

GENERAL PROCUREMENT AND DELIVERY TERMS FOR CONSTRUCTION PRODUCTS

RYHT 2000

rakennustuotteet, rakennustarvikekauppa, hankintaehdot, toimitusehdot
byggnadsprodukter, leveransvillkor
building products, terms of delivery

TRANSLATION

In the event of any differences in interpretation of this RT Sheet the Finnish version RT 17-10721 shall take precedence over this translation.

The terms of procurement and delivery presented in this RT standards sheet are to be used between entrepreneurs in commercial transactions relating to building materials and construction products. These terms have been approved and endorsed by Rakennusteollisuuden Keskusliitto ry (Confederation of Finnish Construction Industries) and Rakennustuoteteollisuus RTT ry (Finnish Association of Construction Product Industries).

The terms contained herein shall be applied to basic contract form RT 80268, Construction Products, Procurement and Supply Contract. A model for the drawing up of contracts is shown in RT standards sheet RT 17-10722, Construction Products, Preparation of Procurement and Supply Contracts.

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1 SCOPE

1.1 Procurements and deliveries shall comply with the *General Procurement and Delivery Terms for Construction products RYHT 2000* defined below unless otherwise specified in writing.

1.2 These terms, intended to be applied to commercial transactions between entrepreneurs relating to building materials, construction products, and building components, may also include minor and short-term installation works carried out on construction sites.

2 OFFER

2.1 The offer shall be made according to the call for tender. If the offer or order confirmation deviates from the call for tender/order, said deviation in the offer or order confirmation shall be explicitly specified so that the deviation may be invoked.

Orally agreed deviations in the call for tender/order shall be confirmed in writing.

2.2 The offer shall be binding for 1 (one) month, calculated from the end of the period reserved for the submission of offers, unless no other period of validity has been specified in the call for tender.

3 ORDER OF PRIORITY FOR CONTRACT DOCUMENTS

3.1 Contract documents shall be compatible. If contract documents are found to be conflicting in their content, the order of authoritative priority for documentation shall be as follows unless otherwise specified in the Contract:

- the Contract, its appendices, and minutes of contract negotiation meetings, or in their absence, a written order, or in its absence, an order confirmation.
- these General Procurement and Delivery Terms for Construction Products.
- the call for tender and additional written explanations given prior to submission of tender.
- the offer and its appendices.

If the call for tender and the offer are contradictory in their content regarding technical details, the exceptions shall be verified and appended in written form to the aforementioned contract document.

4 PRICE

4.1 The price shall be a fixed price unless otherwise specified.

In these procurement terms the word price refers to the price excluding value-added tax (VAT). The value-added tax is calculated from each delivery's price as an actual payable tax.

4.2

Price changes caused by the legislative actions of state authorities (law, ordinance, cabinet or ministry decision),

- which have originated following the submission of the offer, or in other cases subsequent to the signing of the Contract,
- which cannot have been taken into account, either in the preparation of the offer, or equivalently in the preparation of the Contract,
- which have a significant and immediate effect on the performance specified in the Contract,

shall be taken into account in the price as an additive or subtractive factor only if their combined effect is at least 0.5% of the price and if one of the contracting parties presents a claim concerning this to the other party within one (1) month of the delivery or of the acceptance of the work performance, although not later than by the date of the acceptance inspection of the building project.

5 CHANGE ORDERS AND ADDITIONAL WORKS

5.1

If procurement plans or building designs are altered, and if these alterations cause changes in expenses or delivery schedules, the Seller shall be entitled to receive additional compensation from the Buyer for this increase, and shall be equivalently obliged to recompense the Buyer if such alterations lead to cost reductions. If changes result in modifications to delivery schedules, the Seller shall have the right to receive additional time according to mutual agreement. Demands relating to modified costs and additional time shall be agreed upon in writing between the contracting parties before excluding the alterations.

5.2

The contracting parties may reach verbal agreements for minor and rushed additions and changes, but the Contract shall be amended as soon as possible.

6 PAYMENT OF CONTRACT PRICE

6.1

The contract price shall be paid against invoicing according to the procurement/supply contract and the agreed time schedule.

6.2

If the Buyer does not pay the contract price within the agreed time limit, the Seller shall have the right to charge the penalty interest specified in the Contract or in the Act on Interest for the period between the expiration date and the date of payment.

6.3

The Buyer, on his part, shall have the right to deduct, in writing, penalty interest

and repair expenses found to be the responsibility of the Seller according to Section 15.3, from any unpaid invoices affecting the delivery in question.

7 TRANSFER OF OWNERSHIP RIGHTS

7.1

Ownership rights shall be transferred to the Buyer when the contract price, with any possible interest, has been paid in full.

7.2

If the payment has not been performed following the expiration date despite written request, or if there are justifiable grounds to doubt the Buyer's ability to pay, or if the Buyer is unable, despite written request, to deposit a security, the Seller may prohibit the supply of goods, their fixing or installation at construction sites, and may, at the Buyer's expense, repossess goods already supplied to the Buyer.

8 TRANSFER OF RISK

8.1

Risk shall be transferred to the Buyer when the goods have been turned over to the Buyer according to the Contract, or when they have been assigned to an independent carrier for delivery unless otherwise specified in supply clauses.

8.2

If, through the fault of the Buyer, the goods have not been delivered by the agreed time, risk will be transferred to the Buyer when the Seller has performed those duties, required of him by the Contract, that enable the handing over of goods. In that case, the Buyer shall be responsible for insuring the goods.

Storage of the Buyer's goods on the Seller's premises shall be agreed upon in writing, and their separation shall be announced to the Buyer.

9 SURETY

9.1

If, according to the terms of the procurement/supply contract, the Seller is required to deposit a security, this security shall be equal to 10% of the contract price unless otherwise specified.

9.2

If required by the terms of the procurement/supply contract, the Buyer shall be obliged to deposit the Seller with approved security.

9.3

The requirement concerning securities shall be presented before the signing of the Contract, and the securities shall be installed in the contract within a specified time period.

9.4

If the Buyer, according to the terms of the contract, is required make an advance payment, the Seller shall, prior to the execution of the advance payment, provide the Buyer with securities, approved by the Buyer, equal to the amount of the advance payment unless otherwise specified.

9.5

When required in the call for tender, the Seller shall be obliged to deposit a security for the performance of his obligations during the guarantee period.

The amount of the security, as well as its inception and expiration dates, shall be specified separately.

10 CONDITION OF SUPPLIED GOODS

10.1

The goods shall in every respect comply with Finnish laws and ordinances, as well as regulations provided by public officials concerning factors such as the construction and outfitting of goods, as well as their installation procedures, occupational health and fire safety regulations, valid at the time of delivery.

10.2

The goods shall, in their genre, quantity, quality, other properties, as well as in their packaging and product code identification, correspond to what can be considered to have been agreed upon. All the necessary certificates, permits, quality documents, operating, management, servicing and maintenance instructions shall be provided with the goods, along with any other documentation required to be furnished by the Seller.

11 SUPPLY CLAUSES

11.1

Delivery terms in the Contract shall be specified using established supply clauses such as, for example, the supply clauses used in FINNTERMS agreements.

12 DOCUMENTATION AND RIGHTS

12.1

All drawings and technical documentation required for the manufacturing of the goods that the Buyer and Seller have assigned to each other before or after the conclusion of an agreement shall remain the property of the assignor. The recipient may not use, duplicate, or reproduce these documents, nor may be reveal their content to any third party without the express written consent of the assignor. Documents shall be returned at the request of their assignor.

12.2

Each contracting party shall be responsible for their furnished designs and documentation, the accuracy of the informa-

tion on which these designs and documentation are based, and adherence to the agreed time schedule.

12.3

The Seller shall be responsible for any requirements and obligations connected with the delivery's patent or other industrial rights so that these shall not result in any expense or inconvenience for the Buyer.

13 ACCEPTANCE INSPECTION AND SUPERVISION OF DELIVERY

13.1

The Buyer shall have the right to supervise and inspect the manufacturing of the goods during business hours at the Seller's premises by agreement, and shall have the right to receive information concerning adherence to the manufacturing time schedule. This does not diminish the responsibility of the Seller.

13.2

When the goods have been handed over, the Buyer shall perform a visual inspection. Quality flaws or transport damage detected in visual inspections shall be immediately noted on the bill of consignment or otherwise in writing.

13.3

Prior to the use of the goods at the construction site, or its fixing or installation, the Buyer shall again perform an adequate inspection of the goods.

Errors and omissions detected only when the delivered goods are being fixed or when their parts are being connected to each other shall be announced immediately by the Buyer.

The Seller shall have a right to conduct an inspection at the construction site, and minutes shall be drawn of this inspection at the request of either contracting party.

13.4

At the acceptance inspection of the building project, claims may be made for such defects and omissions which cannot have been detected.

14 BUYER'S OBLIGATIONS

14.1

The Buyer is obliged to provide assistance so that the goods may be manufactured and delivered as agreed according to the time schedule.

14.2

The Buyer shall take care to ensure that duties performed by his other subcontractors and experts shall be carried out according to the time schedule.

14.3

The Buyer shall assume responsibility for maintaining acceptable driving conditions for the road leading to the unloading

location, as well as ensuring that roads on the construction site are in a condition permitting unimpeded movements for the agreed transport vehicle employed, and shall ensure that the unloading location is in proper condition.

14.4

The Buyer shall take care of collecting and transporting the packaging waste of the goods. The Buyer shall recover packaging waste whenever possible.

15 RESPONSIBILITY FOR DEFECTS AND OMISSIONS

15.1

The Seller shall be responsible for defects in goods that have been present in goods at the time of transfer of risk to the Buyer, even if the defect is detected later.

The Buyer may not base a claim on a defect in the goods if the Buyer has not notified the Seller of the defect within a reasonable period of time following the detection of the defect, or following an inspection of the goods in which the defect should reasonably have been detected.

15.2

The Seller shall, upon receipt of the Buyer's claim, immediately at his own expense either repair the defect for which he is liable or carry out a replacement delivery.

15.3

If the Seller fails to fulfill his obligation to correct any defects or carry out a replacement delivery, the Buyer shall have the right to correct the defect or have the defect repaired at the Seller's expense. The Buyer shall, before correcting a defect or carrying out a replacement order, inform the Seller of these actions in writing.

15.4

The Seller shall not be held responsible for defects caused by construction that has not been designed and built in accordance with sound design, construction, and installation practices, nor shall the Seller be held responsible for defects resulting from improper adherence to operating instructions, or for defects resulting from negligence in servicing procedures.

15.5

Regarding defects detected in goods, the Seller's liability for damages for consequential damage shall not exceed the cost of the Seller's delivery. In cases of consequential damage, the Buyer shall, upon learning of their existence, submit without delay written notification to the Seller.

Damage resulting from decreased production or profits, or interruptions, or lost profits resulting from expired or incorrectly performed contracts with third parties, shall not be classified as consequential damage entitling to compensation.

16 DELIVERY TIME AND DELAYS

16.1

If the delivery cannot be completed either partially or in its entirety, or if goods cannot be received according to the agreed time schedule, or if it appears likely that this kind of delay will occur, the contracting party shall immediately inform the other contracting party.

16.2

Either contracting party, upon receiving knowledge of any delay, shall immediately provide written notification explaining the reason for the delay as well as a new delivery date.

16.3

The Buyer shall be entitled to receive a penalty fee for a delayed delivery, the amount of which, unless otherwise specified, shall be 0.1% of the contract price for each working day, however, not for more than 75 working days.

If called for by the nature of the delivery and if the contracting parties have specifically agreed on such an arrangement in the delivery agreement, the Buyer shall be entitled to receive a penalty fee amounting to 0.5% of the contract price for each full week's delay, however, not for more than 15 weeks.

If the delivery has been divided into partial deliveries, penalty fees for delays may be agreed upon separately regarding intermediate stages.

The Seller, apart from penalty fees for delay, shall not be liable for any other compensation resulting from delays, unless it can be established that the Seller has acted in grossly negligent or deliberately injurious manner.

16.4

If the delivery is delayed through the fault of the Buyer, the Seller shall have the right to submit an invoice for the delivery according to the agreed time schedule, and shall be entitled to compensation for any direct expenses resulting from the delay.

16.5

In the event that one of the contracting parties wishes prior to the commencement of the production of functional elements to have the existence of a circumstance related to the content, degree of preparedness or delivery attested, an inspection of the plans and designs shall be performed, unless the matter can be verified otherwise.

17 INSURMOUNTABLE OBSTACLE

17.1

Irrespective of the instructions governing delays set forth in these procurement and delivery terms, either contracting party shall have the right to receive a reasonable extension for the time required to perform their contractual duties if the performance of these contractual duties is prevented or impeded to an unreasonable

degree by acts of war, insurrection, export or import prohibitions, natural catastrophes or exceptional weather conditions, interruptions in public transport or energy distribution fire, labour dispute, or other equally significant or exceptional reason that significantly hinder the delivery.

17.2

If the procurement of raw materials, products, or machinery necessary for the manufacture of the goods is hindered or delayed for any one of the aforementioned obstacles that lie beyond the control of the Seller, and it is not possible for the Seller to perform these procurements elsewhere without unreasonable loss of time or expenditure, the Seller shall be granted a necessary and sufficient extension to his delivery date.

In labour disputes where the Seller or his subcontractor have failed to carry out their contractual and legal responsibilities to their employees, their unions, or employers' organisations, the Seller shall not be granted an extension to his delivery date.

17.3

If either contracting party has not informed the other contracting party in writing immediately following the detection of an insurmountable obstacle, it cannot be used as basis for exemption.

18 GUARANTEE

18.1

The Seller shall guarantee the goods for a period of 36 months unless otherwise specified, however not to exceed the Buyer's period of guarantee responsibility.

18.2

The Seller, upon receiving notification, shall be obliged to immediately rectify, at his own expense, any defects or omissions in the execution of the order detected during the guarantee period. The Seller's liability shall not extend to defects resulting from ordinary use or negligence found to be the responsibility of the Buyer.

18.3

The Buyer, upon receiving notification, shall immediately inform the Seller regarding such defects or omissions for which the Seller may be held responsible, detected during the guarantee period, that hinder the use of the goods or contribute to its deterioration.

18.4

If the Seller, despite having received written notification from the Buyer, neglects to fulfil his guarantee obligations within a reasonable time limit, the Buyer shall have the right to correct the defect or have the defect repaired at the Seller's expense. The Buyer shall, before correcting a defect or carrying out a replacement order, inform the Seller of these actions in writing.

18.5

The Seller shall, following the termination of the guarantee period, continue to

be held responsible for the kinds of defects, omissions, and inconveniences, which the Buyer demonstrates to be caused by gross negligence or an unperformed task on the part of the Seller, for which the Buyer could not have been reasonably expected to detect during the building project's handing-over inspection or guarantee period. The Seller shall be exempt from this responsibility when 10 years have elapsed from the building project's acceptance.

19 USE OF SUBCONTRACTORS

19.1

The seller shall assume responsibility for all deliveries provided by his subcontractors. The Buyer, at his request, shall have the right to obtain information pertaining to the Seller's most important subcontractors and parts suppliers, and shall have the right to carry out quality control inspections on their premises.

20 PRODUCT LIABILITY

20.1

The Seller shall be subject to product liability legislation for the products he delivers.

20.2

If the product distributor has not been able to announce within a reasonable period of time the party subject to primary product liability or the party from whom he acquired the product, the distributor shall be entitled to receive compensation from the party subject to primary product liability at a later date.

21 TRANSFER OF CONTRACT

21.1

Neither contracting party shall have the right to transfer the Contract to a third party unless otherwise specified.

22 ANNULMENT OF CONTRACT

22.1

If either contracting party is found to be guilty of gross negligence in the performance of their contractual duties, the other contracting party shall have the right to annul the contract, after having first provided written notification, if the negligence has not been corrected within a reasonable time.

22.2

If either contracting party is in such a financial condition that there exist justifiable reasons to doubt the contracting party's ability to perform its contractual duties, the other contracting party shall have the right to annul the contract.

If the Buyer has failed to perform his payment obligations, the Seller shall have the right, as an alternative to annulling the contract, to interrupt deliveries until the overdue invoice has been paid or its payment terms have been agreed. In that case the agreed delivery date

shall be moved forward by an equivalent period of time.

22.3

When the contract is annulled according to Sections 22.1 or 22.2, the other contracting party shall have the right to receive, along with penalty fees for delays, compensation for expenses and damages resulting from unperformed contractual duties. The total amount of compensation shall not exceed the quantity of the afflicted damage.

22.4

Either contracting party shall have the right, without liability to compensation, to annul the contract if it is necessary to suspend the procurement or delivery for a longer indefinite period in the event of war, troop mobilisations, or any other similar unavoidable event. Either contracting party shall be obliged to immediately inform the other contracting party in writing regarding the presence of an insurmountable obstacle.

23 ARBITRATION OF DISPUTES

23.1

In cases where contract documents do not provide a direct answer to differences of opinion, amicable settlement shall first be based on contractual regulations and their corresponding principles.

Every attempt shall be made to resolve any disputes and differences of opinion in mutual negotiations as they occur.

23.2

Contract-related disputes occurring during the building period shall be filed with the District Court no later than 6 months from the date of the final acceptance inspection for the building project, or if the acceptance inspection has not for some reason been carried out, from the date on which the Building Inspector in question performed a final inspection.

Disputes occurring during the guarantee period shall be filed with the District Court no later than 3 months from the date of the termination of the guarantee period.

23.3

The contracting parties may also agree in writing that disputes concerning contract validity, interpretation, and application are to be resolved by arbitration conducted according to the laws governing arbitration proceedings.

The contracting parties may agree that the court of arbitration may consist of one mediator.

Disputes must be filed for resolution by arbitration within the time limits specified in Section 23.2.

24 ADHERENCE TO COMMERCIAL LAW

24.1

The Act on sale of Goods shall complement these terms.