

General Terms and Conditions of Purchase and of Contract Work and Services



I. Scope of Validity, Inclusion

(1) Unless agreed otherwise in writing, the deliveries and services which we had commissioned are subject to these "General Terms and Conditions of Purchase and of Contract Work and Services". Any deviating "General Terms and Conditions" of Contractor shall not be applicable even absent our explicit objection in a particular case, with the exception of the regulations in the Contractor's Terms and Conditions of Sale governing Retention of Title. These "General Terms and Conditions of Purchase and of Contract Work and Services" shall only apply in the case that the contractual partner is an entrepreneur, a legal person under public law, or assets under public law.

(2) These "General Terms and Conditions of Purchase and of Contract Work and Services" shall also be applicable to future contracts, without any need of express reference thereto in each particular case; the current version of the "General Terms and Conditions of Purchase and of Contract Work and Services" can be retrieved at www.rulandec.com.

II. Written Form

To the extent that these terms and conditions require written declarations, telefax and electronic notifications shall meet this requirement in the ordinary course of business.

III. Orders

Orders, acceptance, calls for deliveries, and other declarations shall only be binding subject to our placing or acknowledgement in writing. In case that Contractor does not acknowledge the order within two weeks from receipt, we shall be entitled to cancel. In the absence of Contractor's objection, calls for delivery shall be binding at the latest within one week from receipt.

IV. Deliveries and Services

To the extent that the order does not specify any further requirements, the goods shall be delivered and the services provided in the commercially usual quality and grade and if applicable, in conformity with DIN, VDE, VDI, DVGW, or equivalent standards. The deliveries shall be manufactured and outfitted so that at the delivery date they comply with the operating conditions as communicated by us and with the regulations and provisions applicable on site. This shall apply mutatis mutandis to services provided.

V. Prices

The prices shall be fixed prices plus the statutory value-added tax, they shall be invariable and are quoted costs and duties paid to destination. Unless otherwise agreed, the prices are quoted delivered duty paid destination; for piece goods, delivered duty paid named railway station, under Incoterms in their up-to-date version. Packaging shall only be payable if so agreed.

VI. Dates for Deliveries and Services

Agreed dates for deliveries and services and deadlines shall be binding. The decisive date for dates or deadlines deemed observed shall be arrival of the goods at our premises or the date of rendering of services at the destination specified by us. In the case of delay on the part of Contractor the provisions of law shall apply. Moreover the Contractor shall notify us without undue delay about any recognized imminent delay of the delivery date and/or date of rendering services, indicating the reason and the anticipated duration. In the case that the delivery date and/or date of rendering services is exceeded due to force majeure or industrial disputes through no fault of the performing party we may either request delivery of the order at a later date wherein Contractor shall not be entitled to assert any claims therefrom, or else we may cancel the contract in full or in part after a reasonable time has elapsed. The acceptance of late delivery or service shall not entail a waiver of claims for damages.

VII. Packaging, Shipment, Acceptance of Delivery, Documents

(1) Contractor shall be liable for suitable packaging. Transport shall be freight prepaid to the place of destination specified by us according to Incoterms in the current version. The mode of transport shall be specified by us. In the case that we pay the transport charges and absent instructions regarding the mode of transport, the delivery shall be dispatched in the most cost-effective way taking into account the priority. Advice of dispatch shall be presented with the delivery in 2 copies, separately for each destination. An invoice shall not be deemed to be advice of dispatch.

(2) Each shipment shall be accompanied by a packing list on a neutral form. The shipping documents shall indicate our order number, project and product identifiers. In the case that an item is received without proper shipping documents, any costs and fees generated thereby shall be for Contractor's account. In such a case we shall be entitled to refuse acceptance of, and to return, the delivery at Contractor's expense and risk. In case that we are unable to accept a delivered item due to force majeure or other circumstances beyond our control including industrial disputes, we shall be entitled to specify another destination to Contractor.

(3) Contractor shall be obligated to provide us with a written declaration under customs law about the origin of the goods at the latest two weeks prior to delivery. Contractors domiciled in Germany or other EU member states shall provide us with a supplier's declaration according to Regulation (EC) No 1207/2001 for all goods fulfilling the regulations on the origin in the preferential EU traffic. A long-term supplier's declaration, ideally for a calendar year, may be provided for goods of preferential origin delivered on a regular basis and over extended periods. Contractor shall without delay and without being asked notify any change of origin. Upon our request Contractor shall substantiate their particulars on the origin of goods by means of an information sheet authenticated by customs authorities.

(4) Contractor shall assume sole responsibility for observing the provisions under customs and foreign trade and payments laws when importing or transporting the goods into the Federal Republic of Germany.

VIII. Passing of Risk, Documents

Any and all risk shall not pass to us until delivery of the goods is taken at the agreed place of performance. Up to that point in time any and all risk shall be on Contractor.

IX. Inspections, Checks

(1) We reserve the right to inspect in the works of Contractor or their previous suppliers, during manufacture and prior to delivery, the quality and grade of the materials used, accuracy of dimensions and quantities, and other aspects of quality of the items manufactured, and compliance with the provisions of the order.

(2) In the case that we have reserved the right to final inspection and testing the completed deliveries in the works of Contractor by us and/or a third party commissioned by us, we or the commissioned third party shall receive prior notice in writing of at least two (2) weeks of the readiness for final inspection and testing. The costs and fees for production testing and final inspection and testing shall be at the expense of Contractor. The costs and fees for staff provided by us shall be excluded. The production testing and final inspection and testing shall not release Contractor from their obligations to perform or our claims based on defects according to Item XI.

X. Contractor's Obligations in Contract Work and Services

(1) Unless the contract explicitly provides otherwise, Contractor shall be liable for the procurement of ancillary deliveries and services required for the work.

(2) To the extent that the order does not specify any further requirements, the goods shall be delivered and the services provided in the commercially usual quality and grade and if applicable, in conformity with DIN, VDE, VDI, DVGW, or equivalent standards. The deliveries shall be manufactured and outfitted and the services provided so that at the delivery date they comply with the operating conditions as communicated by us and with the regulations and provisions applicable on site. Observation by Contractor of the provisions adopted by legislators and supervisory authorities regarding execution, safety at work, fire safety and environmental protection is imperative. Contractor undertakes to impose as imperative the regulations indicated above on his subcontractors in the same way.

(3) Prior to beginning work Contractor shall submit to Principal a list of the personnel intended to be posted at the Principal's or their customers' premises. They will notify Principal of any changes in good time prior to performing services.

(4) In the case that Contractor, their subcontractors or any further subcontractors employ foreign national workers (aliens) who require a permit (in particular EU work permit or residence permit) for taking up work in the FRG, Contractor shall submit to Principal an original copy or certified copy of such permit in good time prior to taking up work. If the work permit is changed, withdrawn or revoked, Contractor shall without delay submit copy of the pertaining notice to Principal. In the case that the alien concerned cannot show a valid work permit or if the pertaining copy is not submitted in time, Principal shall be entitled to expel the employee concerned from the workplace. Contractor undertakes to impose the foregoing regulations on his subcontractors accordingly.

(5) Contractor assures compliance with the minimum conditions of labour applicable under the Posted Workers Act (where applicable) and with the applicable regulations of law on minimum wages and assures to not employ any aliens save with the required work permits. Contractor undertakes to require corresponding assurances from his subcontractors prior to their taking up work and to oblige them in turn to impose such obligations to any subcontractors of theirs.

(6) Contractor shall indemnify Principal from any obligations of Principal versus third parties (including those versus shared establishments of unions and management) which they may assert in respect of non-compliance with provisions of the Posted Workers Act, the law relating to minimum wages, etc., on the part of Contractor, a subcontractor or a further subcontractor of theirs.

XI. Claims Based on Defects, Statute of Limitations of such Claims, and Notice of Defects

(1) In the case of defects in deliveries and/or services the Contractor shall be liable according to the provisions of law unless provided otherwise hereinafter. Contractor shall be held liable for the ancillary deliveries and services supplied to the same extent as for his own deliveries/services.

(2) The guarantee of Contractor for material defects shall begin, for Contract Work and Services at acceptance, and in other respects, with the passing of risk. The limitation period of action for warranty shall be three years. This does not apply in case that the law provides for longer limitation periods.

(3) In case that subsequent performance fails or Contractor does not immediately fulfill his obligation to remove defects or to provide replacement within the term indicated by us, if they refuse to meet these obligations or if they are unable to provide replacement, we may assert claims for liability for defects under the law without setting any further time limit. In urgent cases we may remove defects ourselves, have a third party remove defects, or provide for replacement. Any costs and fees arising therefrom shall be borne by Contractor.

(4) A rectification of defects shall be considered failed if the first attempt of rectification of the defect within a suitable grace period is unsuccessful.

(5) Contractor shall be liable under the provisions provided by law. Such liability shall be unlimited. Contractor must indemnify us from any claims by third parties. Contractor shall provide for covering these risks by means of a manufacturer's liability insurance to a sufficient extent. Such insurance coverage shall be substantiated upon the Principal's request.

(6) The statutory provisions regarding the commercial duties of inspection and notices of defects shall apply (§§ 377, 381 HGB (= German Commercial Code)) with the following proviso: Our duty of inspection shall be limited to defects which are obviously apparent in our checking of incoming goods by visual inspection including the shipping documents and quality checks on a spot check basis (e.g. damage to the goods in transit, incorrect and short delivery). In case that acceptance after inspection is agreed, there is no obligation to inspect on our part. What is further decisive is the extent to which inspection is appropriate in a particular case taking into account the business matter concerned. The duty to notify regarding defects discovered at a later time shall remain unaffected. In any case, a notice of defects on our part shall be deemed to be without delay and in time if Contractor receives it within 10 days.

XII. Liability/Insurance

(1) In the case that a third party asserts against us claims for damages based on damaged products within the sphere of responsibility of Contractor, Contractor shall upon first request indemnify Customer from all claims by third parties including the necessary costs and expenses to ward off such claims. Contractor may produce evidence that they are not responsible for the damage to the product.

(2) In case that damage causes the Contractor to initiate product recall or carry out corrections and modifications to the product, they shall be obligated to compensate any expenses arising therefrom for our company and for the customers/developers.

(3) Contractor shall be obligated to conclude and maintain a product liability insurance for the subject matter of the contract for an appropriate insured sum of a minimum of € 1 million per person/occurrence of damage to property. Any further claims on the part of our company shall remain unaffected.

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(4) In case that a third party raises claims against us for a defective object of purchase or for breach of property rights under the law, Contractor undertakes to indemnify Customer from claims upon first request including the necessary costs and expenses to ward off damage.

XIII. Accounting, Payments, Set-off, and Retention

(1) Invoices for deliveries shall not be enclosed to shipments. Invoices shall be submitted to us separately for each delivery or service rendered and separately for each order, itemising the turnover tax, the tax identification number and where applicable accompanied by the certificate of exemption for construction work, and indicating the order number and project identifier.

(2) In the absence of deviating agreements, payment shall be made within 14 days less 3% cash discount or within 30 days without any discount, in the mode of payment at our discretion. The terms shall begin to run with receipt of the invoice or, in case the goods arrive later than the invoice, with receipt of the goods, however never prior to the agreed date of receipt of the goods.

(3) In the case of Contract Work and Services the foregoing statements shall apply accordingly for the final account following acceptance and handover of the work performed completely. Contractor shall provide evidence for honouring the due date which must be confirmed by us.

(4) A warning shall be required to establish default.

(5) We shall be entitled to assert the right of set-off and retention and to assert defence of lack of performance of the contract to the extent provided by law. We shall in particular be entitled to retain payments as long as claims are due to us for incomplete and defective services of the Contractor.

(6) Contractor shall have a right of off-set and retention solely for undisputed or finally and absolutely established counterclaims.

XIV. Assignment

Absent our prior written consent, Contractor shall not be entitled to assign their claims to any third party, in full or in part. Assignments of future claims in the scope of retention of title of previous suppliers of Contractor shall hereby be approved with the proviso that an off-set versus Contractor shall be admissible including having knowledge of the off-set in the amount of our total claim.

XV. Handing Over Documentation, Secrecy, Advertising

(1) Any drawings, models, samples, and other documentation handed over to, or drawn up or prepared according to our specifications by, Contractor or their employees and vicarious agents shall remain our property and may only be used in processing our order and in executing the ordered delivery and services, and may not be made available to any third party without our prior written consent. Contractor shall keep them carefully in safe custody free of charge for us and at their risk. After completion of our order said items shall be returned to us immediately and without being asked.

(2) Although the drawings, sketches, or descriptions etc. pertaining to the order shall be binding to Contractor, Contractor shall check them for any discrepancies and if any errors are identified or suspected, notice thereof shall be given to us in writing without delay. Otherwise they may not plead any such discrepancies or errors at a later time. Contractor shall assume sole responsibility for drawings, plans, and calculations they draft including those approved by us.

(3) Our inquiries, orders, and the pertaining correspondence must not be used for advertising purposes. Contractor may mention business relations with us only subject to our explicit consent in writing. Contractor shall further maintain silence versus third parties regarding any and all internal operations, devices, installations etc. in our and our customers' facilities that they obtain knowledge of in conjunction with their activities for us, including after making inquiries and offers or when completing our orders. They shall also impose such obligation to their employees and vicarious agents.

XVI. Protective Rights of Third Parties

It shall be the Contractor's responsibility to take care that any rights to third parties, in particular patents, trademarks, or utility models, shall not be infringed due to delivery and/or services, or use. They undertake to indemnify us from any third party claims and to compensate any expenditure arising from infringement of any such rights.

XVII. Place of Performance, Place of Jurisdiction, and Applicable Law

(1) The place of performance for deliveries and services shall be the destination specified by us. The place of payment shall be Neustadt/Weinstraße. The exclusive jurisdiction shall be the court competent for our established place of business. We shall also be entitled to bring action against Contractor at their general place of jurisdiction under the law.

(2) The laws of Germany shall apply exclusively. The UN convention on contracts for the international sale and purchase of goods shall not apply.

(3) According to DSGVO and BDSG we point out that we will process data and store data.

(4) Should any one provision of these terms and conditions be invalid in total or in part, the remaining provisions shall remain valid. Any invalid provision shall be replaced by a provision which comes closest to the legal and economic purpose of the provision as intended by the parties.