

FB BE 21 General Terms and Conditions of Purchase



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1 Scope of application

- 1.1 The following General Terms and Conditions of Purchase (GTCP) apply exclusively to all goods and services provided to RICO GROUP, and other contracts to supply goods to or perform services for RICO GROUP, including in the future. Any terms and conditions of the CONTRACTOR that conflict with or diverge from these GTCP are expressly rejected. Any divergent terms and conditions of the CONTRACTOR, or subsidiary agreements or amendments that diverge from these GTCP require express written agreement in order to be valid. This also applies to the waiver of the written form requirement. Acceptance of or payment for goods and services does not, under any circumstances, constitute acceptance of the CONTRACTOR'S terms and conditions of business.
- 1.2 In the case of contradictions between the bases of the contract, the following shall apply in this order of precedence:
 - RICO GROUP order documentation
 - Special agreements (e.g. a master agreement), provided RICO GROUP has confirmed these in writing
 - These GTCP

2 Quotation/order/general scope of services

- 2.1 The CONTRACTOR'S quotations and order confirmations must precisely reflect RICO GROUP'S inquiry/order in terms of the type, quantity and characteristics of the products in question. The CONTRACTOR must provide express written notification of any errors, ambiguities or unsuitability. The CONTRACTOR must also provide express written notification of any deviations from the invitation to tender/order. In such cases RICO GROUP reserves the right to cancel the order within 14 days from order placement.
- 2.2 All quotations are provided to RICO GROUP free of charge and the conditions offered will remain binding for 12 months.
- 2.3 Only written or electronic orders placed by RICO GROUP are valid. Any subsequent amendments require RICO GROUP'S written approval.
- 2.4 The CONTRACTOR must confirm orders placed by RICO GROUP, including the order number, in writing within three working days of receipt of the order. If confirmation of the order is not received within this period, the order is deemed to have been accepted in full.

- 2.5 All related documents (order confirmation, delivery note, invoice) must include the order number, article numbers and other information used to identify the order more precisely must also be included. If such information is not included, the document cannot be processed and will therefore be returned. The CONTRACTOR will be liable for all damages, costs, detention fees, etc. arising from non-compliance with this provision. If the shipping documents do not include the corresponding identifying information, the goods will not be accepted and will be returned at the CONTRACTOR'S expense and risk.
- 2.6 The CONTRACTOR expressly declares that it has inspected all documentation and obtained all information required to fulfill the order/contract. The CONTRACTOR may not claim that it did not receive relevant documentation and/or information in time or in full. Furthermore, the CONTRACTOR is obliged, within the scope of its professional competence, to request from RICO GROUP any information, explanations, documentation or technical details necessary for the CONTRACTOR to provide goods and services in a proper and timely manner.
- 2.7 If the invitation to tender/the order contains contradictory information that affects the scope of services provided by the CONTRACTOR, RICO GROUP must be notified in writing without delay.
- 2.8 Goods and services must be provided in strict accordance with the contract, the applicable technical specifications, the provisions of Austrian and EU law, orders, regulations, codes and standards (e.g. CE standards, conformity declaration, the REACH Regulation, the RoHS Directive, employee protection and safety equipment standards, etc.), standard scientific and engineering practice, and in particular in accordance with the minimum-wage provisions applying at the time of placement of a written order. If amendments to the aforementioned provisions come into effect before the delivery of goods or provision of services, RICO GROUP reserves the right to terminate or amend the contract.
- 2.9 RICO GROUP may also demand reasonable adjustments in the design and/or finishing of the goods in question after placing the order. Reasonable, mutual agreement must be reached regarding any additional expenses or cost reductions arising as a result.

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3 Prices

- 3.1 Agreed prices are fixed. Flat-rate fees are charged for services, software, equipment and other works unless invoicing of actual costs on the basis of negotiated hourly rates is expressly agreed in writing.
- 3.2 In the case of changes in the size of the order, which in turn lead to additional costs, RICO GROUP must provide prior written approval before the changes can be included in the order, and to ensure payment of the additional costs by RICO GROUP. If the CONTRACTOR does not provide notification of additional costs, or such costs are not approved by RICO GROUP, the CONTRACTOR must bear these costs in full.
- 3.3 Prices for goods include packaging and delivery DDP (ICC Incoterms® 2020) to the specified address, and are quoted excluding value added tax, unless other conditions are stated in the order. The prices for equipment/machinery/software include training and instruction.
- 3.4 Any changes in framework conditions prior to the delivery of goods or provision of services, e.g. due to increased levies, amendment of collective agreements or changes in market prices, do not entitle the CONTRACTOR to subsequently adjust its prices.

4 Spare parts/service

- 4.1 For a period of at least ten years after delivery, the CONTRACTOR guarantees that it will supply RICO GROUP with spare or compatible parts at the place of delivery within 48 hours.
- 4.2 RICO GROUP is entitled to return spare parts that are not required free of charge in the original packaging within 14 days of delivery.
- 4.3 In order to ensure that plant and machinery supplied by the CONTRACTOR remain operational, it is agreed that in the event of a breakdown, the CONTRACTOR will have up to 48 hours following the breakdown in order to restore operational readiness. If it is not possible to restore operational readiness by means of free e-mail or telephone support within six hours, the CONTRACTOR will send a service technician to the location within 48 hours in order to rectify the problem during normal business hours.

5 Delivery

- 5.1 All deliveries will be made DDP to the specified address (place of delivery/performance) in accordance with Incoterms® 2020.
- 5.2 The CONTRACTOR is obliged to perform the service in full and to deliver fully functional goods, including all of the required parts, in the quality necessary to ensure smooth operation, on the date specified in the order or agreed in writing with RICO GROUP, in accordance with the properties customarily expected on the basis of the technical state of the art and other guaranteed properties, including where the necessary parts or services are not explicitly stated in the order. The CONTRACTOR is responsible for verifying information provided by RICO GROUP.
- 5.3 If the CONTRACTOR changes the specifications of its products and/or services, however slightly, or the basic production process, which in turn affects the specifications or other aspects of its products and/or services, the CONTRACTOR must inform RICO GROUP of such changes without delay. The CONTRACTOR undertakes to maintain the specifications of its products. RICO GROUP is not obliged to check, including on a sample basis, the composition of the products supplied by the CONTRACTOR.
- 5.4 In the case of goods, the date of delivery at the place of receipt or use will be decisive when establishing compliance with the agreed delivery date; in the case of services or equipment, the time of acceptance will be decisive. In the case of preliminary acceptance on more than one occasion at the CONTRACTOR'S premises, for reasons due to the CONTRACTOR, the CONTRACTOR must bear the full costs incurred by RICO GROUP as a result (e.g. working time, travel and accommodation expenses, etc.). If the CONTRACTOR misses the delivery date, it is deemed to be in default without reminder. Acceptance of delayed goods is subject to settlement of all potential claims. RICO GROUP may postpone delivery dates for up to three months without incurring costs.
- 5.5 Part-deliveries are only permitted with RICO GROUP'S prior written approval, otherwise RICO GROUP may refuse to accept the delivery. In any case, part-deliveries are not treated as separate transactions, and must be marked as such, including details of the total quantity and the quantity of the part-delivery.

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- 5.6 In the case of an anticipated delay in the delivery of goods or the provision of a service, the CONTRACTOR is obliged to notify RICO GROUP without delay, including reasons and the expected length of the delay. Delivery of goods or provision of services before the date specified in the order or the agreed date requires RICO GROUP's express approval. Even if such approval is given, early delivery must not be disadvantageous to RICO GROUP, and in particular the agreed payment term may not commence before the original delivery date.
- 5.7 In the event of a delay in delivery, RICO GROUP is entitled to apply a contractual penalty of 1% of the value of the order, up to a maximum of 7%, for each commenced week of the delay. In any case, in the event of default by the CONTRACTOR, RICO GROUP may terminate the contract without granting a grace period, which will not give rise to any claims against RICO GROUP on the part of the CONTRACTOR. RICO GROUP has the right to terminate the contract from the start of the second week of the delay. This does not affect any other claims over and above the contractual penalty for damages and detrimental effects of any kind arising from delayed delivery. Enforcement of the contractual penalty on acceptance is not necessary, and the penalty may be enforced at any time before full payment is made, and deducted from the final invoice.
- 5.8 The CONTRACTOR may only attribute the delay to RICO GROUP's failure to provide essential materials and/or documentation if the CONTRACTOR demanded provision in writing and did not receive the materials and/or documentation without delay. In such cases, delivery is not deemed to be delayed if RICO GROUP failed to provide documentation. The CONTRACTOR bears the burden of proof in such cases.
- 5.9 RICO GROUP is entitled to use software connected with the goods supplied, including documentation, to the extent permitted by law. Moreover, RICO GROUP is entitled to use such software, including documentation, with the agreed features to the extent required for the use of the product in accordance with the contract. A backup copy may be made without express permission. The same applies to any industrial property rights related to the use of the product.

- 5.10 Goods must be appropriately packaged, using packaging appropriate for the means of transport, and protected against damage and loss. If products/goods are subject to specific regulations, e.g. the REACH Regulation, they must be classified, packaged and labelled in accordance with the applicable regulations. The CONTRACTOR is liable for any damages arising from non-compliance with such instructions.

6 Customs/export controls

- 6.1 In documentation related to the transaction, the CONTRACTOR is obliged to notify RICO GROUP of any obligations to be met in order to obtain approval for re-exports of the CONTRACTOR'S products in accordance with German, European or US export and customs regulations, and with the export and customs regulations of the country of origin of its goods. As a minimum, the CONTRACTOR's quotations, order confirmations, delivery documents and invoices must include information on the items concerned, as required and necessary under the applicable customs and export regulations. At RICO GROUP's request, the CONTRACTOR is obliged to notify RICO GROUP in writing of all export data related to the CONTRACTOR'S products and their components, and to notify RICO GROUP in writing without delay (prior to delivery of the goods concerned) of any changes to the aforementioned data.

7 Acceptance of deliveries/services

- 7.1 Acceptance takes place after full provision of the service/equipment and must be confirmed in writing by RICO GROUP. In the case of equipment, written confirmation is provided after successful commissioning at RICO GROUP's premises. With regard to services, if invoicing of costs on the basis of negotiated hourly rates is agreed, the CONTRACTOR must keep daily records of the hours worked and have the records signed by an authorized RICO GROUP employee.

8 Payment

- 8.1 Invoices for deliveries of components/materials are payable within 30 days of full receipt of the goods and the invoice with a 3% cash discount, or payable net within 60 days.

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- 8.2 If an order for plant/services exceeds EUR 20,000 and the delivery time exceeds 12 weeks, payment will be made according to the following payment schedule:
- 20% prepayment following receipt of the order confirmation including a bank guarantee (expiry: two months after the delivery date) within 30 days subject to a 3% cash discount, or net within 60 days.
 - 80% after acceptance by RICO GROUP (signed acceptance report) within 30 days subject to a 3% cash discount, or net within 60 days.
- 8.3 Invoices must satisfy all statutory requirements, in particular those of the Austrian Umsatzsteuergesetz (Value Added Tax Act), and any other separate written agreements; they must not be included with the delivery and must be sent to RICO GROUP immediately after dispatch. All invoices must include the full order number. The CONTRACTOR is liable for any additional or consequential costs arising from submission of incorrect or incomplete invoices.
- 8.4 Payment does not constitute acknowledgement of proper performance of delivery, or a waiver of claims of any kind whatsoever. The CONTRACTOR is not permitted to assign receivables from RICO GROUP to third parties, unless RICO GROUP agrees to the assignment in writing.
- 8.5 If performance by the CONTRACTOR is not in accordance with the contract, RICO GROUP is entitled to withhold payment until proper performance of the contract. RICO GROUP is entitled to offset outstanding payments against counterclaims arising from the transaction in question or from other transactions with the CONTRACTOR.

9 Transfer of risk and ownership

- 9.1 Risk transfers to RICO GROUP when the CONTRACTOR delivers goods to the place of delivery, or when equipment/services have been handed over to an authorized RICO GROUP employee, the latter has accepted the goods/services and deems that delivery has been made properly and in full, and the CONTRACTOR has properly fulfilled all of its additional obligations, e.g. provision of the required test certificates, CE-compliant documentation, descriptions, etc.
- 9.2 The CONTRACTOR transfers ownership of goods/services to RICO GROUP equivalent to the payment amount transferred by RICO GROUP to the CONTRACTOR.

10 Guarantee/warranty

- 10.1 The CONTRACTOR guarantees the defect-free operability and suitability of its goods and/or services for 12 months following acceptance of the service/equipment/goods, and bears any costs arising in this regard (e.g. materials, labor or transport costs) in full.
- 10.2 The CONTRACTOR also warrants that the goods or services meet the requirements specified in the order in all respects. Furthermore, the CONTRACTOR warrants that the goods or services meet all statutory and official regulations applicable at the place of delivery, in accordance with the properties customarily expected on the basis of the technical state of the art and other guaranteed properties, in particular compliance with accident prevention regulations. During the warranty period, the CONTRACTOR undertakes to immediately rectify all defects in the supplied goods and services due to incorrect work or defective materials free of charge upon RICO GROUP's first request. If the CONTRACTOR does not respond to a second, written request from RICO GROUP, the latter is entitled to have the necessary work performed by a third party at the CONTRACTOR'S expense.
- 10.3 The warranty period ends 24 months following acceptance of the goods/services at the earliest.
- 10.4 If a defect becomes apparent within two years of acceptance of the goods/services, it is assumed that the defect existed at the time of delivery.
- 10.5 RICO GROUP is not obliged to inspect the goods or provide notification of any defects; the statutory duty of notification pursuant to sections 377 and 378 Unternehmensgesetzbuch (Austrian Business Code) is expressly excluded. Contractual claims for damages may be enforced irrespective of any warranty claims.
- 10.6 Claims for damages may be enforced within 36 months of RICO GROUP becoming aware of the damage.
- 10.7 In the case of latent defects, the warranty period begins upon objective recognition of the defect. Defects in goods that usually remain packed until used and which only become apparent once the goods are unpacked constitute latent defects.

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- 10.8 Repaired and replacement parts are subject to a warranty period of at least 24 months.
Any ancillary costs (costs of transport to the place of performance, transport costs for returns) related to warranty and guarantee claims must be borne by the CONTRACTOR.
- 10.9 If the CONTRACTOR allows a two-week grace period for rectification of the defect to expire without remedy, under the statutory regulations RICO GROUP is entitled to rectify the defect itself or to have it rectified by a third party at the CONTRACTOR'S expense. Furthermore, RICO GROUP is entitled at its own discretion to enforce claims for rectification, replacement, a price reduction, cancellation of the contract, as well as damages claims due to non-performance and positive breach of contract. The CONTRACTOR is liable for products and services ordered from third parties which form part of the supplied goods and services as for its own goods and services.

11 Liability

- 11.1 The CONTRACTOR must include German-language instruction manuals and warnings in the delivery and, where possible and reasonable, attach them to the delivered goods. If, after acceptance of the delivery by RICO GROUP, the delivered goods prove to be defective in the meaning of section 5 Produkthaftungsgesetz (Product Liability Act) and/or it is found that the product's properties no longer correspond to the scientific and technical state of the art in the meaning of section 8(2) Product Liability Act, the CONTRACTOR is obliged to take back such goods and refund the purchase price in full.
- 11.2 If claims are enforced against RICO GROUP due to defects in the product delivered by the CONTRACTOR, or in particular due to breaches of official safety regulations or Austrian or foreign product liability provisions, RICO GROUP is entitled to compensation from the CONTRACTOR for such damages, provided they are attributable to the products supplied by the CONTRACTOR. The CONTRACTOR undertakes to fully indemnify RICO GROUP against all claims arising as a result. Such damages include personal injury and property damage, including costs for substitute performance, as well as costs for precautionary and necessary recalls, including any legal and consulting expenses, etc.

- 11.3 If claims are enforced against RICO GROUP due to goods supplied/services rendered by the CONTRACTOR, the latter is obliged to provide, without delay and at its own expense, any evidence requested by RICO GROUP, such as quality and test records, certificates and the like.
- 11.4 The CONTRACTOR undertakes to take out business liability insurance and comprehensive product liability insurance with coverage of at least EUR 10 million per year, which is also valid abroad and covers the costs of product recalls. RICO GROUP reserves the right to demand proof of such coverage from the CONTRACTOR. If the CONTRACTOR does not respond to such a demand within 14 days, RICO GROUP is entitled to terminate the contract and claim compensation for damages.

12 Termination of the contract

- 12.1 If the CONTRACTOR fails to fulfill its contractual obligations in full or in part (e.g. including missing intermediate deadlines in the planning and production process, and defaulting on dependent ancillary services), after expiry of a 14-day grace period RICO GROUP may terminate the contract in full or in part, regardless of whether performance is divisible. With regard to grace periods, the granting of such a grace period, e.g. by issuing several reminders, is sufficient for RICO GROUP to be in compliance with the contract. Especially in the case of failure to provide guaranteed product properties, RICO GROUP is entitled to terminate the contract in full, regardless of whether the services concerned are divisible. This also applies in the event of a significant deterioration in the CONTRACTOR'S financial position. Amounts paid in respect of services affected by termination of the contract must be refunded, plus any finance costs incurred by RICO GROUP. Such termination does not give rise to any claims against RICO GROUP on the part of the CONTRACTOR. The CONTRACTOR is obliged to inform RICO GROUP of such circumstances in writing immediately.

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12.2 In such cases, RICO GROUP is obliged to pay the pro rata contract price based on the proportion of services rendered, and to compensate the CONTRACTOR for demonstrable direct costs associated with work in progress and/or the cancellation of subcontracts. Upon payment, the CONTRACTOR transfers ownership of the goods/services concerned; the CONTRACTOR bears the burden of proof regarding the incurrance of the aforementioned costs. After receiving notification of cancellation, the CONTRACTOR will make all possible and reasonable efforts to minimize as far as possible the direct costs which RICO GROUP will reimburse.

13 Confidentiality

13.1 Any samples, documentation and information shared in relation to enquiries and orders are strictly confidential, and may not be reproduced or made accessible to third parties without RICO GROUP's permission. RICO GROUP has the right to demand the return of such samples, documentation and information. The CONTRACTOR must destroy such documentation if the parties do not enter into a contract.

14 Data protection

14.1 Attention is drawn to the privacy notice posted on RICO GROUP's website:
<https://www.RICO GROUP.at/en/Privacy-Notice>

15 Advertising

15.1 Any form of publication, referencing or advertising by the CONTRACTOR based on the goods and/or services provided to or the business relationship with RICO GROUP requires the latter's written approval. The use of advertising symbols or company logos/trademarks on supplied products or in connection with services provided requires RICO GROUP's written approval. This does not include rating plate labels.

16 Penalty clause

16.1 The CONTRACTOR undertakes to pay lump-sum compensation of EUR 100,000 to RICO GROUP for every breach of these GTCP, regardless of the right to claim compensation for actual damages in excess of this amount.

17 Force majeure

17.1 Delays or failures in performance within the scope of the order due to force majeure events, for which the party concerned is not at fault, are deemed to be excused for the duration of the force majeure event. In such cases, the party concerned must notify the other party in writing of the occurrence of the force majeure event without delay, and three days thereafter at the latest, specifying the type and scope of the force majeure event and its effects, including their expected duration.

17.2 Force majeure events are limited to unforeseeable, unavoidable and exceptional events such as natural disasters, including flooding, earthquakes, hurricanes and other extreme natural events; raw material, energy and labor shortages; labor disputes; unforeseeable disruptions to business operations, or disruptions for which the party concerned is not to blame; fire; civil unrest; war; sabotage; and terrorist attacks.

17.3 If the CONTRACTOR cannot provide credible assurance that a delay due to a force majeure event will not exceed 30 days, or if a delay due to a force majeure event exceeds 30 days, and the parties cannot reach an amicable solution, both parties will be entitled to terminate the contract in full or in part.

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18 Concluding provisions

- 18.1 If a provision or provisions of these GTCP are invalid or contradictory, this will not affect the effectiveness of the remaining provisions. The invalid provision must be replaced with one that corresponds to the technical and economic purpose of the invalid provision.
- 18.2 All rights, legal remedies and forms of legal redress granted under these GTCP are cumulative and have equal status alongside and in addition to other rights, legal remedies and forms of legal redress granted by law.

19 Jurisdiction/applicable law

- 19.1 The court with subject-matter competence at the place of RICO GROUP's headquarters will adjudicate on all disputes arising from these GTCP.
- 19.2 Austrian substantive law applies. The applicability of the UN Convention on Contracts for the International Sale of Goods is excluded.