

General Purchasing Conditions of Helmholtz-Zentrum Berlin GmbH

Status 04/22



1. General

1. These General Purchasing Conditions (GPC) of Helmholtz-Zentrum Berlin für Materialien und Energie GmbH (HZB) contain regulations for the general conditions that apply as a rule to all contracts (individual contracts and framework agreements) concluded by HZB. These constitute additional conditions of contract as set forth in § 1 No. 2(d) of the Conditions Concerning Contracts for Supplies and Services (VOL/B) or § 1 No. 2 of the German Construction Contract Procedures (VOB/B).
2. By agreeing to the GPC, the respective current versions of VOL/B or VOB/B and VOB/C become an integral part of the contract.
3. Within the framework of a contractual relationship, the current version of Regulation PR 30/53 on Prices in Public Contracts shall apply.
4. These rules shall apply to all deliveries, services (incl. rental/leasing) and construction work unless deviations have been agreed in writing between HZB (the Client) and the Contractor (together, the Contracting Parties).
5. Any general terms and conditions of the Contractor deviating from the GPC shall only apply if and to the extent that they have been expressly accepted in writing. This applies even if the Contractor makes reference to its general terms and conditions; an objection by the Client is not required in such a case.
6. "In writing" within the meaning of the GPC also includes transmission by electronic means. Transmission by unencrypted email or fax is sufficient in this respect. The corresponding provisions on procurement also apply.
7. The Client is a public contracting authority and is subject to the statutory provisions on public procurement (GWB, VgV, UVgO, and VOB/A).

2. Parts of the contract:

As a rule, the following are integral parts of the contract:

- a) the contract/order
- b) the service description, if necessary concretised by answers to bidders' questions
- c) the Contractor's tender
- d) in the case of a framework agreement, the individual call-off
- e) any supplementary conditions of contract as set forth in § 1 VOL/B (e.g. EVB-IT) or § 1 VOB/B
- f) these GPC
- g) any general technical terms and conditions of contract
- h) VOL/B or VOB/B and VOB/C.

In the event of discrepancies, the terms and conditions of contract shall apply in the order of precedence stated above.

3. Point of contact

The point of contact for all purchasing/procurement and contractual matters is generally Purchasing and Materials Logistics (A-EM).

4. Requirements for the submission of tenders and conclusion of contracts

1. As a rule, the Contractor shall be bound by his tender for 30 days unless a different binding period is specified. The contract becomes concluded, in accordance with the provisions of public procurement law, upon acceptance of the offer by the Client by dispatching a written notice of award or an order.
2. The Contractor shall immediately and demonstrably confirm the receipt of the written notice of award / the order.

5. Prices

The agreed net prices shall be fixed prices and are generally to be understood as free delivery to place of use (unloaded) and shall include all services and ancillary services of the Contractor (e.g. assembly, installation) as well as all ancillary costs (e.g. packaging and freight, including any transport insurance). The statutory value added tax as well as any additional taxes are to be shown separately on the invoice.

6. Execution of the contract; compliance with regulations

1. The Contractor guarantees that the relevant national and international statutory and official regulations and requirements will be complied with in the performance of the contract.
2. The Contractor further guarantees that all deliveries and services will comply with the latest state of the art.
3. In addition, machines, safety components, pressure equipment as defined in the PED, and/or electronic or electrical devices to be delivered must bear the CE conformity marking (CE mark), the declaration of conformity, operating instructions, and any other mandatory marking. Protective devices and conformity markings required according to relevant regulations shall be taken into account in the Contractor's calculation and shall be part of the scope of delivery, even if they are not requested separately by the Client.

7. Ownership

1. The Contractor's deliveries and services shall in each case be made without extended or prolonged retention of title. The Client shall acquire unrestricted ownership of the delivery or service upon acceptance and full payment; the same shall apply to the documents supplied by the Contractor. If the order consists of a development, the Client shall acquire sole ownership of the object in development, including any industrial property rights or other rights in the case of software, upon acceptance of the service/delivery.
2. With the handover, the Contractor declares that the Client has full right of disposal and that no third party rights exist.
3. All material provided shall remain the property of the Client. It is to be marked as such and is to be stored, labelled, and managed separately. If material provided is processed, transformed, combined, or mixed with another object, the Client shall acquire sole ownership of the new object. The Contractor is to keep this in safe storage for the Client free of charge.

4. Ownership of and copyright to any of the Client's documents provided to the Contractor shall remain with the Client. Such documents are to be returned immediately upon request, together with all copies or duplicates.
5. The Client's documents may only be used for the purposes stipulated in the contract and may only be handed over to third parties with the Client's express written consent.
6. If the Client provides the Contractor with technical documents (e.g. design drawings and descriptions), these shall be treated confidentially by the Contractor and may only be passed on to employees who have been obligated by the Contractor to treat them General Purchasing Conditions of Helmholtz-Zentrum Berlin GmbH 3 04/2022 confidentially. They may not be commercially exploited and may not be made the subject of applications for industrial property rights. In the event of any infringement of the aforementioned conditions, the Contractor shall be liable to the Client for the full damages.

8. Delivery sites

Unless otherwise specified in the tender documents/purchase order, deliveries shall be made to the incoming goods department of the respective HZB site.

Site LMC: Lise-Meitner-Campus, Hahn-Meitner-Platz 1, 10409 Berlin Access to LMC requires the original of a valid passport or identity card to be presented at the gate.

Site WCRC: Wilhelm-Conrad-Röntgen-Campus, Magnus-Straße 8, 12489 Berlin

9. Invoicing

Invoices are to be sent electronically to rechnungseingang@helmholtz-berlin.de only. The invoice address is: Helmholtz-Zentrum Berlin für Materialien und Energie GmbH, Hahn-Meitner-Platz 1, 14109 Berlin.

Unless otherwise agreed, payment is due no later than 30 days after contractual performance and receipt of the invoice.

10. Advertising material

The Contractor may only refer to business connections with the Client in advertising material with the Client's prior written consent

11. Compliance and anti-corruption clause

1. The contracting parties expressly declare their intention to comply with the relevant statutory provisions in connection with the contractual relationship. Against this background, HZB shall in particular not tolerate any corruption, and expects the Contractor to refrain from any form of corruption.
2. In particular, in connection with the contractual relationship, the Contractor and its employees undertake to comply with the applicable anti-corruption laws and regulations (in particular the "Federal Government Directive concerning the Prevention of Corruption in the Federal Administration" of 3 July 2004 with annexes), money laundering laws, trade secret protection laws, laws on the safeguarding of tariff compliance and minimum wage, and the General Act on Equal Treatment, as well as to comply with the anti-trust, labour, and environmental protection regulations. In particular, the Contractor and its employees may not

- a. take the occasion of the award to enter into any agreement that constitutes an inadmissible restraint of competition;
 - b. offer, promise, or grant – directly or indirectly – gifts, other benefits, or other advantages to HZB or its employees, to third parties commissioned by HZB who are entrusted with the preparation, conclusion, or implementation of the contract, or to persons close to them. The “Circular on the Prohibition of Accepting Rewards or Gifts in the Federal Administration” of November 2004 applies. Any conflicts of interest must be disclosed.
3. The Contractor shall demonstrate or establish sufficient control and supervisory measures to effectively prevent misconduct by its employees. If the Contractor discovers that it or its employees have violated any of the provisions made under this Clause 11 or if a violation is suspected, the Contractor must notify HZB immediately and cooperate with HZB in any investigation.
 4. HZB’s other contractual and statutory claims shall remain unaffected.
 5. The Contractor shall use reasonable efforts to ensure its subcontractors’ compliance with the obligations incumbent on the Contractor under this Clause 11.

12. Severability clause

Should an individual provision of the GPC be invalid, this shall not affect the validity of the remaining provisions. The contracting parties shall endeavour to replace the invalid or unenforceable provision by a valid and enforceable provision which comes as close as possible to the invalid or unenforceable provision in economic terms. The same shall apply in the event of a loophole

13. Applicable law, place of jurisdiction

1. The law of the Federal Republic of Germany applies. The provisions of the UN Convention on Contracts for the International Sale of Goods (UNCITRAL/CISG) and the conflict of laws rules of private international law do not apply.
2. The exclusive place of jurisdiction for all disputes arising from and in connection with this contract/order is Berlin.

GWB, *Gesetz gegen Wettbewerbsbeschränkungen*: Act against Restraints of Competition

EVB-IT, *Ergänzende Vertragsbedingungen für die Erstellung von IT-Systemen*: Supplementary terms & conditions for the procurement of IT supplies/services

VOB, *Vergabe- und Vertragsordnung für Bauleistungen*: Construction Contract Procedures

VOB/A (DIN 1960): General provisions relating to the award of construction contracts

VOB/B (DIN 1961): General conditions of contract relating to the execution of construction work

VOB/C: 65 General technical specifications in construction contracts (ATV)

VOL, *Verdingungsordnung für Leistungen*: Conditions Concerning Contracts for Supplies and Services

VOL/B: General Terms of Contract for the Provision of Supplies and Services

UVgO, *Unterschwellenvergabeordnung*: Regulation on Sub-Threshold Procurement

VgV, *Vergabeverordnung*: Ordinance on the Award of Public Contracts