



RWE Renewables – General Terms and Conditions for Purchases (North America), last updated 21.10.2019

SCOPE

This document applies to RWE Renewables. Therefore, where the document refers to 'RWE' it means RWE Renewables.

DEFINITIONS

"Company" means RWE Renewables, and/or its subsidiaries and affiliates (as identified on the Order);

"Conditions" means these terms and conditions;

"Contract" means any contract between the Company and the Seller for the purchase of Goods;

"Due Date" means the date stated in the Order for delivery of the Goods or services;

"Goods" means the articles, deliverables and minor services or any part of any of them described in the Order which the Seller is to provide to the Company in accordance with these Conditions;

"Order" means the Order issued to the Seller by or on behalf of the Company;

"Seller" means the person, firm, company including subsidiaries to which the Company's Order is addressed and sent;

"Specification" means the Company's specifications or stipulations for the Goods notified in writing to the Seller.

1. SAFETY HEALTH AND ENVIRONMENT

The Seller shall in carrying out its obligations under this Order understand and comply at its own cost with all applicable laws and regulations and shall ensure compliance with any relevant documents, policies and procedures made known to it by Company.

2. SALE OF GOODS AND APPLICATION OF THESE CONDITIONS

The Seller agrees to sell the Goods to the Company on these terms and conditions. These Conditions shall apply to the Order to the exclusion of all other conditions of the Seller; provided, however, that if the Goods are being provided pursuant to a Master Service Agreement, Turbine Supply Agreement, or Software License Agreement, the terms of those agreements shall apply to the delivery of the Goods and that fact shall be noted on the Order. No variation of the Order or to these Conditions by either party shall be binding unless confirmed by the Company in writing.

3. DOCUMENTS

The Seller, where applicable, shall enclose a packing slip with the Goods, identifying the date of shipment, quantity, part number, and a description of the Goods. The Order number must be quoted on all notes and on all correspondence and invoices relating to any Order.

4. QUALITY

The Seller warrants to the Company that the Goods shall be new, free from defects in materials and workmanship, fit for their intended purpose, shall conform as to quantity, Specification and instructions contained in the Order. Goods shall comply with all relevant statutory and regulatory requirements. The Seller shall pack the Goods so as to protect the Goods from loss or damage and in accordance with best commercial practices.

5. ACCEPTANCE AND INSPECTION

The Company has the right to inspect the Goods on delivery. The Company shall not be deemed to have accepted any Goods until has inspected them following delivery. A signature indicating receipt of Goods shall not indicate a full inspection and shall not relieve the Seller of any obligation under the Contract. The company shall notify the Seller within 7 working days of any apparent damage to Goods whilst in transit.

6. DELIVERY

Goods shall be delivered by the Seller on the Due Date to the place or places specified in the Order or as subsequently specified by the Company in writing. Time shall be of the essence. The Company shall be under no obligation to accept delivery before or after the Due Date, but reserves the right to do so.

7. PASSING OF PROPERTY

Seller shall bear the risk of loss of the Goods until they are delivered in accordance with the Order, at which point the property and risk in the Goods shall pass to the Company; provided, however, that if the Company pays for the Goods prior to delivery, title (but not risk of loss) to the Goods shall pass to the Company when payment is made and the Company may enter the premises of the Seller to recover its Goods where the Seller has not delivered them by the Due Date or where the Seller is in liquidation, bankruptcy or otherwise unable to pay its debts when they fall due.

8. PAYMENT

The price of Goods shall be stated on the Order. The price shall be inclusive of all costs incurred by the Seller in relation to the Goods and their delivery unless otherwise specified in the Order. Any VAT or Sales Taxes will be noted on the Order as a separate line item. Payment shall be made by the Company within 30 days of receipt of an invoice rendered on or after delivery of the Goods in accordance with the Order.

9. INTELLECTUAL PROPERTY RIGHTS

Where the Goods are customized or made to the requirements of the Company all intellectual property rights in work done by or on behalf of Seller for the Company relating to the Goods shall vest in the Company and the Seller warrants the Goods do not breach the intellectual property rights of any other person.

10. LATE DELIVERY / REJECTION

If the Goods are not delivered on the Due Date or the Goods have been damaged in transit or there is any breach by the Seller of Condition 4 above, the Company shall be entitled at its discretion, in addition to any right to recover damages arising from such breach, to:

- a) Cancel the Contract in whole or in part and require reimbursement of any amounts paid by the Company;
- b) Reject the relevant Goods, including Goods already delivered which cannot be effectively and commercially used by reason of the non-delivery of the undelivered or defective Goods;
- c) Refuse to accept any subsequent delivery of the Goods;
- d) Require the Seller at its cost within 14 days to replace or repair or to carry out such work as is required to the Goods so that they conform to the Contract;
- e) Recover from the Seller any costs reasonably incurred by the Company in obtaining substitute Goods from another Supplier.

The Seller shall collect any Goods rejected under Condition 10 within one week from the date of the notice. If the Seller defaults in collection of the Goods the Company may dispose of them or return them at the Sellers expense.

11. INDEMNITY

The Seller shall indemnify the Company for all property damage, including death or injury to any person including Company representatives and against all actions, suits claims, demands, costs, charges and expenses arising in connection therewith caused by:

- a) Claims that the Goods infringe the intellectual property rights of any third party;
- b) Claims for royalties by a third party with respect to the Goods;
- c) Breach of Condition 4 above or other warranty concerning the Goods whether express or implied by statute or otherwise or other breach of this Agreement
- d) The negligence of the Seller, his subcontractors, employees or agents.

The Seller shall maintain in force at its cost such insurance policies as are appropriate and adequate for its liabilities under the Contract.

12. CANCELLATION

The Company may cancel the Order in whole or in part by written notice which shall be effective immediately if:

- a) The Seller commits a material breach of any of its obligations under the Contract and fails to remedy the breach, having been requested in writing to remedy or desist from such breach within a period of 30 days, or if the breach cannot be remedied;
- b) The Seller becomes bankrupt or insolvent or has a liquidator or receiver appointed or enters into liquidation (whether voluntarily or compulsorily) other than for the purpose of reorganization.

The Company may cancel the Order at any time before delivery forthwith on written notice without cause. Where it does so (other than where the Seller is in breach of contract or insolvent) the company shall reimburse within 60 days any reasonable costs of the Seller already incurred for which there is documented evidence and Seller is unable to mitigate its loss.

13. CONFIDENTIALITY

The specifications, patterns, drawings, documentation, prices, samples and information issued by the Company in connection with the Order are confidential and their use must be confined to the Seller, his subcontractors or employees solely for the execution of the Order. No use may be made of the RWE Renewables name or logo without the consent in writing of the Company whether in publicity or marketing material or otherwise.

14. GENERAL

The Contract is personal to the Seller and may not be assigned to any third party. No person or organization without exception who is not a Party to this Contract shall have the right to enforce any term of the Contract.

The waiver by either party of any breach of these Conditions shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach or any other provision.

15. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Texas.