

# General Terms and Conditions of Purchase

RIBE Group - RIBE  
Edition March 2012



## 1. General, scope of validity

- 1.1 These General Terms and Conditions of Purchase shall apply towards companies, corporate bodies under public law and special funds under public law. By accepting these General Terms and Conditions of Purchase without any objection, the contractor agrees to these conditions being exclusively valid for all deliveries and services. Any conflicting or deviating conditions stipulated by the contractor shall not be accepted by RIBE unless RIBE has expressly agreed in writing to their applicability. These General Terms and Conditions of Purchase shall also apply in cases where RIBE accepts the delivery without reservation in the knowledge of the contractor's conflicting or deviating conditions.
- 1.2 All agreements made between RIBE and the contractor for the execution of this contract shall be stipulated in text form. Verbal side agreements shall not be valid unless expressly confirmed in text form.
- 1.3 These General Terms and Conditions of Purchase shall also apply to any future business transactions with the contractor.

## 2. Purchase order and order confirmation

- 2.1 Purchase orders are binding for RIBE only if placed in text form. RIBE may rescind the purchase order if the contractor has not accepted it in text form (order confirmation) within 2 weeks from receipt.
- 2.2 If the order confirmation deviates from the purchase order, RIBE shall only be bound if RIBE has approved the deviation in text form. In particular, RIBE shall be bound by the contractor's General Terms and Conditions only in so far as these correspond to the RIBE Terms and Conditions, or RIBE has expressly approved them in writing. The acceptance of deliveries
- 2.3 The contractor shall handle the conclusion of the contract confidentially, unless RIBE expressly agrees in text form to its publication.

## 3. Delivery time

- 3.1 A delivery shall be deemed timely if it arrives at the stipulated time at the receiving centre specified by RIBE.
- 3.2 In case any delay in delivery or service may be anticipated, RIBE shall be notified thereof immediately and be asked for its decision.
- 3.3 In case of a delay in delivery RIBE is entitled to demand lump sum damages in the amount of 0.5 % of the purchase order price per completed week, but not more than 5 % in total, or, after expiry of a reasonable time extension set by RIBE, have a third party perform the services not yet rendered by the contractor at the contractor's expense. Any further legal claims remain unaffected. In particular RIBE is entitled to demand damages instead of performance following ineffectual expiry of a reasonable time extension whereby the lump sum compensation shall be deducted. The contractor is free to prove that RIBE suffered no or only minor damage owing to the delay.

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- 3.4 The unreserved acceptance of the delayed delivery or service includes no waiver of the compensation claims RIBE is entitled to.
- 3.5 If labour disputes, significant interruptions of operations RIBE cannot be held responsible for, riots, official actions by public authorities or other unpreventable events (force majeure) continue for more than a neglectable period and result in a considerable decrease in the requirements of RIBE, RIBE shall be entitled to rescind the contract partially or as a whole without prejudice to its further rights.

## **4. Passage of risk and shipping**

- 4.1 Unless otherwise specified in the purchase order, deliveries shall be effected according to DDP Schwabach or receiving centre agreed in the contract (Incoterms 2010).
- 4.2 In case of deliveries with assembly and installation and in case of services, the risk shall pass upon acceptance, in case of delivery without assembly or installation upon receipt at the receiving centre specified by RIBE.
- 4.3 Subject to another proof, the values determined by RIBE during incoming inspection are decisive for quantities, weights and dimensions
- 4.4 The goods shall be packaged properly so that damage, contamination or change during transport are excluded. The approval of the packaging by RIBE does not relieve the contractor of his responsibility for the appropriateness of the transport
- 4.5 Unless otherwise agreed, shipping and packaging costs are at the contractor's expense. If the price is ex works or ex contractor's warehouse, shipping shall be effected at the lowest possible costs as far as RIBE has determined no specific type of shipment. Additional costs due to shipping instructions not being adhered to are at the contractor's expense. If the price is free to recipient, RIBE is also entitled to specify the type of shipment. Additional costs incurred by accelerated shipping, e.g. for meeting a delivery date, are at the contractor's expense.
- 4.6 Packing slips or delivery notes shall be enclosed with each delivery indicating the contents as well as the complete purchase order indicator. The dispatch shall be indicated immediately with the identical information.
- 4.7 RIBE is obliged to examine the goods on receipt within seven work days for apparent defects and damage due to shipment. An in-depth incoming inspection shall not be owed. Detected defects shall be notified without delay but no later than seven work days.
- 4.8 The acceptance, even by a third party authorised by RIBE, is always performed under reserve of all rights, in particular from defective or delayed delivery. If the acceptance is prevented or considerably hindered owing to circumstances beyond the influence of RIBE, RIBE shall be entitled to delay the acceptance for the duration of these circumstances. Should this be the case for more than four weeks, the contractor is entitled to rescind the contract; farther-reaching claims of the contractor shall be excluded.

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4.9 Transport packaging the contractor is obliged to take back, outer packaging or re-usable packaging shall be taken back immediately upon delivery by the contractor or - if this is not considered appropriate - collected by him immediately at the place of delivery at his own expense.

## 5. Prices / invoices

5.1 Invoices shall state the purchase order indicator as well as the number of each individual item. As long as this information is missing invoices are not payable. Duplicates of invoices shall be indicated as such.

5.2 Unless expressly specified otherwise, the agreed prices shall be fixed gross prices, as far as the contractor does not reduce his prices generally.

5.3 The contractor shall not offer RIBE less favourable prices and terms than other customers to which delivery is effected by him under the same conditions.

5.4 Assignment of claims shall only be admissible if approved by RIBE in writing.

## 6. Payments

6.1 Unless agreed otherwise, payments shall be made within 14 days with a cash discount of 3 % or within 30 days without deductions..

6.2 The payment period shall begin as soon as the delivery or service has been rendered completely and the properly prepared invoice has been received. As far as the contractor is obliged to provide test samples, test and inspection records, quality documents or other documents, the delivery or service shall be deemed complete only if these documents are supplied as well. The deduction of the cash discount shall be admissible even in the case that RIBE offsets or withholds payments in a reasonable amount owing to defects; the payment period shall start upon complete remedy of the defects.

6.3 Payments do not imply that the delivery or service is acknowledged as being in accordance with the contract.

6.4 Advance payments by RIBE shall on request by RIBE be secured by the contractor by supplying a down payment guarantee.

## 7. Liability for defects

7.1 The contractor shall warrant that his products or services comply with the accepted codes of practice, all applicable standards and the characteristics agreed in the contract as well as the valid safety regulations, have the guaranteed characteristics and are free of other material and legal defects

7.2 In the event that the contractor is not the manufacturer of the goods to be delivered by him, he shall examine the goods thoroughly for material and legal defects prior to delivery.

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- 7.3 RIBE shall be eligible for statutory claims for material and legal defects without any restrictions. Irrespective thereof RIBE is entitled to request remedy of the defects or replacement delivery as RIBE chooses, unless the contractor is entitled to refuse the type of fulfilment chosen by RIBE according
- 7.4 In the case that the contractor does not begin with the elimination of the defects within a reasonable period set by RIBE, RIBE shall in urgent cases be entitled to take the necessary measures by itself or have them performed by a third party at the contractor's expense after the contractor was heard.
- 7.5 The limitation period for material defects claims is 36 months from passage of risk. RIBE shall be entitled to any longer statutory limitation period according to Sections 438, 479 and 634a BGB without restriction.
- 7.6 In the case of legal defects, the contractor shall additionally indemnify RIBE from any claims by third parties.
- 7.7 In the event that RIBE, as a result of defective delivery or performance by the contractor, incurs costs caused by transportation, shipment, work and materials or an incoming inspection exceeding the usual extent, the contractor shall reimburse these costs. The same applies to any expenses that have to be born by RIBE in relation to its customers owing to claims for rectification.
- 7.8 In the case that RIBE takes back goods manufactured and/or sold by it as a result of the defectiveness of the contractor's delivery or performance, or the price requested by RIBE is reduced, or RIBE is subjected to other claims for defects for this reason, RIBE shall be entitled to recourse with regard to the contractor without establishing a deadline as required otherwise.
- 7.9 The contractor shall perform quality assurance that is appropriate in nature and extent and according to state-of-the-art technology, and provide evidence thereof to RIBE at any time upon request.
- 8. Product liability, recall, indemnity, insurance protection**
- 8.1 In the case product liability claims are raised against RIBE, the contractor shall indemnify RIBE upon first request, as far as and to the extent to which the damage was caused by a defect of the goods delivered by him. In cases of fault-based liability, however, this only applies if the contractor is to blame. As far as the cause of the damage is the responsibility of the contractor, the burden of proof shall insofar rest with him
- 8.2 In the cases described in paragraph 1, the contractor shall bear all costs incurred in this context, in particular for the legal defence and possible recall actions by RIBE. RIBE shall inform the contractor on contents and scope of such recall actions as far as possible and reasonable. Any further legal claims remain unaffected.
- 8.3 Paragraphs 1 and 2 shall apply accordingly, as far as product defects are attributable to deliveries and services by suppliers or subcontractors of the contractor.

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8.4 The contractor shall take out adequate insurance, at least, however, to the amount of € 5 million, against product liability risks including recall costs and shall at any time provide RIBE with evidence thereof upon request.

## 9. Passing on of orders to third parties

The passing on of orders to third parties is not admissible without written approval by RIBE and entitles RIBE to rescind the contract partially or as a whole as well as to demand damages.

## 10. Protection rights

Der Auftragnehmer gewährleistet, dass im Zusammenhang mit seinen Lieferungen und Leistungen keine Rechte Dritter verletzt werden. Wird RIBE von einem Dritten dieserhalb in Anspruch genommen, hat der Auftragnehmer diesen auf erste schriftliche Aufforderung freizustellen.

## 11. Certificates of origin

The contractor shall immediately make available all requested proofs of origin (e.g. supplier declarations, movement certificates according to the EEC and/or EFTA rules of origin) to RIBE including all required information and signatures.

## 12. Environmental regulations

The contractor commits himself to adhere to all relevant environmental regulations and shall submit to RIBE upon request a materials list of his products from the order.

## 13. Provisions

13.1 Supplied materials, tools, samples and other equipment or documents provided for production purposes remain the property of RIBE and shall be stored, labelled and handled separately free of charge. Their use is only admissible for orders by RIBE. In the case of deterioration or loss, the contractor shall provide replacement or compensation. This shall also apply to the charged supply of allocated materials.

13.2 Processing or transformation of the material is done for RIBE. RIBE shall immediately become the owner of the newly created or transformed item. Should this be impossible on legal grounds, RIBE and the contractor agree that RIBE at any time during the processing or the transformation becomes the owner of the newly created item. The contractor keeps the newly created item for RIBE with due diligence and free of charge.

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## 14. Secrecy

- 14.1 Tools, shapes, samples, models, profiles, drawings, standard sheets, masters and gauges supplied by RIBE as well as objects produced with the help of these must neither be passed on to third parties nor be used for other than the contractual purposes without written consent of RIBE. These shall be protected against unauthorised inspection or use. Under reservation of further rights RIBE shall be entitled to claim restitution if the contractor neglects his duties.
- 14.2 Information obtained from RIBE shall not be disclosed to third parties by the contractor, and handled confidentially, unless it is general knowledge or he has received this information by other legitimate means.

## 15. Export control and customs

- 15.1 The contractor shall be obliged to inform RIBE about relevant obligations to get a permit in the case of (re)exportation of his goods according to German, European and U.S. export and customs regulations as well as export and customs regulations of the country of origin of his goods in his business documents. To this purpose the contractor shall give the following information at least in his quotations, order confirmations and invoices for the relevant items:
- the export list number according to annex AL of the German foreign trade regulations or comparable list items of applicable export lists,
  - for U.S. goods the ECCN (Export Control Classification Number) according to the U.S. Export Administration Regulations (EAR),
  - whether for his goods an export licence is required,
  - the non-preferential origin of his goods and of the components thereof, including technology and software,
  - whether the goods were transported through the U.S.A., were produced or stored in the U.S.A., or were manufactured using U.S.-American technology,
  - the statistical goods number (HS code) of his goods.
- 15.2 Upon request the contractor is obliged to notify RIBE in writing about any further foreign trade details for his goods and the components thereof, as well as to inform RIBE immediately (prior to the delivery of any such goods concerned) about all amendments to the above-mentioned data in writing.

## 16. Long-term supplier's declaration

For deliveries the contractor shall annually supply a long-term supplier's declaration (certificate of origin) to confirm that the deliveries comply with the origin regulations for the preferred trade.

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## **17. Customs – right to reimbursement of customs duties**

For deliveries and services from countries where RIBE has a right to duty-free purchase, the contractor shall upon request make available all documents necessary for the duty-free purchase (e.g. EC movement certificate).

## **18. Tools, shapes, samples, transmitted documents**

RIBE's approval of drawings, calculations and other documents or samples leaves the contractor's sole responsibility for the item to be delivered untouched. This also applies to recommendations and suggestions by RIBE.

## **19. Supplementary regulations**

As far as these General Terms and Conditions of Purchase contain no regulations, the legal regulations shall apply.

## **20. Place of jurisdiction, applicable law**

20.1 The place of jurisdiction is Schwabach if the contractor is a registered trader.

20.2 The applicable law shall be German law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980.