

**General Terms and Conditions of Purchase
of Leibniz Institute for Natural Product Research and Infection Biology
– Hans Knöll Institute – (HKI)
as of 10/ 2021**

1. General

- 1.1 The General Terms and Conditions of Purchase shall apply to all contracts for services to be concluded by HKI as the ordering party, in particular for service, purchase and work contracts as well as for contracts for the delivery of movable goods to be manufactured or produced. Excluded from this are construction works in terms of § 1 VOB/A (German Construction Contract Procedures) as well as architect and engineer contracts in terms of § 650p BGB (German Civil Code).
- 1.2 By submitting an offer, the Contractor accepts HKI's "General Terms and Conditions of Purchase", which thus become part of the offer and, upon its acceptance, part of the contract. Deviating "General Terms and Conditions" of the Contractor shall even be ineffective if HKI has not objected in detail.
- 1.3 Deviations from the "General Terms and Conditions of Purchase" shall only be effective if they have been expressly designated as a deviation and confirmed by HKI in writing. The tacit acceptance of deliveries or services of the Contractor as well as payments by HKI does not imply agreement with conflicting conditions of the Contractor.
- 1.4 All documents, including invoices, shall state the order number, reference and date of the letters of HKI. The Contractor is hereby informed in accordance with § 33 of the Federal Data Protection Act that the data of the order will be stored.
- 1.5 As a public research institution, the HKI is subject to the self-insurance principle of the public sector. The HKI is a non-profit organisation under private law in the form of a registered association and is not a merchant pursuant to § 1 of the German Commercial Code (HGB), so that the provisions of the HGB do not apply.

2. Offers

- 2.1 The offer must comply with the specifications of the inquiry/tender. The cost of preparing offers and providing supplementary documents or information will not be reimbursed. The Contractor is bound to the offer for a period of 3 months, unless a deviating commitment is agreed.
- 2.2 Hazardous substances in accordance with the German Hazardous Substances Ordinance (Gefahrstoffverordnung) as amended from time to time shall be specially marked in the offer.
- 2.3 If the subject of the order or individual components of the subject of the order constitute hazardous waste in the event of subsequent disposal, this shall be pointed out and a possible disposal shall be indicated.

3. Prices/Services and Deliveries

- 3.1 The prices are fixed prices without VAT.

- 3.2 In the case of purchase contracts, deliveries and the transfer of risk are made DPU ("Delivered At Place Unloaded") in accordance with Incoterms 2020 to the respective place of destination in accordance with HKI's written order or order letter, unless expressly agreed otherwise in the individual case. The contractor shall bear all risks in connection with the transport to the named place. Unless otherwise agreed, the contractor must take out transport insurance and bear the costs of this as well as the costs of customs and packaging. Insofar as it has been agreed in writing to the contrary that HKI is to bear freight and/or packaging costs, these are to be disbursed by the contractor and shown separately in the invoices.

4. Order / Order confirmation

- 4.1 A contract between HKI and the Contractor shall only be concluded by the exclusively written order letter of HKI. Any changes must also be made in writing. This shall also apply to changes to this written form requirement.
- 4.2 Unless otherwise stipulated by mandatory law, the following shall apply in the following order:
- the wording of the order letter;
 - the contract documents including the award documents;
 - these "General Terms and Conditions of Purchase" of HKI;
 - the "General Terms and Conditions for the Performance of Services" (VOL/B) as amended from time to time;
 - the German Civil Code (BGB) as well as other relevant statutory and official regulations and requirements including of the relevant standard, occupational health and safety, safety standard and accident prevention regulations, e.g. CE, VDE, ElektroG etc. in the version valid on the day of delivery.
- 4.3 Receipt of the order letter must be confirmed in writing by the Contractor without delay. HKI is entitled to revoke the order without compensation if the Contractor has not confirmed this in writing within 2 weeks of receipt (order confirmation).

5. Transfer of orders to third parties

- 5.1 The transfer of orders or essential parts thereof to third parties requires the prior written consent of HKI. HKI shall not be obliged to accept the services of third parties as contractual services unless and until written consent has been given.
- 5.2 The Contractor shall be solely responsible for fulfilling the statutory, official, social insurance and employers' liability insurance obligations towards his employees. He shall indemnify HKI against any claims by third parties based on possible violations of statutory, official, social insurance and employers' liability insurance obligations.
- 5.3 The HKI has the domiciliary right. HKI shall be entitled to issue instructions to the Contractor, its employees, vicarious agents and other third parties who, on behalf of the Contractor and with the Contractor's knowledge and will, perform services in the premises or on the property of HKI, on the manner of residence and use.
- 5.4 The Contractor and HKI shall be liable for personal injury, damage to property or pecuniary loss within the scope of the statutory provisions.

6. Obstruction and interruption of performance

- 6.1 The Contractor must immediately notify the customer in writing of any hindrances that prevent the proper execution of the service, stating the reasons.
- 6.2 The Contractor shall bear the procurement risk for its services unless otherwise agreed in writing in individual cases (e.g. limitation to stock).

7. Date safeguarding

- 7.1 The contract dates (e.g. completion or delivery dates) are always binding. If it is to be expected that the contract date will be exceeded, the Contractor shall notify HKI of this in writing without delay, stating the reasons and the expected duration. HKI's claims based on the delay shall not be limited by this notification.
- 7.2 If the Contractor is responsible for exceeding the contractual deadline, HKI shall also be entitled to claim a contractual penalty of 0.2% for each working day of delay, but no more than a total of 5% of the order total. We reserve the right to assert further claims for damages caused by default.

8. Delivery / Shipping / Customs and export control

- 8.1 Deliveries shall be accompanied by a delivery note. In the case of deliveries from foreign customs countries, the Contractor must contact the specified place of use in good time for customs and import processing. The Contractor must send the HKI in good time: HS code/KN Code/Export Control Classification Number (ECCN), country of origin and certificate of origin, details of preferential origin. Accompanying documents must be enclosed complete with the actual values of the delivery. If applicable, the Contractor shall notify and communicate in good time and in writing: the allocation of the goods to be delivered to a position of the EC Dual-Use Regulation of the German Export List as well as the Annex of the War Weapons Control Act as well as possible restrictions according to the Chemical Weapons Convention and the applicable national implementation acts, according to the Rotterdam Convention (PIC Convention) as well as the registration in the U.S. Commerce Control List or the USML in each case in the version valid at the time of the request. The same applies to any restrictions based on embargo regulations.

This information must be stated in all relevant documents (in particular offer, delivery note and invoice). The Contractor shall bear all expenses or damages incurred by HKI due to the absence or incorrectness of this information.

- 8.2 If construction work is necessary for the performance of the service, this shall be carried out by the Contractor under his responsibility and at his expense, unless otherwise expressly agreed in writing.

If, contrary to Clause 3, it has been agreed in writing that HKI shall reimburse the Contractor for shipping costs, these shall be owed up to a maximum of the most favourable shipping method in terms of tariffs, but only insofar as these are proven by suitable documents. Additional costs arising from the shipment, such as fees and the like, shall in any case be covered by the price of the service. Surcharges for urgent or express shipments will only be reimbursed after prior written agreement.

- 8.3 Unless otherwise agreed, packaging materials shall remain the property of the Contractor. This applies to both transport and sales packaging. The Contractor is obliged to take back the packaging materials free of charge.

- 8.4 In all cases in which the subject matter of the contract falls under the provisions of the German Ordinance on Hazardous Substances (Gefahrstoffverordnung) as amended at the time of performance of the order, the Contractor shall also be obliged to attach the relevant safety data sheets in accordance with DIN 52900 to the delivery.

9. Transfer of risk / Acceptance

- 9.1 Insofar as delivery is owed, this shall be deemed to have taken place upon receipt of the goods at the place of delivery at the agreed place of performance. If no further services have been agreed (assembly, installation, etc.), the risk of accidental loss or accidental deterioration shall pass to the customer upon proper delivery of the goods to the place of delivery.

For work services and other services going beyond a mere delivery, the transfer of risk shall only take place after acceptance of the entire service by HKI. Section 640 BGB shall apply.

- 9.2 Advance or partial payments on the purchase price shall neither constitute acceptance nor acknowledgement of the faultlessness of the performance. Pre- or interim acceptance are only tests which are relevant neither for the passing of risk nor for the running of deadlines. If a trial run is planned, HKI shall only be obliged to accept the goods after the trial run has been carried out.

10. Invoice / Partial payment

- 10.1 Invoices should preferably be submitted electronically, quoting the HKI order number. VAT must be shown separately on the invoice. According to the E-Invoice Ordinance (ERechV), companies are obliged to issue invoices electronically from November 27, 2020. Exceptions to this are regulated in § 3 para. 3 ERechV. This applies in particular to direct orders up to a maximum value of € 1,000.00 net. Electronic invoices must be sent in X-invoice format to e-rechnung@leibniz-hki.de.

Non-electronic invoices shall preferably be submitted by e-mail to rechnung@leibniz-hki.de stating the HKI order number; value added tax shall be shown separately. Alternatively, invoices must be submitted in duplicate to the address stated in the order letter. The duplicate must be marked as such. Payment and discount periods shall commence at the earliest upon receipt of the invoice by HKI, if acceptance is planned, upon acceptance of the delivery/service. Payment does not confirm the fulfilment of the contractual obligations of the Contractor.

- 10.2 Advance payments shall only be made if they have been agreed in writing. If advance payments have been agreed, HKI may require the contractor to provide security for the amount of the advance payment in accordance with section 18(1), sentence 2 in conjunction with section 18(2-7) VOL/B. § Section 18 Para. 2-7 VOL/B.
- 10.3 A separate invoice shall be issued for each order. Partial and final invoices shall be designated as such.

11 Liability for material defects and defects of title

Liability for defects shall be governed by the statutory provisions unless expressly agreed otherwise in writing. A limitation of the statutory liability for material defects and defects of title by the Contractor's general terms and conditions is not agreed in this sense.

12 Compliance with standards

- 12.1 The Contractor shall ensure that suitable measures are taken to prevent corruption and to prevent acceleration measures abroad and payments to members of parliament.
- 12.2 The Contractor shall comply with the relevant law of its country of domicile. By carefully selecting its subcontractors and suppliers and monitoring them reasonably, the Contractor undertakes to ensure that no legal violations are committed by them in connection with the contractual relationship with HKI.
- 12.3 The Contractor further undertakes to comply with the minimum standards laid down in the ILO core labour standards (www.ilo.org), in particular no forced or compulsory labour may be used and no persons under 14 years of age or, in the case of hazardous work, no person under 18 years of age may be employed.

13 Termination and withdrawal

- 13.1 The right of HKI to terminate the contract for good cause is not limited.
- 13.2 In particular but not exclusively, HKI shall be entitled to terminate for good cause if
- the Contractor is in liquidation;
 - the Contractor is unreliable due to proven serious misconduct, e.g. actions within the meaning of § 333 StGB (granting of advantages), § 334 StGB (bribery), § 264 StGB (subsidy fraud) or similar actions outside correct business practices;
 - the Contractor has deliberately made incorrect declarations in the award procedure with regard to reliability as well as expert knowledge and efficiency;
 - the Contractor's offer is based on agreements restricting competition within the meaning of § 298 StGB.

- 13.3 If HKI terminates the contract for good cause, HKI shall be entitled to retain the previous services insofar as HKI uses them. These shall be invoiced on the basis of the contract prices or the ratio of the part performed to the total contractual services on the basis of the contract prices. Services that cannot be used shall be returned at the expense of the Contractor.
- 13.4 HKI's other statutory and contractual rights and claims arising from breaches of duty by the Contractor shall remain unaffected.

14 Property rights

The Contractor shall indemnify HKI against third-party claims arising from any direct or indirect infringements of intellectual property rights.

15 Applicable Law / Place of Performance

The law of the Federal Republic of Germany shall apply to the contract. The UN Convention on Contracts for the International Sale of Goods (CISG) is excluded. The place of jurisdiction is Jena. Place of fulfillment is stated in HKI's order letter. If the place of performance is not specified, the place of performance shall be deemed to be Jena.