

## **General Terms and Conditions (GTC)**

### **1. Scope of Application**

- (1) These General Terms and Conditions are applicable in business transactions with businesses, legal entities under public law or special funds under public law (hereinafter referred to as "Contractor(s)"). The purchasing and ordering of goods or services, according to the specifications indicated in the order form by the purchaser or party placing the order, are to be effected either through Universität Regensburg, represented by the Head of Administration, or in the name and on behalf of the Free State of Bavaria, represented by Universität Regensburg, in turn represented by the Head of Administration (hereinafter referred to as "UR").
- (2) These General Terms and Conditions shall apply to all agreements for the supply of goods or services.
- (3) The General Terms and Conditions shall form part of the agreement regardless of the form of the contract, provided the legal requirements for their inclusion are satisfied.
- (4) Contractor's general terms and conditions, even when referred to or not rejected by UR, have no validity insofar as they depart from or add to these General Terms and Conditions.
- (5) These General Terms and Conditions are valid for all future deliveries and services the Contractor provides UR until new general terms and conditions come into force.
- (6) Individual agreements with Contractors (including ancillary agreements, additions and changes) take priority in all cases over these General Terms and Conditions. The content of such agreements shall be subject to a written contract or to the written confirmation of UR.

### **2. Orders**

- (1) Contracts shall become legally effective only on receipt by the Contractor of a written order from UR. Written declaration of acceptance from the Contractor is not required by UR.
- (2) Changes to the subject matter of the agreement must be in writing.
- (3) The order shall be deemed to have been accepted subject to the General Terms and Conditions of UR provided UR does not receive a written rejection from the Contractor within two weeks.
- (4) All Contractors will receive an order number. This number must be quoted in all written documents, in particular in order confirmations, delivery notes, transport documents and invoices.

### **3. Bidder Declaration**

- (1) Orders are awarded to suitable contractors. The suitability of the contractor is demonstrated by the signing of a suitability declaration when the offer is made (<https://www.ur.de/verwaltung/formulare/haushaltsabteilung/index.html>). Should, in individual cases, demonstration of the contractor's suitability only take place when the order is made, then, upon receipt of the written order, the additional form sent with this order is to be completed, signed and returned to UR without delay.
- (2) Until receipt of the declaration, UR may withhold performance of all contractual obligations in regard to the Contractor. § 273 of the German Civil Code (BGB) remains unaffected.

### **4. Delivery**

- (1) The delivery time stated in the order confirmation is binding for the Contractor and must be strictly adhered to. The delivery period will be determined according to the date of order.
- (2) Delivery of goods shall be free of charge to the place of use. The delivery includes the installation and placing into operation of equipment as well as the providing of instructions and advice to staff operating the equipment. In the case of deliveries from countries subject to customs duties, the Contractor shall contact UR in regard to customs and clearance inwards in due time. Transport, packaging or installation costs, together with other expenses or levies arising from the transaction or the fulfilling of the agreement can be charged only by prior agreement.

(3) Unless otherwise agreed or specified in the order, the place of use shall be the incoming goods department (Warenannahme) of the University of Regensburg.

(4) Specifications of delivery vehicles and packaged goods must be in accordance with the conditions of the premises. The maximum clearance is 3.40 m. The dimensions of lifts and doors, as well as the floor loading capacity, should be considered. For deliveries of large or bulky goods, in particular those that require installation, the Contractor shall contact UR three working days before the delivery date.

(5) Partial consignments must be described as such. Deliveries must in every case be accompanied a delivery note clearly detailing the content of the shipment, in particular the quantity, order number and number of packages.

## **5. Passing of Risk**

(1) The risk passes to UR on arrival and acceptance of goods at the place of use.

(2) Damage to other objects caused during transport of goods or installation of equipment on our premises can, at the expense of the Contractor, be remedied by UR. The expenses incurred can be set off against the outstanding debts and claims of the Contractor.

## **6. Property, Provision of Materials, Third Party Rights**

(1) On delivery, UR acquires unlimited title to the goods. Clause 8 (3), s 2 remains unaffected.

(2) Samples, raw materials and the like (material provisions) as well as documentation provided by UR to the Contractor for the purpose of the agreement remain the property of UR. Property rights in regard to material provisions and documentation also remain unaffected. Materials and documents surrendered by UR may be used only as far as is necessary for the fulfillment of the contract; duplication, reproduction or alteration for any other purpose is prohibited. On completion of the contract, originals and any copies are to be returned free of charge and without delay to UR. Details of objects and documentation provided by UR are not to be disclosed to third parties, even after completion of the contract. The non-disclosure obligation lapses only when and in so far as the knowledge contained in the surrendered material enters the public domain.

(3) Such items - as long as they remain unprocessed - are, at the expense of the Contractor, to be stored separately and to be insured to the normal extent against destruction and loss.

(4) Processing, mixing or combining by the Contractor of objects provided by UR shall be undertaken for UR. In the event that ownership rights of third parties are retained upon processing, mixing or combining with their goods, UR acquires the co-ownership right, in proportion to the value of the material made available by UR and the value of the other materials.

(5) The Contractor shall indemnify UR from any claims of third parties arising from violations of proprietary rights occurring as a result of delivery of goods or performance of services.

## **7. Execution of Service, Quality Control**

(1) Subcontractors of the Contractor may act only with the prior consent of UR.

(2) The Contractor shall ensure that the safe functioning (for its intended purpose), construction and potential uses of the equipment are in accordance with the current state of technology. Compliance with all applicable regulations, in particular operational safety and accident prevention regulations, health and safety rules as well as relevant DIN, EN and VDE regulations, have to be ensured.

(3) The policies applying to employees of the Maintenance Services and of external companies for work in laboratories must be heeded. The relevant document can be obtained by those with a valid interest upon request to the administration division Safety.

(4) Should safety regulations necessitate the use of safety devices, the provision and installation of such devices shall be included, without additional charge, in the service provided by the Contractor.

(5) A nominal voltage of 230 or 400 V will be provided for the operation of electrical appliances.

(6) Agreed specifications in regard to all ordered goods include documentation necessary for operation, maintenance and repair, in particular operating instructions, spare parts lists and circuit diagrams. These are to be enclosed free of charge and in the German language.

(7) During normal hours of operation, UR can itself or through a representative conduct a quality inspection at the Contractor's plant. UR shall bear the costs of this, provided that a re-inspection is not rendered necessary by any identified defects. In this event, the Contractor shall bear the costs of the re-inspection. In regard to the awarding of sub-contracts, the Contractor shall ensure that the right to quality inspections by UR is retained in respect of the sub-contractor.

## **8. Packaging, Environmental Protection**

(1) Packaging is to be restricted to that which is absolutely necessary. The provisions of the Packaging Law apply (VerpackG).

(2) The Contractor shall take back, free of charge, all transport packaging, regardless of its nature. In this respect, the Contractor shall dispose of waste in an environmentally sound manner. All returns by UR are freight collect.

(3) Where UR releases the Contractor from the obligation to take back packaging described in section 2 (above), the ownership of the packaging material is transferred, without entitlement to remuneration, to UR. This does not apply to loan packaging, provided this is clearly marked as such; in no event is the Contractor entitled to extra remuneration.

(4) In accordance with the directives of the Free State of Bavaria, suggestions for environmentally compatible deliveries and services are expressly requested.

(5) The provisions of the Act Governing the Sale, Return and Environmentally Sound Disposal of Electrical and Electronic Equipment (ElektroG) remain unaffected.

## **9. Defects and Warranty**

(1) UR fully reserves all rights and remedies provided by applicable law.

(2) Specifications of goods or services defined in the order shall be included within the contractually agreed condition of these goods and services.

(3) Notwithstanding § 442 (1) s. 2 BGB, UR shall have an unrestricted right to claim for defects even if these defects were unknown, as a result of gross negligence, at the conclusion of the contract.

(4) § 377 of the German Commercial Code (HGB) applies only in regard to obvious defects and where the notice of defect is given within two weeks of the discovery of the defect.

## **10. Prices and Payment**

(1) The price specified in the order is binding. The agreed prices are fixed prices without VAT. Where no price is quoted in the order, the valid price on the date of the sending off of the order confirmation shall apply as a fixed price.

(2) Prices must be determined in accordance with the relevant legal provisions relating to regulation of prices; all payments are subject to an assessment of compatibility with pricing legislation. This provision shall be expressly acknowledged by the Contractor. The Contractor shall refund excess payments without delay.

(3) On fulfillment of the order, a written invoice is to be submitted separately; the invoice must not be enclosed with the shipment. The invoice must comply with the requirements of § 14 (4) of the Value Added Tax Act (UStG); in particular, VAT must be specified separately on the invoice.

(4) The contractually agreed price is payable within thirty days of completed delivery and service (including any agreed acceptance) and following receipt of the invoice, which must be issued in accordance with section 3 (above). Payments within thirty days of receipt of the invoice shall be made with a deduction of 2% on the gross amount of the invoice, unless otherwise agreed.

(5) Payment and discount periods begin on receipt by UR of the invoice (hard copy); not, however, before delivery or acceptance of goods or performance of service.

(6) UR is not liable for payment of interest.

(7) Invoices for partial deliveries should not be due before completion of the entire order except by prior agreement.

(8) Payments shall be made by bank transfer to the account specified on the invoice by an authorized recipient.

(9) Additional costs incurred as a result of failure to comply with these conditions shall be borne by the Contractor.

## **11. Data Protection**

(1) Please take note of our data protection policy which can be found at <https://www.ur.de/datenschutz/>.

Commercial documents are stored in our system for 10 years.

(2) For the purposes of deciding whether to establish, to conduct or to terminate a contractual relationship, UR reserves the right to collect and use probabilities which are calculated using inter alia address data.

(3) The provisions of the applicable Data Protection Acts remain unaffected.

## **12. Set Off**

The Contractor may only offset UR's claims where his own claims are acknowledged, undisputed or determined in a legal binding judgement.

## **13. Supplementary Provisions for Maintenance Contracts**

(1) In respect of maintenance and consultancy contracts, the additional contractual terms specified in the following sections apply.

(2) Within the scope of maintenance contracts, the law of contracts for work and services (§§ 631 et seq. BGB) shall apply in regard to individual services provided by the Contractor.

(3) UR may terminate maintenance contracts at any time without prior notice and without giving reasons. § 628 BGB remains unaffected.

## **14. Withdrawal and Termination**

(1) UR is, without prejudice to other rights of termination or withdrawal, entitled to terminate the contract or to withdraw from it where the assets of the debtor have become subject to insolvency proceedings or where the insolvency application is rejected for want of substance.

(2) The same applies in the event that actions in terms of §§ 333 and 334 of the German Criminal Code (StGB) are performed by the Contractor.

## **15. Further Provisions**

(1) The place of performance of delivery and payment is Regensburg. Insofar as the contracting party is a person according to § 38 (1) Code of Civil Procedure (ZPO) and no exclusive place of jurisdiction is determined, Regensburg will be the place of jurisdiction.

(2) All agreements shall be governed by the law of the Federal Republic of Germany to the exclusion of the UN Convention on the International Sale of Goods.

(3) Legally relevant declarations and notifications to be submitted to UR on completion of the contract, in particular setting of deadlines, reminders and withdrawals, are invalid unless presented in written form.

(4) Should any provision of these General Terms and Conditions be or become invalid the validity of the remaining provisions shall not be affected.

(5) Attention is drawn to the provisions of the Regulation on the Representation of the Free State of Bavaria and to the applicable remedial procedures.

This is a translation of the original "Allgemeine Auftragsbedingungen". In case of any inconsistencies the german version shall prevail.

This General Terms and Conditions can be downloaded from the Internet at <https://www.go.ur.de/gtc>