

**business terms:** these business terms of cooperation in the area IT.

**client, also ČS:** Česká spořitelna, a.s., registered office: Prague 4, Olbrachtova 1929/62, Postal Code 140 00, ID Number: 452 44 782, CZ45244782 (CZ699001261 – exclusively for VAT purposes), entered in the commercial register administered by the Municipal Court in Prague, File number B 1171.

**authorised user of Confidential Information:** in relation to the relevant contractual party, its appointed proxies, employees, governing bodies and controlling entities, as well as potential tax, accounting or legal advisors of the contractual parties bound by a legal or contractual nondisclosure

obligation. In relation to the provider the authorised users of Confidential Information are the subcontractors who participate in the Performance and who are contractually bound to protect the client's Confidential Information. In relation to the client these are particularly appointed employees, representatives or advisors of any Erste Group company, other entities in a similar position who need to be familiar with the provider's Confidential Information, and the client's supervisory authorities.

**outsourcing:** the client's activity which is ensured for the client by a third party on a contractual basis. Unless stipulated otherwise by the relevant legal regulations, significant outsourcing is in question if the following activities are outsourced:

- a) activities of such importance that a deficiency or failure in their provision could have a major impact on the client's ability to fulfil prudential rules or the continuity of its activity,
- b) activities, the provision of which by the client is conditioned by the granting of authorisation for the activity by the relevant overseeing authority,
- c) activities that have a major impact on management of the client's risks, or management of risks related to the aforementioned activities.

**Performance:** a service, delivery of HW, software or provision of related performance or provision of related activities, which are performed by the provider for payment based on the Agreement.

**SLA, or Service Level Agreement:** an agreement on the guaranteed level of provided Performance, e.g. warranted level of certain parameters, availability of services, operability of SW or HW, maximum time to reaction on the reported defaults, maximum time to fix the reported default, etc.

**Erste Group:** i.e. a group of commercial corporations directly or indirectly controlled by Erste Group Bank AG, registered office: Am Belvedere 1, A-1100 Vienna, Austria, including this company. Control refers to the holding of an ownership interest of more than 50% in the given company or holding of more than half of the voting rights, directly or indirectly.

**Agreement:** the agreement concluded between the client and provider, which refers (directly or through another agreement between the client and provider) to these business terms, and makes these business

terms a part thereof. To eliminate doubts, the term Agreement also includes these business terms, in the scope in which the provisions of the Agreement do not contain divergence from the content of these business terms. The Agreement may also be concluded in the form of a written order (e.g. client's SAP order), under which the client accepts a written offer from the provider to provide Performance. In these cases, it applies that if the client's order according to the previous sentence contains information beyond the scope of the provider's original offer, stating that the obligation established by the order will be governed by these business terms, this constitutes valid acceptance of the offer, unless the provider rejects such acceptance without undue delay, at latest within 5 business days, in accordance with Section 1740(3) of the Civil Code. If the provider commences fulfilment according to the order before the passing of the deadline according to the previous sentence, it is understood that the provider does not reject such acceptance of the offer by the client and waives its right to rejection.

**contractual parties, also the parties:** the client and provider collectively; the term in singular form indicates the client, provider or either of them individually depending on the context.

**Software or SW:** order of instructions which describes the realization of the task given by a computer. This term includes all components of a computer programs, its source and object code, related preparatory conceptual materials and documentation, as well as graphical and other elements of the user's interface; this term does not include data processed by the software, unless expressly specified otherwise.

**COTS Software:** Commercial Off-The-Shelf Software: ready-made software product offered on the market to the public. The respective documentation and data carriers form always part of the delivery of COTS Software. In case of doubts it applies that the software subject of the Agreement is not considered to be the COTS Software.

**subcontractor:** a contractor or other contractual partner to the provider, who participates in the Performance based on a different obligation towards the provider than employment or similar, the subject of which is the performance of dependent activity.

**defect:** a situation in which the provided Performance does not correspond to the

specifications agreed in the Agreement, or the guaranteed level of provision of the Performance is not fulfilled. A legal defect is a situation in which the Performance is encumbered with third-party rights contrary to the Agreement, the Performance or its use by the client or provision by the provider is contrary to the relevant legal regulations, or if provision or use of the Performance is prevented by something other than a technical obstacle, for which the provider is liable.

**Defect A-level:** a defect, which entirely or substantially prevents to the use of the Performance.

**Defect B-level:** a defect which does not prevent the use of the Performance but restricts its use; this includes also workarounds of Defect A-level.

**Defect C-level:** a defect which is not a Defect A-level or a Defect B-level, this includes also workarounds of Defect B-level

**VAT Act:** Act No. 235/2004 Coll., on value added tax, as amended.

**APDP:** Act No. 101/2000 Coll., on personal data protection and the amendment of certain laws, as amended.

### **3. Basic representations and obligations of the contractual parties**

3.1 The client is a company duly incorporated and existing in accordance with the legal code of the Czech Republic, and as such has the right to conclude the Agreement and duly fulfil its obligations arising therefrom.

3.2 By signing the Agreement, the provider confirms that: it is a business entity duly incorporated and existing according to the legal code of the country of its registered office; it has a license to operate in the territory of the Czech Republic in the necessary scope; and it has the right to conclude the Agreement and fulfil its obligations arising therefrom. The provider confirms that it has the skills and capacities allowing it to provide the client with the Performance in the highest attainable quality, and that it is capable and will act with expertise and care usually associated with the subject of its activity, respectively occupation or such situation.

3.3 By signing the Agreement, the provider confirms that it is not under criminal prosecution. The provider undertakes to submit a statement from the criminal records not older than 3 months from the

date of the client's request, immediately upon request from the client at any time throughout the duration of the Agreement.

3.4 By signing the Agreement, the provider confirms that it is not in bankruptcy or liquidation, that insolvency proceedings have not been commenced against it, and that a petition to commence insolvency proceedings against the provider was not rejected due to a lack of assets. By signing the Agreement, the provider also confirms that no execution of a decision or distraintment has been imposed against its assets. The provider declares that it is not an unreliable payer according to the VAT Act and that it is not a subject of proceedings conducted by the tax administrator for the purpose of issuing a decision stating that the provider is an unreliable payer according to the VAT Act. Should proceedings be conducted against the provider for the purpose of issuing a decision stating that it is an unreliable payer according to the previous sentence, the provider is obliged to disclose this fact to the client within a deadline of 15 business days from the day when the provider learns of this fact.

3.5 The provider undertakes:

- a) to maintain the validity and effectiveness of all the necessary permits and licences required for its existence and due performance of the provider's business activity in the Czech Republic;
- b) to preserve all the trademarks, permits, licences, patents or other subject of intellectual property required for fulfilment of the Agreement;
- c) to fulfil duly and punctually its tax obligations arising in connection to payments received from the client,
- d) to inform the client of its bankruptcy or impending bankruptcy, about the commencement of insolvency proceedings against the provider or imposition of execution of a decision or distraintment against the provider's assets, or the risk of such situation (issuing of an effective court decision, which will not be fulfilled by the provider within the deadline given all the circumstances),
- e) to inform the client that it has become an unreliable payer according to the VAT Act.

3.6 For the purposes of the Agreement, the provider's obligations and representations according to Art. 3.2 through 3.5 of these business terms are considered to be fundamental, and their violation or falseness (albeit partial) constitutes a severe violation of the Agreement, which is sufficient reason for immediate withdrawal from the Agreement by the client.

#### **4. Purpose and subject of the Agreement**

4.1 If the client is interested in the provider's Performance, the provider and client will conclude an Agreement which specifies the relevant Performance, its price and other conditions of its provision, whereas the obligation established by the Agreement is governed by these business terms, in the scope in which the Agreement does not diverge from these business terms.

4.2 If the purpose of the Agreement is not set out therein, it is always the client's interest in the due and timely provision of the provider's Performance, so that this Performance brings the client the benefits usually associated with it, as well as those that the provider was potentially informed of during negotiations on conclusion of the Agreement.

4.3 Under the Agreement, the provider undertakes to provide the client with the Performance, which is specified in detail in the Agreement, under the conditions stipulated in the Agreement. The Performance must always correspond to the conditions set out in Art. 6.1 of the business terms.

4.4 The client undertakes to provide the provider, based on a time request, with the cooperation needed for due fulfilment of the provider's obligations. It is the provider's obligation to request this cooperation in time and specify it sufficiently. The client is obliged to provide only such cooperation that cannot be ensured by other means, and only in a reasonable scope. In the event of delay in providing cooperation, which prevents the provider in its Performance, the provider is obliged to inform the client's responsible person of this fact in writing; if this situation lasts longer than 14 days, the provider is obliged to send a notice also to the persons authorised to bind the client in contractual matters.

4.5 The client undertakes to pay the agreed price for duly delivered Performance under the conditions stipulated in the Agreement.

#### **5. Subcontractors and provider's employees**

5.1 During provision of the Performance, the provider is not authorised to use a subcontractor, unless agreed otherwise in the Agreement. If the Agreement allows the use of a subcontractor, the provider is responsible for the part of the Performance delivered by the subcontractor as though it was delivered by the provider itself. Failure of the subcontractor to fulfil its contractual obligations to the provider does not affect the provider's obligations or liability, and the provider remains fully liable to the client for the fulfilment of its obligations.

5.2 If subcontractors are used, the provider is obliged to inform the client upon request and without undue delay about the identification data of the subcontractors participating in the Performance and the scope of Performance entrusted to them. The client reserves the right to reject a specific subcontractor without stating its reasons, but undertakes to exercise this right in a non-abusive manner.

5.3 In justified cases, the client is authorised to request a change in the composition of the team of persons participating in the Performance for the provider. The provider is obliged to accommodate such request immediately and replace the given person with a different person whose qualifications correspond to the replaced person. The client undertakes to exercise this right in a non-abusive manner.

5.4 The provider is obliged to ensure that all the persons participating in the fulfilment of its obligations from the Agreement, who remain on the client's premises or workplaces, comply with the effective legal regulations on occupational health and safety regulations, effective rules and standards for use of IT, safety of IS/IT, protection of the client's data and all of the client's internal regulations, with which the client has familiarised the provider in advance or with which these persons were familiarised.

5.5 If using a subcontractor, the provider undertakes to ensure that none of its contracts with this subcontractor are contrary to these business terms or the Agreement, and do not evade their purpose.

## 6. Warranty, insurance

6.1 The provider is liable for ensuring that all Performance from the provider is delivered according to the specifications of the Performance in the corresponding Agreement. The Performance must be free of defects, in the corresponding quantity, quality and grade and fully usable for the purpose for which it was purchased. The Performance must be delivered whilst exercising professional care and with a proactive approach. The Performance must comply with legal regulations effective in the Czech Republic or in another location where the Performance is to be provided or used according to the Agreement. The provider is obliged to ensure that all of its Performance is free of legal defects.

6.2 Unless agreed otherwise in the Agreement, the provider provides a quality warranty of 24 months on the Performance. The warranty period starts from the moment of Acceptance of the Performance as a whole, respectively Acceptance of the last separately handed over part thereof. Until Acceptance of the Performance as a whole, the warranty applies only to the parts of the Performance accepted as at the given time. However, it is understood that the client has reported potential found defects in time, regardless of the moment of their identification, if they were reported at any time during the warranty period.

6.3 If a defect in the Performance is found after Acceptance of the Performance during the warranty period, the provider is obliged to remove the defect in the Performance or deliver substitute Performance that is free of defects, at its own expense, at latest within 10 business days from reporting of the defect by the client, unless agreed otherwise. This does not affect the client's rights from defective Performance, which are set out in these business terms, agreed in the Agreement or arise from the relevant legal regulations.

6.4 Defects in the Performance that prevent Acceptance of the Performance are not warranty defects, unless the client accepted the Performance even with these defects; in this case, the defects listed in the acceptance protocol or otherwise reported during Acceptance are considered to be reported warranty defects from the moment of Acceptance of the Performance. Reported warranty defects, from the moment of Acceptance, are also considered to be defects in the Performance that do not prevent Acceptance of the Performance and were

listed in the acceptance protocol or otherwise reported during Acceptance.

6.5 In cases when it follows from the substance of the Performance, purpose of using the Performance or relevant legal regulations, the provider is responsible for obtaining potential necessary certificates for the Performance. The client may request the submission of copies of these certificates as a part of the Performance, within the price for the Performance.

6.6 In cases when the Performance consists of the delivery of movable items, the provider undertakes that it will be capable of delivering spare parts for the Performance for minimally 5 years from Acceptance of the Performance. The warranty period on delivered spare parts is 24 months from delivery of the spare part. Analogically the provider is obliged to ensure that the support of the producer or alternative services of another person shall be provided in connection to the COTS Software at least for the period of 5 years from the later of the following: the date when the license or sublicense to COTS Software was granted or from the moment of its launching into operation.

6.7 The provider is obliged at its own expense to effectively protect the client from third-party claims and compensate the client in full if a third party successfully applies a claim arising from a legal defect in the provided Performance. If the third-party claim arising in connection to the Provider's fulfilment, regardless of its justification, lead to a temporary or permanent court-imposed ban or limitation in use of the Performance or part thereof, the provider is obliged to ensure substitute performance immediately and minimise the impact of this situation, at its own expense and without any impact on the price for Performance agreed according to the Agreement, whereas the client's claims to compensation of damages will not be affected.

6.8 If the provider's obligation to maintain a specific insurance policy for risks related to the fulfils is stipulated in the Agreement, the provider undertakes to maintain effective insurance in this scope, and for this purpose will fulfil the obligations arising for it from the insurance contract, in particular the payment of premiums and due fulfilment of its reporting obligation, throughout the entire duration of the Agreement. The provider will submit to the client without undue delay, but at latest within 10 business

days from the client's request, an insurance certificate or copy of the insurance contract in the necessary scope, as evidence of having fulfilled the provider's obligation.

6.9 If the provider does not conclude insurance according to the Agreement, does not maintain its effectiveness or does not submit to the client the insurance contract and document or confirmation according to the previous clause, the client is authorised to conclude and maintain insurance in its own name at any time to cover the risks related to provision of the Performance, and to pay any premium that is adequate for such purposes and the value of which is usual on the market for the given risks, to the account of the provider. The client is authorised to offset such amounts paid on behalf of the provider against any monetary receivables of the provider towards the client, which are due or become due, or to recover these amounts as the provider's outstanding debt.

## **7. Subject, deadline, form and place of fulfilment of the Agreement, delivery conditions**

7.1 The provider is obliged to provide the Performance according to the relevant Agreement.

7.2 The deadline, form and specific place of fulfilment are generally determined in the Agreement; if not stipulated in the Agreement, the place of performance is the client's registered office; however, the provider is obliged to notify the potential delivery of goods or items within the performed work to the client's registered office at least 5 business days in advance.

7.3 If the subject of Performance under the Agreement is the delivery of goods, delivery will be governed by the DDP delivery conditions according to Incoterms 2000.

## **8. Acceptance of Performance**

8.1 The obligation to provide Performance is considered fulfilled if the Performance is duly provided and handed over by the provider and taken over by the client.

8.2 Handover and takeover of Performance are carried out through Acceptance according to the procedure defined in the Agreement, in case that the Acceptance is not described in the Contract, the client will carry out the acceptance tests pursuant to this business terms.

8.3 If the Performance corresponds to the agreed specifications and conditions set out in Art. 6.1 above, the client will accept the Performance and indicate "Accepted" as the result of Acceptance in the acceptance protocol.

8.4 If defects in the Performance that do not prevent its Acceptance are found during Acceptance, the client will accept the Performance and indicate in the acceptance protocol that the Performance is accepted with the reservation of the found defects; it will also indicate which defects were found in the accepted Performance or refer to a document containing a specification of these defects. The client proceeds likewise if, at its own discretion, it accepts Performance in which defects were identified that prevent Acceptance of the Performance.

8.5 Regarding Performance that was accepted without reservations or with reservations, it applies that it was handed over by the provider to the client and taken over by the client from the provider on the date indicated in the acceptance protocol. If physical takeover of the accepted Performance did not take place on this day, the client will do so at latest within 5 business days, whereas the provider will provide all the necessary cooperation for this purpose. Unless agreed otherwise in the Agreement, the provider is obliged to eliminate the defects listed by the client as reservations during Acceptance at latest within 10 business days from the day of Acceptance, indicated in the acceptance protocol.

8.6 If the fulfilment which was the subject of Acceptance does not correspond to the agreed specifications and/or contains defects that prevent Acceptance, the client is not obliged to accept the Performance. If the client refuses Acceptance of such Performance, it will indicate in the acceptance protocol that the Performance is not accepted, and is simultaneously obliged to indicate which defects in the Performance prevent Acceptance, or is obliged to refer to a document containing a specification of these defects. Acceptance of the refused Performance must be repeated without undue delay, assuming that the provider has removed the defects that prevented Acceptance. This does not affect the client's other rights from defective Performance and/or from the provider's delay, which are listed in these business terms, agreed in the Agreement or arising from the relevant legal regulations.

The provider's Performance which is submitted for Acceptance with defects that prevent Acceptance is

not considered proper, and the provider's obligation to deliver the Performance duly and punctually is not fulfilled by submitting such Performance.

#### 8.7 Acceptance of documents

- a) If the subject of Performance is the elaboration of a document, the client is authorised to raise any comments regarding discrepancies between the submitted draft and the specifications of the Performance within the framework of its Acceptance.
- b) The provider is obliged to deal with the client's comments without undue delay and submit a new version of the document to the client for approval, supplemented with a description of how the individual comments were handled. This procedure is repeated until all of the client's comments have been dealt with.
- c) Commenting of the document and processing of conditions does not affect the agreed deadline of Performance. The parties will record the individual versions of the document, comments that the client had to them, and the manner of their handling in the acceptance protocol; they may also provide a reference to the respective documents describing the course of Acceptance in the acceptance protocol.
- d) If the client has no comments, or only has comments that do not prevent Acceptance, the document is accepted.
- e) This procedure applies also to the approval of documents which are not directly the subject of Performance, but are to be created according to the Agreement, e.g. for elaborating detailed specifications of the Performance or elaborating the acceptance test specification.

#### 8.8 Acceptance tests

The following rules for acceptance tests apply unless the Agreement stipulates otherwise:

- a) The acceptance tests are carried out by the client with participation of the provider in accordance with the acceptance tests specification. The client has to be informed about the start and time of the acceptance tests at latest 5 business days in advance and the provider is obliged to ensure the participation of its representative. In case of absence of the provider's representative, the client is not obliged to carry out acceptance testing.

- b) If the acceptance tests specification is not described in the Agreement, the client is entitled to verify the lack of defects in the Performance in any reasonable manner.
- c) Unless the acceptance tests specification stipulates otherwise, the result of acceptance tests is considered successful if: no Defect A-level and no more than 5 Defects of B-level and no more than 5 Defects of C-level were discovered. The categorization of defects by these business terms. In case of doubts regarding the defect category, the client makes the final decision.
- d) The successful result of acceptance test does not deprive the client of its right stipulated in these business terms, agreed in the Agreement or arising out of relevant legal regulation in case that defects will be discovered in the future, irrespective whether these defects were discoverable within the Acceptance or not.
- e) The acceptance testing and removal of defects that prevent to the Acceptance has no impact on the agreed term of Performance.

8.9 Acceptance of the Performance by the client in itself does not prove that the Performance was provided duly and does not preclude that the Performance may contain obvious or hidden defects. Defects in the Performance found or reported after Acceptance have the consequences described in Art. 6.3 above.

8.10 Acceptance of the Performance takes place exclusively by signing the relevant acceptance protocol or similar document by the designated person acting on behalf of the client. Unless the Agreement explicitly stipulates otherwise, Acceptance of the Performance does not take place without fulfilling the aforementioned conditions, not even in consequence of the client's delay, commencement of use of the Performance by the client or in consequence of any other legal conduct (including inactivity) of the client.

8.11 If the Performance includes documentation of the Performance and the Performance is modified within the Acceptance process, the provider is also obliged to deliver an updated version of the documentation at latest within 10 business days from Acceptance of the Performance.

## 9. Price, payment conditions

9.1 The price for Performance is stipulated in the respective Agreement.

9.2 If the provider is a VAT payer, it is obliged always to indicate the price for Performance without VAT, the VAT rate in the amount currently stipulated by law, and the price of Performance including VAT in all of its invoices and tax documents, offers or other materials related to the Agreement.

9.3 The price for Performance excluding VAT is stipulated as the fixed and highest permissible amount paid excluding VAT by the client for the Performance, and as such includes all of the provider's costs related to the Performance, as well as any taxes and fees (apart from VAT), all risks (currency, inflation, etc.), customs duty, insurance, transport or storage costs, etc.

9.4 The provider is entitled to payment of the price for Performance after Acceptance of the Performance. The provider is not authorised to request an advance for the Performance or a reasonable part of the remuneration according to Section 2611 of the Civil Code, unless the parties agree otherwise in the Agreement. In the case of Performance divided into parts with partial payments, the price for Performance is paid after Acceptance of the respective part, to which the partial payment is bound. The provision of Section 2610(2) of the Civil Code is hereby precluded.

9.5 From the moment of launching operation of the @Faktura 24 service for the provider, the @Faktura 24 form always takes precedence over hardcopy (paper) form. The provider is obliged to invoice through the @Faktura 24 service at latest within 3 months from launching operation of the @Faktura 24 service. Details about this service are provided at [www.csas.cz](http://www.csas.cz) or [http://www.csas.cz/banka/content/inet/internet/cs/product\\_cs\\_89.xml](http://www.csas.cz/banka/content/inet/internet/cs/product_cs_89.xml).

9.6 The maturity of invoices is 30 calendar days from delivery of the invoice (including delivery of the invoice in electronic form through the @Faktura 24 service). The address for delivery of invoices in hardcopy form is:

**Česká spořitelna, a.s.**

Dept. 2240

Olbrachtova 1929/62

140 00 Praha 4, Czech Republic

9.7 All accounting documents must correspond to the valid and effective accounting and tax regulations of the Czech Republic, must contain the respective Agreement number and potentially the client's SAP order, and will also include an attached copy of the acceptance protocol or other protocol required by the Agreement, as well as the provider's account published by the tax administrator in a manner allowing remote access. Amounts paid by the client to the provider will be paid via wire transfer exclusively to this account.

9.8 If the accounting document does not meet all of the aforementioned requirements, the client will return such document within its maturity period to the provider, who will correct it and return it to the client. If it is an accounting document based on which the client is to pay any monetary amount, a new maturity period for this amount starts from the moment of delivery of a corrected document.

9.9 If the provider is given the status of an unreliable payer by decision of the tax administrator in the course of taxable fulfilment according to the provisions of the VAT Act, the client is authorised to pay VAT from the provided fulfilment directly to the tax administrator instead of the provider, and subsequently pay the provider the agreed price for provided Performance reduced by this paid tax. The contractual parties consider this procedure to constitute the fulfilment of the client's obligation to pay the agreed price, respectively part thereof.

9.10 If the Performance is subject to tax collected by deduction, the client deducts the corresponding tax and pays it to the relevant financial bureau. The value of this tax will be stipulated based on confirmation of the tax domicile and declaration of the foreign entity for application of the respective agreement to limit double taxation, which forms an annex to the Agreement. For every such tax, the client will submit to the provider a confirmation of the deduction and payment of this tax from the financial bureau. The provider is obliged immediately to submit updated confirmations and declarations concerning changes of the data in these documents. Furthermore, the provider is obliged to submit to the client confirmation of its tax domicile always at the start of every new calendar year (at latest by 30 January of the given year) throughout the effective term of the Agreement. The provider is familiar and agrees without objections that if it fails to submit the confirmation of tax domicile or Declaration

of a foreign entity, or does not submit it on time, the tax collected by deduction will be subject to the corresponding rate for this tax according to the legislation of the Czech Republic.

## **10. Contractual penalties and other sanctions**

10.1 In the event of the provider's delay in providing the Performance or part thereof, or in removing defects within the agreed deadline, the client is entitled to a contractual penalty in the amount of 0.5% of the total price for Performance according to the Agreement for every even started day of delay.

10.2 In the event of violation of any of the provider's obligations according to Art. 3.3 and 3.5, the client is entitled to a contractual penalty in the amount of CZK 100,000 for any individual violation. This does not apply if these terms stipulate a special contractual penalty for any of the said cases.

10.3 In the event of violation of the obligation to protect Confidential Information or the nondisclosure obligation regarding Confidential Information according to the Agreement by a contractual party, the other contractual party is entitled to a contractual penalty from the other contractual party in the amount of CZK 500,000 for every individual case of violation.

10.4 In the event of violation of the obligation to hand over the source code to the copyrighted work, which is part of the documentation for the copyrighted work, the client is entitled to a contractual penalty from the provider in the amount of 200% of the price of the copyrighted work according to the relevant Agreement.

10.5 Interest on arrears in payment of a rightfully issued invoice will be paid in the lawful amount.

10.6 The contractual penalties according to the Agreement are due within 30 days from delivery of a written request for their payment to the contractual party that is obliged to pay.

10.7 Discrepantly from Section 2050 of the Civil Code, the contractual parties have agreed that the arrangement of any contractual penalty will not affect the right to compensation of damages arising from violation of the obligation to which the contractual penalty pertains, and the claim to compensation of damages may be applied independently of the contractual penalty and in full extent. This does not apply if the Agreement explicitly stipulates otherwise.

## **11. Compensation of property and non-property losses**

11.1 The relevant provisions of the Civil Code apply to the compensation of property losses (damages) and immaterial losses. Property losses are compensated in money, unless the parties agree otherwise in a specific case. The contractual parties declare that if damage to the client's reputation or commercial name or other non-property loss occurs through violation of the provider's obligations, the provider will also pay the client adequate satisfaction.

11.2 The client is not obliged to undertake prevention exceeding standard care and caution, unless it is called on within the cooperation agreed according to the Agreement to exercise a higher degree or specific type of prevention.

11.3 The provider undertakes to compensate the client for damages incurred through violation of the law, regardless of the provider's fault. During the provision of Performance, the provider is perceived as an entity liable for its own operation activity.

11.4 The provider is liable for the justified claims of third parties raised against the client in connection to the Performance provided by the provider to the client, and undertakes to compensate the client for all damages arising therefrom.

## **12. Rights to copyrighted works and intellectual property**

12.1 In relation to the COTS Software the license terms to use the copyrighted work are specified in the respective Agreement. If the license terms are not specified in the respective Agreement, the provider is obliged to get the client acquainted with these license terms before the provision of the Performance, and the client has the right to withdraw from the Agreement without any sanction until it expresses its consent with the license terms related to the COTS Software and not specified in the Agreement. Unless it is agreed otherwise in the Agreement, the license terms of the COTS Software have to enable the use of the Performance, whose part is formed by the COTS Software, for the purpose followed by the Agreement and they may not (in comparison to the copyrighted work regulated by Art. 12.2.) restrict the client's usage right without reasonable cause.

12.2 In relation the copyrighted work created for the client based on the Agreement, i.e. based on the

client's specific requirements or assignment, the provider grants the client with exclusive rights to exercise the copyright to the copyrighted work in any manner that comes into consideration, including the right to modify and change the copyrighted work, upon handover of the copyrighted work to the client for Acceptance. This right is granted for the entire duration of the economic rights, without territorial or quantity limitations in the scope of use of the copyrighted work. The client is authorised to use the copyrighted work and introduce it to the market without the need to indicate the authorship of the provider or other cooperating parties. The client is authorised to provide third parties with sublicenses to the copyrighted work or to assign the authorisation granted by the provider as a whole to a third party. Such assignment does not require the provider's consent. The authorisation to modify and change the copyrighted work may be exercised by the client also through third parties. If possible, the provider undertakes, on the same day as it grants the authorisation, to transfer to the client the right to exercise property copyright to the copyrighted work and to employee works, whereas the provider is obliged to exert maximal efforts to enable this transfer. The foregoing does not affect the application of the relevant provisions of the copyright act, according to which the copyrighted work may be considered a collective work, or a commissioned work. The copyrighted work according to this Art. 12.2 includes the complete documentation for the copyrighted work including the complete source code and all reference materials. The provider is obliged to hand this documentation over to the client when commencing Acceptance of the copyrighted work. The provisions of this clause apply also to the part of the Performance potentially delivered by a subcontractor, whereas in this case the provider is obliged to secure the aforementioned rights to the copyrighted work from the subcontractor.

12.3 If the copyrighted work is software, the provider is obliged upon request from the client to conclude an agreement with the client on maintenance of the copyrighted work, for which the client was granted the rights under the relevant Agreement. The provider is obliged to offer a price for software maintenance under the usual conditions on the market. The price for the maintenance of the COTS Software has to correspond to the price given by the original supplier of the COTS Software or has to be lower. For the purposes of the Agreement, this

obligation of the provider is considered a fundamental obligation and its violation constitutes a severe violation of the Agreement, which is a reason for withdrawal from the Agreement by the client.

12.4 If the contractual parties do not conclude an agreement on software maintenance, or if such agreement expires, or if the provider's business activity in the area of IT is terminated, or if reasons are given for withdrawal from the Agreement, the client is authorised to perform maintenance of the copyrighted work itself or agree on maintenance of the copyrighted work with a third party.

12.5 All licenses to the copyrighted works provided within the Performance are provided without consideration, unless the value of remuneration is stipulated in the Agreement. The provider is fully liable to the client for due settlement of the remuneration vis-à-vis the authors of all copyrighted works, which are used as part of the Performance.

### **13. Protection of Confidential Information**

13.1 In connection to the provision of Performance, both contractual parties will exchange Confidential Information. Each contractual party is obliged to protect Confidential Information of the other party against leakage and unrightful use and undertakes not to use it for purposes other than those arising from the Agreement. The Confidential Information of one contractual party may be used by the other contractual party exclusively to prepare and provide the Performance according to the Agreement, unless stated otherwise in the Agreement.

13.2 Unless stated otherwise, by concluding the Agreement neither contractual party grants the other contractual party the right to use its copyrighted works, trademarks or other brands for the purpose of promotion or publication or for any other purposes. The provider is not authorised to list the client as a reference customer within the provider's activity without prior written consent from the client.

13.3 Each contractual party is obliged to keep confidentiality regarding the Confidential Information of the other party, and to adopt adequate contractual, technical and organisational measures to protect the other party's Confidential Information.

13.4 Each contractual party undertakes that they will not duplicate the Confidential Information, which was provided to them by the other contractual party

in relation to providing the Performance or during preparations to provide the Performance, in any manner, with the exception of cases when this is required in order to provide the Performance according to the Agreement, and to return it upon request at any time to the other contractual party, including all potential created copies and carriers of the Confidential Information, or to destroy it based on a request from the other contractual party, including all potential created copies and carriers of the Confidential Information.

13.5 Neither contractual party may provide the received Confidential Information in any form to third parties without written consent from the other contractual party, with the exception of the other authorised user of Confidential Information of the given contractual party. Each contractual party undertakes to ensure that its authorised users of Confidential Information will keep confidentiality regarding the Confidential Information. If the authorised user of Confidential Information violates the contractual obligation to keep confidentiality regarding the Confidential Information of the other contractual party, this will be considered a violation of the nondisclosure obligation by the said contractual party.

13.6 It is not considered a violation of the nondisclosure obligation if the contractual party is obliged to disclose the Confidential Information based on an obligation arising from legal regulations. However, the contractual party is obliged to inform the other contractual party about this in advance, if possible, unless this is disallowed by the given legal regulation, and simultaneously to limit the disclosed Confidential Information to the absolutely necessary scope subject to the disclosure obligation.

13.7 The contractual parties are obliged to inform each other of violation of the nondisclosure obligation or protection of Confidential Information without undue delay after they learn of such violation.

13.8 The nondisclosure obligation and protection of Confidential Information according to these terms, including the sanction provisions, remain effective regardless of the termination of validity or effectiveness of the Agreement, for a period of at least 10 years after its termination.

#### **14. Protection of personal data**

14.1 If during provision of the Performance the client provides the provider with any personal data,

for which the client is the processor according to the APDP, the client will become the processor of this personal data according to the APDP for the purposes of the Agreement. When processing personal data, the contractual parties are obliged to proceed in accordance with the APDP.

14.2 The provider is obliged to ensure that it meets all the conditions to technically and organisationally ensure the protection of personal data, which it may process for the purposes of the Agreement, so as to prevent unauthorised or accidental access to these data, their alteration, destruction or loss, unauthorised transfer or tapping, their unauthorised processing or any other misuse of such data. The provider undertakes to ensure this protection in adequate and due scope, in particular by storing all personal data in documentary format or on exchangeable and removable data media under lock and key beyond the reach of third parties, and by securing all software on which it processes personal data by means of a password (e.g. on the BIOS level in the computer operating system or encryption of the relevant network service).

14.3 Authorisation of the provider to process personal data applies only throughout the effectiveness of the Agreement. The provider is obliged to remove all processed personal data as at the date of concluding the processing of personal data or the obligation established by the Agreement, unless such personal data are to be handed over to the provider. Removal must be carried out in a manner that precludes the restoration of personal data and risk of their subsequent misuse.

14.4 Each contractual party is liable for the violation of obligations imposed on it by legal regulations during the handling of personal data, and for damages caused as a result; should this happen, it is obliged to compensate the damages.

#### **15. Cooperation of the contractual parties, management of provision of Performance**

15.1 The contractual parties are obliged to inform each other of all fundamental circumstances that could have an impact on the provision of Performance, e.g. about ownership or other changes on the part of the provider and all other relevant circumstances that are important for fulfilment of the obligations from the Agreement. Important changes concerning contact data including e-mails, changes in the commercial name, registered office address,

bank account number, etc. or circumstances that could have a negative impact on the provider's ability to duly provide the Performance must be reported by the provider to the client in writing immediately.

15.2 Each contractual party will appoint responsible representatives for contractual and technical matters.

15.3 The client's responsible representative is authorised to control the quality of the Performance and adherence to the conditions of Performance according to the Agreement, but is not authorised to alter the Agreement in any manner on their own.

15.4 During provision of Performance, the responsible representatives of the contractual parties are responsible, among other, for mutual communication between employees, cooperating persons and other responsible representatives of the contractual parties, for the specification of potential defects, for the definition and expression of requests and for Acceptance of the Performance.

15.5 In the course of implementation of each Agreement, the contractual parties undertake to not change their responsible representative without serious reasons. The contractual party changing its responsible representative undertakes to inform the other contractual party immediately in writing about the intent to change its responsible representative.

15.6 Any information, notices and correspondence that are to be disclosed by one contractual party to the other contractual party will be considered duly delivered if they are delivered in person to the other contractual party's responsible representative, and this person confirms takeover with their signature and/or if they were sent via registered mail to the address of the contractual party set out in the Agreement.

## **16. Withdrawal from the Agreement and consequences of terminating the Agreement**

16.1 It is possible to withdraw from the Agreement under the conditions stipulated by the relevant legal regulations, these business terms or the relevant Agreement. Withdrawal from the Agreement does not affect the validity or effectiveness of other contracts, unless the Agreement stipulates otherwise.

16.2 Withdrawal is effective from the date of delivery of written notice of withdrawal to the other contractual party. In the case of the client, withdrawal

is executed without undue delay, if delivered to the provider within 3 months from the moment when the client learned of the reason for withdrawal.

16.3 The client is authorised to withdraw from the Agreement, without any limitation of its rights to withdrawal according to legal regulations, in particular if:

- a) the provider delays in fulfilling its obligations from the Agreement, despite a written warning from the client and provision of an additional deadline of at least 7 days from delivery of the warning to the provider;
- b) the provider delays in removing defects in the Performance by a period more than one time the deadline stipulated by the Agreement or these business terms to remove defects, despite a written warning from the client and provision of an additional deadline of at least 1/2 of the basic deadline;
- c) the provider repeatedly (i.e. at least two times) in 12 consecutive calendar months breached the SLA related to the Performance;
- d) required by a correct measure imposed on the client by the state overseeing authority.

16.4 The provider is authorised to withdraw from the Agreement particularly if the client delays in paying the price for duly provided Performance for more than 30 days, despite a written warning from the provider and provision of an additional deadline of at least 14 days from delivery of the warning to the client.

16.5 The expiry of any Agreement does not affect the validity and effectiveness of the provisions of the Agreement including the provisions of these business terms, which given their nature are to remain intact even after expiry of such Agreement, in particular those concerning:

- a) the provision of user rights or rights to execute the client's copyright to the copyrighted work or subject of industrial property after acceptance of the relevant Performance or part thereof, if such fulfilment remains in the client's use even after expiry of the Agreement;
- b) warranties on the quality of Performance and claims from the provider's liability for defects in the Performance;
- c) protection of Confidential Information;

- d) contractual penalties, interest on arrears or compensation of damages;
- e) election of the law, venue and other aspects of solving disputes between the contractual parties.

16.6 If a reason for withdrawal exists, the client is authorised to withdraw from the Agreement in full scope, even if the provider has already provided partial fulfilment from the Agreement or if the Agreement bound the debtor to perform uninterrupted or repeated activity or provide gradual partial Performance.

#### **17. Audit**

Based on a justified prior written request from the client, which will be sent at least 14 days in advance (in the case of CNB requirements this deadline may be shorter), the provider will provide cooperation to the client or person or company empowered in writing by the client for the purpose of conducting an audit of Performance (including inspection of the provider) to determine the accuracy of Performance and compliance of Performance with legal and regulatory requirements related to the Agreement. The subject empowered by the client must not be an entity in a competitive position vis-à-vis the provider. Such audit should not exceed the necessary period of time. The client or its empowered person or company will not have access to information concerning the provider's other customers, the provider's costs for providing services or the provider's internal costs or personal data, which are the subject of legislative or any other regulatory protection, as well as copies of internal inspections and audits (with the exception of those required by legal regulations). This does not apply for audits conducted by the CNB or according to its explicit instructions or requests. Such audits may be requested by the client maximally two times per year, unless required otherwise by the CNB. The audit will be conducted particularly with regard to the provisions of Annex No. 1 to these business terms.

#### **18. Governing law and solving disputes**

18.1 The Agreement is concluded under and the obligations of the parties from the Agreement are governed by the legal code of the Czech Republic.

18.2 All disputes between the contractual parties arising from the obligations established by the Agreement or in relation to them will be resolved by

negotiation of the parties, which will exert maximal efforts to reach an amicable solution. If the contractual parties fail to reach an amicable solution to such dispute through mutual negotiations, the given dispute will be resolved with final validity by the general courts of the Czech Republic. The parties agree on local jurisdiction of the court based on the client's registered office.

#### **19. Final provisions**

19.1 Neither of the contractual parties is liable for damages, if it was temporarily or permanently prevented from fulfilling the obligations from the Agreement by an extraordinary unforeseeable or insurmountable obstacle that arose independently of its will. An obstacle arising from the personal or internal situations of the contractual parties or only after the contractual party was in delay in fulfilling the agreed obligation, or an obstacle that the part was obliged to overcome under the Agreement, does not relieve it of its obligation to compensate damages. Delays by subcontractors or the existence of the aforementioned obstacle on the part of the subcontractor does not relieve the provider or liability for damage incurred in this connection.

19.2 The provider is not authorised to transfer any of its rights or obligations from the Agreement to a third party without prior written consent from the client.

19.3 The individual provisions of the Agreement and these business terms are severable in the sense that the invalidity, nullity or unenforceability of any of them will not cause the invalidity, nullity or unenforceability of the Agreement or business terms as a whole. The parties undertake, without undue delay, to replace by agreement such provisions of these business terms of the Agreement, which are contrary to legal regulations or are null or unenforceable according to the relevant legal regulations.

19.4 The rights and obligations not explicitly regulated in the Agreement are governed by the provisions of these business terms and the provision of the relevant legal regulations of the Czech Republic. In the event of contradiction between the provisions of the business terms and Agreement, the provisions of the Agreement always take precedence.

19.5 The concluded Agreement may be altered or supplemented only by written numbered

amendments signed by both contractual parties, unless explicitly agreed otherwise. The names and data of the responsible representatives, contact persons and contact data of the contractual parties, including the invoicing address, may be altered by unilateral written notice sent to the other contractual party.

19.6 The provider takes into account that if the Performance constitutes Outsourcing in the meaning of the CNB decree, the provider undertakes to adhere to the rules set out in Annex No. 1 to these business terms. The client is authorised to amend Annex No. 1 unilaterally in the event of changes in legal regulations, so that Annex No. 1 complies with the change in legal regulations.

The following forms an integral part of the business terms:

Annex No. 1 – Banking Outsourcing

**Česká spořitelna, a.s.**