

## 1. General Principles

**1.1.** These conditions also apply, unless expressly agreed otherwise in writing, to ongoing business relationships without special notice or reference, this applies in particular also to oral or telephone call-offs or subsequent orders. In the case of future orders there is no requirement for these Conditions to be referred to again.

**1.2.** The use of the Contractor's deviating conditions of trading is precluded for this order and all subsequent orders. The validity of such other conditions is expressly contradicted.

**1.3.** The following order of priority applies to the type and the scope of the performance provided by both sides:

- a) the construction contract or Customer's order
- b) the order specifications of work and services
- c) the Customer's tender documents
- d) the Contractor's price quotation
- e) the construction plans created by the Customer and approved by the responsible authority
- f) the Customer's implementation drawings and detail drawings
- g) the General Conditions for Construction Services

REHAU's General Purchasing Conditions do not apply.

## 2. Offer; Right of Modification and Service Specifications

**2.1.** The Contractor is obligated to familiarise himself with the construction site, in particular with the local conditions and all execution documents, before submitting the offer, and to clarify any uncertainties regarding the execution with the construction management as well as to check the measurements and quantities of the specifications of work and services once the order has been placed.

**2.2.** The creation and submission of the offer as well as any further price estimates will not be remunerated.

**2.3.** The work and services listed in the specifications of work and services include the supply of all materials required as well as the installation. Here REHAU products must be used where available in the REHAU product range, unless noted otherwise in the individual positions. When processing the

materials, the manufacturer's guidelines must be complied with.

**2.4.** The work and services that are listed in the specifications of work and services and that have been accepted in accordance with the price quotation but have not been further described will be executed either according to drawings or special instructions by the construction management. Any work and materials that are required to start and complete the work and services assumed and that are not further detailed in the scope of services are included in the price. Additional charges are precluded.

**2.5.** REHAU has the right to order changes in performance due to changes in the construction planning. At the request of REHAU, the Contractor shall provide non-agreed performances which are necessary for the provision of the contractual performances, unless his business is not capable of such performances.

## 3. Remuneration and Billing

**3.1.** The remuneration is calculated according to the contractual unit rates and the actual performance provided unless another method of calculation (e.g. flat-rate sum) has been agreed.

### 3.2. Performance changes

If changes in performance are made pursuant to point 2.5, the prices are adjusted under consideration of the additional or reduced costs. The price adjustment shall be agreed upon before the provision of the performance.

**3.3.** If REHAU requires a performance that is not included in the Contract, the Contractor is entitled to additional remuneration. The Contractor must notify REHAU of the claim before providing the performance. Otherwise the Contractor will not receive any additional remuneration for the performance not included in the Contract. The remuneration is determined by the basis of the price calculation for the contractual performance and the particular costs of the performance required. It should be agreed before the start of the execution if possible.

**3.4.** If a flat-rate sum has been agreed for the remuneration of the performance and if the performance provided deviates so significantly from the contractually specified performance that it is not reasonable to keep the flat-rate sum,

compensation for the additional or reduced costs must be granted on request. The calculation of the compensation must be based on the basis of the price calculation. Points 3.2 and 3.3 shall also apply in the event of a flat-rate sum agreement.

**3.5.** Performances which the Contractor provides without order or under unauthorised deviation from the order shall not be remunerated. On request, the Contractor shall remove them within a reasonable period; otherwise this may be done at the Contractor's expense. He shall also be liable for other damages incurred by REHAU as a result. However, the Contractor shall be entitled to remuneration if REHAU subsequently accepts such performances.

### **3.6. Payment Terms**

Partial payments are paid at up to 85% of the respective work and services that are shown to have been provided. Partial payments do not constitute the acceptance of partial performances.

Final invoices shall be paid once the order has been completed in full and free from defects and all documents have been submitted. The Contractor must provide the final invoice to the Customer within 14 days of completion. If the Contractor fails to submit a verifiable invoice even though the Customer has set a reasonable time limit for this purpose, the Customer shall be entitled to draw up the invoice at the Contractor's cost. The final invoice shall be verified by the Customer within 30 days. If necessary, the parties will agree a verification period of a maximum of 60 days.

Unless agreed otherwise, partial payments are made within 30 days. The final invoice shall be paid within the time limit for the verification of the final invoice.

**3.7.** Standard prices are fixed for the duration of the construction and remain valid even if changes to the quantities occur. Additionally, such quantity changes do not permit a change of the target dates.

**3.8.** The Contractor is obligated to continually track the quantities. If it becomes evident that the construction work and services exceed the order value, the Contractor is obligated to inform the Customer immediately in writing.

**3.9.** Work that is paid per hour is settled according to the contractual agreements. If no agreements have been made for the remuneration, the remuneration customary for the location applies. The Customer shall be informed of the provision of work paid per hour before the start.

When ordering work that is paid per hour, the daily time sheets are to be submitted in duplicate by the Contractor for approval. Time sheets not submitted on the same day will not be approved. If work paid per hour was agreed or arranged but there are doubts regarding the extent of the work paid per hour due to a lack of timely submission of the time sheets, the Customer can demand that a remuneration for the demonstrably performed services be agreed that is based on a locally economically justifiable working time and consumption of materials, provision of facilities, equipment etc.

**3.10.** Hours worked by master craftsmen or foremen may only be invoiced if the Customer expressly demands the supervision of the work by a supervisor. Otherwise, hours worked by master craftsmen may only be invoiced at the rate of a skilled worker.

**3.11.** Unless expressly agreed otherwise in writing, electricity, water and pressurised air and any other energy are to be made available by the Contractor himself for the execution of his services. The same applies to toilet facilities. If the energy supplied by the Customer is disrupted and the disruption is not caused by the Customer, the Contractor is not entitled to demand compensation. Should the Contractor provide the services above, he will retain a pro-rata amount of 0.45 % from the invoice amount.

**3.12.** The Contractor is obligated to hand over all work on the construction site itself in a clean-swept state. All waste is to be removed in full and, in accordance with the construction management's instruction, sorted externally and stored in the skips provided on-site. The Contractor retains a pro-rata amount of 0.5 % from the invoice amount for the removal of this waste. Waste and contamination not removed by the Contractor will be removed at the Contractor's costs.

### **4. Sub-contractors**

**4.1.** The involvement of sub-contractors requires the Customer's prior written approval. The Contractor must ensure that all obligations he accepted towards the Customer regarding the tasks assumed by the sub-contractors are in

turn imposed on the sub-contractors and he must ensure that these are complied with.

**4.2.** Prior to the placement of the Contract, the Contractor submits a written confirmation to the Customer confirming that only workers with valid work permits and social security cards are employed on the construction site. Further, copies of the Contractor's and the sub-contractor's exemption certificate are enclosed with the offer.

**4.3.** If the Contractor involves sub-contractors without prior written agreement as per section 1 or if the Contractor violates the obligation to submit a written confirmation in accordance with section 2, the Customer has the right to withdraw from the Contract and/or to demand compensation for non-performance.

### **5. Time limits, schedule**

Completion is in accordance with the schedule, which must be submitted together with the offer documents. If the Contractor falls behind with commencing the work by more than one week, the Customer is entitled to appoint another company to undertake this work. If the work is not undertaken at the necessary speed, resulting in compliance with the execution schedules being at risk, the Customer has the right to demand extra work through an increased work effort, overtime or similar, and, once a time limit set in a written warning has passed unsuccessfully, to involve another company or to take the order away from the Contractor in full and to appoint a more capable company. The additional costs arising from this are borne by the Contractor.

### **6. Plans, Documents of the Customer**

**6.1** The Contractor shall review the Customer's plans and documents for any inconsistencies and shall advise REHAU of any defects discovered or suspected.

**6.2.** If the Contractor should prepare detail drawings himself (for instance full-scale construction drawings for locksmith work and joinery, similar for carpentry work), the Customer must be invited prior to the start of this work so it can be viewed and corrected by him. Work undertaken contrary to these provisions can be rejected and otherwise replaced by the Customer or, where applicable, the architect, at any time at the Contractor's cost. The Contractor is obligated to check

all measurements in the plans and drawings provided to him by the architect for accuracy, he bears sole liability for any resulting incidents.

**6.3.** All documents provided by the Customer remain the Customer's property. They must not be made available to third parties and are to be returned to the Customer completely and unprompted once the Contract has been executed fully. Third parties do not include technical specialists and sub-contractors involved by the Contractor, where these have committed themselves to confidentiality towards the Customer in the same way. The Contractor is liable for the damages suffered by the Customer as a result of the violation of these obligations.

**6.4.** The Customer holds the exclusive rights of use to all images, drawings, calculations, and other work produced or developed by the Contractor in the course of the order process.

### **7. Protective Measures; Insurances**

**7.1.** The Contractor shall, at his own expense, protect the performances provided by him and the objects provided to him for the provision of the performance against damage, theft, frost damage and ground water, and shall remove snow and ice. Additionally, he is responsible for ensuring that the legal regulations and the regulations stipulated by the police, which aim to protect the workers on the construction site and also the neighbouring properties, are complied with. He is liable for all damages arising from non-compliance with these regulations and must indemnify the Customer if the Customer is pursued for such a reason.

The Contractor ensures public safety for the work to be undertaken by him.

**7.2.** The Contractor is obligated to arrange suitable liability insurance at his own cost before the start of the construction work. This insurance must also include the risk of defective provision of planning or construction supervision services, where the Contractor has been charged with the provision of those services. The Contractor maintains the validity of his liability insurance policy from the start of the work and services to be provided until expiry of the warranty period. For the duration of the insurance period, the sums insured must be maximised to double the amount for all violations

per insurance year, i.e. the insurance cover must be available for at least two violations per insurance year at the respectively full amount. The cover sums of the liability insurance to be arranged by the Contractor for each violation are at least

- Euro 2.5 million for personal injury and
- Euro 5 million for material and financial losses.

The respective cover sum of the insurance does not limit the liability. The Contractor undertakes to assign all claims by the Customer against him arising from the insurance to the Customer in advance.

The insurance must either also cover the sub-contractors involved by the Contractor (see point 4), or the sub-contractor himself must have corresponding insurance.

The Contractor will show the Customer that he holds liability insurance by handing over a copy of the insurance policy on request of the Customer, this also applies for the policies of any sub-contractors. The continuance of the Contractor's liability insurance is to be demonstrated to the Customer on request at any time. If the Contractor fails to demonstrate the validity of the liability insurance policy within a suitable time period stipulated by the Customer, he is not entitled to commence the construction work. Any resulting delays of the construction work are the fault of the Contractor.

**7.3.** The Customer has not arranged builder's risk insurance for the construction project.

## **8. Contractual Penalty**

If the Contractor is in default of the agreed deadlines, he must pay the Customer a contractual penalty of 0.25 % of the net invoice total per working day in the case of non-compliance with the completion period, and 0.15 % of the net invoice total for other deadlines, with a maximum of 5 % of the net invoice total. The Customer's claim for compensation for damages exceeding the contractual penalty remains unaffected. The contractual penalty may also be claimed without reservation at the final inspection and approval until the final payment is made. The inspection and approval of the delayed performance does not provide a waiver of the right to raise claims for compensation or the contractual penalty. A cumulation of the contractual penalty resulting from defaulting on several contractual deadlines does not occur, the maximum sum can only be calculated once. If the execution deadlines are postponed, the contractual penalty also applies to the changed start and/or completion date without a new agreement.

Weather conditions during the execution period that were to be expected when the offer was placed do not constitute a hindrance.

## **9. Execution, Obstruction;**

**9.1.** The Customer has the right to monitor the contractual provision of the performance.

**9.2.** The Contractor shall provide the performance under his own responsibility according to the Contract. In the course of this he must observe the recognised rules of technology and the legal and statutory regulations. It is his duty to manage the provision of his contractual performance and to ensure order at his workplace. He bears sole responsibility for the fulfilment of legal and statutory obligations towards his employees. It is solely his duty to make the arrangements and measures which govern his relationship with the employees.

**9.3.** If the Contractor has any doubts as to the intended nature of the execution (including for health and safety reasons) or with regard to the performances of other service providers, he must notify the Customer in writing without delay - if possible before the start of the work.

**9.4.** Materials or components which do not comply with the Contract shall be removed from the construction site at the order of the Customer within a time limit specified by the Customer. If this is not done, they can be removed at the Contractor's expense or sold for his account.

**9.5.** Performances which were already recognised as defective or contrary to the Contract during the execution shall be replaced by the Contractor with non-defective performances at his own cost. If the Contractor is responsible for the defect or the lack of conformity with the Contract, he shall also have to compensate for the resulting damage. If the Contractor fails to comply with the obligation to remedy the defect, the Customer may set a reasonable time limit for the removal of the defect and declare that it will terminate the Contract after the expiry of the time limit.

**9.6.** Construction signs may only be erected in accordance with and on approval of the Customer. If a joint sign is

erected by the Customer, the Contractor must pay a pro-rata proportion of the costs.

**9.7.** The Contractor is responsible for obtaining permits to use road space etc. at his own costs. Temporary stairs may only be uninstalled once the final staircases have been completed.

#### **9.8. Obstruction and interruption of execution:**

The Contractor is obligated to coordinate his work with the other companies involved in the construction. If the Contractor considers himself to be obstructed in the proper provision of the performance, he shall immediately notify the Customer in writing, even if the obstruction is obvious. In the case of the culpable omission of the notification, the Contractor shall compensate the Customer for the resulting damage.

Execution time limits are extended if the obstruction is the result of:

1. a circumstance from the Customer's risk area,
2. strike
3. force majeure or other circumstances which are unavoidable for the Contractor.

Weather influences during the execution period that can be normally expected at the time the offer was made are not considered to constitute an obstruction.

The Contractor has to do everything he can reasonably be expected to in order to enable the continuation of the work. As soon as the obstructing circumstances cease, he shall immediately resume the work and notify the Customer thereof.

The extension of the period is calculated according to the duration of the obstruction with additional time for the resumption of the work and the possible shift to a less favourable season.

If the obstruction circumstances are the fault of a contractual party, the other party shall be entitled to compensation for

the verified damage caused, but for the loss of profit only in case of intent or gross negligence.

If an interruption lasts longer than 3 months, each party may terminate the Contract in writing after this time.

#### **9.9. Execution periods:**

Execution must commence, be supported and completed in accordance with the binding time limits (contractual time limits).

If the Contractor delays the start of the execution or is in arrears with the completion, the Customer may demand damages without affecting the continuation of the Contract or set the Contractor a reasonable time limit for the Contract fulfilment and declare that it will terminate the Contract after the unsuccessful expiration of the time limit.

#### **10. Additional Work**

For any additional work not covered by the Contract, the Contractor must immediately provide a written supplementary offer (in duplicate) under submission of the calculation documents to the Customer. The calculation must be verifiably at the contractual price level. The work may only commence following written confirmation by the Customer. Where it is necessary due to business reasons to execute the work before confirmation has been obtained, the clearance by the construction management does not constitute the Customer's simultaneous approval of the supplementary prices. If no supplementary offer is yet available when the services are performed, this must be submitted subsequently within 8 working days.

#### **11. Acceptance**

If the Contractor requires the acceptance of the performance after completion, the Customer shall conduct it within 4 weeks. The acceptance must be made formally in writing.

Notional acceptance and acceptance by utilisation are precluded.

In the case of significant defects, acceptance may be refused until removal.

#### **12. Warranty, Risk Assumption**



**12.1.** At the time of acceptance, the Contractor shall provide the Customer with his performance free of defects. At the time of acceptance, the performance shall be considered free of material defects if it has the agreed quality and complies with the recognised rules of technology. If the quality has not been agreed, the performance at the time of acceptance shall be considered free of defects,

1. if it is fit for the purpose specified in the Contract,

or

2. if it is suitable for ordinary use and has a quality which is customary in works of the same type and which the Customer can expect according to the type of performance.

**12.2.** The period of limitation for the warranty is 5 years from the date of acceptance. For roofing works, 10 years apply.

**12.3.** The Contractor shall be obligated to remedy all defects arising during the period of limitation which are attributable to performance not in compliance with the Contract at his expense if requested by the Customer in writing before the expiry of the time limit. The claim for the removal of the defect shall be limited to 2 years from the date of receipt of the written request, but not before expiry of the time limits according to 12.2. After acceptance of the defect removal performance, a new limitation period of 2 years begins for this performance, which shall however not end before the expiry of the time limits according to 12.2. If the Contractor fails to comply with the request for the removal of defects within a reasonable period set by the Customer, the Customer may have the defect rectified at the Contractor's expense.

**12.4.** If the removal of the defect is unreasonable for the Customer or is impossible or would require disproportionate effort and is therefore refused by the Contractor, the Customer may issue a declaration to the Contractor and reduce the remuneration.

**12.5** In the case of defects due to his fault, the Contractor is liable for damages. If the damage can be removed by supplementary performance, the Customer shall first give the Contractor the opportunity for supplementary performance. If this fails, or if the Contractor fails to carry it out within a reasonable period, or if the subsequent performance is

unreasonable for the Customer due to special circumstances, the Customer shall be entitled to claim damages.

**12.6.** Until the entire performance has been accepted, the Contractor bears the risk of a coincidental deterioration or a coincidental destruction. Any insurances are borne by the Contractor.

### **13. Security Provisions**

**13.1.** Where advance payments are agreed, an advance payment security of the amount of the advance payment is to be provided. An invoice for the advance payment only becomes due for payment on receipt of the advance payment security by REHAU. The security secures payments for which there is no counterperformance of the full amount. The security certificate is returned when all deliveries/work and services for which the security is provided have been fulfilled by the Contractor in accordance with the Contract or when the pre-payment made is offset against a payment due.

**13.2.** If demanded by the Customer, the Contractor provides a contract fulfilment security of 10 % of the gross order amount, including all additions, that is not limited by time. The security secures in particular the timely, acceptable execution of the deliveries and services, including the entitlement to damages for delays and the removal of any defects already existing before the acceptance. The security's purpose also refers to any claims for refunds of excessive partial payments. If the Contractor fails to provide the security within 18 working days from the date the Contract is completed, the Customer is entitled to retain partial payments up to the amount of the security. In this case the Customer is neither obligated to pay the retained security payment into a blocked account, nor does he have to pay interest on the amount retained. The amount retained is paid out as soon as a contract fulfilment security in accordance with the Contract is submitted. The contract fulfilment security is returned if requested once all the obligations it covers have been fulfilled in accordance with the Contract and the agreed security for the fulfilment of the claims for defects has been provided and the work has been accepted. Accordingly, the contract fulfilment security can also be used after acceptance to cover claims for defects, providing no security for claims for defects in accordance with the Contract exists.

**13.3.** As defect security the Customer retains 5 % of the legitimate gross final invoice amount until the end of the warranty period. The Customer is neither obligated to pay the defect security into a savings account with joint powers of disposition, nor does he have to pay interest on the amount retained. The amount retained once the final invoice has been submitted can be released against a warranty security. The security certificate is returned on request as soon as the warranty period for claims for defects by the Customer has expired and the claims raised by the Customer until then have been satisfied.

**13.4.** All securities are to be issued as unconditional, irrevocable, directly enforceable security not limited by time, provided by a financial institution or a credit insurer. The costs for the security are borne by the Contractor.

## **14. Applicable Law**

The law at the registered office of the Customer's company that has issued the order shall apply. The United Nations Convention on Contracts for the International Sale of Goods (CISG) from 11.04.1980 shall not apply. Standard clauses are to be interpreted in accordance with the applicable Incoterms - ICC, Paris.

## **15. Right to Offset / Right of Retention**

The Contractor shall only be entitled to offset against counterclaims or to exercise rights of retention if the counterclaim is undisputed or legally established. The Customer shall be entitled to offset and exercise rights of retention on the basis of all claims that are due and not due.

## **16. Confidentiality / Advertising / Photographs**

**16.1.** The Contractor is obligated to treat all knowledge regarding the manufacturing etc. that he has become aware of as a result of the execution of this Contract as company and trade secrets. He is thus obligated to maintain strict confidentiality regarding all matters that he sees or learns in any other way, including once this Contract has ended, and to not pass on this knowledge to third parties, neither through spoken words, nor in writing nor other ways. Employees and staff of the Contractor who have been charged with the execution of the Contract will have these corresponding confidentiality obligations imposed on them by the Contractor.

The confidentiality obligation does not apply to information that is generally known, that was already known to the

receiving contractual partner before it was communicated or that was verifiably developed by him or obtained legally, or that is public knowledge.

**16.2.** An exploitation or announcement of the business relationship with the Customer in publications or for advertising purposes is only permitted with the express prior written agreement of the Customer.

**16.3.** Taking photographs on the land or construction sites belonging to the Customer or the performance recipient without prior written agreement is also prohibited.

## **17. Termination**

**17.1.** Until the contractual work and services have been provided in full, the Customer can terminate the Contract at any time without providing reasons.

**17.2.** In this case, an invoice in accordance with the agreed Contract prices is issued for the work and services provided. Additionally, costs and expenses for work and services that will no longer be provided as a result of the termination and that have already arisen for the Contractor as he believed that the Contract would persist are to be remunerated on production of evidence. Any further claims, particularly for lost profit, are precluded.

**17.3.** Both contracting parties have the right to terminate this Contract for important cause. Such cause for termination by the Customer exists in particular if in cases specified in point 12 the time limit has expired unsuccessfully. The termination may be limited to a self-contained part of the contractual performance.

**17.4.** The Contractor may terminate the Contract only for cause. Termination is only permissible if the Contractor has unsuccessfully set the Customer a reasonable time limit for completing the Contract and has declared that he will terminate the Contract after the unsuccessful expiry of the time limit.

**17.5.** The termination must be in writing.

## **18. Compliance / Anti-corruption**

**18.1.** The Contractor shall always comply with all applicable laws and regulations when providing his services. In particular, the Contractor undertakes to comply with all

applicable anti-corruption laws and regulations. The Contractor has not directly or indirectly committed any prohibited acts within the context of the contractual services and will not do so in future. Prohibited acts include the prohibition of unlawful payments or the granting of other unlawful advantages to officials, business partners, their employees, family members or other partners, and the prohibition of accelerating payments to officials or other persons.

**18.2.** In the event of the Contractor's breach of the obligation in para. 18.1, the Customer shall be entitled to terminate the contracts with the Contractor without notice.

**19. Written Form**

Changes and additions to the Contract require the written form. The same applies to the suspension of this written form requirement. No oral side agreements have been made.

**20. Severability Clause**

Should individual provisions of the Contract be or become invalid or unenforceable, the remaining provisions remain effective.

**21. Place of Jurisdiction**

The court at the registered office of the Customer's company that has issued the order shall have exclusive competence.