

## **General Terms of Purchase**

### **1. General, scope of application**

These general terms of purchase shall apply to all deliveries and services commissioned by Helmholtz Zentrum München – German Center for Environmental Health (GmbH) (hereinafter "Purchaser"), unless other conditions are agreed upon in writing between the Purchaser and the supplier/service provider (hereinafter "Supplier").

When submitting a bid/proposal, confirming an order, accepting or carrying out an order, the Supplier shall comply with these General Terms of Purchase, provided that the Purchaser has informed the Supplier about these terms in connection with a bid invitation, an inquiry or an order, or otherwise has informed the Supplier so that the Supplier has had to be aware of their application.

Any terms and conditions of the Supplier and any conditions which differ from those contained in the ordering letter of the Purchaser or from the Purchaser's General Terms of Purchase shall only apply if and insofar as they have been explicitly accepted in writing by the Purchaser. This shall also apply when the Supplier refers to his own general terms and conditions in his bid/proposal or in his order confirmation. If for any reason individual terms of these General Terms of Purchase are not applicable, the validity of the other terms of the contract shall remain unaffected.

As for the rest, the general conditions of contract for carrying out services shall apply (VOL/B) [German regulations for carrying out services].

In all documents including invoices, the Supplier shall indicate the order number, reference/initial, and the date of letters he has received from the Purchaser.

The Supplier is hereby informed that the records of this order will be saved in compliance with § 33 of the German Data Protection Act.

### **2. Bid/proposal, order, and confirmation of order:**

The bid shall be submitted in duplicate and free of charge. In his bid the Supplier shall comply with the requirements of the request for a proposal or invitation to bid regarding quantity, properties and condition, and implementation. The Supplier shall explicitly point out any deviations. The Supplier is bound to his bid for a period of three months. The order must be made in writing in order to be legally binding. Verbal agreements are only valid when confirmed in writing by the Purchaser. Orders shall be promptly confirmed by the Supplier in writing. The Purchaser reserves the right to withdraw his order if the order confirmation is not received in a reasonable period of time.

### **3. Prices:**

The stipulated prices are fixed prices without sales tax (VAT) and are to be understood to include free delivery to the point of use, including packaging. If agreed upon that the Purchaser bears the freight and packaging costs, they are to be advanced by the Supplier and shown separately in the invoices. In the calculation of prices, the terms of the regulation PR 30/53 of November 21, 1953 regarding the prices for public orders shall be applied in the appropriate relevant version with the Guidelines for Pricing on the Basis of Cost (LSP).

### **4. Implementation of the contract, compliance with the regulations:**

In fulfilling the contract, the Supplier obligates himself to adhere to the applicable statutory and official provisions and rules and regulatory requirements. The delivery or service must comply with safety regulations, regulations for health and safety at work, rules for accident prevention, applicable DIN and VDE standards, and other relevant laws and regulations. The Supplier must deliver the required protective safeguards in compliance with these regulations, included in the stipulated price. In the event that the Supplier has objections regarding the method of the implementation of the order as desired by the Purchaser, the

Supplier shall immediately notify the Purchaser. The Supplier shall include all required documents needed for inspection and approval, operation, maintenance and repair (test records, certificates of the factory, drawings, blueprints, operating instructions, and the like) – in the delivery free of charge and in reproducible form.

In the event that the Supplier contracts out work to sub-contractors, he shall be liable for the sub-contractor's defaults as well as for his own defaults.

#### **5. Delivery time:**

The delivery time begins with the date of receipt of the order letter by the Supplier. After the expiration of delivery time, the Supplier is in default even without receiving a reminder. When delays are foreseeable, the Supplier shall immediately give notice of the reasons and the assumed duration of the delay in writing.

#### **6. Right to information and right to inspection:**

The Purchaser and the representatives authorized by the Purchaser are – within the Supplier's operating hours -- entitled to inform themselves about the contractual implementation of the delivery, to take part in in-house tests of the Supplier and to conduct tests themselves. The costs for the tests initiated by the Purchaser will be borne by the Purchaser, insofar the manpower or material to perform the tests are provided by the Purchaser. Repeat tests by the Purchaser that are carried out because of deficiencies found in previous tests shall be borne to full extent by the Supplier. When awarding subcontracts, the Supplier obligates himself to ensure that the subcontractor contractually grants the Purchaser the right to information and the right to undertake tests at the subcontractor's premises to the aforementioned extent. The tests do not release the Supplier from his warranty and liability.

#### **7. Contract amendment, assignment of claims:**

The Purchaser may retroactively request alterations regarding the properties and condition of delivery or service within the framework of the technical capability of the Supplier. Technical alterations and their effects on prices, delivery time or other conditions must be made in writing according to paragraph 2 of these General Terms of Purchase. Claims against the Purchaser may only be assigned legally and effectively by the Supplier with the Purchaser's consent.

#### **8. Shipment and customs:**

Two delivery notes must be included in the shipment. In the event of deliveries from foreign customs territory, the Supplier must contact the Purchaser in good time for the accomplishment of customs and import procedures.

#### **9. Final inspection and acceptance of purchase:**

If the shipment or service has been performed in accordance with the contract conditions, or if any detected defects have been completely remedied, it shall be accepted. If trial operations have been stipulated, the acceptance of purchase shall take place after the successful completion of a trial run by issuing and signing a joint acceptance report.

#### **10. Status of ownership:**

The Purchaser acquires unrestricted ownership of the item of delivery or service after its reception and acceptance; the same applies to the documents included in the delivery by the Supplier (No. 4, paragraph 2). By the delivery, the Supplier declares that he is fully authorized to dispose of the item of delivery or service, and that no rights have been granted to a third party.

Provisions of material of any sort by the Purchaser shall remain the property of the Purchaser. They must be labeled as such and stored, marked, and administered separately. If provisions of material are processed, reorganized or altered, or combined or blended with other objects, then the Purchaser shall acquire exclusive ownership of the new object. The Supplier shall store this new object free of charge for the Purchaser. Ownership and

intellectual property rights (copyrights) of documents belonging to the Purchaser, but which he have entrusted to the Supplier, shall remain with the Purchaser. The documents and any transcripts or duplicates (copies) shall be promptly returned on request. The documents of the Purchaser are only to be used for the purposes stipulated in the contract. In cases of infringement, the Supplier shall be liable for the entire damage caused.

#### **11. Invoice and payment:**

Invoices are to be sent separately by post and must under no circumstances be included in the shipment. The invoice shall show the sales tax separately.

Payment period and cash discount period start upon invoice receipt. The payment is considered to be made upon receipt of the remittance order by the Purchaser's executing bank. The payment does not confirm the Supplier's fulfillment of contractual commitments; the payment is made subject to proper fulfillment of the contract.

#### **12. Liability for defects:**

The Supplier is liable according to the legal warranty rules for defects of title and material defects. The Supplier shall ensure the accurate and proper completion of the contract, particularly with regard to the compliance with detailed specifications and other regulatory instructions of the Purchaser, according to the current status of science and technology. The Supplier shall also ensure the quality and expediency of the delivery regarding material, construction and realization, as well as of the documents (drawings, blueprints and the like) belonging to the delivery. The stated detailed specifications are considered to be stipulated by contract regarding the state/condition of the subject of the shipment or service.

The costs that have to be borne by the Supplier for remedying defects or additional subsequent delivery shall also include costs for packing, freight, and delivery, labor costs expended for disassembly and assembly/installation, travel costs and on site remedy of defects at the Purchaser's premises.

Claims for defects are subject to a limitation period of 24 months, unless statutory provisions provide for a longer warranty period or unless a longer warranty period was provided in the contract.

In the event that no written acceptance of purchase is issued, the warranty period shall start two weeks after the Purchaser's receipt of delivery.

In case of a hidden defect, § 377 of the HGB (German Commercial Code) shall not apply. As with the item of delivery, the Supplier warrants for delivered replacements and subsequent correction of defects; the warranty period for claims starts after accomplishing the correction of defects objected to by the Purchaser. For items of delivery which could not remain in operation because of defects subject to warranty, the ongoing warranty period for claims for defects shall be prolonged for a period equal to the length of the service interruption.

#### **13. Protective rights:**

In the implementation of the contract as well as use of the subject of delivery or service the Supplier shall be liable for ensuring that the protective rights of third parties are not violated or infringed. He shall indemnify the Purchaser from any claim for compensation of a third party for possible infringements of any protective right.

#### **14. Advertising material:**

In advertising material, the Supplier may refer to the business connection with the Purchaser only with the Purchaser's explicit consent.

#### **15. Notice of termination and withdrawal:**

The Purchaser may terminate the contract or withdraw from it, notwithstanding other cancellation and withdrawal rights, if insolvency or legal composition proceedings regarding assets have been filed against the Supplier's assets, or if the Supplier not just temporarily has suspended his payments.

**16. Safety regulations and procedural rules and guidelines:**

Deliveries and services on the premises of the Purchaser are subject to the Purchaser's safety regulations and procedural rules and guidelines, which in this case are an integral part of the contract. Information gained in connection with a delivery or service on the Purchaser's premises shall be kept confidential.

**17. Applicable law, place of performance, and court of jurisdiction:**

The contractual relations between the Purchaser and the Supplier are subject to the law of the Federal Republic of Germany. However, the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is explicitly excluded.

The place of performance for the Supplier is the domicile of the Purchaser or other location designated by the Purchaser. The exclusive place of jurisdiction is Munich.

This document is an English translation of the original *Allgemeine Einkaufsbedingungen* written in German. This English translation is solely for information purposes. In the event of any discrepancies arising between the German and English versions, the German version shall take precedence over the English version.

Helmholtz Zentrum München – German Research Center for Environmental Health  
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