

# General Terms and Conditions of Purchase

## 1 General Provisions

- 1.1. These General Purchase Conditions shall apply to any contracts' provisions, based on which Ruetgers Poland Sp. z o.o. (hereinafter referred to as the Company) enters into obligation as the Buyer of goods, materials, services or rights purchased from any legal entity authorised to participate in trade (a Contracting Party), excluding a consumer, pursuant to article 22<sup>1</sup> of the law of 23 April 1964 – Civil Code (Dz. U. (Official Journal) of 1964 No. 16, item 93 as amended).
- 1.2. Any deviations and differences from the content of these General Purchase Conditions shall not apply unless agreed by both contract parties in writing.
- 1.3. These General Purchase Conditions shall apply to all future business relations and similar transactions between the contract parties without the need to be referenced to by any of the Parties. This condition is also fulfilled when, in the content of another contract concluded by the Parties, only the clause referring to these General Purchase Conditions is included, on which basis the Parties previously concluded their business transactions.
- 1.4. INCOTERMS 2010 shall apply to all the matters not regulated otherwise by these General Purchase Conditions or contractual/order provisions, as well as in the case of contradictory statements.

## 2 Offers

- 2.1. The offer to enter into the contract submitted by a Contracting Party shall be valid throughout its binding period and, if no deadline for approval was defined, it shall expire if not approved immediately by the Company.
- 2.2. The offer can be withdrawn by a Contracting Party prior to the contract conclusion if the declaration of withdrawal had been submitted to the Company prior to its approval of the offer by placing an order unless the offer approval deadline defined by a Contracting Party has not yet expired.
- 2.3. Any changes to the Contracting Party's offer shall be the changes which require a written approval by the Company. Notwithstanding the above, confirmation of the order approval by a Contracting Party should clearly define any potential differences in comparison to the original offer submitted to the Company.
- 2.4. In the event the Company submits an offer in the electronic form, the contract conclusion (and an order approval by the Contracting Party, respectively) shall mean approval of the content of these General Purchase Conditions.
- 2.5. Any changes of the order content introduced by the Contracting Party after approval of the Company's order shall not result in charging the Company with an additional payment for the Contracting Party for the changed order completion unless the Parties agree otherwise.
- 2.6. In the event the preparation process or negotiations of the offer submitted to or by the Company in order to conclude a contract involve making commercial visits of the Parties representatives, preparing a relevant documentation (designs, cost calculations, etc.) by one or both Parties, such activities and efforts shall be made by the Parties free of charge unless the Parties agree otherwise.
- 2.7. The Company shall have the right to cancel the entire or a part of the order (at its own discretion) in the event when important terms of the order (e.g. the order completion date) have not been confirmed by the Contracting Party within the period defined by the Company.
- 2.8. Any agreements concluded between the Parties shall be binding only if made or approved in writing.

## 3 Completion of the Order

- 3.1. The place of a delivery/order completion shall be the receiver's address defined in the order submitted by the Company.
- 3.2. The Supplier shall be responsible for adhering to the agreed order/delivery/service completion deadline.
- 3.3. Unless agreed otherwise, the order completion date shall be the day, on which the order was correctly and fully completed, which was confirmed by a relevant protocol signed by the Parties.
- 3.4. Completion of a delivery in parts shall be allowed only if the Parties agreed to such a procedure.
- 3.5. Any order related documents, especially technical and operational, instruction manuals, service manuals, required certificates, guarantee conditions for the delivered goods shall be made in Polish and delivered together with the delivery subject unless the Parties agree otherwise.
- 3.6. The Contracting Party shall – under the pain of liability for damages – immediately notify the Company of any circumstances which might influence appropriate or timely completion of the order placed by the Company. This applies in particular to the Company's order completed by the Contracting Party with the use of outsourced materials or services.
- 3.7. The Contracting Party shall have the right to order completion of a part or the entire order to a third party unless the Parties agreed otherwise or the order type requires a different approach. However, in any case, the Contracting Party shall be responsible for actions or for lack thereof of the third party, whom they contracted to complete the order, as for their own actions or of lack thereof.
- 3.8. The vis maior events, in particular strikes, unrest, protests, natural disasters or other events disturbing normal work of the Company or its Contracting Party, which are independent of both or one Party and have a major influence on meeting the contractual obligations by the Company, shall entitle the Company to postpone the

order reception date by the period equivalent to the period of such events occurrence or to withdraw from a part or the entire contract in the event such circumstances make it partly or totally impossible to collect the order. The Parties shall inform one other on the occurrence of vis maior events immediately after their onset and cessation.

#### **4 Delivery**

- 4.1. Any deliveries shall be made based on full documentation. This applies to both transport documents (bill of lading) and the goods documents referred to in section 3.5 of these General Purchase Conditions. In the event of any nonconformity in documentation, the Company shall have the right to reject the delivery.
- 4.2. The circumstances of approval by the Company of a delivery/service, which is the subject of the Company's order, shall be confirmed in the manner described in section 3.3 of these General Purchase Conditions. The risk of loss, accidental damage or impairment of the order subject shall be transferred to the Company at the time of reception of an order/service.
- 4.3. Any price increases or additional costs resulting from detours, storage, etc., which were introduced or existed after the date of a contract conclusion/order submission, shall not apply to the Company unless the Parties agreed otherwise.
- 4.4. In the event when it was agreed that the goods would be transported to the destination defined by the Company by the Contract Party transport means, the Contract Party shall be responsible for making available such transport means in appropriate technical condition and at agreed place and time.

#### **5 Defects**

- 5.1. The Contracting Party shall be responsible for the order completion free from any defects, pursuant to the legal provisions and in line with commercial diligence principles.
- 5.2. The written guarantee conditions provided by the Contracting Party to the Company, with regard to a defined order subject, shall form an important part of the complete delivery documentation referred to in section 3.5 of these General Purchase Conditions.
- 5.3. In the event any defects of the order subject have been discovered within 30 days from the delivery date, and in the case of latent defects – immediately after the discovery, the Company shall have the right to replace the defected goods, materials or services with the defect-free ones at the Contracting Party's cost or to the reduction of their sale price, as agreed by the Parties.
- 5.4. In the event the defect has been repaired by replacement, the guarantee period provided by the Contracting Party shall restart.
- 5.5. If a disclosed defect cannot be repaired in the defined period for the reasons independent of the Company, and this situation involves the risk of a major and irreparable loss, the Company shall have the right to order the defect repair by a third party at the Contracting Party's cost and risk.
- 5.6. The Contracting Party is responsible before the Company in the case the delivered goods have defects, which results in decreasing its value or usability for the purpose defined in the contract or resulting from the circumstances or purpose of these goods; also, in the event when the goods do not have the qualities, of which the Company was assured, or if the goods were delivered to the Company incomplete (warranty for physical defects).
- 5.7. The Contracting Party shall be responsible before the Company in the event the subject of delivery is the property of a third party or is encumbered with the right of a third party. In the event of the sale of rights, the Contracting Party shall also be responsible for the existence of such rights (warranty for legal defects).
- 5.8. The guarantee period shall be coincidental with the defects warranty period, which length is in line with the civil code provisions unless agreed otherwise by the Parties.

#### **6 Liability**

- 6.1. In the case of the goods, to which the provisions of article 449<sup>1</sup>–449<sup>10</sup> of the law of 23 April 1964 – Civil Code apply (Dz. U. (Official Journal) of 1964 No. 16, item 93 as amended) on liability for a hazardous product, the Contracting Party shall release the Company from any claims for damages from third persons submitted in the event when the disclosed cause of such liability belongs to the circumstances, for which the goods manufacturer (products) is responsible. In the event such release is not legally valid, the Contracting Party shall pay all claims submitted in connection with such liability to the Company, or the Company's expenses related to legal protection against the claims submitted in such circumstances.
- 6.2. In the event the subject of the order placed by the Company is protected by copyright owned by the Contracting Party, the Contracting Party shall provide the Company in writing, within the order completion, with an exclusive, irrevocable and unalienable licence for its use for the purpose of the Company operations, including execution with all derivative rights, for the fee included in the Contracting Party's remuneration for the order completion unless agreed otherwise by the Parties.
- 6.3. In the event of a claim of third persons related to copyrights protection, the Contracting Party shall release the Company from any claims for damages from third parties submitted for that reason. In the event such a release is not valid legally, the Contracting Party shall pay all claims submitted in connection with such liability to the Company or the Company's expenses related to legal protection against the claims submitted in such circumstances.

## **7 Insurance**

- 7.1. The Contracting Party – on the Company’s demand – shall submit to the Company a copy of a valid insurance policy confirming the Contracting Party’s purchase of a valid civil liability insurance for the damages which may occur due to the Contracting Party’s company operations, for the insurance amount not lower than 200% of the net value of the order placed by the Company.
- 7.2. In the case of orders, which should be completed after the end of a calendar year, the Contracting Party, after one request, shall each time submit a copy of a valid insurance policy to the Company.

## **8 Prices**

- 8.1. If not agreed otherwise, the prices shall contain all price elements connected with an order completion, such as packaging and dispatch costs, transport, insurance, unloading, assembly, installation, integration, documentation, implementation costs, etc.
- 8.2. For the purpose of the correct prices calculation, the weight and quantity volumes defined in the order and verified on delivery have been assumed.
- 8.3. The changes of tax rates, customs fees, freight rates and any other price elements previously included in the order completion price – in the scope, in which they occurred between the order placement and completion dates – shall not entitle the Contracting Party to include them in the price of goods, materials or services ordered by the Company unless agreed otherwise by the Parties.

## **9 Payment**

- 9.1. Unless agreed otherwise by the Parties, the payment term for the purchased goods, materials or services of the Company shall be 30 days from the date the invoice have been submitted to the Company. The Contracting Party may issue an invoice having completed a defect-free order, confirmed by a protocol signed by both Parties unless agreed otherwise by the Parties.
- 9.2. In the event the Company receives an incorrect invoice or an invoice without the number and date of the order, the Company can stop payment for the order until reception of a correct invoice, including the missing identification data, such as the order number and date.
- 9.3. Payment of the Company financial obligation shall be deemed effected on the day when the Company’s bank account is charged.

## **10 Confidentiality Clause**

- 10.1. The Company hereby stipulates that both, in the period of economic cooperation, i.e. in the period of completion of jobs, orders, contracts or other instructions, and after this period, all organisational, technical, technological, financial, commercial or other data or information, as well as any other information regarding the Company and/or its business (hereinafter referred to as the “Information”) provided and disclosed to the Contracting Party for the purpose of cooperation in writing, orally, as a result of made visits or otherwise, shall be treated by the Contracting Party as strictly confidential. If the Contracting Party fails to meet this confidentiality obligation, it may be held liable for the damages by the Company.
- 10.2. The Company shall remain the owner of the copyright or related rights to the content of plans, drawings, drafts, diagrams, charts, valuations, opinions, reports and similar documents and works that concern the organizational, technical, technological, commercial and financial solutions or any other solutions related to the offered products or services, provided by the Company in the course of business contacts aimed at the conclusion of a contract and in the period of the performance of this contract. Such documents may not be made available and their content may not be disclosed by the Contracting Party to third parties without the prior written consent of the Company.

## **11 Severability**

- 11.1. In the case any of the provisions contained in these General Purchase Conditions or in the provisions of the concluded contracts proves to be in part or entirely invalid or unenforceable, or there appears a loophole, this shall not influence the validity of other provisions and the remaining agreements between the Parties.
- 11.2. If this is the case, the Parties shall agree and replace the invalid or unenforceable provisions or close the identified loophole with new provisions equivalent to the provisions, which have been held invalid, or introduce provisions that shall come as close as possible to the intentions and objectives of the Parties at the conclusion of the contract and act as if those provisions have been agreed from the moment when the provisions being replaced have been held invalid or unenforceable or from the moment when a loophole has been identified in the contract.

## **12 Governing Law**

The contracts entered into by the Company as well as the orders placed by the Company shall be governed by the Polish law and shall be dealt with in Polish.

## **13 Language**

Any translation of this document into other languages shall be for reference only and the version in Polish shall be binding.

**14 Disputes**

- 14.1. Any disputes arising out of the completion of orders or performance of other contractual obligations of Parties shall be settled by the Parties amicably, keeping in mind their mutual interests and making all efforts to seek a compromise.
- 14.2. If the Parties fail to work out a compromise, the dispute shall be settled, pursuant to the Polish law, by a common court of law having jurisdiction over the Company's registered office.

*These General Purchase Conditions Ruetgers Poland Sp. z o.o. shall become effective on January 1st 2013*