



PURCHASE ORDER TERMS AND CONDITIONS

1 Conditions of Supply of Goods/Services

- 1.1 These terms apply between the RWE contractual entity set out in the order ("we", "us" and "our") and the supplier set out on the order ("you"). In these terms "including" shall not limit the generality of any preceding words.
- 1.2 The purchase of goods and/or services by us pursuant to these terms shall be on a non-exclusive basis and may be for the benefit of other companies within our group.
- 1.3 You agree that you will issue upon our request, a written statement to the effect that the fulfilment of these terms and the order does not violate any legal stipulations.
- 1.4 You will provide the goods/services set out on the order in a lawful, business like manner in accordance with good industry practice, and compliant with all relevant regulatory, legal and other requirements.
- 1.5 You will not bring our and/or our group's name(s) into disrepute.
- 1.6 You will comply with our corporate responsibility policy, our Corporate Responsibility Procurement Policy and "RWE Code of Conduct" in force in the RWE Group which can be viewed at www.rwenpower.com and with the provisions of the UK Bribery Act.
- 1.7 You will commence, deliver, provide and complete the goods/services by the time stated in the order, or if none is specified, within a reasonable period. We may at any time upon notice to you suspend, postpone or reduce all or part of the goods/services.
- 1.8 We and/or our auditors shall have the right to inspect your records relating to the supply of the goods/services to us.
- 1.9 You will comply with all policies (including health and safety, and security), and will notify us about any hazards to health or safety, and will allow us if we require to inspect and test the goods during any manufacture.
- 1.10 In the event that you do not already have in place an occupational pension scheme that allows all eligible employees and earnings at or above the National Insurance lower earnings level to join within 12 months of starting work for you, or if you are not an exempt employer under the provisions of the Welfare Reform and Pensions Act 1999 (the "Act"), you shall provide to us such evidence as we may reasonably require that you have arranged for your relevant employees as defined in the Act to have access to a stakeholder pension scheme in accordance with the Act and the Stakeholder Pension Scheme Regulations 2000.
- 1.11 There will be no contract between us and any of your third party workers, and you will be responsible, at your cost, for all vetting and auditing of your third party workers (including but not limited to checking identities, c.v.s, references, qualifications, CRB records, ISA checks, FSA compliance, rights to work in UK, driving licenses, etc) . You will indemnify us and our group against any loss, liability, damage, expense, claim, fine, demand, proceeding, charge, expense, claim, fine, demand, proceeding, charge, expense or cost suffered of incurred by us (and/or our group) as a result of any breach of your obligation under this clause.

2 Acceptance

- 2.1 An order will be accepted by you either expressly giving notice of acceptance (including signing the order) or impliedly fulfilling the order (in whole or part).
- 3 Price, Payment and Invoicing
- 3.1 In consideration of the successful provision of the goods/services we will pay the price set out on, and in accordance with, the order. The prices on the order are exclusive of VAT but inclusive of all freight, insurance and other delivery costs. You assume all cost associated with out-of-pocket expenses.
- 3.2 Invoices must show date, invoice number, your name and address, VAT breakdown, purchase order number and fees, together with other information or supporting documentation we may reasonably require.
- 3.3 We will pay invoices within sixty (60) days from date of receipt. If we dispute an invoice in good faith, we will be entitled to withhold payment of the disputed amount until resolution.
- 3.4 If payment is not made on undisputed amounts when due, you may charge interest at 2% per annum above the base rate of HSBC Bank plc at the time on all unpaid amounts.

4 Warranties/Remedies

- 4.1 You warrant that: (i) you have the right to enter into these terms and the order, and to provide the goods/services; (ii) you will deliver good marketable title to all goods/services; (iii) you will pass on all manufacturer's guarantees to us in relation to the goods/services (iii) the goods/services will: (a) adhere to the specifications and quantity set out in the order or any other document supplied to you by us; (b) be of satisfactory quality, fit for purpose, and free from any defects; (c) not infringe the intellectual property rights (including copyright) of any third party; (d) correspond to any previous sample supplied by you; (e) be clearly marked with our name, address, order number and advice note (detailing transport, weight, number or volume and point and date of despatch and any other information we notify to you that we require) (iv) the goods/services will be provided with all due skill care, and (v) risk in the goods will only pass to us on delivery to our nominated delivery address, and title to the goods will pass to us on the earlier of payment or delivery (any goods damaged or lost in transit shall be your responsibility).
- 4.2 If you have not complied with the provisions of clause 4.1, or have not complied with any other provisions of these terms, we without prejudice to any other rights and remedies at law, may reject the goods/services (in whole or part) and you shall at our discretion replace/rectify the goods/services within our reasonable timescale required.

5 Intellectual Property Rights

- 5.1 All intellectual property rights existing on or prior to the date of the order shall remain vested in the relevant party or its licensors.
- 5.2 All intellectual property rights (including copyright) in any deliverables or other materials created or developed by or on behalf of you and/or us as a result of these terms and/or the order, or otherwise resulting from the goods/services (including new or bespoke computer code) shall vest in us. You agree to execute all documents and to do any other things reasonably necessary to perfect the rights in this clause 5.
- 5.3 Any rights granted by us to use our intellectual property rights shall cease on termination or expiry of the order.
- 5.4 You will defend us and our group from and against any claim or action that the software, services and/or deliverables (or any part thereof) infringe the intellectual property rights or any other rights of a third party and shall fully indemnify and hold harmless us and our group from and against any losses, damages, costs (including all legal fees) and expenses incurred by or awarded against us and/or our group as a result of or in connection with such a claim.

6 Liability

- 6.1 Neither party excludes or limits its liability for: (i) fraud or deceit; (ii) fraudulent, negligent or innocent misrepresentation; (iii) death or personal injury caused by its negligence; (iv) breach of section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; (v) any other liability that cannot be excluded or limited by law.
- 6.2 Subject to clause 6.1 and except where providing an indemnity, neither party shall be liable to the other party by reason of any express term of these terms for any indirect or consequential loss or damage (including loss of profits, business, opportunity or goodwill) whether caused by the negligence, breach of contract, tort or breach of statutory duty of that party, its employees or agents or otherwise, arising out of or in connection with these terms or the order, but for the avoidance of doubt, subject to this clause 6 each party shall be liable to the other for direct losses.
- 6.3 Subject to clauses 6.1 and 6.2 any other liability of us to you in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising out of or in connection with these terms and/or the order is limited in the aggregate to the price paid under the order.

7 Confidentiality

- 7.1 The order, these terms and any information or material of a confidential nature (either marked as such or which ought by its nature reasonably be considered to be confidential) supplied by (or on behalf of) us to you (including any information relating to our business or financial or other affairs, or those of a member of our group) are strictly confidential and will not be disclosed (in whole or in part) by you to any other person without our prior written consent (except where you are required to disclose them by any government authority or pursuant to any court order).
- 7.2 You will not make any announcement or publicity statement relating to us, our group, the order, its subject matter or these terms without our prior written approval (except as required by law or by any legal or regulatory authority).

8 Data Protection

- 8.1 If you process personal data (as defined by the Data Protection Act 1998 and its associated regulations (the "DPA")) ("data") on behalf of us and/or our group you will: (i) only process such data in accordance with our instructions; (ii) assist us with any subject access requests received in relation to such data; (iii) not use such data for any purpose other than as agreed with us under the order; (iv) not disclose such data to a third party other than at our request; (v) not transfer or process any such data outside of the European Economic Area; (vi) notify us of any breach by you of the DPA immediately.
- 8.2 You warrant that you have appropriate operational and technological processes and procedures in place to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of data.
- 8.3 On termination or expiry of the order you will return to us all data then in your possession or control.

- 8.4 You will indemnify and keep fully indemnified us and our group immediately on demand against any loss (including loss of profits, reputation and goodwill), liability, damage, expense, claim, fine, demand, proceeding, charge, expense or cost directly or indirectly suffered or incurred by us and/or our group) as a result of a breach of this clause 8 or any other breach of the DPA by you or anyone used by you in fulfilling your obligations.

9 WEEE and RoHS Directives

- 9.1 If any equipment provided as part of the goods/services (if any) is subject to the Waste Electrical and Electronic Equipment Directive, all and any costs (including transportation and administration) associated with the end of life recycling, re-use or disposal of such equipment, shall be for your account unless we choose to sell or otherwise dispose of the equipment at the end of its life.
- 9.2 All goods/services supplied to us pursuant to the order must be fully in compliance with the RoHS Directive.
- 9.3 You will indemnify us and our group against any costs, fines or any other detrimental impacts as a result of a breach of this clause 9.
- 10 Term and Termination
- 10.1 These terms subsist for the period of provision of the goods/services set out on the order. Either party may terminate the order immediately by notice if: (i) the other is in material breach of any of its obligations under the order and/or these terms and fails to remedy the breach (if capable of remedy) within 7 days of a written notice requesting such remedy; (ii) the other becomes insolvent, bankrupt, is in liquidation, administration or receivership, makes an arrangement with its creditors, is unable to pay its debts, or is subject to orders or events leading to any of the foregoing, or suffers any analogous event.
- 10.2 Termination or expiry of the order will terminate these terms but will not affect: (i) any rights or liabilities accrued at the date of expiry; (ii) prejudice other rights or remedies (under these terms or otherwise); or (iii) the coming into force or the continuation in force of any provisions which expressly or by implication are intended to come into force or continue in force on or after the termination or expiry (including clauses 7, 8, 9, 10 and 15).
- 10.3 On termination or expiry you shall: (i) discontinue the provision of the goods/services on the date specified; and (ii) promptly return or provide to us any and all confidential information, personal data and/or intellectual property of us and/or our group then in your possession or control.

11 Force Majeure

- 11.1 Neither party shall be liable for any event beyond its reasonable control (but excluding any strike, lockout or industrial action involving that party's or its sub-contractor's employees, workers, agents or other personnel) which directly causes that party to be unable to comply with all or a material part of its obligations under the order or these terms PROVIDED THAT that event does not arise from the act, omission or negligence of that party.
- 11.2 If a party is prevented, hindered or delayed from or in performing any of its obligations under the order or these terms pursuant to clause 11.1 for a continuous period in excess of 30 days the other party may terminate the order immediately by notice in writing.

12 System Access Terms

- 12.1 During and in the course of furnishing services, you shall: (i) not access, and shall not permit anyone to access, our computing systems without our express written authorisation; (ii) employ anti-virus procedures when appropriate; (iii) comply with our information security policies and procedures; (iv) ensure that you have in place a plan approved by us in relation to ensuring business continuity both in relation to general day-to-day service disruptions and disaster recovery affecting either you, our or our group's business.
- 12.2 Where authorised by us in advance, we may provide you with remote access to our computing systems. Where we provide such access you will comply with our IT policies and procedures, including those relating to access to our systems (which will be provided on request).
- 12.3 You shall use any remote access only to provide services. We may terminate your access to our systems at any time without notice to you. You shall immediately notify us of any actual or threatened security breach in or unauthorised access to our systems.

13 TUPE

- 13.1 All losses, damages, costs, claims, liabilities and expenses (including all legal and other professional fees and expenses) ("Liabilities") relating to the employment of any personnel by you in respect of the period from the effective date of the order up to and including the date of termination and/or expiry of the order and/or the terms, or the cessation of the provision of the services and/or deliverables (the "Relevant Period") are to be borne by you.
- 13.2 You will indemnify and keep us indemnified in full against any Liabilities transferred to, imposed upon or incurred by us: (i) arising out of or in connection with the employment of any personnel by you in respect of the Relevant Period; (ii) if any of the personnel employed by you makes any claim (whether successful or not) at any time prior to the end of the Relevant Period that they have become an employee of, or have rights against, us by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the "Regulations"); (iii) following the end of the Relevant Period, arising directly or indirectly in connection with any act or omission of you prior to the end of the Relevant Period in respect of any personnel employed by you for which we are liable by reason of the Regulations; (iv) if, as a result of the Regulations, the contract of employment of any of your employees shall have effect, following the end of the Relevant Period as if originally made between us and that person and we terminate that contract; (v) arising out of or in connection with a claim (whether successful or not) made by an outgoing employee of yours.

14 General

- 14.1 You will not sub-contract any of your obligations under the order or these terms without our prior written consent. Any appointment of a sub-contractor shall not affect your obligations and liabilities.
- 14.2 You will not assign, novate or otherwise transfer any of your rights and/or obligations under the order or these terms without our prior written consent. We may assign, novate, transfer or sub-licence any of our rights and/or obligations under the order or these terms to a group company without your prior consent.
- 14.3 Nothing in these terms and no action taken pursuant to them shall constitute, or be deemed to constitute, a relationship between the parties of partnership, association, joint venture or other co-operative entity.
- 14.4 No variation of these terms or the order shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 14.5 To the extent to which any services provided pursuant to the order are for the benefit of a company in our group that company may enforce these terms and the order subject to and in accordance with these terms, the order and the provisions of the Contracts (Rights of Third Parties) Act 1999. Save for the foregoing a person who is not a party to these terms shall not have the right under the Contract (Rights of Third Parties) Act 1999 to enforce any of these terms.
- 14.6 These terms and the order constitute the whole agreement between the parties and supersede all previous agreements between the parties relating to their subject matter. Each party acknowledges that, in entering into these terms and the order, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in these terms and the order.
- 14.7 If any court or competent authority finds that any provision of these terms (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these terms shall not be affected. If any invalid, unenforceable or illegal provision of these terms would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 14.8 No failure or delay by a party to exercise any right or remedy provided under these terms, the order or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 14.9 English law applies to these terms and the order, and the parties agree to irrevocably submit to the exclusive jurisdiction of the English courts as regards any dispute, claim or matter arising under or relating to these terms and the order (including their subject matter, formation and any non-contractual disputes and claims).
- 14.10 These terms may be varied by any special terms as agreed by the parties and set out in the order.