

General Terms and Conditions for the Procurement of work, goods as well as for other procurements by RWS GmbH, Fürth (RWS)

1. Scope and validity

- 1.1 These GTC provide for the conclusion, content and performance of contracts for the procurement of goods, work as well as for similar procurement contracts by RWS from business partners. Unless otherwise agreed, the General Terms and Conditions for procurement of services by RWS (GTC- Services) shall apply for the providing of services.
- 1.2 These GTC shall be considered accepted if supplier submits an offer to RWS or confirms an order of RWS. General Terms and Conditions of supplier are explicitly excluded.

2. Offer and order

- 2.1 The offer is free of charge unless provided otherwise in the request for proposal.
- 2.2 The offer is binding during the period mentioned in the request for proposal or in the offer. If there is no respective information, supplier is bound for 4 months from the date of the offer.
- 2.3 If the offer deviates from the request for proposal, supplier shall explicitly point this out in writing. If he does not so and in case of contradiction between the provisions of the request for proposal and the offer, the provisions of the request for proposal shall prevail.
- 2.4 Orders are only binding if they are placed in writing. Electronic orders are binding if this is foreseen in a written agreement between the parties.

3. Execution

- 3.1 Supplier shall inform RWS regularly about work progress and in particular shall obtain all required specifications. Supplier shall inform RWS at once about all circumstances, which might jeopardise the contractual performance. This also includes the change of production sites, subcontractors and sub suppliers.
- 3.2 If for the execution RWS premises have to be entered, supplier shall comply with RWS's company regulations, in particular with the safety regulations and house rules, which he will be handed over to him upon request.
- 3.3 Transport packaging with obligation to take back shall be taken back by the supplier at his own expense. RWS is entitled to dispose of such packaging, if it is not taken back by supplier within 10 days.

4. Engagement of subcontractors and sub suppliers

- 4.1 Supplier may only enlist subcontractors which, in whole or in part, provide services for him, after prior written approval by RWS. Supplier shall remain responsible towards RWS for the performance of the contract.
- 4.2 RWS may commit supplier to the engagement of a specific subcontractor. In this case RWS shall bear the consequences of his inadequate performance, if supplier proves that he used the subcontractor correctly and supervised him properly.
- 4.3 Upon request supplier shall disclose his sub suppliers to RWS.

5. Remuneration

- 5.1 Supplier provides the services at fixed prices or on a time and material basis with an upper limit of the remuneration (cost ceiling). In his offer he discloses the cost types, quantity structures and cost rates.

- 5.2 The remuneration compensates for all performances required for the proper fulfilment of the contract. In particular it covers installation-, test- and documentation costs, the costs for a possible initial instruction, the expenses (particularly for subsistence, travel and accommodation) the license fees, the costs for transport packaging, equipment, gauges, tools etc., which have to be specially manufactured, as well as public charges such as taxes and customs duties.

- 5.3 Unless otherwise agreed, charges for the rental and use of transport equipment and temporarily installed components as well as repair are included in the remuneration.

6. Terms of payment

- 6.1 Unless otherwise agreed, the payments become due upon acceptance. RWS pays invoices made out after the due date within 60 calendar days of receipt of the invoice.
- 6.2 RWS reserves the right to return incorrect, unverifiable invoices for correction. This
- 6.3 includes missing numbers of purchase orders or missing numbers of positions. The term of payment starts anew with receipt of the corrected invoice.
- 6.4 If partial payments (down payments and instalments) are agreed upon, RWS may request securities from supplier at supplier's expense.

7. Changes to contractual specifications

- 7.1 Supplier shall inform RWS about all developments, which for technical or economic reasons reasonably require specifications to be modified.
- 7.2 The parties may request changes to the agreed contractual specifications at any time. If RWS requests a change, supplier shall inform in writing within 20 calendar days, whether the change is possible and what consequences it will have on the goods and services to be provided and on the remuneration including deadlines. RWS decides within the same period whether the change shall be accomplished. If supplier requests a change, RWS shall approve or refuse the substantiated application within the same period.
- 7.3 Supplier shall not deny the approval of a change request by RWS if the change is objectively possible and the overall character of the performance to be provided is preserved.
- 7.4 Prior to their realization the change of contractual specifications and possible adjustments of remuneration, deadlines and other points of the contract are laid down in a written amendment to the contract. The adjustment of the remuneration is calculated based on the original cost basis.
- 7.5 Without a written agreement to the contrary supplier shall continue his work as planned during the examination of the proposed changes.

8. Property on material furnished by RWS

- 8.1 Materials, samples, drawings, utilities such as test equipment, gauges and tools, remain the property of RWS and (until an undividable amalgamation with other objects or until use/consumption) shall be clearly designated as RWS's property and be separated from the property of the supplier, if feasible within the nature of the contract.
- 8.2 Upon receipt furnished material is to be thoroughly inspected by supplier. It is considered free from defects, if RWS is not notified in writing about damages, defects or missing components within 5 calendar days.

8.3 As long as the furnished material is with supplier, he has to inventory it, keep it in safe custody and maintain it at no additional cost for RWS, and to insure it at his own expense. At the request of RWS supplier shall hand over a written proof of insurance and an updated inventory stating the condition of the furnished material.

8.4 The furnished material may only be used as agreed. Unless otherwise foreseen, after termination of the contract, they are to be returned to RWS without being specifically requested and free of charge.

9. Default

9.1 If the parties have agreed upon an exact deadline for performance, the supplier, in case he does not meet the deadlines so fixed, comes into default without further conditions to be met; in all other cases he comes into default after a reminder by RWS and granting of a reasonable period of time.

9.2 Without prior written approval of RWS neither part deliveries nor advance deliveries are permitted.

9.3 RWS shall be notified immediately in writing of each foreseeable default of the supplier.

9.4 If supplier comes into default, he owes an amount of 1% of the total remuneration per day of delay, with a maximum of 10% of the total remuneration. unless he can prove that no fault is attributable to him. It is also owed if the items are accepted without reservation. This payment does not relieve supplier from the other contractual obligations; however, it is credited against the compensation for damages to be paid. RWS may claim payment, if it reserves this right until one month after acceptance of the last delivery within the scope of the ordered performance. Personal negligence of RWS and Force Majeure remain reserved. RWS may claim the penalty only, if RWS reserves this right within one month from acceptance of the last delivery of the respective order.

10. Right of withdrawal

10.1 RWS is entitled to withdraw from the order as a whole or in part at any time. RWS shall notify supplier of such withdrawal in writing.

10.2 In such a case supplier is only entitled to be paid for work he can prove was performed or accrued expenditure and a reasonable margin of profit thereon, unless such withdrawal took place due to supplier's violation of the contract non-performance or bad performance.

10.3 RWS is only under the obligation to pay claims as per para. 10.2 to the extent that supplier transfers the work begun to RWS free of third-party rights or claims.

11. Place of performance

11.1 Unless otherwise agreed, the premises of RWS are the place of performance.

11.2 With each delivery supplier shall enclose a dispatch note with reference to the respective order number and issue the required forwarding documents. If the goods are not transported directly to RWS, a separate copy of the dispatch note is to be sent to RWS.

11.3 Title and risk are transferred upon inspection or, if applicable, acceptance of the subject-matter of contract by RWS. If the required accompanying documents are missing, RWS shall store the subject-matter of contract at supplier's expense and risk.

12. Inspection and acceptance

12.1 In case of purchase contracts RWS shall inspect the goods within two weeks after delivery. In case of installation by supplier the inspection period starts after completed installation.

12.2 In case of work contracts supplier shall invite RWS in due time to the acceptance inspection.

12.3 If during the acceptance inspection under work contracts major defects are detected, acceptance is postponed. Supplier remedies detected defects immediately and notifies RWS of a new acceptance date.

12.4 If during acceptance inspection minor defects are detected, acceptance takes place anyway but under reservation of remedy, and the acceptance inspection is completed. Supplier remedies detected defects immediately.

12.5 If in case of work contracts RWS does not request an acceptance inspection, the subject matter of contract is considered accepted with the successful start of the productive operation.

12.6 The delivery of an inspection report with complaints is considered a notification of defects.

13. Warranty

13.1 Supplier as specialist and in awareness of its purpose warrants that the subject-matter of contract has the agreed material and legal features and is suitable for the specified use. Supplier expressly warrants that he is entitled to deliver and/or provide to RWS the subject-matter of contract and the performances, and that no legally effective third party rights are opposed to the use of the subject-matter of contract.

13.2 Defects are to be notified within two weeks after their detection. If not agreed otherwise and in writing, the warranty rights lapse within 2 years after delivery or acceptance inspection. After the rectification of notified defects the period for the repaired component starts anew, it is extended by no more than a year beyond the original warranty period. Maliciously concealed defects can be asserted during a period of ten years after inspection or acceptance, subject to a shorter period applicable by law. If the subject-matter of contract is defective, RWS can demand rectification. Supplier rectifies the defect within the specified period and bears all resulting costs. If the defect can only be rectified through reprogramming or re-production, the right to rectification also includes the right to reprogramming or re-production.

13.3 In case of purchase contracts a free replacement is on par with the free rectification

13.4 If supplier has not provided the requested replacement or rectification or has not provided it successfully, RWS can claim damages and:

- deduct an amount corresponding to the reduced value from the remuneration; or
- withdraw from the contract in whole or in part, but only in case of major defects; or
- demand the necessary documents (particularly the source code) – as far as no legal or contractual provisions are opposed to this and perform the respective measures at supplier's risk and expense or have them performed by a third party, but only in case of major defects.

14. Investment protection

14.1 Supplier warrants to RWS for at least 8 years after expiry of the warranty period the compatibility of the subject-matter of contract with supplier's developments. Supplier warrants to RWS for at least 10 years from acceptance the supply of spare- and detachable parts. In addition supplier enables RWS to cover the all-time requirement. Deviating deadlines are to be specified in the contractual document.

14.2 If supplier (due to garnishment, impending bankruptcy, composition procedures or other reasons) can no longer provide his services or have them provided by third parties at the same conditions or offer an economically equivalent alternative, RWS can provide the services itself or have them provided by third parties. In this case RWS is entitled, without further action, to access the source code or other documents of supplier and use them, as far as this is required for the maintenance and support of the software and hardware.

14.3 To protect the obligations to hand-out based on warranty or software maintenance RWS may request at any time that supplier's business-critical documents are deposited with a trustworthy company or third party or, protected by technical measures, deposited on a system designated by RWS and kept up-to-date. This provision does not release supplier from his obligation to provide the services. By analogy the same applies to hardware.

14.4 The delivery of spare parts by supplier after expiry of the warranty period takes place against payment and at the rates of the original cost basis or in their absence, at competitive conditions.

15. Export regulations and authorizations

15.1 Supplier keeps himself informed at all times about national and international export regulations (e.g. ITAR and EAR) and notifies RWS immediately in writing, if deliverables are subject to these provisions in whole or in part. He complies with all applicable export regulations and, on request, discloses to RWS all relevant information for this purpose. This obligation applies beyond the duration of the contract.

15.2 Unless expressly otherwise agreed in writing, supplier takes all measures required to obtain further official authorizations or licenses needed for the provision of the performances to RWS and the use of the deliverables by RWS as provided in the contract. Where RWS has to apply for such authorizations or licenses, supplier provides RWS with appropriate support, particularly for the procurement of needed information and data such as e.g. proofs of origin.

15.3 Where applicable, supplier shall provide, no later than at the time of acceptance of the contract, the following minimum information:

- The customs tariff numbers of the country of consignment, and the countries of origin for all goods.
- For controlled goods, the relevant national export control numbers must be indicated and, if the goods and/or services are subject to U.S. export regulations, the U.S. Export Control Classification Numbers (ECCN) or classification numbers of the International Traffic in Arms Regulations (ITAR) respectively Export Administration Regulations (EAR) must be specified.
- Proofs of preferential origin as well as conformity declarations and marks of the country of consignment or destination are to be submitted without being requested; certificates of origin upon request.

16. Emerging intellectual property rights

16.1 Intellectual property rights (Copyrights, rights to use, patent rights etc. insofar as transferable by law) that are created during the performance of the contract, particularly on works, concepts, hardware and individual software including source code, program description in written or machine-readable form, which supplier has developed specially for RWS, are exclusively assigned to RWS, unless otherwise agreed in the contract in writing. Supplier ensures enforcement of these rules in accordance with the rights of its employees.

16.2 Intellectual property rights (Copyrights etc., insofar as transferable by law) that are created during the performance of the contract, but are not part of the subject-matter of contract, belong to

- RWS, if they were created by its employees;
- supplier, if they were created by his employees or by subcontractors enlisted by him;
- RWS and supplier, if they were created jointly by employees of RWS and supplier, or by third parties enlisted by them. The parties refrain from mutually raising license fees and can transfer their rights to third parties or grant rights of use to third parties without the approval of the other party.

16.3 Both parties are entitled to use and dispose of ideas, procedures and methods which are not protected by law, but without being under the obligation to disclose them.

17. Pre-Existing intellectual property rights

17.1 Supplier or any third party shall retain any pre-existing intellectual property rights (Copyrights, patent rights etc.). Where third-party rights are involved, the supplier warrants that he owns the relevant distribution rights and rights of use.

17.2 On existing intellectual property rights RWS is given a timely, spatially and factually unlimited, non-exclusive, transferable right of use within the purpose of the contract. Supplier undertakes not to base any rights on these existing intellectual property rights, which could be opposed to the foreseen rights of use and distribution regarding the subject-matter of contract.

17.3 In case of standard software this right includes the use of the hardware and its successor systems as foreseen in the contractual document. In case of a changed operating system or higher performance class the change and extension of the rights of use requires the approval of supplier. He may only deny the approval for important reasons. The changes and extensions of the rights of use are calculated according to the original cost rate.

17.4 For data backup and storage purposes RWS may make copies of the standard software. In case of a failure of the contractually specified hardware it is entitled to use the standard software on replacement hardware without any additional compensation.

17.5 Both parties are entitled to use and dispose of ideas, procedures and methods which are not protected by law, but without being under the obligation to disclose them.

18. Infringement of intellectual property rights

18.1 Supplier shall contest at his own cost and risk any third party claims arising from infringement of intellectual property rights directly linked to suppliers services under this contract. If a third party initiates a lawsuit against supplier, he shall inform RWS immediately in writing. If the third party raises direct claims against RWS, supplier shall participate, upon RWS's first request, in the lawsuit according to the possibilities of the respective legal procedure. Supplier undertakes to bear all costs (including damages) accruing to RWS from the lawsuit and its possible out of court settlement. In case of a settlement out of court supplier shall only assume the payment to the third party, if he has previously agreed to it.

18.2 If due to raised claims from intellectual property rights it is made impossible for RWS to use the contractually owed performances in whole or in part, supplier has to either change his performances in such a way, that they do not infringe on third party rights and still correspond to the contractually owed supply of performances, or obtain at his expense a license from the third party. If supplier does not realise one of these possibilities in due course, RWS may rescind the contract at once and return the services performances concerned to the supplier against full refund and indemnification.

19. Geheimhaltung

19.1 Both parties shall treat in strict confidence all information which is neither generally known nor generally accessible, and shall use it only for the purpose of fulfilling the concluded contract. Moreover the parties shall ensure the confidential treatment by their personnel and enlisted specialists. In case of doubt, all information is to be treated confidentially.

19.2 Confidential information of a party does not include information which:

- was already known to the other party, before it was made accessible by the disclosing party;
- is or becomes generally known without the other party's responsibility;
- was disclosed to the other party by a third party without any transfer restrictions;
- was developed by the other party without using or referring to the confidential information of the protected party;
- has to be disclosed based on applicable or a legally binding decision of a law court, administrative or other authority. In this case the party under the obligation to disclose has to inform the other party immediately about the decision and support protective measures the other party may want to take.

19.3 This obligation of confidentiality already exists prior to the conclusion of the contract and remains valid for a period of 5 years after termination of the contractual relationship.

19.4 Without the written approval of the other party the disclosure of information to third parties is not permitted. Enlisted specialists (lawyers, auditors, experts) are not third parties in terms of this agreement. If the approval is given, the obligations of confidentiality are to be transferred to the receiving third party.

19.5 Advertising and publications about specific services in connection with the contractual relationship require the written approval of the other party. Without the written approval of RWS the supplier may not advertise the fact that a cooperation with the supplier exists or existed, and may not give RWS as a reference.

19.6 If a party violates the above-mentioned obligations of confidentiality, it owes, unless otherwise agreed, a payment to the other party, unless it can prove that it was not at fault. For each case the payment amounts to 10% of the entire compensation for purchase-, service- and similar contracts or 10% of the annual compensation for continuing obligations, but no more than EUR 50'000.00 per case. This payment does not relieve the violating party from the obligation of confidentiality; but it is credited against the damages to be paid. Possible penal consequences remain reserved. The claiming party may claim the penalty only if it reserves this right within one month from its knowledge of the violation.

20. Data protection

Each party may have access to personal data (for example names, functions, business units, contact details and communication data) relating to the other party's employees, representatives, consultants, agents, contractors and other personnel ("Personnel"; "Personnel Data") in relation with the contract that is subject to these GTC. The parties agree that they act as independent controllers in relation with such Personnel Data unless otherwise agreed expressly by the parties. Personnel Data may be processed only in accordance with applicable law, applying appropriate security measures (e.g. technical and organizational measures, etc.), and only in order to enter into and perform the contract and compatible purposes including but not limited to order and payment processing, tolls, taxes and import/export management, customer relationship management, business accounting and general administrative purposes. Each party undertakes to inform its own Personnel about the processing of Personnel Data by the other party, in accordance with applicable law. Additional details about RWS's data processing are set out in RWS's privacy notices (see www.RWS.com/en/privacy).

21. Compliance

21.1 Supplier complies with applicable legal standards, particularly with the competition- and antitrust laws, industrial safety and child protection provisions (e.g. regarding raw materials under conflict), the prohibition of human trafficking and with the core conventions of the International Labor Organisation, as well as with the provisions against counterfeits or for the protection of the environment and of health (e.g. guidelines like REACH and RoHS). Supplier complies with the current code of conduct for business partners of RWS, which he will be handed upon request.

21.2 Supplier shall not to accept financial or other favors, if in return the giving party expects an unjustified advantage or is rewarded. He also commits himself to observe the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions concluded within the OECD on 17 December 1997 also in private business transactions.

21.3 Supplier shall commit his personnel, subcontractors, subsuppliers and other third parties enlisted for the fulfillment of the contract contractually to compliance with this article.

21.4 If supplier violates the above-mentioned compliance commitments, he shall owe a contractual penalty, unless he can prove that he was not at fault. For each case of violation this penalty amounts to 10% of the total remuneration or 10% of an annual remuneration in case of a recurring remuneration, but no more than EUR 50'000.00. This payment does not relieve supplier from his contractual obligations; however, it is credited against the compensation for damages to be paid. Penal consequences remain reserved.

22. Assignment and pledging

The contractual relationship or rights and duties there from can only be assigned or pledged after previous written approval of the other party. Apart from that RWS may assign rights and duties from the contract to another company from the RWS Group at any time

23. Verification

23.1 Upon written advance notification of at least 15 calendar days and during normal working hours at supplier's place of business, supplier shall allow RWS or an auditing firm commissioned by RWS to examine all documents reasonably related to suppliers the compliance with the provisions of this Agreement. RWS or its authorized appointee shall take such necessary measures to preserve the confidentiality of such documents.

23.2 All costs and expenses in connection with the verification shall be borne by RWS, provided however, that if the verification process demonstrates supplier's failure to comply with the provisions of this Agreement, supplier shall assume all costs and expenses of the verification.

23.3 RWS or its authorized appointee (such as quality inspectors) and competent authorities shall be granted access to supplier's premises and records to perform inspections and audits. Upon request, supplier shall provide access to documents and submit requested information related to the scope of contract to such personnel.

24. Applicable law and jurisdiction

24.1 To the contract and to all rights and claims arising in connection with the contract, German Law shall apply, excluding its rules on conflicts of legal systems. The United Nations Convention on Contracts for the International Sale of Goods shall be expressly excluded.

24.2 For all disputes arising out of or in connection with the contractual relationship only the law courts at the domicile of RWS shall be competent.