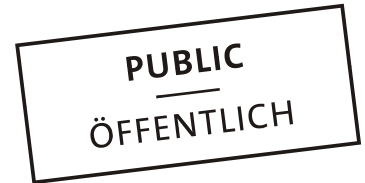




MAN General Terms and Conditions of Purchase General Procurement Division (Version: 06/2018)



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1 Applicable law

The contracts entered into and the realisation, validity, interpretation and implementation of such contracts as well as all additional legal relationships existing between the parties shall, in accordance with the following contractual conditions, be governed by the laws of the Federal Republic of Germany, to the exclusion of international private law and the United Nations Convention on Contracts for the International Sale of Goods, unless other agreements have been made in individual cases.

2 Definition of terms

The following terms are used in these contractual conditions:

- MAN Companies: in accordance with sections 15 et seqq of the German Stock Corporation Act (*Aktiengesetz – AktG*)
Company
- MAN: MAN SE and/or MAN Companies

3 Validity of contractual conditions

3.1

In addition to these General Terms and Conditions of Purchase and the Service Product Specifications, the following additional contractual conditions shall be included in a contract depending upon the contract type entered into and the agreement made between the parties:

3.1.1

Purchase contract:

- General Terms and Conditions of Purchase, MAN General Procurement Division – for the purchase of goods

3.1.2

Labour and services contract/plant engineering:

- MAN General Terms and Conditions of Purchase for Facilities and Construction Works, MAN General Procurement Division, as well as the Special Terms and Conditions of Purchase

3.1.3

Labour, service, [leasing] and agency contracts and similar contracts:

- Special Terms and Conditions of Purchase

3.1.4

Blanket orders:

- General Terms and Conditions of Purchase, MAN General Procurement Division – for blanket orders
- and Special Terms and Conditions for Purchasing for Blanket Orders.

The inclusion of additional contractual elements and the determination of their order of precedence shall be subject to the contractual conditions of the contract type in question.

3.2

Unless otherwise agreed, the most current versions of the contractual conditions valid at the time of contract conclusion, including the “Volkswagen Group requirements regarding sustainability in its relationships with business partners” and the “MAN Code of Conduct for Suppliers and Business Partners”, shall be contractual elements.



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If the contractual conditions are not attached to the tender or the order placement, they can be obtained via:

Contractual conditions:

[www.vwgroupsupply.com / portal01 / vw / pub](http://www.vwgroupsupply.com/portal01/vw/pub)

MAN Code of Conduct:

[Code of Conduct for Suppliers and Business Partners](#)

3.3

The above-mentioned contractual conditions only apply to contracts entered into between an entrepreneur according to section 310(1) of the German Civil Code (BGB) and MAN, and to other legal relations between MAN and the former. Furthermore, these shall also apply to contracts and legal relations with an entrepreneur in which MAN acts on behalf of a third party by proxy.

3.4

In the event that the General Terms and Conditions of Purchase, the Service Product Specifications as well as other contractual conditions dependent upon the contract type in question are included in a contract entered into with one of the above-mentioned companies, they shall also apply to all additional future contracts of this type which are entered into with one of the named companies.

3.5

None of the business terms and conditions used by the contracting party shall become an integral part of the contract, even in the event that they are not expressly objected to upon conclusion of the contract. Other agreements shall only be valid in the event that MAN expressly authorises the inclusion of the contracting party's business terms and conditions in writing.

3.6

Conflicting business terms and conditions shall not affect the contract's realisation, provided the parties have reached an agreement on all significant points. In such cases, the concordant provisions of both sets of business terms and conditions and the relevant legal regulations shall apply as regards the contract's interpretation.

4 Tenders

4.1

Tenders to MAN must be effected in writing in accordance with sections 126 and 126a of the German Civil Code (BGB) and must be free of charge. These tenders must always be prepared in German. However, a data exchange procedure which deviates from the above may be specified in the call for tenders.

4.2

Unless otherwise agreed, the pre-printed forms issued by MAN should be used for the submission of tenders, and these should contain all the information required by MAN.

4.3

In the event that the tender is submitted on the basis of a request or call for tenders from MAN, the tendering party shall be obliged to comply with the guidelines issued by MAN. If there are nevertheless deviations, they must be expressly pointed out to MAN. The tendering party shall be free to submit alternative tenders and specific proposals.

4.4

Only complete tenders encompassing all the requested services should be submitted.



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4.5

All prices should be stated in the tendering party's national currency (if this is not the euro, then in euros as well and if necessary including currency hedging shown separately). Unless otherwise agreed, all prices shall be fixed prices. In the event that the price quotation does not specify whether the prices include VAT, these shall be interpreted as gross prices.

4.6

Tenders should always be addressed to the purchasing office specified in the tender documentation.

4.7

In the case of a request or call for tenders by MAN, the tendering party shall be bound to its tender for the duration of the period named therein, or else for the duration specified by the tendering party. In the event that neither party expressly states a validity period, this shall be deemed to be 4 weeks from the time MAN receives the tender.

4.8

In the event that the tendering party fails to conform to the above-mentioned regulations, MAN shall reserve the right to disregard the ensuing tender.

5 Conclusion of contract

In principle, contracts with MAN shall be concluded in writing. If, by way of exception, a contract is entered into verbally, it must be confirmed in writing by both contracting parties without delay.

6 Services on factory or industrial premises

Provided that the service is performed on MAN factory or industrial premises, the following applies:

6.1

Services shall be performed by the contracting party independently and on its own authority in accordance with MAN's technical and organisational specifications under the supervision and exclusive managerial authority of the responsible employee designated by the contracting party. The decision on the choice of personnel shall be made by the contracting party.

6.2

On-site contact persons shall be designated by both contracting parties for all information to be exchanged. Regular coordination meetings should take place between the contracting parties' contact persons to discuss the content and performance of services and to exchange all information needed for the fulfilment of the contract.

6.3

For each change of personnel and during the orientation period for new employees, the contracting party shall ensure that the contractually agreed performance meets agreed quality standards.

7 Invoicing

As a basic principle, the purchaser will settle invoices using the invoicing procedure. Invoices must be sent by the supplier exclusively in electronic form as follows:

- a) direct submission of invoice via EDI in the valid VDA format,
- b) submission of invoice in PDF/A3 format (ZUGFeRD)
- c) submission of invoice via a specified provider.

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Information about submitting invoices by electronic means and the current EDI guidelines can be obtained from invoice_verification@man.eu

7.1

In justified exceptional cases, the supplier shall, after consulting with invoice_verification@man.eu , submit its invoices to the address indicated in the purchase order.

7.2

The auditable invoices must be submitted to the purchaser indicating the MAN supplier number, purchase order number, delivery note number, MAN material number and the name of the contact person on the purchaser's side. All necessary invoicing documents must be attached. The invoices must be issued in accordance with the valid value-added tax (VAT) law.

8 Prohibition of assignment

8.1

The assignment of a claim, regardless of its content, always requires written agreement from MAN. Assignments carried out without the required authorisation shall be deemed invalid. MAN shall only refuse consent if, in an isolated case, following a review, the interests of MAN in maintaining the claim relationship outweigh the interests of the contracting party in the intended assignment.

8.2

In the event that the assignment of a monetary claim according to section 354a of the German Commercial Code (HGB) shall take effect despite MAN's refusal to consent in accordance with clause 8.1, the assignor is to compensate MAN for all incremental costs which may have been incurred as a result of the assignment.

9 Rights of retention and offsetting

9.1

Any limitation of MAN's rights to assert a right of retention as regards claims made by the contracting party or to offset any claims against the contracting party shall be invalid.

9.2

MAN SE and MAN Companies shall be entitled to claims asserted by MAN SE and the MAN Companies in their capacity as joint creditor.

9.3

MAN SE and MAN Companies may allocate or offset their claims against claims by the contracting party. All material and procedural rights to which the contracting party may be entitled as regards a claim against the joint creditor also exist adverse to the remaining joint creditor.

9.4

In the case of claims made by the contracting party against MAN SE and MAN Companies, MAN SE and MAN Companies shall be entitled to offset or allocate the claims of the contracting party against claims of MAN SE and those of MAN Companies.

9.5

The above regulations shall also apply in the event that, on the one hand, cash payment and, on the other, the allocation of bills of exchange has been agreed or in the event that the reciprocal claims are due on different dates, whereby the settlement shall take place in accordance with value dates. This entitlement shall apply to the balance in the case of ongoing monetary transactions.

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9.6

The contracting party shall refrain from objecting to MAN's assignment of the claim to be offset in the case of a claim majority.

9.7

Upon request, MAN SE shall provide a list of the MAN Companies entitled to carry out Group offsetting.

10 Illegal interference with competition

Using appropriate organisational measures, the party contracting with MAN shall be obliged to ensure that no employee dealing with MAN commits any criminal offences against competition within the meaning of the German Penal Code (StGB) and in accordance with sections 17 and 18 of the German Unfair Competition Act (UWG).

11 Confidentiality, ownership rights and advertising

11.1 Confidentiality

"Confidential information" is all information, whether embodied, electronically transmitted or communicated orally, which MAN or a company affiliated with MAN makes available to the contracting party or a company affiliated with the contracting party for the purposes of the contract, or which the contracting party or a company affiliated with the contracting party obtains knowledge of in some other manner.

Confidential information is also all information that is exchanged in connection with purposes of the contract through the execution of an order or in discussions held before the conclusion of such a contract.

An "affiliated company" refers to a company as defined in sections 15 et seqq AktG – i.e. a legally independent entity that (a) has a majority interest in MAN or the contracting party, or else exercises control of such, or (b) is under the control of MAN or the contracting party, or in which MAN or the contracting party have a majority interest, or (c) together with a partner is either under the joint control of another company or such a company has a majority interest in the affiliated company and its partner. For MAN, (i) Volkswagen AG and its affiliated companies ("Volkswagen Group") (including Global Truck & Bus Procurement LLC ("Procurement JV")) and (ii), solely for the purpose of simplifying negotiations for the potential establishment of a business relationship with the other party by MAN, those companies affiliated with MAN (including Volkswagen Group companies) and Procurement JV, Navistar Inc., are not third parties, and MAN is therefore entitled to disclose the confidential information to these entities, which in turn are entitled to disclose and use the confidential information to the same extent as MAN in accordance with this agreement.

"Control" refers to the direct or indirect authority to exert controlling influence on the management and policies of a company, whether through ownership of shares with voting rights, by contract or otherwise.

The contracting party is obliged to treat confidential information confidentially and ensure it is not disclosed directly or indirectly to third parties, or made accessible to these. The contracting party shall take adequate precautions to prevent third parties from accessing confidential information. This also includes precautions and measures to secure data against access by third parties. The contracting party shall employ the due diligence of a prudent businessman here, or at least employ the same diligence with which they protect their own confidential information. Should the contracting party become aware of any indication that unauthorised third parties may have obtained knowledge of confidential information, it must inform MAN of this immediately and take all necessary measures in consultation MAN to determine how the information was obtained, prevent and/or repair any damage caused and ensure that such unauthorised access does not occur again in future.

MAN is entitled to disclose technical, commercial or organisational details of affiliated companies.

The contracting party may only copy confidential information to the extent that this is necessary for the purposes of the contract.

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The contracting party may only disclose confidential information to those employees or employees at affiliated companies who need such information for the purposes of the contract, and only to the extent required to achieve contractual objectives. The contracting party shall undertake to impose confidentiality obligations upon such employees that at least correspond to the confidentiality obligations of this agreement, insofar as such obligations are not already in force in such employees' employment contracts. The contracting party shall oblige such employees to comply with the provisions for protecting personal data (Art. 4(1) GDPR), in particular with regard to maintaining the confidentiality of such data pursuant to Art. 28(3) lit. b GDPR, as well as to process such data only after being instructed to do so (Art. 29 and Art. 32(4) GDPR). The contracting party shall ensure that these obligations remain in effect even after termination of the employment relationship with the respective employees.

The requirement to treat confidential information confidentially shall not apply in the event that the contracting party can demonstrate that the confidential information in question (a) was in a legal manner already known publicly and was therefore known and was freely accessible to the contracting party at the time of disclosure or thereafter, without any fault on the part of the contracting party; (b) was disclosed to the contracting partner by a third party without any breach of the confidentiality agreement having taken place; (c) was developed by the contracting party independently of the confidential information in question; (d) was expressly approved by MAN in writing for release to the contracting party for disclosure, or (e) must be disclosed in accordance with legal or administrative provisions or due to an unappealable legal decision, and the contracting party notifies MAN of this requirement immediately in writing, the extent of the disclosure is limited as far as possible, and the contracting party uses its best endeavours to ensure that the confidential information is treated as confidential by the court or the authorities.

Unless otherwise contractually agreed, upon termination of this agreement, the contracting party shall, within an adequate period of time, return all confidential information issued to it, or destroy the said documents in an unrecoverable manner, and provide MAN with confirmation of such action if so requested. The same shall apply to any copies made of documents containing confidential information.

These provisions shall end – depending on which event occurs first – with the termination or cancellation of the business relationship or cooperation between MAN and the contracting party, or the termination of negotiations, with the stipulation that the confidentiality requirement shall remain in effect for a further five (5) years after the end of this agreement, unless other arrangements have been made in a later agreement.

11.2. Ownership rights

MAN reserves its proprietary rights and copyrights in connection with diagrams, drawings, calculations, other documentation and models and samples. Third parties may not be granted access to these materials without MAN's explicit consent. These materials should be used solely to fulfil the terms and conditions of the contract entered into and must be returned to MAN, unsolicited, after handling.

MAN shall retain all rights to confidential information that it has disclosed to the contracting party, including copyrights and the right to apply for new proprietary rights. The contracting party shall not be entitled to use confidential information to apply for patents or other proprietary rights. The provision of confidential information and the associated permission to use such information shall not establish prior user rights for the contracting party.

This agreement and the mutual provision of confidential information, as well as the transfer of data, designs, samples etc., regardless of whether or not proprietary rights exist for these, shall not constitute a basis for the granting of rights for patent applications, patents, registered designs, utility models or brand, ownership, licensing, reproduction, usage or name rights, or any other rights, nor shall they grant any options on such rights.

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11.3 Company logos and trademarks

The company logos and trademarks in addition to MAN item numbers should be affixed to the goods ordered by MAN in the event that this is stipulated by a drawing issued by the latter, or MAN issues instructions to this effect. Goods marked in this manner may be supplied only to MAN. Authorised goods marked with MAN company logos, trademarks or item numbers that have been rejected with justification should be made unfit for service unless it is possible to ensure, in a verifiable manner, that the rejected goods were identified as having been delivered to MAN.

11.4. Advertising

If, by way of exception, any mention of the business relationship with MAN is made in the contracting party's advertising material, this may only occur with MAN's prior written consent. In these cases of exception, the written permission shall be limited to the advertising campaigns concretely specified by the contracting party in its original application for consent.

12 Data protection

If, for the purposes of the contract, the contracting party should be given access to personal data, it must comply with all valid data protection provisions, in particular the provisions of the General Data Protection Regulation (GDPR). The contracting party shall also ensure that such data is protected with state-of-the-art systems. Personal data may only be accessed and processed on behalf of MAN if the corresponding required data protection agreement has been signed. The business partner shall ensure that the processing of personal data that is attributable to MAN will only take place within the territory of a Member State of the European Union, or in another signatory state to the Agreement on the European Economic Area. The partner shall oblige its employees to comply with the provisions for protecting personal data (Art. 4(1) GDPR), in particular with regard to maintaining the confidentiality of such data pursuant to Art. 28(3) lit. b GDPR, as well as to process such data only after being instructed to do so (Art. 29 and Art. 32(4) GDPR). The contracting party shall ensure that these obligations remain in effect even after termination of the employment relationship with the respective employees.

13 Liability and liability insurance

The contracting parties shall be liable amongst themselves within the framework of the legal provisions, provided that no alternative agreements have been made.

The contracting party shall be obliged to take out a business liability insurance policy, a product liability insurance policy and an environmental pollution policy with adequate indemnity limits per claim for personal injury, material damage and financial loss, and to maintain the above-mentioned policies for the duration of the contract.

In the event that the insurance contract stipulates a maximum indemnity limit for all claims made within any one insurance year, this must correspond to at least double the indemnity limit stipulated per claim. The insurance policies, including the relevant terms and conditions of insurance and proof that the premium payments have been made, must be sent to MAN within two weeks upon request. Proof of the continuation of the insurance must also be provided during the contractual term at MAN's request. A lack of proof shall entitle MAN to terminate the contract on the grounds of just cause.

Paint-wetting impairment substances All goods and services provided by the contracting party, regardless of their nature, must be free of paint-wetting impairment substances and must not emit these substances.

14 Subcontractors

Unless otherwise agreed in the context of a special agreement or MAN is unable to infer anything to the contrary from the contents of the order as related to the contracting party's performance capacity, the contracting party shall be obliged to perform all obligations associated with the order within its own company. Any use of subcontractors by the contracting party may only take place with MAN's prior consent, regardless of whether MAN was in a position to recognise or anticipate this upon signing of the contract.

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15 Prices, payment

16.1

Unless otherwise agreed in writing, transport, shipping, packaging and insurance costs shall be included in the stated prices.

16.2

Unless otherwise agreed, all prices are net prices without turnover tax, sales tax, value-added tax or similar taxes (hereinafter "VAT or similar taxes"). The legally required VAT or similar taxes incurred can be charged in addition to the net prices, unless MAN is liable for VAT or similar taxes by law and the reverse charge procedure or a similar mechanism is to be applied.

MAN and the contracting party shall each be responsible for their own income taxes based on their respective earnings.

Should payment be subject to a statutory withholding tax, MAN shall withhold such funds only in the amounts stipulated by the law of the country in which MAN is domiciled, or the law of the country in which services were performed, and then pay such amounts to the responsible tax authority on behalf of and on account of the contracting party.

Should a Double Taxation Agreement (DTA) exist between the country in which the contracting party is domiciled and Germany, or between the former country and the country in which services were performed, MAN shall withhold from the payment the maximum withholding tax contribution provided for in the applicable DTA, provided the conditions for a reduction in withholding tax (where applicable to zero) are present.

This also applies to payments that fall under the provisions of the European Community / Union directives governing parent companies and subsidiaries and the taxation of cross-border interest and royalty payments. The contracting party shall be responsible for fulfilling the formal requirements for a reduction in withholding tax. All necessary applications and certificates of residence must be produced and procured by the party performing the service.

16.3

Unless otherwise agreed in writing in a particular case, payment shall be made within 30 days after acceptance of the delivery or performance of service, or, if MAN receives an invoice after receipt of the delivery/service, 30 days after receipt of this invoice.

The dispatch date of the payment funds is deemed to be the date of payment.

The payment is subject to invoice auditing.

In the event of early deliveries, the due date shall depend on the agreed delivery date.

Accounting documents in the form of credit notes, direct debits and payment notices are made available to the supplier electronically via EDI or e-mail or as a download at www.vwgroupsupply.com => www.vwgroupsupply.com => Login => Applications => Financial Application (FIN). In exceptional cases, such documents will be sent by post.

16.4

Payments shall be made exclusively by credit transfer.

16,5

In the event of an incorrect delivery, MAN shall be entitled to retain payment on a pro-rata basis until proper fulfilment.



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16 Changes to the ownership structure of the contracting party

MAN must be informed immediately in writing of any fundamental changes that are made to the ownership structure of the contracting party, a direct or indirect parent company, or a subsidiary. This obligation exists alongside any and all legal disclosure requirements (e.g. commercial register reporting requirements).

If fundamental changes made to the ownership structure of the contracting party or a direct or indirect parent company should also lead to a change in the majority shareholding and control structure of the contracting party or one of its subsidiaries (e.g. transfer of the majority of shares to, or attainment of a controlling influence by, a third party), and if such changes should tangibly and adversely affect the interests of MAN to an unacceptable extent, MAN shall have the right to terminate the contractual relationship without notice.

17 Divergent agreements

Any amendments to the contract shall only be valid in the event that they are agreed in writing. This also applies to the requirement for the written form itself.

18 Continued validity in the event of partial invalidity

19.1

In the event that one or more of the provisions in or of the present contractual clauses is or becomes invalid, the validity of the remaining clauses and the validity of the contract itself shall not be affected.

19.2

In the event that contractual gaps should become apparent during the realisation of the present contract, these must be remedied with replacement provisions equating as closely as possible to the contract's commercial purpose.

19 Jurisdiction

The place of jurisdiction shall be Munich, Germany, as far as this is permissible.