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General Terms and Conditions of Purchase of RSF

(as of May 2020)

I. Scope of the Terms and Conditions of Purchase of RSF

1. The Terms and Conditions of Purchase of RSF apply exclusively. They shall apply to all contracts concluded by RSF as buyer or purchaser, unless different arrangements are expressly made in writing. The terms of conditions of the supplier do not become part of the contract, even if RSF does not expressly object to them. Terms and conditions of the supplier only become an integral part of the contract if RSF expressly consents to their validity in writing. This consent requirement applies in all cases, e.g. in the case that RSF, with the knowledge of the supplier's general terms and conditions, accepts the deliveries of the supplier without reservation.

2. The Terms and Conditions of Purchase of RSF as amended from time to time also apply as a framework agreement to future contracts with the same supplier, without RSF having to point them out again in each individual case.

3. Any individual agreements entered into with the supplier (including additional agreements, supplements and amendments) always take precedence over these Terms and Conditions of Purchase of RSF. The content of such agreements shall be governed solely by written contracts or written confirmations from RSF.

II. Conclusion of contract

1. Only orders placed in writing by RSF are legally binding. In the case of an informal business transaction, the order of RSF is deemed to be a commercial letter of acknowledgment.

2. If RSF does not respond to suggestions, demands or evidence of the supplier, this shall in no case be deemed as consent, unless expressly agreed upon otherwise in writing.

III. Scope and content of the service obligation / rights of use / property rights

1. The scope of the supplier's service obligation is determined by the specifications and service descriptions provided upon contract conclusion; or, if they do not exist, from the specifications in the supplier's quotes and brochures.

2. All deliveries must comply with the applicable DIN and/or VDE (Association for Electrical, Electronic & Information Technologies) standards as well as industry standards or EU standards, unless expressly agreed upon otherwise in writing.

3. RSF only accepts the volumes or quantities ordered. Overdeliveries, underdeliveries or partial deliveries are permitted only upon the prior written consent of RSF.

4. Without the prior written consent of RSF, the supplier is not entitled to have the service he owes provided by third parties (e.g. subcontractors). The supplier bears the procurement risk for his services, unless agreed upon otherwise in individual cases (e.g. sale of goods in stock).

5. RSF shall have the irrevocable, non-exclusive rights of use that are unlimited in time and space, transferable and sublicensable to the software and related documentation for the purpose arising from the contract. The supplier grants RSF an exclusive right to any identifiable components of software that were adapted to the operational processes of RSF. The supplier is obligated to inform RSF in good time, especially before the installation or initial operation of the software, whether the software contains any open-source software. The granting of rights is fully settled upon payment of the agreed remuneration.

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IV. Change of service

1. If it becomes apparent during the execution of the contract that deviations from the originally agreed specification are necessary or sensible, the supplier must inform RSF of it immediately. RSF will then announce whether RSF agrees to the proposed changes.

2. RSF reserves the right to make changes to the service even after conclusion of contract to the extent it is reasonable for the supplier or customary in the industry. When making such a change, RSF shall take into due account the impact it will have, in particular in terms of additional or reduced costs and the delivery dates.

V. Delivery dates and delay in delivery

1. The delivery date specified in the order by RSF is binding.

2. The supplier is obligated to inform RSF in writing without delay if it becomes apparent to him that the delivery date cannot be met, specifying the reasons and the expected duration of the delay.

3. In the event of a delay in delivery, RSF is fully entitled to statutory claims. This includes the right of withdrawal.

4. Irrespective of Item V. 3., RSF is entitled to demand from the supplier a contractual penalty of 0.5% per week commenced but in total no more than 5% of the total order value of the delivery, as of the beginning of the delay in delivery; unless the supplier can prove that RSF has actually incurred no loss or damage at all or a materially lower loss or damage, at the least 10% lower in relation to the respective contractual penalty. This does not exclude the possibility of RSF proving loss or damage that goes beyond the contractual penalty described in the first sentence.

VI. Transfer of risk, documents

1. Unless agreed upon otherwise in writing or stated in the order, the delivery must be made free of charge to the delivery address specified in the order. The respective delivery address is also the place of fulfillment. The risk of loss, destruction, damage or suchlike is only transferred at the time of delivery at the place of fulfillment. Place of fulfillment for the deliveries and/or services is the place specified by RSF (especially in the order) or the place of business of RSF.

2. A delivery note specifying the order number and the order item must be included in every delivery. Invoices must be sent concurrently with the dispatch of the goods to RSF. If there is no delivery note or the delivery note is incomplete, RSF is not responsible for the delays in processing and payment resulting from it.

VII. Prices and payment

1. The price shown in the order is binding.
2. Invoices must contain the order number and the order item; otherwise, they are deemed not received, since they cannot be processed.
3. In the event of a faulty delivery or service, RSF is entitled to withhold payment until the contractual obligations have been properly fulfilled, without the loss of deductions, discounts or similar payment benefits.
4. The payment for goods or services that were accepted without objections shall be made after goods receipt and invoicing within 14 days with the deduction of a 3% discount; within 30 days, net.
5. Unless agreed upon otherwise in individual cases, the price includes all services and ancillary services provided by the supplier (e.g. assembly, installation) as well as all additional costs (e.g. proper packaging, transport costs including, if applicable, transport and liability insurance). The supplier shall take back any packaging material at the request of RSF.
6. RSF is entitled to withhold due payments as long as RSF is still entitled to claims from incomplete or defective services against the supplier.

VIII. Guarantee, warranty

1. The supplier guarantees that all services comply with the state of the art, all applicable statutory provisions as well as the regulations and guidelines of authorities, professional and trade associations. In the event that it is necessary to deviate from these regulations in individual cases, the supplier must obtain prior written consent of RSF. The warranty obligation is not limited by this consent.
2. If the supplier has any concerns about the type of design wanted by RSF, the supplier must inform RSF of it in writing without delay. This does not affect the binding nature of the originally planned delivery date.
3. RSF is entitled to the statutory warranty claims without restriction.
4. According to the statutory provisions, the supplier is, in particular, liable that the goods have the agreed properties upon transfer of risk to RSF. The product descriptions that constitute the subject matter of the respective contract – in particular by being named or referred to in the order of RSF – or are included in the contract in the same way as these Terms and Conditions of Purchase of RSF are considered as an agreement on the properties of the goods. It is irrelevant in this context whether the product description comes from RSF, from the supplier or from the manufacturer.
5. The statutory provisions apply to our commercial examination and notification obligations, with the proviso: RSF's examination obligation is limited to defects that come to light during goods receipt inspection by RSF, in a superficial examination including the delivery documents as well as during the quality check by RSF by way of sampling (e.g. transport damage, incorrect delivery, short delivery). The obligation to give notice of defects discovered later remains unaffected by this. In all cases, the notification of defects on the part of RSF is deemed to be immediate and timely if it is made to the supplier within 14 calendar days as of the actual discovery of the defect.
6. The expenses required for examination and subsequent performance (including any removal and installation costs) paid by the supplier are borne by the supplier even if it turns out that there was no defect. The liability of RSF for damages in the case of an unjustified demand for rectification remains unaffected; RSF is only liable, however, if RSF has recognized or grossly negligently failed to recognize that there was no defect.

7. If the supplier does not meet his obligation to subsequent performance – at the discretion of RSF, by eliminating the defect (rectification) or by delivering an item free of defects (replacement delivery) – within a reasonable period set by RSF, RSF is entitled to eliminate the defect itself and demand from the supplier compensation for the expenses required for it or an appropriate advance. In the event that the subsequent performance by the supplier is unsuccessful or is unreasonable for RSF (e.g. due to particular urgency, risk to operational safety or imminent occurrence of disproportionate damage), there is no need for a deadline; RSF shall inform the supplier of such circumstances immediately, in advance, if possible.

8. Apart from that, pursuant to the statutory provisions, RSF is entitled to reduce the purchase price or to withdraw from the contract in the case of a defect of quality or defect of title. In addition, RSF is entitled to claims for damages and reimbursement of expenses according to the statutory provisions.

9. The statutory warranty period shall apply with the proviso that the warranty period in the event of resale of the delivered goods or its use in the creation of RSF products only begins at the point in time when the goods bought from the supplier are delivered for the purpose of resale; or when the warranty period for the RSF product equipped with the goods starts with respect to the buyer of RSF; at the latest, however, 24 months after delivery of the goods to RSF.

10. The warranty claims of RSF as the purchaser shall expire with regard to a defect of the delivery objected to within the statutory warranty period 24 months after notifying the supplier of the defect; not before the end of the period, however.

11. For delivered parts that could not remain in operation during the examination of the defect and/or the rectification of the defect, an ongoing warranty period is extended by the duration of the interruption of operations. In the case of subsequent delivery or subsequent performance, the statutory warranty period for repaired parts or replacement parts starts again with the completion of the subsequent performance or with the delivery of the replacement parts to RSF.

IX. Liability/limitation periods

1. The liability of the supplier is governed by statutory provisions. Exclusion of liability is not possible, including liability due to slight negligence.
2. The statutory limitation periods apply; a reduction of the limitation periods is excluded.

X. Product liability

1. If a claim is made against RSF for violation of official safety regulations or on account of domestic or foreign product liability regulations due to a defect of RSF products that can be traced back to faulty goods of the supplier, then RSF is entitled to demand compensation for this damage from the supplier, as far as it was caused by the goods delivered by him. The supplier shall further reimburse RSF for the costs of a precautionary exchange or recall action required by the circumstances in accordance with the proportion of his contributory negligence.
2. If possible in terms of a claim and if a liability exists in the external relationship at the expense of the supplier, the supplier, as part of his liability under X. 1., shall indemnify RSF accordingly against the claims of third parties and bear all costs RSF incurs in this context. Further legal claims as well as the claims not covered by the indemnification according to Item X. 1. remain unaffected.
3. RSF shall inform the supplier of the content and scope of any product recalls – to the extent it's possible and reasonable – and provide the supplier with an opportunity to comment. Further legal claims remain unaffected.

4. In addition to complying with the existing legal obligations as well as contractual obligations, the supplier is obligated to provide adequate liability insurance coverage that is permanent and uninterrupted (for the duration of the warranty) and whose geographical scope of coverage must not be restricted. The insurance coverage must be in place for the replacement/repair of individual parts in the installed state. Checking and sorting costs must be fully covered both in the area of third-party and product liability and in the area of the required recall cost insurance. The supplier ensures that the delivered products are fully covered by the insured risk of third-party and product liability. Any existing claims for damages on the part of RSF based on product liability shall remain unaffected by this and are independent of the existence and/or validity of the required insurance policy.

5. The supplier shall perform a state-of-the-art quality assurance that is suitable in terms of type and scope and verify it to RSF upon request. If RSF deems it necessary, the supplier shall conclude a corresponding quality assurance agreement with RSF.

XI. Industrial property rights of third parties

1. The supplier guarantees and assures that all deliveries are free of the property rights of third parties and that no patents, licenses or other property rights of third parties are violated, in particular through the delivery and use of the delivered items.

2. The supplier indemnifies RSF and RSF customers from third-party claims arising from any violation of property rights and shall bear all costs incurred by RSF in this context.

3. RSF is entitled to obtain the approval for the use of the delivered items and services from the rights holder at the expense of the supplier, unless this entails disproportionately high costs to the supplier.

XII. Reservation of ownership, provision, samples, models, tools

1. RSF reserves ownership of all parts provided to the supplier. Any processing or transformation at the supplier is carried out for RSF. If the goods provided by RSF are processed with other items not belonging to RSF, RSF shall acquire co-ownership of the new item in proportion of the value of the provided goods to the value of the other processed items at the time of processing.

2. RSF reserves the right of ownership as well as any property rights to samples, models, tools, product information, documents, etc., paid or provided by RSF. The supplier is obligated to use the samples, models and tools exclusively for the production of the goods ordered by RSF.

3. Provided materials (e.g. software, finished and semi-finished products), templates, samples and other items – as long as they are not processed – must be stored separately at the expense of the supplier and be insured against destruction and loss to an appropriate extent.

4. Orders for tools are subject to the additional terms and conditions of RSF for tool orders.

5. All forms of reservation of ownership of the supplier are excluded; in particular, an expanded reservation of ownership, transferred reservation of ownership and a reservation of ownership extended to further processing.

XIII. Confidentiality

1. The contracting parties undertake to keep secret all information arising from the collaboration under this contract, unless it is generally known, is legally acquired by third parties or produced independently by third parties; and to use the information exclusively for the purposes of this contract. The protected information includes, in particular, technical data, procurement quantities, prices as well as information on products and product developments, on current and future research and development projects, customer data as well as all company data of the respective other contracting party.

2. In addition, the supplier is obligated to keep confidential all images, drawings, calculations and other documents he obtained and disclose them to third parties only with the express consent of RSF, unless the information contained in them is generally known.

3. The supplier shall transfer the above confidentiality obligations to his employees and subcontractors.

4. The obligations under XIII. end 5 years after the end of the last contractual relationship of the parties to which these Terms and Conditions of Purchase of RSF apply.

XIV. Assignment

Any assignment or pledging of the claims the supplier has against RSF shall only be effective with respect to RSF if RSF had been notified about it in writing beforehand and if RSF has given its consent in writing.

XV. Offsetting and retention

Offsetting the claims of RSF against counterclaims of any kind is only permitted in the case of expressly granted or legally established claims. In no case has the supplier a right of retention.

XVI. Export control

Only those export regulations apply that must be strictly complied with. Beyond that, the supplier is obligated to inform RSF, actively in writing prior to conclusion of contract, about applicable approval obligations in terms of the (re-)export of his goods under Czech, European and U.S. export and customs regulations as well as the export and customs regulations of the country of origin of his goods. For goods subject to export approval, the supplier shall provide a written declaration for the relevant items that includes all required information.

XVII. Final provisions

1. As soon as a provisional insolvency administrator has been appointed for the affairs of the supplier or insolvency proceedings are opened over the assets of the supplier, RSF is entitled to withdraw from the contract in whole or in part.

2. The law of the Czech Republic shall apply to these Terms and Conditions of Purchase of RSF as well as to all legal relationships between RSF and the supplier, with the exclusion of the international uniform law, in particular the CISG. Conditions and effects of the reservation of ownership are subject to the law at the respective location of the object, insofar as subsequently the choice of law in favor of Czech law is inadmissible or ineffective.

3. If individual clauses of the Terms and Conditions of Purchase of RSF are ineffective, the effectiveness of the remaining provisions shall not be affected by it. The ineffective provision shall be replaced by an effective provision that comes as close as possible to the meaning and purpose of the ineffective arrangement.

4. Place of jurisdiction is Tachov. RSF reserves the right to file a lawsuit at any other permissible place of jurisdiction.

- End of the Terms and Conditions of Purchase of RSF -