

1. Applicability

All – including future – orders of products and services (“Goods”) by the RHENUS Automotive SE (hereinafter “RHENUS”) location chosen from the menu above are subject to these purchasing terms (link: <https://www.rhenus.group/de/automobillogistik/lieferantenportal>). Supplier conditions that contrast with or deviate from these purchasing terms are not recognized unless these terms or a given contract with the Supplier provide otherwise. The acceptance of deliveries, services or payments does not constitute recognition of the Supplier’s general terms and conditions. Acceptance of the Goods by RHENUS without express objection must under no circumstances be construed as acceptance of the Supplier’s terms and conditions.

2. Orders, delivery

2.1

In the event that the Supplier’s order confirmation deviates from the order, RHENUS is bound by such deviation only if RHENUS consented thereto in writing. Changes or additions to the order by the Supplier are only binding if they have been confirmed in writing by RHENUS. The acceptance of deliveries or services deviating from the order does not signify approval of such deviations.

2.2

RHENUS may revoke an order free of charge so long as the Supplier has not yet confirmed it in writing (order confirmation).

2.3

Commercial clauses are interpreted in accordance with the Incoterms in the respective applicable version.

2.4

Insofar as delivery call-offs specify order volumes and delivery dates, the following provisions shall apply:

The Supplier shall provide for the capacities needed to supply the quantities, including forecast quantities, set forth in delivery call-offs. RHENUS’ obligation to accept delivery from delivery call-offs is limited to four (4) weeks production release and four (4) weeks material release based consecutively on the last delivery call-off. Volumes exceeding these release periods are forecast quantities. Delivery call-offs are further subject to the provisions of the supply contract.

2.5

If applicable, the Supplier is obligated under the respective (framework) agreement with RHENUS to supply RHENUS with Goods at fair market prices subject to RHENUS’ orders for the requested project period as well as for the subsequent supply with spare parts for a period of five years after the end of delivery. In this context, the Supplier is further obligated to supply RHENUS with additional Goods, including but not limited to services or spare parts. In cases of serial supply, the Supplier shall supply spare parts at the serial prices agreed most recently. RHENUS and the Supplier will negotiate other details as well as appropriate terms.

3. Delivery time, default

3.1

The delivery time specified in the order (delivery date or deadline) is binding. Deliveries are deemed timely so long as they are received in time by the receiving agent designated by RHENUS; services are deemed timely so long as they are accepted in time. Early deliveries are subject to RHENUS’ written approval.

3.2

RHENUS must be promptly notified as soon as it becomes apparent that a delivery or service will recognizably be delayed. At the same time the Supplier shall propose suitable counter-measures to mitigate any consequence. RHENUS’ acceptance of delayed deliveries or services does not constitute a waiver of claims for damages or other claims.

3.3

If the day on which delivery is to be effected at the latest can be defined as a calendar date, the Supplier is in default of delivery upon expiry of such day without the need for a reminder from RHENUS.

3.4

In the event of default of delivery, RHENUS is unrestricted entitled to the claims provided by applicable law, including the right of rescission and claims for damages in lieu of performance following the expiry of an adequate grace period to no avail. RHENUS’ claim for delivery is not excluded until the Supplier has paid damages.

3.5

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.

3.6
Partial or over-deliveries are subject to RHENUS' written approval.

3.7
Subject to other evidence, unit numbers, weights and dimensions are those determined by RHENUS at the time of its receipt of Goods.

4. Transfer of risk, shipment, title

4.1
For deliveries entailing installation and assembly as well as services, the risk is transferred upon acceptance; for deliveries excluding installation and assembly, the risk is transferred upon receipt thereof by the receiving agent designated by RHENUS.

4.2
Unless a given order or contract provides otherwise, deliveries are to be effected as follows: DAP (Incoterms 2020). The destination is set forth in the supply agreement entered into between RHENUS and the Supplier.

4.3
RHENUS will bear the cost of insuring Goods only on the basis of an express written agreement. 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).

4.4
Unless otherwise agreed in writing, the Supplier bears packaging costs. If RHENUS bears packaging costs in a given case, RHENUS is to be billed for such costs at the lowest available rate. Take-back obligations, if any, are subject to applicable packaging regulations (e.g., the Packaging Act (*Verpackungsgesetz – VerpackG*)).

5. Payment

5.1
Payments are not made until deliveries that are free from defects have been received in full, or until deliveries that are free from defects have been made and a proper invoice has been received. Partial deliveries or services are compensated only on the basis of a prior written agreement. The Supplier's agreed right to provide partial deliveries or services, if any, does not suffice for such purpose. Payments and downpayments do not constitute recognition of the deliveries or services as contractually intended.

5.2
Payments are made on or before the 14th day of the month following delivery at a 3% discount, or 60 days from delivery in full. In the event that the 14th day of a given month is a Saturday, Sunday or holiday, payment is made on the nearest following business day. The discount may be deducted even if RHENUS sets off its own claims or withholds payments on account of defects.

6. Changes to supplier portfolio

In the event that the Supplier intends to discontinue products or product parts, it must promptly so notify RHENUS on its own initiative. Such notification to RHENUS must be effected at least six months ahead of the effective date of discontinuation. In such a case, RHENUS has the right to make covering purchases regarding the products in question. The price applicable to covering purchases shall be the price most recently agreed between the parties. There is no limit as to the quantity of products that RHENUS may acquire as part of a covering purchase.

7. Warranty, recourse

7.1
Unless agreed otherwise, claims based on defects become time-barred three years from the transfer of risk (item 4.1).

7.2
In the event that, due to the urgency of measures to counter acute risks or mitigate damages, it is impossible for the Supplier to be placed on notice for supplementary performance, RHENUS has the right to perform such supplementary performance itself or have a third party do so at the Supplier's expense without setting a grace period.

7.3
If subsequent performance is rendered by delivering a defect-free product or newly manufacturing the work in question, the period of limitation for any claim for damages with respect to the services comprising supplementary performance / services commences anew upon the transfer of risk (item 4.1).

7.4
Should RHENUS incur costs, including but not limited to transport, road, labor, material costs or those related to incoming-goods controls exceeding the usual scope, as a result of deficient delivery or services, the Supplier must bear such costs as well.

7.5
The Supplier hereby already – on account of performance – assigns to RHENUS such claims as it may hold against its sub-suppliers from or in connection with the delivery of defective Goods or services. It will furnish RHENUS with any and all documents needed for the purpose of asserting such claims.

7.6

RHENUS may demand that the Supplier further covers such expenditures as RHENUS may have to bear in relations with its purchasers if and to the extent that the defect in question was already present at the time the risk was transferred to RHENUS.

8. Product liability

8.1

The Supplier is responsible for all claims asserted by third parties on account of personal injury or property damage resulting from a defective product delivered by it, and the Supplier must further indemnify RHENUS against the resulting liability. If RHENUS is obligated to conduct a recall campaign in relations with third parties on account of a defect afflicting a product delivered by the Supplier, the Supplier bears any and all costs associated with such campaign.

8.2

The Supplier is obligated to maintain product liability insurance with an adequate coverage sum at its own expense. Upon request, the Supplier will provide RHENUS with a copy of such liability insurance policy.

9 Substances in products, resources, materials, packaging

9.1

The Supplier warrants that it is in compliance with the requirements of Regulation (EC) 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), as amended (hereinafter "REACH Regulation"), and in particular, that the registration of all substances pursuant to the SVHC list has been carried out. The Supplier further warrants that it does not supply products or packaging that contain substances according to:

- the REACH Regulation, in the respective applicable version;
- the Stockholm Convention on Persistent Organic Pollutants, in the respective applicable version;
- Regulation (EC) No. 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer, in the respective applicable version;
- the Global Automotive Declarable Substance List (GADSL), in the respective applicable version;
- the Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, for products according to its field of application.

9.2

In the event that the Goods supplied contain substances found on the Candidate List of Substances of very High Concern ("SVHC List") according to REACH, the Supplier is obligated promptly to report it. This also applies if substances found in ongoing supplies that were not previously listed are added thereto. An up-to-date version of the list may be viewed on <http://echa.europa.eu/web/guest/candidate-list-table>.

9.3

In addition, the products and any packaging must not contain asbestos, biocides or radioactive material. Should the products supplied to RHENUS contain any of these substances, RHENUS must be notified in writing prior to delivery, such notification to specify the substance as well as the ID number and be accompanied by an up-to-date safety data sheet on the product to be supplied. Delivery of such products are subject to RHENUS' separate release.

9.4

The Supplier must indemnify RHENUS against any liability flowing from the Supplier's non-compliance with the aforementioned regulations and hold RHENUS harmless from such damages as RHENUS may incur from or in connection with the Supplier's non-compliance with such regulation.

10 Assignment, set-off, retention

10.1

The assignment of claims against RHENUS is subject to RHENUS' written approval.

10.2

The Supplier has a right of set-off or retention with respect to RHENUS' claims only insofar as its own claims or rights have been recognized or legally established.

10.3

RHENUS may set off against all claims of the Supplier or such enterprises as may be affiliated with the Supplier or engaged by it as part of its business relationship with RHENUS by any of its own claims of any kind even if the due dates of such claims diverge.

11. Confidentiality, property rights

11.1

The Supplier is obligated to hold in confidence and not itself to exploit such business and technical details as well as information pertaining to RHENUS' commercial activities as may be related to orders and contracts and are not typically accessible to third parties.

11.2

The Supplier guarantees that no third-party property rights are violated by the supply and use of the items purchased and holds RHENUS harmless from any claim resulting from infringement.

11.3

Insofar as the Goods to be delivered by the Supplier include software, the Supplier grants RHENUS basic licenses to use any software forming part of the scope of delivery in perpetuity and throughout the world. Admissible use specifically includes the software's duplication. RHENUS may further sublicense, lease or otherwise make the software available to affiliated enterprises within the meaning of § 15 of the German Stock Corporation Act (*Aktiengesetz - AktG*) as well as such subcontractors as RHENUS may task with the manufacturing of products and which must be licensed to use the software for such purpose. Admissible use also encompasses passing on the software to customers as a component of a hardware product as well as the granting of licenses thereto, provided that doing so is required for the use of the hardware. With respect to software provided, including any related documentation, RHENUS is further entitled to use it in keeping with the agreed features and to the extent required for the product's contractually intended use. RHENUS may create an adequate number of back-up copies.

12. Materials and tools provided

12.1

Substances, parts, tools, equipment, forms, drawings or similar items provided by RHENUS ("Materials") remain RHENUS' property and are made available to the Supplier for the sole purpose of enabling it to render contractual performance. Other uses are prohibited as a rule and require RHENUS' express written consent. This also extends to any copying of items made on the basis of Materials. This also applies for claims to property rights, know-how and patents related to Materials to which RHENUS is entitled and which are made available for the Supplier's use. Any processing of substances as well as the assembly of parts is undertaken strictly for RHENUS. The Supplier holds no right of retention with respect to Materials irrespective of legal grounds.

12.2

The Supplier must clearly label tools owned by RHENUS or its customers as third-party property and note the location where they are stored or kept on suitable lists. The Supplier will maintain and, if necessary, repair the tools at its own expense. In addition, the tools must be insured at the Supplier's expense in an amount equaling or exceeding their replacement value against destruction or damages on account of forces of nature, fire and water as well as electrical damages. Upon request, the Supplier must grant access to the tools.

12.3

Once the contractual relationship has ended, the equipment, records, tools as well as any and all documents and information exchanged or communicated must be returned or destroyed as agreed.

13. Compliance, human rights, labor and environmental protection, other binding principles

13.1

General information

The Supplier ensures that its scopes of performance, including any component, supplied parts and services, meet applicable legal provisions, and indemnifies RHENUS against any liability for instances of non-compliance with such provisions. In this regard, it is incumbent upon the Supplier to identify and observe applicable legal provisions and any resulting requirement, as well as to review the same on a regular basis, especially in reference to any change or broadening of such provisions. RHENUS' approval or other confirmation of the scopes of performance does not release the Supplier from its obligations under this item 13. The Supplier must notify RHENUS in writing and on its own initiative as soon as it learns of changes or a broadening of the legal provisions that affect the Goods. In such a case, the Supplier will address a written notice to RHENUS. As part of the Supplier's own scopes of performance, the Supplier is obligated to provide RHENUS with such support and assistance as RHENUS may need to satisfy requirements and legal provisions of its own. If and to the extent that the Supplier relies on subcontractors or sub-suppliers to meet its scopes of performance, it must contractually impose the obligations under this item 13 on such subcontractors or sub-suppliers accordingly.

13.2

Compliance

The supplier is obliged not to take actions respective refrain from taking actions that might give rise to criminal liability on account of fraud or breach of trust, insolvency-related or anti-competitive offenses, bribery or corruptibility on the part of individuals employed by the Supplier or other third parties. The Supplier is obligated to comply with all laws and regulations governing its business and its business relationship with RHENUS (compliance). Actions taken by persons working for or with the Supplier are attributed to the Supplier if and to the extent that such persons' work falls within the Supplier's sphere of responsibility.

13.3

Human rights

The Supplier undertakes to ensure that human rights and social standards pursuant to paragraph 3 are observed within the Supplier's sphere and the environment is protected, as well as to abstain from – and, whenever possible, to halt – measures that are at odds with such goals. The Supplier will immediately and on its own initiative report to RHENUS any violation of the foregoing provisions, including those committed by its own suppliers.

13.4

Occupational safety

The Supplier will strive within its sphere to ensure that humane working conditions are upheld by limiting working hours as appropriate, by observing minimum wages and safeguarding workers' health and by abstaining from any violation thereof (social standards). Specifically, the Supplier will take appropriate measures against child / forced labor.

13.5

Environmental protection

The Supplier undertakes to comply with legal provisions, and to adopt appropriate measures, for the protection of the environment. Each delivery is to be effected using packaging materials coordinated with RHENUS that are appropriate for the product in question and meet pertinent environmental regulations. In consideration of ecological criteria, the packaging types chosen should be environmentally friendly and designed for multiple use (euro pallet).

13.6

(Supply chain) duties of care

The Supplier further undertakes to ensure that it complies with legal provisions and internationally recognized standards for the protection of the environment and the climate as well as for the protection of human rights, including prohibitions against child / forced labor and discrimination, minimum-wage and safety regulations and fundamental employee rights, throughout the Goods' supply chain. Moreover, the Supplier must comply with national and international regulations regarding duties of care related to supply chains. These include but are not limited to the Federal Act on Entrepreneurial Due Diligence Obligations in Supply Chains ("*Gesetz über die unternehmerischen Sorgfaltspflichten zur Vermeidung von Menschenrechtsverletzungen in Lieferketten; Lieferkettensorgfaltspflichtengesetz – LkSG*") of 16 July 2021 as well as any European Union directive that may exceed such act in scope and is to be implemented at the national level in the future.

The Supplier is obliged to ensure within its own business sphere and that of its sub-suppliers, vendors and other service providers that no legal interests protected under human-rights or environmental law are violated in particular by disregarding prohibitions. The Supplier will conduct an annual risk assessment for its own business sphere and that of its sub-suppliers, vendors and other service providers to identify risks of potential violations of such prohibitory provisions. The Supplier will set up and maintain an adequate risk-management regime designed to forestall potential violations of prohibitory provisions, halt past violations and prevent future ones.

The Supplier names an individual responsible for continually monitoring and ensuring compliance with such duties within the Supplier's own business sphere and that of its sub-suppliers and vendors.

13.7

Reporting and information

The Supplier will report to RHENUS about its fulfillment of the duties set forth in item 13 once per year on its own initiative or at any time upon RHENUS' request. In this context, the Supplier undertakes to document to RHENUS its compliance with the requirements imposed on the Supplier by item 13, to certify such compliance and to submit to RHENUS the documentation and certification upon request. To ensure compliance with these requirements, RHENUS is entitled to conduct audits of the Supplier subject to reasonable advance notice.

14. Miscellaneous

14.1

The place of performance for all deliveries and services is the location of the ordering RHENUS enterprise.

14.2

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

14.3

The law of the Federal Republic of Germany applies to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980.