

General terms and conditions of purchase for transport, assembly, disassembly, waste disposal and other equipment-related services, including plant operation, VW AG / general purchasing division (current as of 1 May 2018)

- 1. Validity of these contractual conditions 2
- 2. Obligations during the tender phase 2
- 3. Contractual foundations 2
- 4. Execution..... 3
- 5. Involvement by VW 4
- 6. Scope of services / service amendments / additions 4
- 7. Compliance with regulations..... 5
- 8. Due dates / deadlines 5
- 9. Subcontractors 6
- 10. Obstructions 6
- 11. VW supplies 7
- 12. Contractual penalty 8
- 13. Acceptance 8
- 14. Prices / invoicing / payment 8
- 15. Place of performance..... 9

General terms and conditions of purchase for transport, assembly, disassembly, waste disposal and other equipment-related services, including plant operation, VW AG / general purchasing division (Current as of 1 May 2018)

1. Validity of these contractual conditions

These terms and conditions of purchase shall supplement the general terms and conditions of purchase for transport, assembly, disassembly, waste disposal and other equipment-related services, including plant operation, VW AG / general purchasing division. They shall be applicable subject to deviating agreements pertaining to individual contracts. They shall not apply to transport services performed by carriers.

2. Obligations during the tender phase

2.1

The tendering party shall be obliged to check the tender documentation for completeness immediately upon receipt, and to request any missing documents from VW without delay.

The tendering party shall be obliged to draw VW's attention to any possible loopholes and contradictions in the tender, including its various elements, which became apparent either to it or to a specialist company during the tender's examination, this with reasonable care, in a separate covering letter upon its submission of the tender.

2.2

The tendering party shall be obliged to submit a complete tender covering all the goods and services required in order to generate the desired result anticipated by the tender, taking account of the tender requirements, this irrespective of whether the goods and services are described in detail in the tender documentation or not.

In the event that the tendering party deviates from the tender guidelines and various elements in its tender in any manner whatsoever, it shall be obliged to draw VW's attention to this in a separate covering letter containing brief details of the reasons for this upon submitting the tender.

By submitting a separate proposal / alternative tender, the tendering party shall provide an express guarantee of the comprehensive legal, technical and deadline-related parity of its separate proposal / alternative tender.

2.3

The tendering party shall be obliged to specify which elements of the goods and service obligations it wishes to assign to other contractors upon its submission of the tender. These contractors must be named in a list of respective goods and services components to be enclosed with the tender. Please see fig. 9 for further information.

Any assignment of the services to be provided to subcontractors shall require VW's express separate written consent. The latter shall not apply to the goods and services obligations which do not fall within the scope of the services provided by the tendering party, and which were expressly alluded to in the tender.

3. Contractual foundations

3.1

All design-, manufacturing- and transport-related services and operational and other services arising from the contractual elements in accordance with fig. 3.4 of these special terms and conditions of purchase on an individual basis shall be included in the scope of the services to be rendered by the contractual partner.

3.2

Provided that nothing to the contrary has been expressly agreed, the contractual performance shall comprise those goods and services arising from the order, including all its components, in a complete manner.

3.3

Insofar as the contractual partner shall be obliged to provide independent design services for the purposes of the tender preparation and after the contract's conclusion, the tender documentation and additional documentation transferred to the contractual partner shall merely constitute an indicative basis for the evaluation of the scope of services to be provided, taking account of the performance required from the contractual partner in the process.

3.4

The following contractual foundations shall constitute an intrinsic contractual component:

3.4.1

- the VW order description

3.4.2

- the negotiation records in chronological order

3.4.3

- these special terms and conditions of purchase

3.4.4

- the general terms and conditions of purchase, VW AG / general purchasing division

3.4.5

- the operational resources guidelines (ORG) 1.01

3.4.6

- the contractual documentation in accordance with the call for tenders (with particular reference to the specifications)

3.4.7

- the list of subcontractors

3.4.8

- the standards, specifications, regulations, manufacturer specifications etc. and all TÜV (Technical Inspection Agency) guidelines, industrial law guidelines and all laws, ordinances and local by-laws pertaining to the contractual partner's provision of goods and services

3.4.9

- all official and trade association guidelines related to procurement, construction and implementation

3.4.10

- the provisions stipulated by the BGB (German Civil Code)

3.5

In the event of any contradictions within the contractual documentation or their appendices, the order of precedence shall be as follows. In the event of contradictions in the appendices, the order of precedence as regards numbering shall apply (e.g. 1 precedes 2, etc.); in other cases, the most recent appendix shall take precedence.

4. Execution

4.1

The contractual partner shall be obliged to contact the responsible departments at VW immediately after the contract has been awarded, this in order to agree on the precise details of the commissioned services taking account of the applicable regulations in accordance with the order.

Furthermore, the contractual partner shall be obliged to inform itself as regards the availability of constructional and other equipment, cables and wiring of all kinds, to adapt their execution / implementation to the inventory in question and to protect the said inventory from all damages during the execution / implementation, this for the purposes of correct execution / implementation.

Moreover, the contractual partner shall be obliged to agree, in an independent manner, on the execution / implementation of all services with VW, this in order to

ensure that the said execution / implementation does not hinder VW's operations, nor those of a third party, this contrary to the order requirements.

4.2

The contractual partner shall be obliged to inform VW of any concerns, irrespective of their nature, in conjunction with the anticipated service provision, including those regarding protection against risk of accidents or as regards services provided by other contractors, this without delay and, if possible, before the works in question are commenced by it or the third party.

4.3

The contractual partner shall be solely responsible for guaranteeing the correct contractual execution / implementation of the contractual services.

However, VW shall be entitled to monitor the execution / implementation of the aforementioned works via its own agents. This shall not excuse the contractual partner from fulfilling its own obligations in accordance with the contract. The contractual partner shall be obliged to cooperate with VW's authorised representative.

The contractual partner shall submit all plans, drawings etc. which may be required in accordance with the contract to VW and to third parties specified by VW for inspection. VW shall be entitled to specify an appropriate verification period.

The contractual partner shall continue to assume full responsibility for the contractually agreed performance in the wake of the examination and approval of the plans, drawings and other documentation by VW or individuals commissioned by the latter. The examination and approval by VW and / or from its designated agents shall not constitute any contributory negligence in terms of § 254 of the BGB (German Civil Code).

4.4

In the event that the service provision has to take place on Saturdays, Sundays or public holidays, the contractual partner shall be obliged to apply for any special

permits or authorisations which may be required in order to carry out the works in question in a punctual manner. In the event that an application regarding VW's formal involvement in this matter is also required, the contractual partner shall also be obliged to obtain this documentation punctually.

4.5

The contractual partner shall be liable for all obligations relating to the operation of any vehicles required for the execution / implementation of its service provision. In particular, this shall concern the contractual partner's avoidance of pollution and damages as far as possible and the elimination of unavoidable pollution and damages at its own expense, taking account of the current valid guidelines and regulations in the process.

4.6

The contractual partner shall be obliged to allow other companies to use access routes and facilities assembled by the contractual partner, this against payment and to safeguard its own interests where applicable.

5. Involvement by VW

As far as nothing to the contrary has been agreed, the contractual partner shall be obliged to procure the forms of energy required in order to provide the goods and services in question (with particular reference to construction water, electricity, pressure and steam etc.) in an independent manner. The same shall apply to delivery areas, storage areas and the construction site set-up, etc. The contractual partner shall not be entitled to use areas and means belonging to VW.

6. Scope of services / service amendments / additions

6.1

The contractual partner shall be obliged to provide all goods and services required in order to fulfil the scope of the services envisaged by the contract in an accurate, functional, operable and legal manner.

6.2

VW shall be entitled to alter the scope of services, including the manner of their execution and the time of performance, and to issue alternative instructions. The contractual partner shall be obliged to execute altered services in accordance with the terms and conditions of the contract, this unless the contractual partner's premises is not equipped to execute the said services in the required manner, and the contractual partner is unable to guarantee the correct execution of the said services via their assignment to a third party, or the contractual partner is unable to carry out the correct execution of the altered services for other reasons.

6.3

In the event that additional services not covered by the remuneration agreement become necessary during the course of the contract's execution, the contractual partner shall be obliged to inform VW of this in writing without delay before the said execution, and to submit a corresponding additional tender to VW on a short-term basis. Each additional tender must be based on the main tender's pricing principles as stipulated by the current version of the contract.

The additional tender should include details of all costs, i.e. all those time-related costs associated with possible acceleration measures, etc. The contractually agreed discounts should also be taken into account.

6.4

In the event that VW and the contractual partner are unable to agree as regards whether a specific service or instruction issued by VW for the implementation of specific works is included in the scope of the agreed remuneration or not, or in the event that the contractual parties are unable to agree as regards the level of the said remuneration, the contractual partner shall be obliged to provide the service, this subject to its legal position. An agreement regarding possible additional remuneration shall follow. VW shall be obliged to expedite its inspection procedures in this regard.

7. Compliance with regulations

The contractual partner shall be obliged to comply with the valid legal and police guidelines during its execution of the contractually stipulated services, with particular reference to the guidelines and ordinances issued by the regulatory authorities, the TÜV (Technical Inspection Agency), the commercial regulatory authority and the Employer's Liability Insurance Association.

The instructions issued by the health and safety protection co-ordinator should also be obeyed. The construction site guidelines issued by the health and safety protection coordinator constitute a contractual component.

In the event of its failure to comply with the aforementioned regulations, the contractual partner shall be solely liable for all resultant penalties, in addition to personal injury and material damage, this even in the wake of the item of property to the AG (PLC). It hereby exempts the AG (PLC) from all claims resulting from its misconduct.

8. Due dates / deadlines

8.1

The contractual partner shall be obliged to commence the execution / implementation on the agreed dates. In the event that no specific date has been agreed for the commencement of the execution / implementation, the contractual partner shall be obliged to start immediately in the wake of a request by VW to this effect.

The contractual partner shall be obliged to observe any interim deadlines which may have been agreed, and, in the case of the agreement of a completion date, to complete its services by the said deadline in accordance with the contract.

8.2

In the event that the contractual partner shall be obliged to submit a schedule for VW's approval in accordance with the order specifications, including its various elements, it shall be obliged to do so one week at the latest after the contract has

been awarded, taking note of any justified objections by VW and altering the schedule as necessary, and shall, finally, be obliged to update the approved schedule on a daily basis.

In the event that schedule-related deviations arise as a result of altered assembly or disassembly services by VW, the remaining deadlines shall be postponed by the number of working days that VW's new binding deadline is, in turn, delayed, this in default of other agreements between the two contractual parties. This shall not apply in the event that the contractual partner is able to prove that it is unfairly burdened by this regulation.

8.3

The contractual partner shall be obliged to agree an updated and new binding schedule with VW in the event of any alterations to the execution deadlines, this within an appropriate period of time after VW's request to this effect. In the event that the contractual partner fails to draft a replacement schedule within a reasonable period of time, VW shall be entitled to specify an updated schedule in accordance with the principles of equitable discretion (§ 315 BGB (German Civil Code)).

9. Subcontractors

9.1

The contractual partner shall be obliged to perform the service on its own premises. In exceptional cases, and in accordance with figure 2.3 of these terms and conditions of purchase, the service in question may be assigned to a subcontractor with VW's prior written consent.

9.2

The contractual partner may only commission expert, efficient and reliable subcontractors which comply with their legal obligations in terms of the payment of taxes and social security contributions and which fulfil the commercial requirements. The contractual partner may not agree less favourable contractual conditions with the subcontractors than

those which have been agreed between it and VW.

Moreover, the contractual partner shall be obliged to comply with regulations governing both the rights of foreigners and employment rights and those pertaining to the law concerning the posting of employees abroad, both on its own premises and in the case of those employees involved in the execution / implementation, and must encourage its subcontractors to do the same. The contractual partner shall also be obliged to accept these obligations within the context of contracts with its subcontractors. The contractual partner shall be obliged to provide proof of its acceptance of these obligations via its submission of the relevant contracts to VW at the latter's request. Furthermore, the contractual partner shall be obliged to carry out continuous checks to ensure that its subcontractors comply with the abovementioned regulations governing both the rights of foreigners and employment rights, and to document these checks in an appropriate manner. The contractual partner shall be obliged to submit the relevant proof of these checks immediately at VW's request.

In the event that the contractual partner is unable to comply with this obligation, this shall constitute a serious contractual breach and shall entitle VW to terminate this contract, either in whole or in part, on the grounds of just cause, this in the wake of a series of written reminders and deadlines designed to bring about a rectification of this state of affairs.

The contractual partner's relinquishment of corresponding contractual conditions to subcontractors shall not result in its exoneration in terms of its obligation to VW.

10. Obstructions

The contractual partner shall be obliged to inform VW of any obstructions or disruptions immediately and within two days of their becoming apparent at the latest, and this in writing. The contractual

partner may only assert claims on the basis of the said obstructions or disruptions in the event that it informs VW of the said circumstances in writing without delay, e.g. immediately upon their occurrence, or, in the case of their becoming apparent beforehand, within two working days at the latest after this is confirmed, even if VW was already aware of their obstructive or disruptive effect.

11. VW supplies

11.1

In the event that VW supplies part of the service provision, the contractual partner shall be obliged to carry out independent checks on the supplies provided by VW in a comprehensive manner, and to draw VW's attention to possible defects or circumstances which may conflict with the fulfilment of the designated functions and / or to other circumstances which may conflict with the fulfilment of the contractual partner's contractual obligations, this without delay.

11.2

In so far as supplies to be provided by VW under the terms of the contract are owned by third parties at the time of their assignment to the contractual partner, the contractual partner shall be entitled to legally represent VW for the purposes of the purchase of the said property required to carry out the provision of services. It shall be agreed that the ownership of the said supplies shall pass to VW upon their transfer to the contractual partner. It shall not be necessary to transfer the provided supplies to VW, this unless alternative agreements have been made. Instead, the contractual partner shall be obliged to store the said supplies with the diligence and care of a prudent, conscientious businessman.

The aforementioned regulations shall also be applied in the event of remainder rights.

11.3

The contractual partner shall be obliged to store the provided supplies from the time of their transfer to the contractual partner until the conclusion of the project in

question with the due diligence and care of a prudent and conscientious businessman. Unless otherwise agreed, the contractual partner shall not receive any separate remuneration in return for the storage of the aforementioned supplies. This shall constitute a secondary obligation of the non-gratuitous services which the contractual partner is obliged to provide.

The contractual partner shall be obliged to store the supplies provided by VW separately from other supplies unless this conflicts with their intended use in accordance with the regulations, this on a long-term basis, and should clearly label the said supplies as property of VW. In addition, the contractual partner may not remove the supplies from the place of storage without VW's express prior permission.

11.4

The contractual partner shall be obliged to insure the supplies against fire and water damage and theft and / or other damages within the context of its existing operational insurance, and to maintain this level of insurance until the conclusion of the project in question.

The contractual partner shall assign all claims to which it is entitled from the insurer in the case of loss or damage to VW. VW shall hereby accept this assignment.

11.5

The contractual partner shall be obliged to confirm its ownership of the supplies at VW's request, and this in writing.

11.6

In the event that the contractual partner combines VW supplies with its own goods, resulting in the creation of new goods, VW shall become a co-owner of the resultant goods, and this in proportion to the value of VW's original goods to that of the contractual partner's goods at the time of their bonding.

In the event that the contractual partner adapts goods supplied by VW to form new goods, this adaptation shall be deemed to have been carried out by the contractual partner on behalf of VW as the manufacturer.

12. Contractual penalty

The following shall apply in the event that the contractual partner has agreed to the payment of a contractual penalty, this subject to prior agreements regarding the level of individual rates or the overall contractual penalty amount:

12.1

In the event that the contractual partner is responsible for exceeding the agreed completion deadline or is in default in any way, the contractual partner shall be obliged to pay 0.2% of the net order total and a maximum of 5% of the net order total for every working day which the deadline is exceeded or delayed.

12.2

In the event that the contractual partner is responsible for exceeding an agreed interim deadline or delays this interim deadline in any way, the contractual partner shall be obliged to pay 0.2% of the net order total in proportion to the interim deadline and a maximum of 5% of the net order total in proportion to the interim deadline for every working day which the deadline is exceeded or delayed. In the event that deadlines are exceeded or delayed, subsequent contractual penalties shall be taken into account in conjunction with contractual penalties levied in the case of preceding interim deadlines, this in order to ensure that an accumulation of individual contractual penalties is excluded.

12.3

The total contractual penalty shall be limited to a maximum of 5% of the net order total and the maximum amounts specified in figs. 12.1 and 12.2 shall not apply individually.

12.4

VW shall not be obliged to assert its right to levy the contractual penalty at the time of acceptance, but may delay this until the final payment.

12.5

VW shall remain entitled to demand that the contractual partner compensates it for

any possible damages incurred above and beyond the contractual penalty imposed (e.g. off-setting the imposed contractual penalty against the overall damages).

13. Acceptance

A formal acceptance shall take place in the event that this should be necessary in the light of the specific goods and services provided by the contractual partner, and the following shall apply:

13.1

VW shall invite the goods' formal acceptance.

Acceptance reports should be drawn up and signed by both contractual parties. The contractual partner shall be obliged to bear the costs of necessary repeat acceptances and / or performance and functional checks of all types in the event that it is responsible for the implementation of the said procedures.

13.2

The acceptance procedure may not be bypassed via prior use, commissioning or official acceptance, nor via the contractual partner's notification of the services' completion.

Partial acceptances may only take place as far as this has been agreed on an individual basis for the construction project in question.

13.3

Works relating to the rectification of deficiencies also require formal acceptance.

14. Prices / invoicing / payment

14.1

The prices are fixed prices. These shall constitute the remuneration for all services which must be completed in order to execute the commission at hand. Return journeys, staff travelling time to the construction site and back, equipment downtime and prescribed breaks shall not be remunerated separately.

14.2

The contractual partner shall be obliged to document the provision of its goods and services via official documentation (e.g. draft invoices, bulk invoices, timesheets, travel logs, weight vouchers, waste management records etc.). The contractual partner may be required to use forms provided by VW for this purpose.

The abovementioned verification records should be completed on a daily basis and submitted for confirmation on the 1st working day of the following week at the latest.

The contractual partner shall be obliged to invoice the provided services without delay.

Invoices should be issued in an auditable manner and include references to the service verification documentation.

14.3

In the event that the parties have agreed on a payment plan, VW shall only be obliged to make advance payments proportionate to the proven defect-free provision of services; VW's rights relating to the presence of possible defects prior to acceptance shall hereby remain unaffected.

15. Place of performance

The place of performance shall be deemed the place specified in the call for tenders or the negotiation records. This shall usually be a VW plant, branch or other business location. In the event that a place of performance is not expressly specified and if this cannot be inferred from the agreements between the parties, Wolfsburg, Germany, shall be deemed the place of performance.