

GENERAL TERMS AND CONDITIONS OF PURCHASE OF RAGSOL GmbH

Date: 02/2019

1. Scope

The legal relationship between the Supplier and RAGSOL GmbH - hereinafter referred to as the Orderer - shall be governed exclusively by these Terms and Conditions of Purchase. Any terms and conditions of the Supplier conflicting with or deviating from these Terms and Conditions of Purchase shall only apply if the Orderer has expressly consented to their validity in writing. Any changes and amendments to these Terms and Conditions of Purchase shall be made in writing.

These Terms and Conditions of Purchase shall also apply to all future transactions with the Supplier.

2. Contracts

- 2.1. Purchase orders and acceptances as well as changes and amendments thereto must be made in text form. Verbal agreements and side agreements before, during or after conclusion of the contract require confirmation by the Orderer in text form.
- 2.2. The Supplier shall be obliged to confirm the purchase order in text form within a period of 2 weeks. If the Supplier does not do so, the purchase order shall be deemed accepted without reservation.
- 2.3. The Orderer may, within reason, demand changes to the design and execution of the deliverable to be procured. Effects with regard to additional and reduced costs as well as delivery dates are to be regulated appropriately by mutual agreement.
- 2.4. Offer documents prepared jointly with the Orderer, in particular drawings, calculations and illustrations, shall be the exclusive property of the Orderer. They may not be made accessible to third parties without the express written consent of the Orderer.
- 2.5. The Supplier shall be obliged to inform the Orderer, already at the time of submission of the offer, of possible defects, in particular with regard to compliance with the state of the art in science and technology, environmental protection regulations or technical expediency. The Supplier is further obliged to point out if the parts and services listed in the offer are incomplete or not sufficient to enable the Orderer to use the supplies and services in accordance with the contract and/or as usually assumed.
- 2.6. Subcontracting to third parties without the written consent of the Orderer is not permitted.
- 2.7. The contract for the provision of the deliverable to be procured comprises the following documents (including their annexes), which shall apply in accordance with the following order:
 1. The written purchase order of RAGSOL
 2. The jointly initialled technical and/or commercial minutes of the negotiations, if any.
 3. The offer (references to the Supplier's General Terms and Conditions are invalid);

4. All statutory and technical standards, guidelines and other regulations, insofar as they apply to the entire plant or to the deliverable to be procured and are state-of-the-art, in particular the relevant Austrian standards (*ÖNORMs*), the building regulations, the Austrian Mineral Resources Act (*Mineralrohstoffgesetz*), the Austrian Natural Gas Act (*Gaswirtschaftsgesetz*), etc. which (i) are valid at the time of the conclusion of the contract, (ii) were announced at the time of the conclusion of the contract, but only come into force again with transitional periods within the performance period. The provisions resulting from Clause 4 supplement the contents of the contract exclusively from a technical point of view. Commercial provisions - in particular from *ÖNORMs* - shall not become part of the contract, even if no provision is made in Clauses 1 to 4 in this regard.

3. Delivery dates and periods

- 3.1. Agreed delivery dates and periods are binding. Compliance with dates and periods is measured by the time when the contractual goods are received at the delivery address indicated by the Orderer.
- 3.2. The Supplier is obliged to inform the Orderer immediately in writing if it becomes apparent to the Supplier that the agreed delivery time cannot be met. The Supplier must do everything, at the Supplier's own expense, to meet the agreed delivery date.
- 3.3. The Supplier is obliged to compensate the Orderer for the damage caused by delay. The Orderer is entitled to demand lump-sum compensation for damage caused by default amounting to 1% of the delivery value per commenced week, but not more than 5% of this value. The Supplier is free to prove that no damage or substantially lower damage has been incurred as a result of the Supplier's delay. Further statutory claims of the Orderer remain reserved. In particular, the Orderer is entitled to prove greater loss or damage, to withdraw from the contract after the fruitless expiry of a reasonable grace period, or to claim damages.
- 3.4. Unreserved acceptance of the delayed delivery does not constitute a waiver of the aforementioned claims of the Orderer.

4. Packaging, shipping and assembly

- 4.1. Unless otherwise agreed, the goods to be delivered shall be packed in a merchantable and appropriate manner to ensure that the integrity of the goods is guaranteed, taking into account repeated transshipment and an instance of intermediate storage. If packaging is not prescribed by the Orderer, the Supplier shall only use packaging which consists of environmentally compatible materials which do not burden the recycling process. The Supplier shall take back packaging at the Supplier's expense if the Orderer so requests.
- 4.2. If delivery is agreed to be made to recipients other than the Orderer, a dispatch note must be sent to the Orderer.
- 4.3. Unless otherwise agreed, all deliveries shall be made DDP delivery address

(INCOTERMS 2010).

- 4.4. The order details from the purchase order must be stated in all shipping documents.
- 4.5. The Supplier is obliged to provide the Orderer with all documents necessary for obtaining international transport documents (e.g. certificates of origin, material certificates, etc.). Unless otherwise agreed, these documents shall be transmitted in digital form (*.pdf format) and in English. Following the instructions of the Orderer, the Supplier is obliged to make the documents available also in the original (hard copy) and/or in other languages.

5. Inspection and notification of defects

- 5.1. The Orderer will notify the Supplier immediately of any defects in the delivery as soon as they can be detected in the ordinary course of business - at the latest, however, 30 days after they become known.
- 5.2. Verbal communication of the notice of defects is sufficient for the time-limit to be deemed met. A written notification of defects and request for improvement will suspend the warranty period until the defects complained of have been finally remedied. If defects are found, the Supplier may be charged with the costs of the inspection and the replacement delivery.

6. Quality and documentation

- 6.1. The Supplier shall comply with the technical specifications in accordance with the latest state of the art, the national standards, rules and applicable EU directives as well as the applicable safety regulations. Changes in the production of delivery items require the prior written consent of the Orderer. If the Orderer specifies technical data or stipulates test specifications, this shall not release the Supplier from its obligation to provide defect-free, contractually and functionally compliant delivery items.
- 6.2. The Supplier shall inspect the quality of the deliverable items and, if necessary, inform the Orderer of any possibilities of quality improvement. Compliance by sub-suppliers must also be verified and ensured appropriately. If the Supplier discovers deviations which could also affect deliveries already dispatched, the Supplier must inform the Orderer immediately. Quality requirements resulting from the above-mentioned legal regulations must be met, even if this is not expressly referred to in the order documents. If, during the performance of the order, corrective measures become necessary which may have an influence on the quality requirements, these measures shall be communicated and described to the Orderer. They may only be carried out with the consent of the Orderer.
- 6.3. The nature and extent of the quality inspections shall be agreed between the contracting parties. The Orderer may at any time demand that the Supplier complies with product-specific test methods as customary in the industry.
- 6.4. The inspection documents shall be kept by the Supplier for at least 10 years and shall be presented to the Orderer upon request. For the performance of RAGSOL's tests and inspections, the Supplier shall provide all necessary support free of charge, e.g. it shall

make available the necessary aids and measuring instruments and, if required, provide qualified personnel.

- 6.5. The delivered products must comply with the applicable legal regulations, in particular those of the European Union and the place of destination according to the purchase order. The Supplier shall be liable for delays caused by missing or incorrect declarations of conformity.
- 6.6. The Supplier is obliged to submit the quality documentation required by law. If no documentation is defined in the purchase order, at least the following documents must be submitted (if applicable):
- Operating & maintenance instructions (incl. technical data sheet)
 - Inspection certificate 3.1 according to EN 10204
 - CE declaration of conformity according to the PED
 - CE declaration of conformity according to ATEX or statement of exclusion regarding ATEX (approval for zone I, equipment group II, cat. 2G, ignition protection type EEx i, temperature class T3)
 - Documentation 1 original (hard copy) / 1 copy in electronic form
- 6.7. Unless otherwise agreed, these documents shall be transmitted in digital form (*.pdf format) and in English. Following the instructions of the Orderer, the Supplier is obliged to make the documents available also in the original (hard copy) and/or in other languages.

7. Invoicing and payments

- 7.1. Invoices shall be electronically sent to Orderer, stating the order number and the order date. The Orderer is entitled to request the submission of an invoice by post if needed.
- 7.2. Subject to proper delivery, payments shall be made net within 30 days of receipt of the proper and correct invoice including verifiable documents, unless otherwise stipulated in the contract.

8. Warranty

- 8.1. The Supplier warrants that the deliverable to be procured is free from defects, in particular that it has the agreed characteristics, is suitable for the use presupposed by the contracting parties (but at least for the use generally presupposed) and that the delivered goods correspond to the state of the art in terms of technical characteristics, quality and execution and that the values stated by the Supplier with regard to material, output or efficiency are complied with.
- 8.2. The Supplier shall be responsible for ensuring that the delivered goods comply with the statutory provisions and the relevant guidelines and standards and that their contractual use does not infringe any rights of third parties. The Supplier shall also be responsible for ensuring that at least the statutory minimum wage is always paid in the Supplier's company and by subcontractors or temp agencies.

9. Scope of warranty

- 9.1. Insofar as the Supplier is obliged to make any rectifications or provide subsequent deliveries, the Supplier shall also bear the expenses necessary for making or providing such rectification or subsequent delivery, in particular the costs for transport, labour and materials. If the Orderer has already incurred these costs, the Supplier shall refund them within 30 days of invoicing. The Supplier shall also bear the costs necessary to locate a defect and its cause. The Supplier shall also compensate for any damage caused during the performance of the rectification. The same applies if further property of the Orderer is damaged during a rectification. This shall also apply if the expenses are increased by the fact that the delivery item has been taken to a location other than the contractual destination, provided that this does not result in disproportionate costs.
- 9.2. The costs of rectification or subsequent delivery shall include in particular the costs for packaging, freight as well as dismantling and installation costs. The Orderer shall be reasonably compensated for time spent by the Orderer in the context of the rectification or subsequent delivery. If damage with the same cause of defect occurs frequently (serial damage), the Supplier undertakes to provide faultless parts for the series and for the rectification or subsequent delivery in the shortest time possible.
- 9.3. The Supplier shall be liable for measures to prevent or reduce damage, in particular for preventive replacement, if the parts are replaced due to defects in the goods manufactured or supplied by the Supplier. In such cases, the Supplier shall bear all costs and expenses including the costs of a recall campaign.
- 9.4. The warranty period for movable and immovable objects is 24 months from commissioning, but no longer than 36 months after complete delivery, unless otherwise agreed.
- 9.5. The defect must be remedied in the shortest possible time. If the type of remedy is unclear, the Supplier must provide remedial proposals within 3 working days of notification by the Orderer at the latest, which have to be coordinated with the Orderer. If the Supplier disputes the defectiveness of the Supplier's performance, the Supplier must promptly inform the Orderer of such denial. If the Supplier does not prove within 14 days that its performance is free of defects, it shall carry out the defect analysis and remediation at its own expense.
- 9.6. The Orderer has the right to demand improvement until all defects have been finally remedied.
- 9.7. Should the same defect occur again, the Supplier must prove that it is not a planning or design fault. Should the Supplier fail to do so, it shall, at its own expense, carry out all measures and work necessary for contractual performance or arrange for such measures and work to be carried out. Raising any claim under warranty shall not affect the right of the Orderer to assert further claims, including without limitation, claims based on product liability, damages, tortious acts, and agency without specific authorisation.
- 9.8. In case of rectification and subsequent delivery the warranty period for replaced and rectified parts as well as rectified services shall commence anew. This shall also apply to

such parts which are functionally connected with the parts covered by the removal of defects and for which damaging influences caused by this removal of defects cannot be excluded. If, in the case of serial damage, the first occurrence of the defect falls within the warranty period, the following serial damage shall be deemed to have occurred within the warranty period; declarations and legal acts relating to the first case of damage shall always apply to all instances of serial damage.

9.9. Unless otherwise stipulated in the foregoing sub-clauses on warranty, the statutory provisions shall apply.

10. Liability

- 10.1. The Orderer shall be liable only for damage that is due to gross negligence and intent. The liability of the Orderer for indirect damage (in particular for loss of profit) is excluded.
- 10.2. The liability of the Supplier shall be governed by the statutory provisions. Indirect damage shall be the Supplier's responsibility insofar as its possible occurrence was pointed out in advance or the damage reasonably foreseeable as such.
- 10.3. If claims based on strict liability are asserted against the Orderer by third parties in connection with the deliverable to be procured, the Supplier shall indemnify and hold the Orderer harmless.
- 10.4. The Supplier is obliged to maintain liability insurance with a sufficient sum insured.

11. Product liability

- 11.1. If claims are asserted against the Orderer by third parties in connection with the Orderer's performance, including claims based on strict liability, the Supplier shall be obliged to indemnify the Orderer in respect of these claims if the cause of damage is the product supplied by the Supplier. The same shall apply if and to the extent that the Supplier is directly responsible to the third party under fault-based liability. In this case the Supplier shall bear all costs and expenses for the repair of the damage, including the costs of a recall or service campaign as well as the necessary costs arising from taking legal action.
- 11.2. In the event of contributory causes, the damage shall be distributed in a reasonable proportion in accordance with the statutory provisions.
- 11.3. The Supplier is obliged to maintain product liability insurance with a sufficient sum insured.

12. Export control

- 12.1. For all goods to be delivered and services to be rendered, the Supplier shall comply with the applicable requirements of national and international export, customs and foreign trade law and procure the necessary export permits, unless the applicable law does not oblige the Supplier, but only the Orderer or a third party, to apply for the export permits.
- 12.2. If the products and their documentation are intended for export or re-export by the Orderer, the Supplier shall be obliged to submit the necessary export documents, to classify the goods to be exported in accordance with the applicable legal provisions (e.g. list of dual-use goods) and, if necessary, to provide the Orderer with reasonable support in obtaining the export permits. Prior to performance of its deliveries and services, the Supplier shall provide the Orderer with all necessary means of proof (e.g. certificates of origin) required by the Orderer to obtain tariff concessions and other benefits and for customs clearance as well as all associated processes, acts etc.
- 12.3. The Supplier further undertakes to inform the Orderer in writing which components, assemblies, devices, equipment or documents are subject to the relevant export or re-export restrictions under the foreign trade provisions of Austria, the European Union and/or US (re)export regulations. If the Supplier becomes aware of the applicability of further foreign trade regulations during the course of or after the execution of the purchase order, the Supplier shall immediately inform the Orderer thereof in writing.
- 12.4. If the Supplier fails to meet its obligations under this Clause 12, it shall compensate the Orderer and/or its customers for all damage and expenses resulting therefrom, unless it can prove that it is not responsible for the breach of duty.
- 12.5. If the export licence is not granted, not extended, or withdrawn, for reasons for which the Supplier is responsible, the Orderer shall be entitled to terminate the supply contract for good cause.

13. Compliance with environmental regulations

- 13.1. The Supplier shall be responsible for ensuring that its deliveries are in conformity with the provisions of Regulation (EC) No. 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation) as amended from time to time. Unless a substance is exempted from registration, the substances contained in the Supplier's products shall be pre-registered, or registered at the end of the transition periods, to the extent this is required by the REACH Regulation. The Supplier shall provide safety data sheets in accordance with the REACH Regulation and/or the information required in accordance with Article 32 REACH Regulation without being requested to do so. Upon request, the Supplier must also provide information in accordance with Article 33 REACH Regulation. In the event that the Supplier breaches any of the aforementioned obligations, the Orderer shall be entitled at any time to cancel the corresponding purchase order immediately and refuse acceptance of the corresponding delivery without incurring any costs for us. In addition, in the event of

culpable violations of the REACH Regulation, the Supplier shall be obliged to compensate the Orderer for all damage and expenses resulting from the violation.

- 13.2. The Supplier also guarantees compliance with all environmental regulations in accordance with Austrian and European law, including Directive 2002/95/EC and 2011/65/EU (RoHS Directive), insofar as they are relevant to the quality of the products delivered to the Orderer. The Supplier shall compensate the Orderer for all damage and expenses (including legal costs) arising from any breach of the aforementioned environmental regulations for which the Supplier is at fault.

14. Dodd-Frank Act

The Supplier warrants that the goods it delivers will not contain any raw materials covered by section 1502 of the Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), as amended from time to time. In the event of a breach of the Dodd-Frank Act, the Supplier shall indemnify the Orderer in respect of all damage and expenses resulting therefrom.

15. IP rights and copyrights

- 15.1. The Supplier shall be liable for claims arising from the infringement of IP rights when the delivery items are used in accordance with the contract. The Supplier shall indemnify the Orderer and its customers in respect of all claims associated with the use of such IP rights.
- 15.2. The Orderer shall have exclusive title to, and the exclusive right to use/exploit, models, patents, ideas, know-how, concepts, business plans, trade secrets, formulas, protocols, analyses, studies, calculations, lists, inventions, discoveries, research, designs, drawings, plans, specifications, product or process specifications, developments, applications, hardware, software, technical, manufacturing or marketing data, customer names and any and all other commercial, financial, technical, research-related or strategic information and other documents prepared by the Supplier for the Orderer, which are produced or procured by the Supplier in fulfilment of the order or this contract. The Supplier undertakes to hand over to RAGSOL the originals of all order-related documents, in particular technical documents, and to also deliver them to RAGSOL in editable electronic form.
- 15.3. RAGSOL shall receive title to, or the right (which shall be exclusive and transferable to third parties) to use, the documents and all other copyrighted rights in the widest possible legal sense.
- 15.4. Unless otherwise agreed, the Orderer shall have a transferable right unlimited in time to use software as part of the delivery to the extent required for the contractual use of the object. The Supplier shall also be obliged to provide the documentation required for full use of the software without any additional costs being incurred by the Orderer in this respect. Unless the software is standard software, the Orderer may demand securing

the source code and ensuring a right of access for the Orderer in the event of the Supplier's insolvency or persistent inability to perform its obligations. If the Orderer has contracted the programming of software, the remuneration shall cover all work and services and all rights; in particular, all rights of use and exploitation shall be transferred to the Orderer, and the source code together with the usual documentation shall be handed over to the Orderer.

16. Confidentiality

- 16.1. The Supplier is obliged to treat information from the business relationship with the Orderer confidentially, as a business secret within the meaning of section 17 of the Unfair Competition Act (*UWG*).
- 16.2. Models, patents, ideas, know-how, concepts, business plans, trade secrets, formulas, protocols, analyses, studies, calculations, lists, inventions, discoveries, research, designs, drawings, plans, specifications, product or process specifications, developments, applications, hardware, software, technical, manufacturing or marketing data, customer names and any and all other commercial, financial, technical, research-related or strategic information and other documents prepared by the Supplier for the Orderer shall not be entrusted or otherwise made accessible to unauthorised third parties.
- 16.3. Supplier may only disclose the confidential information without the prior written consent of Orderer to its employees, directors and officers; as well as its affiliates in each case only under the condition and to the extent that disclosure to these recipients is essential for the performance of the contract. Prior to the disclosure of any confidential information of these General Terms & Conditions, Supplier shall procure that the recipient is made aware of the confidentiality terms of these General Terms & Conditions and is bound by Supplier to maintain the confidentiality of such confidential information on terms no less onerous than those set out in these General Terms & Conditions.
- 16.4. The obligation of confidentiality shall remain effective also after the supply relationship has ended.
- 16.5. Neither these General Terms & Conditions nor the disclosure of confidential information shall confer or be deemed to confer on the Supplier
- any rights in or to the confidential information, including but not limited to trademark, patent, design, copyright or other intellectual property rights or
 - any right to use, sell, commercialize or develop the confidential information and Supplier shall not
 - use the confidential information for other purposes than the purpose of these General Terms & Conditions, neither by itself nor through its affiliates or third parties;
 - reverse engineer confidential information; and/or
 - apply for trademark, patent, design, copyright or any other form of intellectual property protection.

17. Ownership right of the Orderer

- 17.1. Materials and tools provided by the Orderer shall in all cases remain the property of the Orderer, even if they are modified by the Supplier. They must be properly maintained by the Supplier. Entrusting the tools to third parties shall be permissible only with the written consent of the Orderer.
- 17.2. Models, patents, ideas, know-how, concepts, business plans, trade secrets, formulas, protocols, analyses, studies, calculations, lists, inventions, discoveries, research, designs, drawings, plans, specifications, product or process specifications, developments, applications, hardware, software, technical, manufacturing or marketing data, customer names and any and all other commercial, financial, technical, research-related or strategic information and other documents prepared by the Supplier for the Orderer, which have been entrusted to the Supplier, shall remain the Orderer's property. They shall not be used for other purposes without the express consent of the Orderer and must be returned at the request of the Orderer at any time without delay and at the expense of the Supplier. A right of retention of the Supplier is excluded.

18. Transfer of ownership and transfer of risk

- 18.1. After acceptance and upon payment of the total price - excluding the possibly agreed retention for warranty claims - title to the deliverable to be procured shall pass to the Orderer without restriction. Any further retention of title is excluded. The Supplier guarantees vis-à-vis the Orderer that no third-party rights exist in the deliverable. If claims based on such rights of third parties are asserted vis-à-vis the Orderer nevertheless, the Orderer may make use of the retention for warranty claims in addition to all other legal remedies to which the Orderer is entitled. Until the final transfer of ownership, the Supplier shall bear the risk of the accidental loss of the deliverable to be procured unless otherwise agreed in the purchase order (e.g. transfer of ownership and risk in accordance with Incoterms 2010).

19. HSE

- 19.1. Health, safety and environment (HSE) are a direct responsibility of the Supplier, both in its line organisation and among its vicarious agents and subcontractors. The management of the Supplier as well as the line managers and project managers shall therefore promote HSE awareness among their employees through their own positive behaviour as well as through information, instructions and motivation.
- 19.2. The employees of the Supplier shall support the HSE measures by their behaviour. The Supplier unconditionally acknowledges the "Safety Guidelines for Contractors of RAG Austria AG" and irrevocably undertakes to comply with them. The Supplier shall ensure that its employees, including subcontractors, comply with the regulations and shall

monitor compliance.

- 19.3. In the event of infringements of HSE regulations, the Orderer shall be entitled to immediately prohibit working and/or to cancel the order, without the Supplier deriving any claims therefrom. Delays caused by this do not cause any postponement of the dates.

20. Secondary obligations of the Supplier

- 20.1. The Supplier is obliged to mark the delivery items in the manner prescribed by the Orderer.
- 20.2. The Supplier is obliged to ensure the supply of spare parts for a period of 10 years from the last delivery.
- 20.3. In advertising materials and/or other publications, the Supplier may only refer to business relations with the Orderer with the latter's express written consent.

21. Right of withdrawal

- 21.1. The Orderer reserves the right to withdraw from the contract in accordance with the statutory warranty regulations, but in any case if using all of the goods and/or services provided by the Supplier is unacceptable for the Orderer so that the Orderer cannot benefit from the deliverable to be procured. Such unacceptability exists in particular if guaranteed performance values are fallen short of or if other agreed performance characteristics are significantly fallen short of.

22. Legal succession

- 22.1. The Orderer may transfer the rights and obligations under the order to successors in title and/or affiliates; the Supplier may object to the transfer to successors in title only if the successor in title does not provide any warranty for the performance of the Orderer's obligations under this contract and the purchase order.
- 22.2. On the Supplier's part, the transfer of rights and obligations arising from the order is only permissible with the prior written consent of the Orderer. In particular, the Supplier shall not be entitled to assign its claims or have them collected by third parties without the prior written consent of the Orderer (except for claims of the Supplier which have already been acknowledged in writing or established by court order), failing which this assignment shall be ineffective (absolute effect of the prohibition of assignment). In this case, however, the Orderer may at its discretion make payment with discharging effect to either the Supplier or the third party.

23. General provisions

- 23.1. The place of performance shall be the place of receipt designated by the Orderer.
- 23.2. The exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be Vienna. However, the Orderer shall also be entitled to bring an action before the courts having jurisdiction over the Supplier's registered seat.
- 23.3. Applicable law is the substantive law of the Republic of Austria excluding the conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods (CISG).
- 23.4. Should any provision of these Terms and Conditions and other agreements be or become invalid, the validity of the remainder of the contract shall not be affected thereby. The contracting parties shall replace such ineffective provision with an effective regulation whose result comes as closely as possible to the intended economic effect of the ineffective one.