

Addendum to Rhenus' Automotive SE Purchasing Terms for the Production, Supply, Assembly and Commissioning Of Equipment

1. Applicability

1.1.

The agreement entered into between Rhenus and the Supplier is based on Rhenus' General Terms and Conditions of Purchase (hereinafter "GTCP"), as amended (link: <https://www.rhenus.group/de/automobillogistik/lieferantenportal>). This addendum to the GTCP regarding the production, supply, assembly and commissioning of equipment supplements the GTCP. The purpose of this addendum consists of supplementing and amending the GTCP subject to the scopes and contents set forth herein. The below provisions supplement and – in cases of conflict (cf. item 1.3) – supersede the respective provisions in the GTCP. In all other respects, the GTCP's provisions remain in effect for Rhenus and the Supplier.

1.2.

Supplier conditions are incorporated into the contractual arrangement between the Supplier and Rhenus only insofar as they were expressly agreed in writing. RHENUS' acceptance of deliveries, services or payments does not constitute acceptance of the Supplier's conditions.

1.3.

The following documents, provisions and norms form the basis of the cooperation between Rhenus and the Supplier in reference to the production, delivery, assembly and commissioning of equipment. In cases of conflict among the documents listed below, those listed first take precedence over those listed below:

- Rhenus' order;
- specifications, as most recently amended by Rhenus;
- addendum to GTCP;
- GTCP;
- Supplier's inquiry / offer;
- all pertinent technical standards at the European and national level (e.g., DIN, EN, ISO);
- all legal provisions in effect at the equipment's place of assembly and operation in the areas of
 - accident prevention;
 - occupational safety;
 - environmental protection;
 - all pertinent guidelines and directions issued by the competent agencies, including but not limited to the supervisory authorities.

Immediately upon receipt, the Supplier must review the aforementioned documents, provisions, norms, etc. taking into account its share of performance, and promptly communicate in writing any instance in which such documents, provisions and norms contrast with its understanding or raise questions about feasibility.

1.4.

Unless expressly defined in this addendum, the words and expressions used herein carry the meaning assigned to them in the GTCP. "**Equipment**" refers to such products, equipment, machines and tools, along with related accessories and parts, as may be supplied to Rhenus under the (contractual) arrangement.

2. Scope of performance, service change

2.1.

Unless agreed otherwise in writing, the services to be rendered by the Supplier include, aside from planning, manufacturing, supplying, assembling / installing and commissioning the Equipment in full, everything that is needed for the proper, functional and appropriate performance of the services provided in accordance with the addendum and the documents set forth in item 1.3 even if these documents do not specifically and separately note as much. In particular, this encompasses the delivery of the Equipment in full to the inclusion of all parts, equipment and software (including source code) needed for the proper operation, maintenance and repair of the Equipment, –in compliance with the agreed and/or warranted condition and intended use – irrespective of whether they are specifically listed in Rhenus' order (hereinafter "**Scope of Performance**"). The Scope of Performance further includes the technical documentation of the Equipment to be set up. Such documentation must contain the documents and information needed for the proper and safe operation, maintenance, repair and modernization of the Equipment that are required by law (where the Equipment is made and where it is commissioned). If the proper operation, maintenance, repair or service of the Equipment necessitates that Rhenus' staff be trained or instructed, the Supplier's Scope of Performance includes such training and instruction. To the extent possible and demanded by Rhenus, the Scope of Performance further includes the issuance of a Supplier's declaration.

2.2.

The Equipment must not be manufactured until the Supplier has received Rhenus' documents, including any changes, and Rhenus has released production. Such production release does not relieve the Supplier from the obligations to which it is subject.

2.3.

In rendering performance and, in particular, in reference to the Equipment's design and construction, the Supplier must apply the state of the art in science and technology and observe any and all applicable legal provisions where the Equipment is made and where it is commissioned unless specifically agreed otherwise in writing. In particular, this includes but is not limited to the obligation to design the Equipment to ensure compliance with pertinent European guidelines and the national implementation of the regulations, at the place of performance (cf. item 3.1), as well as with technical standards. The Supplier is responsible for – and must provide and/or affix – any declaration of conformity as well as marking. To the extent possible, the Supplier must provide the Scopes of Performance without disrupting Rhenus' operations.

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2.4.

Up until final acceptance, Rhenus is entitled to demand, to a reasonable extent, changes to the Scopes of Performance, including but not limited to the Equipment. In cases of subsequent changes to the Equipment, the Supplier is obligated to update and submit any documentation for which it is responsible, along with the risk assessment, without delay.

2.5.

The Supplier states in particular that it has gained sufficient knowledge of the Scopes of Performance, the Equipment's intended use and any resulting (location-specific) requirement by viewing the relevant documents and gathering all necessary information. Insofar as Rhenus imposes requirements of any kind on the Supplier, the Supplier must review such requirements to make sure they are complete, may be implemented and can be used, and it will promptly notify Rhenus in writing of any reservation against such requirements, including the reasons underlying its reservations.

2.6.

The Supplier sees to its deliveries and services on its own responsibility, using its own personnel and safety equipment and, to the extent required, its own devices, machines and tools. Subject to Rhenus' prior written approval, the Supplier may engage sub-suppliers, subcontractors or other third parties (hereinafter "**Sub-suppliers**") to see to its Scopes of Performance, be it wholly or in part. In each case, however, the Supplier remains responsible for such services as the Sub-suppliers may render as if it had rendered them itself.

3. Delivery, transport

3.1.

Unless agreed otherwise in writing, the Supplier will deliver the Equipment in full, including all necessary accessories and parts within the meaning of item 2.1, to the permanent establishment designated by Rhenus in its order (place of performance), assemble and install it there and have it accepted by Rhenus following its successful commissioning. Insofar as Rhenus' order does not specify a permanent establishment, the place of performance is the setup location otherwise provided by Rhenus.

3.2.

Unless agreed otherwise in writing, packaging, transporting, unloading and removing the packaging from the Equipment, along with the disposal of packaging, are the Supplier's responsibility. The Supplier must ensure and, if necessary, coordinate with Rhenus that the necessary structural conditions (including the supply of energy and other resources, data-transfer infrastructure, etc.) were coordinated with Rhenus in advance and are in place.

3.3.

Unless agreed otherwise in writing, the Equipment and all of its parts are supplied in accordance with the provisions of this item 3.3. Subject to DDP (Incoterms 2020), the Equipment and all of its parts are delivered to the permanent establishment according to item 3.1 unless the goods are imported into the European Union from a third country. In such a case, the Equipment and all of its parts are supplied subject to DAP (Incoterms 2020).

3.4.

Whenever necessary, Rhenus is entitled to order the total volume in tranches and/or to order less than the intended total volume. Rhenus will so inform the Supplier.

4. Transfer of title, third-party rights

4.1.

The title to the Equipment and all accessories, including documentation according to item 2.1, pass to Rhenus without fail upon delivery to Rhenus' premises.

4.2.

Unless expressly agreed otherwise between Rhenus and the supplier, RHENUS objects to the Supplier's reservation-of-title clauses or declarations, if any, insofar as they exceed in scope a basic reservation of title (einfacher Eigentumsvorbehalt).

4.3.

Insofar as the Equipment is encumbered with third-party property rights, the Supplier shall so communicate in writing prior to supplying the Equipment or its parts, provide options for a transfer of title to Rhenus and implement such options in coordination with Rhenus.

5. Prices, terms of payment, payment milestones

5.1.

The agreed prices are fixed prices; as such, they are not subject to adjustments in the event of cost changes (including but not limited to wage and material costs, currency fluctuations or other pricing factors) and represent compensation for all Scopes of Performance and the services needed for them as described herein as well as in the referenced documents pursuant to item 1.3, including transport, assembly, commissioning, acceptance, insurance, construction site security, instructing operating and maintenance staff, providing documentations and all subsidiary costs. This also applies for changes and corrections that are needed to achieve the Equipment's contractually agreed condition.

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5.2.

Unless agreed otherwise between Rhenus and the Supplier in writing, Rhenus pays the fixed prices in installments in accordance with the payment schedule below. The Supplier will invoice such installments once a given project milestone has been achieved and documented. Rhenus will pay the installments after they have fallen due. Installments are due and payable 30 (in words: thirty) days from invoice receipt or, if required, upon Rhenus' verification of the project milestone as follows:

- a) The first installment equals 20% of the fixed prices;
upon ordering unless the conclusion of contract takes place on another date, and then upon the conclusion of contract only if and when the Supplier has provided Rhenus with an irrevocable, unlimited and absolute advance-payment and contract-performance guarantee in the amount of the first installment (20%) issued by a major German bank, which must be returned following the Equipment's acceptance step by step (*Zug um Zug*) in exchange for the delivery of the performance bond in the amount of the first installment (20%).
- b) The second installment equals 35% of the fixed prices;
upon successful formal preliminary acceptance and successful functional testing at the Supplier's plant.
- c) The third installment equals 35% of the fixed prices;
upon assembly, commissioning and successful functional testing at Rhenus' plant.
- d) The fourth installment equals 10% of the flat fixed prices;
upon formal final acceptance in exchange for an irrevocable, unlimited and absolute performance bond in the amount of 10% issued by a major German bank.

6. (Delivery) deadline, contractual penalty

6.1.

The delivery and performance deadlines agreed between the parties are binding in nature. They include but are not limited to the delivery date, preliminary acceptance, commissioning and final acceptance.

6.2.

If the supplier becomes aware that it will not be able to meet an agreed deadline, it must promptly so notify Rhenus and provide reasons while promptly adopting measures to mitigate the delay in a timely manner.

6.3.

Rhenus is entitled to demand payment of a contractual penalty at a rate of 0.3% of the relevant order value for each business day of default of delivery, up to the contractual penalty's maximum amount of 5% of the order value in total. In the event of default with respect to intermediate deadlines, the maximum amount of the contractual penalty refers to 5% of the order value of the services to be rendered by a given intermediate deadline. The sum total of all contractual penalties is capped at 5% of the entire contract's order value. The contractual penalty shall be offset against the default damage to be compensated by the Supplier. Rhenus may assert its claim for payment of a contractual penalty until the final payment is made. Any right to assert claims for damages beyond any contractual penalty assessed hereunder is not affected.

7. Own acceptance, preliminary acceptance

The Supplier is obligated to constantly effect acceptance on its own. Unless agreed otherwise, the Supplier's own acceptance encompasses so-called "*i.O.-checks*" as well as electrical acceptance for all Equipment and parts in accordance with statutory and regulatory requirements. Following the Supplier's own acceptance procedure, Rhenus will conduct a formal preliminary acceptance. To the extent contained in the specifications and the appendices therein, the details and requirements for own and preliminary acceptance will be set forth therein; otherwise, the documents listed in item 1.3 should be consulted. To be completed successfully, own and preliminary acceptance require written documentation as well as Rhenus' written confirmation. To the extent possible, own and preliminary acceptance take place at the Supplier's premises.

8. Assembly, installation

8.1.

Prior to commencing assembly, the supplier must familiarize itself with the localities and available space with regard to all necessary concerns and report any reservation or unforeseen problems / requirements in writing without delay.

8.2.

The supplier provides all materials needed for assembly at its own expense and risk. Rhenus provide supplies only if the parties agreed so individually in writing.

9. Project information, commissioning

9.1.

The Supplier reports to Rhenus on the progress of individual project stages on a regular basis. In particular, it will notify Rhenus of the completion of individual assembly steps once a state of operation readiness has been achieved, and it provides written completion reports about assembled and installed Equipment sections that are fully operational.

9.2.

Before the Equipment is commissioned, the Supplier shall ensure that all necessary technical precautions have been taken and safe handling is ensured.

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9.3.

The Equipment must not be operated until Rhenus has released the Equipment's commissioning in writing.

10. Final acceptance, transfer of risk

10.1.

Compliance with the Equipment's agreed condition, the Supplier's fulfillment of the Scope of Performance in full, a successful trial run as well as the delivery of the entire technical documentation, user manual(s) and other records needed to operate the Equipment as well as the production of all necessary declarations (if applicable, including but not limited to: CE marking, declaration of conformity) and approvals are conditions of final acceptance by Rhenus unless agreed otherwise in writing.

10.2.

Acceptance is effected by means of a written acceptance report signed by Rhenus and the Supplier. Until acceptance, the Supplier bears the risk of the accidental demise or accidental deterioration of the Equipment. The risk as to performance and compensation do not pass to Rhenus until final acceptance has been completed.

11. Warranty, guarantee

11.1.

The supplier warrants and guarantees that its performance and the Equipment meet any and all requirements set forth in the documents listed in item 1.3, and that the Equipment is suited to the intended use.

11.2.

Rhenus is entitled to such warranty rights and claims as applicable law may provide in the event that the Equipment is found to be defective during the warranty period pursuant to item 11.3. Specifically, the Equipment is deemed to be defected if and to the extent that it falls short of agreed condition and performance parameters, is not suited to the intended use and/or the Supplier's Scope of Performance is not fully realized.

11.3.

The warranty period equals 60 months from the time of final acceptance unless applicable law prescribes a longer period.

11.4.

It falls to Rhenus to determine whether the Supplier must render subsequent performance in cases of defective Equipment (parts) by way of replacement or repair.

11.5.

The Supplier is obligated to obtain from a major German bank an unlimited absolute performance bond in the amount of 10% of the total price of a given project.

12. Liability

12.1.

The Supplier is responsible and liable for such costs, damages and expenditures incurred during its performance as may have been caused by the Supplier itself, its employees, Sub-suppliers or other third parties assisting it with the fulfillment of delivery or performance obligations. Such liability extends to damages to third-party (intellectual) property. In addition, the Supplier is liable for damages caused by the Equipment if and to the extent that it is defective, as well as such other damages as may be the result of the Supplier's breach of contract.

12.2.

Upon first demand, the Supplier holds Rhenus harmless from all claims asserted against Rhenus by the Supplier's employees or third parties, provided that the Supplier caused the damages underlying such claims. This also encompasses claims for damages on account of the infringement of third-party rights and product-liability claims.

13. Own / substitute performance

13.1.

Rhenus may call on the Supplier to remove Equipment defects within a reasonable period of time even ahead of final acceptance. Rhenus is entitled to remove the defect itself or have a third party do so at the Supplier's expense if and to the extent that the Supplier fails to act on the demand within a reasonable period of time. In urgent cases, the setting of a grace period may be dispensed with. An urgent case is present, in particular if a removal of defects by Rhenus serves to prevent significant damages.

13.2.

Similarly, Rhenus is entitled to own / substitute performance pursuant to item 13.1 if and to the extent that, following acceptance, the Supplier fails to act on Rhenus' demand for subsequent performance pursuant to item 11.4 within a reasonable period of time and/or the Supplier fails to meet agreed deadlines for delivery or performance with a reasonable period of time to be set by Rhenus.

14. Insurance

The Supplier is obligated to ensure adequate insurance coverage with regard to its Scope of Performance. Specifically, it is obligated throughout its performance to take out and maintain at its own expense business and product liability insurance as well as insurance for transport and assembly with adequate coverage sums. The Supplier is obligated to keep, and submit on its own initiative, a confirmation of business liability insurance as well as a confirmation of a transport and assembly insurance in the form of a copy of the insurance certificate.

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15. Spare parts

15.1.

The Supplier guarantees in relations with Rhenus to supply RHENUS with Goods at fair market prices subject to Rhenus' orders throughout the project term, as well as for the subsequent supply with spare parts for a period of 10 (in words: ten) years after the end of delivery.

15.2.

In cases of serial supply, the Supplier must supply spare parts at the serial prices most recently agreed between the parties. Rhenus and the Supplier will negotiate other details as well as appropriate terms.

15.3.

The Supplier is obligated to take precautions against obsolescence common to the industry, and it shall notify Rhenus without delay if and when spare parts show signs of obsolescence. In such a case, the Supplier will communicate the precautions identified to Rhenus.

16. Intellectual property, licenses

16.1.

The Supplier guarantees that its Scope of Performance and, in particular, the Equipment and all of its parts are free from third-party property rights, and the Equipment's proper use absent any infringement of third-party property rights is assured.

16.2.

The Supplier indemnifies Rhenus upon first demand against any and all third-party claims arising from or in connection with the infringement of property rights. The supplier must bear all costs Rhenus incurs as a result of property-right infringements and reimburse Rhenus for any and all related damages.

16.3.

Rhenus is entitled to obtain permission to use the Equipment from the beneficiary at the Supplier's expense.

16.4.

If the Equipment to be supplied by the Supplier includes software, Rhenus receives basic licenses to use the software forming part of the Scope of Performance without limitation, in perpetuity and around the world upon delivery. In the event that the source code of the software needed to operate, modify or further develop the Equipment is not delivered along with the Equipment, the Supplier is obligated, within 10 (in words: ten) days of final acceptance, to deposit the source code with a German notary at its own expense for a period of 5 (in words: five) years.

17. Other provisions, choice of law

17.1.

Changes and amendments to this addendum as well as any accompanying documents must be made in writing. This also applies to changes of this requirement as to written form.

17.2.

In the event that provisions of this addendum are or become ineffective, or if the addendum contains loopholes, the remaining provisions hereof are not affected. The parties undertake to reach an agreement to replace the ineffective provision or to fill the loophole with such agreed provisions as may best approximate in a legally effective manner that which the parties would have agreed on given their purported intent to be determined according to the addendum.

17.3.

This addendum is subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply.

17.4.

The exclusive legal venue is the district court with jurisdiction over the registered offices of the ordering Rhenus enterprise. However, Rhenus is entitled to sue the Supplier in the Supplier's general place of jurisdiction as well.