

GENERAL PROCUREMENT TERMS & CONDITIONS OF GERMAN NAVAL YARDS KIEL GMBH

Status: 2024-04-19

These General Procurement Terms and Conditions of German Naval Yards Kiel GmbH (hereinafter „the Company“) contain the following General Terms and Conditions (chapter A) as well as the relevant (depending from the contract nature) Supplementary Terms and Conditions (chapter B, C or D). These General Procurement Terms and Conditions form an integral part of the order/contract (Specific Contract Terms and Conditions) by reference, which may be completed by Additional Contract Terms and Conditions, if any.

A. GENERAL TERMS AND CONDITIONS

1. Scope, Ranking

1.1 These General Procurement Terms and Conditions apply to all contracts for Purchase, Production of Work, Sale of goods or Service (in short: Order) between the Company and the contractor, save for deviating agreements made at least in textform. These General Procurement Terms and Conditions apply to entrepreneurs (§ 14 German civil code) only.

1.2 General terms and conditions of the contractor are expressly excluded of the Order with the Company, and shall be assumed rejected by the Company, even if not explicitly said.

1.3 The ranking is as follows:

- 1) Specific Contract Terms and Conditions (Order including contract terms and conditions)
- 2) Additional Contract Terms and Conditions (if applicable, e.g. contract clauses from prime level to be forwarded)
- 3) Complementary Terms and Conditions (relevant part depending of contract nature)
- 4) General Terms and Conditions

2. Closing, Formal requirements for notices and declarations

2.1 A request for quotation or order by the Company outside a relevant framing agreement or prior offer of the contractor remains for the Company non binding (invitatio ad offerendum).

2.2 Offers and quotations by the contractor shall be free of charge to the Company and have to cover all requests made by the Company. Deviations from requests made by the Company or specific risks and atypical damages which may be related to the performance of the contractor shall be highlighted in the offer/quotation. Consequences due to intransparencies or uncertainties are to be borne by the contractor.

2.3 Closing of the Order is always subject to an order confirmation by the Company, following contractor´s offer.

2.4 Closing of the Order as well as amendements to it or these General Procurement Terms and Conditions as well as all notices and declarations are subject to textform. This apply as well to any mutual waiver agreements. Notices, declarations or agreements violating the textform requirement are legally irrelevant.

3. Principal obligations of contractor

3.1 Extent and quality of the scope of performance by the contractor are governed by the Order as fixed in the latest status.

3.2 In case of the Order contains a preliminary interface list, it is agreed by the parties that the parties shall agree without undue delay the final interface list. In case of doubt the specification of the contractor´s scope of performance is to be made at the reasonably exercised discretion of the Company. To the extent the so determined scope of contractor´s performance is in excess of the scope typically agreed in such kind of business the contractor is allowed to claim extra remuneration, which shall be in line with the remuneration scheme agreed for the Order basically.

3.3 Provided the scope of performance contains documentation related to the contractor´s performance, such documentation – if not agree otherwise- has to meet the common standards for such a business in respect of extent, kind and quality allowing integration, installation, commissioning and use of the contractor´s performance as well as in case of a military end user meeting the logistics support requirements. These documents shall be written in German language and in accordance with the international system of units (SI).

3.4 The contractor grants the Company a non-exclusive, transferrable, temporally and spatially unrestricted right of use to the extent required for the purpose of the contract for the services to be provided by the contractor as part of the Order. Section 31 (5) UrhG applies. The granting of the rights of use in the aforementioned scope is compensated with the remuneration agreed in the context of the Order. The contractor shall indemnify and hold harmless the Company against all third-party claims due to any infringement of intellectual property rights by the contractor in connection with the services to be provided within this Order; aforementioned indemnity obligation does not apply in relation to Company´s supplies, if any, in the context of the contractor´s performance.

3.5 Dates and deadlines agreed in the Order are fix and firm. If the contractor is responsible for failure to meet such a date or deadline the contractor is in default without requirement of subsequent warning notice.

3.6 If not agreed otherwise, the Company´s seat is the place of performance.

4. Ancillary obligations of contractor

4.1 The contractor shall inform the Company without undue delay in textform, if the contractor expects or faces already an interference with the performance of its obligations.

4.2 The contractor shall conduct a risk- and quality management appropriate for the Order and shall support the risk- and quality management of the Company as far as related to the contractor's scope of performance (information obligation).

4.3 The contractor has to comply with the Supplier Code of Conduct (SCoC), as published on the Company's website www.germannaval.com. At the Company's request the contractor shall also confirm explicitly in writing the contractor's compliance with the SCoC. In case of the contractor or its vicarious agent is repeatedly or constantly in default of the SCoC and fails to stop the default action following notice by the Company, the Company is entitled to rescind or terminate the Order for cause and to claim damages. The Company's statutory rights to rescind or terminate the Order for cause remain unaffected.

4.4 The contractor shall keep all information in whatever form related to or exchanged in the context of the Order strictly confidential, save for disclosure ordered by law or court. Documents and information provided by the Company may, with the exception of statutory or judicially imposed disclosure obligations, only be used to carry out the Order placed by the Company and are after the Order has been carried out (with the exception of technically required data backups and legally required copies) to be returned to the Company. The Company reserves all property rights, copyrights and other industrial property rights as well as rights from know-how.

4.5 If the performance is conducted on the Company premises or construction sites, the contractor shall inform itself about the Company's applicable safety and accident prevention rules and comply with them. In addition, the contractor shall maintain a business liability insurance with coverage of at least €5 million per year and damage event and provide evidence of this on request. Further claims for damages by the Company remain unaffected.

5. Remuneration, payment terms

5.1 The prices shown in the Order are binding and apply "free shipyard" (DAP, Incoterms 2020).

5.2 The prices include both everything that the contractor has to do to fulfill its performance obligation and all ancillary costs, in particular for packaging and delivery.

5.3 Payment is made within 30 days after receipt of the proper invoice in accordance with § 14 UStG, complete performance of the agreed scope and related delivery documents. The invoice has to be sent in the original and has to show the Order number.

5.4 The payment of the delivery or service does not constitute an acknowledgment of its conformity with the Order.

6. Delay, insolvency of the contractor

6.1 If the contractor is culpably in arrears with the provision of his main performance obligations, the Company has the right to claim liquidated damages, not by way of a penalty (pauschalierter Schadenersatz) against the contractor for each day of delay in the amount of 0.2% of the contract price, which is agreed upon the occurrence of the delay including supplements, but no more in total than 5% of this contract price. The contractor is entitled to prove and object that damage has not occurred or has only occurred significantly less than the lump sum. The Company's right to compensation for damages remains in effect until the final payment has been made, even if this was not expressly reserved when the respective delivery or service was accepted. Further legal claims of the Company remain unaffected by this provision, in particular the right to withdraw from the contract and assertion of further damages that go beyond the lump sum.

6.2 The Company also has the right to rescind the Order if the contractor stops making payments or applies for insolvency proceedings. The statutory right for rescission or extraordinary termination (also of continuing obligations) for good cause remains unaffected.

7. Governing law, Jurisdiction

7.1 All legal relations between the Company and the contractor are governed exclusively by German law, to the exclusion of conflict of laws and the UN Convention on Contracts for the International Sale of Goods (CISG) in the latest status.

7.2 The place of jurisdiction is the seat of the Company. However, the Company is entitled to sue the contractor at its general place of jurisdiction.

B. SUPPLEMENTARY TERMS AND CONDITIONS FOR PURCHASE / SUPPLY OF GOODS CONTRACTS

1. Scope

In addition to the General Terms and Conditions, the Supplementary Terms and Conditions for purchase and supply of goods contracts apply to purchase and supply of goods contracts.

2. Liability for defects and products

2.1 The Company is entitled to the statutory claims against the contractor.

2.2 The contractor shall carry out a quality check prior delivery and ensure that the object of performance is free of defects, in particular, but not limited to - if agreed - with regard to warranted characteristics.

2.3 The Company will inspect the goods for defects immediately upon receipt and report any defects within 5 working days. In the case of deliveries related to installation in a ship, the inspection obligation of the Company is limited to an identity and quantity check in accordance with the bill of delivery and an external visual inspection of the packaging for damage. In the case of hidden defects, the period begins only when the defect is identified by the Company.

2.4 If third parties assert claims for damages against the Company based on mandatory law, the contractor shall indemnify the Company at first request to the extent that the contractor is also directly liable or is obliged to compensate the Company internally.

2.5 Instead of a business liability insurance (see Section 4.5 of the General Terms and Conditions), the contractor shall maintain a business and product liability insurance with coverage of at least €5 million per year and claim and provide evidence of this on request. Further claims for damages by the Company remain unaffected.

3. Prices, delivery terms

3.1 If, as an exception, prices are agreed ex works/warehouse of the contractor or a third party, all costs incurred up to handover to the transport company, including loading, shall be borne by the contractor.

3.2 If the scope of performance contains hazardous substances, the contractor shall provide the Company with the order confirmation the completed safety data sheets (EG) in accordance with Article 31 in conjunction with Annex II of Regulation (EG) No. 1907/2006 of the European Parliament and Council of 12/18/2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH). If the safety data sheets are not required by law, the contractor is obliged to provide information in accordance with Article 32 of the aforementioned regulation. The contractor is obliged to inform the Company if the scope of performance contains substances that are listed in Regulation (EC) No. 1907/2006 (REACH) - Annex XIV, Annex XVII or in the candidate list of substances of very high concern (SVHC) as soon as the contractor becomes aware of them.

3.3 If parts of the scope of performance are subject to export control regulations, the contractor will identify them at the earliest possible point in time. Information on export control regulations shall be included on all delivery notes. In addition to the export control classification (according to German and EU law, if applicable also according to US law), this also includes the indication of any export licenses or license exceptions used or other export control restrictions. The contractor is responsible to arrange at its risk and cost for the timely provision of the official permits, approvals or licenses required for the contractor's scope of performance and shall provide the Company with a copy of any export permits.

3.4 Each delivery shall be accompanied by a bill of delivery in duplicate. The bills of delivery shall contain the Company's order number, relevant item numbers and material numbers from the Order as well as any other necessary information on the shipment content (in particular in the case of partial or aliud deliveries). The goods are to be labeled according to the specifications of the Company.

3.5 Material test certificates and test documents are to be sent by the contractor upon delivery of the material to certificates@germannaval.com.

3.6 The contractor shall notify at least 2 working days in advance of deliveries the contact person named in the Order as well as logistic@germannaval.com.

3.7 Delivery address and opening hours of warehouse:

German Naval Yards Kiel GmbH, Werftstr. 110, Geb. 377/Zentrallager, 24143 Kiel

Monday-Friday 06:30-10:30h and 11:00-14:00h.

3.8 Plates for shipbuilding are to be delivered in open truck trailers, otherwise unloading is not possible.

3.9 Insofar as the packaging material delivered with the goods is subject to special waste regulations, the contractor shall dispose of this at its own expense.

3.10 Partial/aliud deliveries or deliveries before the agreed date are only permitted after the express consent of the Company.

C. SUPPLEMENTARY TERMS AND CONDITIONS FOR PRODUCTION OF WORK CONTRACT

1. Scope

1.1 In addition to the General Terms and Conditions, the Supplementary Terms and Conditions for production of work contracts also apply to production of work contracts.

1.2 If the contract for production of work contains elements from a supply of goods contract, the supplementary terms and conditions for supply of goods contract also apply accordingly.

2. Performance

2.1 The Company is entitled to the statutory claims against the contractor.

2.2 The performance shall comply with the applicable statutory accident prevention regulations, VDE regulations, recognized rules of technology and other statutory regulations.

2.3 The assignment of essential parts of the Order, i.e. parts of the Order that characterize the core competence of the contractor, to subcontractors requires the prior consent of the Company. The contractor is responsible for the performance of its subcontractors as for its own performance.

2.4 At the end of the daily work, the construction site shall be secured and cleared against the risk of accidents and damage. Garbage has to be properly separated and disposed of in the containers provided by the Company at the construction site. Measures of urgency required and conducted by the Company to ensure safety (imminent danger, in particular in the event of an increased fire load) will be charged to the contractor if they were caused by the contractor's improper conduct.

2.5 The storage of items belonging to the contractor that are required for the provision of performance on the construction site may only be carried out in the storage areas assigned by the Company. The contractor remains solely responsible for the dangers emanating from these objects.

2.6 Insofar as the contractor's scope of performance has interfaces with the scope of performance of third parties, the contractor upon request shall provide the Company with all the information required by the Company to fulfill its coordination obligation.

2.7 Tests and evidence have the meaning of quality assurance by the Company only and do not represent acceptance in the legal sense. This also applies to the signing of milestone certificates or similar.

2.8 In the case of processing orders, processing is carried out at any time and degree of production on behalf of the Company as the manufacturer within the meaning of Section 950 BGB. Acquisition of ownership by the contractor is excluded.

2.8 Short-term (up to 2 days) disruptions to operations on the part of the Company, which lead to a disruption in performance on the part of the contractor, do not entitle the contractor to claim additional costs and/or to adjust the schedule. Disruptions to performance by the contractor beyond aforementioned extent and caused by the Company entitle the contractor to claim additional costs and/or to adjust the schedule if the disruption to performance was reported immediately and the effects on costs and deadlines were proven.

3. Remuneration

3.1 Unless otherwise agreed, the right to claim advance payments is excluded.

D. SUPPLEMENTARY TERMS AND CONDITIONS FOR SERVICE CONTRACTS

1. Scope

In addition to the General Terms and Conditions, the Supplementary Terms and Conditions for Service Contracts also apply to service contracts.

2. Performance

2.1 The Company is entitled to the statutory claims against the contractor.

2.2 The performance of the service shall correspond to the contractually agreed standards, the state of the art and other legal regulations.

2.3 The contractor provides all services on its own responsibility and independently with its own (unless otherwise agreed) provision of all necessary work equipment. The commissioning of subcontractors requires the prior consent of the Company. The contractor is responsible for the performance of its subcontractors as for its own performance.

2.4 If services are provided on site at the Company 's premises, the contractor shall inform itself about the Company 's applicable safety regulations and information guidelines. It shall comply with these and follow the Company 's safety instructions. Insofar as the contractor has access to the Company 's IT and communication systems, the Company 's applicable information security regulations shall be observed.

2.5 The contractor is not entitled to represent the Company in legal transactions.

2.6 The performance dates specified in the Order are binding. The timeliness is subject to the contractually agreed performance of the service at the agreed place and date of performance.

2.7 Contrary to the General Terms and Conditions, the contractor shall maintain business and pecuniary damage liability insurance with coverage of at least €5 million per year and claim and provide evidence of this on request. Further claims for damages by the Company remain unaffected.

3. Rights to work results – Infringement of intellectual property rights

3.1 The Company has the exclusive right to use all work results that arise in connection with the service, regardless of whether they are patentable or not. The work results may not be used for purposes other than those specified by the Company without the prior consent of the Company. Documents, reports, presentations and other documents (including data carriers) that have been created are to be handed over to the Company as far as legally possible.

3.2 The Company acquires the exclusive, irrevocable, transferable right of use, unrestricted in terms of time, space and content, for all types of use including the right to reproduction, distribution and modification. The contractor has no right for separate remuneration.

3.3 The contractor guarantees that its service and the intended use of it by the Company do not infringe any intellectual property rights of third parties. If necessary, the contractor at his own expense shall obtain the granting of rights of use from third parties required by the Company. The contractor shall indemnify the Company against all claims by third parties due to any infringement of intellectual property rights caused by contractor 's default.

3.4 All inventions and patentable work results shall be reported to the Company immediately and transferred to the Company, insofar as they arise in connection with the performance of the service. The Company reserves all rights in relation to the registration of property rights. If there is no interest, the Company will transfer the invention back to the contractor, whereby the customer retains a non-exclusive, irrevocable, unlimited in terms of time, space and content, sublicensable, free right of use for its commercial purposes.

4. Remuneration, budget limits, payment terms

4.1 If a efforts-based remuneration by hour, day or week has been agreed, the invoice shall be accompanied by

a clear bill of efforts, the correctness of which has been confirmed in writing by the responsible coordinator of the Company. Invoices without such a bill of efforts do not trigger a maturity date for payment.

4.2 Budget limits are binding. When the budget limit is reached, the Order ends automatically unless the parties agree on an extension beforehand. Therefore, services rendered by the contractor beyond the budget limit without prior extension of the budget do not cause a payment obligation on the side of the Company. It is the contractor's responsibility to inform the Company of this fact in good time before the budget limit is reached.

5. Termination

5.1 The Company also has the right to extraordinary termination for good cause if the Company becomes aware that the successful execution of the contract is at risk due to the contractor's insufficient ability to perform and the contractor does not, upon request, provide an appropriate remedy plan within the period set by the Company or that the behaviour of the contractor justifies a qualification as a disguised employment (Scheinselbständigkeit).

5.2 In the event of extraordinary termination, only those services will be remunerated that were provided by the contractor in accordance with the Order and can be used by the Company as intended. Invoicing is to be based on a detailed final invoice on a contractual basis, which the contractor will issue within 14 days of the extraordinary termination taking effect. The Company is entitled to deduct and set-off all damages and additional expenses to be compensated to the Company due to contractor's default.

5.3 Upon termination of the Order, the contractor shall immediately return all work results, documents and electronic data required for the takeover without undue delay to the Company.