



GRIESSON - DE BEUKELAER



General Terms and Conditions of Contract

for the procurement of technical equipment
and construction services

1. CE label

For machinery and technical equipment, the entire scope of supply must correspond to the requirements of the EC Directives, especially the current Machinery Directive. The fundamental safety and health protection requirements must be implemented according to the state of the art of technology taking account of the harmonised standards. In the absence of harmonised standards, for the fulfilment of the fundamental safety and health protection requirements, the corresponding national standards, regulations of the professional associations (accident prevention regulations), the provisions of the Association for Electrical, Electronic and Information Technologies (VDE) and the other generally recognised rules of technology, occupational health and hygiene must be complied with. The Contractor must present the operating instructions, declaration of conformity or declaration of incorporation respectively and the risk evaluation at the latest at the time of commissioning.

2. Energy efficiency

For the purchasing of products and equipment, the energy consumption and energy efficiency are important evaluation criteria. The Supplier (Contractor) must use the most energy-efficient technology taking account of the defined requirements, profitability and what is technically feasible.

3. Supervision of assembly and/or construction

One authorised representative and one assembly or construction supervisor must be identified by name by the Contractor for the entire duration of the project. A change to the named persons can only take place with the Client's written agreement.

4. Execution of performance

The Contractor undertakes to provide the contractually agreed services professionally and technically in accordance with the applicable specialist regulations using flawless materials which correspond to the respective state of technology and using personnel who are suitably qualified for the task. In the case of services which require special processing the manufacturer's implementation instructions must be observed and complied with. In particular the accident prevention regulations of the professional association responsible for the Client must be strictly adhered to. The Contractor undertakes to execute all orders in accordance with food processing hygiene requirements. This applies in particular to user-friendly cleaning processes. The Contractor must research the relevant regulations and provisions and take account of these accordingly.

5. Transport

The delivery shall be organised by the Contractor at its own expense including all associated costs. The Contractor is obliged to present the Client with an appropriate proof of transport insurance cover when first requested.

6. Subcontractors/consortia

The contractor must indicate the type and extent of the services that it wishes to pass on to subcontractors. The passing on of services to subcontractors requires the written approval of the Client. Consortia and other joint contractors must provide the Client with the following documents together with their quotation:

- a) A list of the members of the consortium identifying the authorised representative by name
- b) A declaration signed by all the members with legally binding effect that the authorised representative represents the members shown in the list to the Client with legally binding effect and that all the members are jointly and severally liable.

7. Temporary workers

The contractor must indicate the type and extent of the services that it wishes to pass on to temporary workers. The use of temporary workers requires the written approval of the Client.

8. Coordination with the Client/ additional working hours

All works must be coordinated with the Client in order to avoid exceptional disruptions to production operations. The Contractor is obliged to execute works that cannot be implemented during production operations with the use of additional working hours and/or night-time working hours. In cases to be justified by the Client, the Contractor is also obliged to work on Saturdays, Sundays and public holidays.

Changes to purchase orders and/or orders or other measures that cause costs, irrespective of which side has caused them, must be announced in good time with an estimate of costs for the purpose of examination and possible approval by the Client. The Contractor shall only receive supplements for additional working and working at night, on Saturdays and on public holidays when the payment of surcharges and their amount is confirmed in writing by the Client in advance.

9. Cooperation

The Contractor undertakes to make every endeavour to have good, smooth cooperation with third parties and to instruct all employees to treat the works of third parties with care. All costs, especially also expenses for experts and repairs, in connection with damage for which the Contractor is responsible will be charged to it by the Client. The coordination of working areas must be undertaken together with the Client's project manager in such a way that other trades/works can be

undertaken in parallel as well. All stipulations by the approving authorities and the responsible professional association shall be at the Contractor's expense. The Client must be advised in good time of the delivery of materials, tools, etc. clearly stating the recipient and the contact, and delivery must be ensured on site by the Contractor's personnel. Corresponding information on the scope of the delivery and the date of delivery must be provided by the supplier in advance to the delivery company instructed and the personnel instructed on site. Costs incurred due to the lack of information from the supplier shall be at its expense.

10. Execution periods

The Client reserves the right to specify the dates for the start and end of the execution period and any individual periods. The Contractor undertakes to complete the contractually agreed services within the specified execution periods. The stipulated times count as fixed deadlines. If any individual contractual deadline is exceeded, the contractual penalty shall become effective in respect of the pro rata order value. At the Client's request, in the event of delay the Contractor shall be obliged to implement the delayed services within a period of grace set by the Client with additional work, including at night and on Saturdays, Sundays and public holidays. This additional work will not be remunerated separately.

11. Contractual penalties

If the contractually specified execution periods are exceeded, the Contractor must pay a contractual penalty in the amount of one percent of the order value for each calendar week or part thereof of delay, with a maximum of 5 percent of the order value, unless the fact that completion has not taken place in good time is due to circumstances for which the Contractor is not responsible. The Client is entitled to set off the contractual penalty against the remuneration. The contractual penalty can be asserted until the final payment. Further claims to compensation remain unaffected by this.

12. Acceptance, transfer of risk

A formal acceptance will take place for all the Contractor's services, which will be documented in the Client's acceptance protocol and must be signed by both contractual partners.

If at the time of the formal acceptance there is no agreement between the Client and the Contractor as to whether a complaint raised by the Client should be regarded as a defect, this shall be decided by an expert appointed by the Chamber of Industry and Commerce in Koblenz. The expert's technical conclusions shall have binding effect for the parties involved. The costs of the expert shall be borne by the contractual partner that loses. Repeat measures are chargeable and shall be charged to the Contractor at a flat rate of € 150 plus VAT each, unless anything to the contrary is agreed in writing.

Use or commissioning by the Client or the processing of individual parts of the delivery by third parties do not count as acceptance. Even in the event of prior use or commissioning by the Client, the risk for all services shall pass to the Client only with the formal final acceptance by the Client.

13. Instruction of operating personnel

Before a machine, item of equipment or equipment parts are accepted into the production process, the future operating personnel must be informed by the Supplier in consultation with the Client on the potential dangers of the new installation and be instructed on operation and maintenance. For this the Client shall prepare a list of participants, on which successful participation will be confirmed by the Supplier and the persons who have been instructed. The scope of this instruction shall be specified by the Supplier before the order is placed, and shall be an integral part of the agreement.



14. Warranty

The statutory provisions shall apply for the warranty unless nothing to the contrary is hereby agreed. The term of the warranty for all supplies and services is 24 months unless the law provides for a longer term or a provision to the contrary has been made in writing. The warranty period starts with the acceptance of the performance. If the Contractor does not fulfil its obligation to remedy the defects that have been identified and reported, the warranty period shall automatically be extended by six months from the date on which the defects were first indicated to the Contractor in writing. For parts which are replaced during the warranty period and are not declared to be parts subject to regular wear and tear, the warranty period shall start afresh.

The Contractor also accepts the liability for defects in the form of minor discrepancies in the delivered item from the agreed specification, if these annul or reduce the value or the suitability for the usual use or the use assumed according to the agreement. These provisions apply analogously for replacement parts supplied or necessary additions.

The expiry of the period for liability for defects shall be halted for the period in which the supply/service is not in the contractual condition, provided the defects have been notified by the Client in writing.

Claims resulting from defects can also be asserted after the expiry of the time limit in this respect if the defects concerned have been reported in writing to the Contractor before the expiry of this time limit.

15. Defects

Defects must be rectified by the Contractor or its agent immediately they have been reported in writing by the Client.

16. Inspection of incoming goods

Insofar as the Client is obliged to inspect incoming goods and report possible defects in writing, this obligation shall only commence when the contractual performance has been received by the responsible department or the responsible employee respectively. Any written complaints by the Client shall be deemed to have been made in good time if they are sent to the Contractor within two weeks of this date.

17. Termination

The statutory provisions apply to termination. In addition the Client shall have a right of extraordinary termination in the event of insolvency proceedings being opened over the Contractor's assets, or the application for the opening of such or comparable proceedings, or this being refused due to insufficiency of assets, or the cessation of payments by the Contractor that is not merely temporary.

18. Provision of security

The Contractor must provide security for the contractual execution of the performance including the accounting, warranty and damages, as well as for the reimbursement of overpayments, in the amount of 10 % of the gross order value.

Unless anything has expressly been agreed otherwise, such security must be provided by means of an appropriate amount being retained or by means of a directly enforceable surety from a major German bank, a public savings bank, a cooperative bank or a credit institution authorised as a customs or tax guarantor.

The Contractor must also when first requested commission an unconditional, irrevocable and directly enforceable surety in the amount of any advance payments, in which it waives the defence of the failure to pursue remedies and waives the right to contest and offset. Such sureties must be provided by a major German bank, a public savings bank, a cooperative bank or a credit institution authorised as a customs or tax guarantor. As an alternative to this surety is the option of providing a bank guarantee from a major German bank or a major international bank. The bank guarantee must be irrevocable and payment must take place when first requested.

19. Invoicing

All claims to payment shall only become payable on presentation of auditable invoices for payment on account and final invoices, which must be presented together with the completed drawings for the settlement of accounts and the bills of quantities. All measurements that are required for the checking of the invoice must immediately be evident from the completed drawings for the settlement of accounts or from other documents indicating the measurements. Invoices must state the extent and value of all services to date in detail and in a verifiable form and must state the net prices. The amount of VAT must be added with the rate of tax. Any involvement by the Contractor in ascertaining the scope of supply shall not count as acknowledgement. Invoices must be marked according to their purpose as invoices for payment on account, for partial payment or as final invoices; invoices for payment on account and partial invoices must be continuously numbered. We ask for invoices to be issued exclusively by email (in PDF format) to our central incoming invoice account invoice@griesson.de. Additional invoices in the form of faxes or in paper form will not be accepted. Invoice address: Griesson - de Beukelaer GmbH & Co. KG, August-Horch-Straße 23, 56751 Polch.

20. Price increases

Increases in the prices of materials during the term of the agreement will not be recognised. Hourly paid works will be paid in accordance with the contractual agreements. Insofar as no agreement has been made for the remuneration, the customary remuneration locally shall apply. The Client must be informed of the implementation of hourly paid work before this commences. The Contractor must present time sheets certifying the hours worked on every working day and the necessary amount to be specially remunerated for this.

If the Contractor is in breach of its obligation to announce hourly paid work and its duty of presenting daily time sheets of the hours worked, in the event of doubt the Client shall be entitled at the Contractor's expense to instruct an expert publicly appointed and sworn by the Chamber of Industry and Commerce in Koblenz to ascertain the remuneration that is appropriate in the circumstances. The expert's conclusions shall be of binding effect for those involved.

21. Payment terms, payments on account

The Supplier (Contractor) is bound by the prices stated in its quotation. The purchase price is due for payment after the contractual provision of the service by the Supplier (Contractor) in accordance with the agreement and receipt of the invoice. Payments are processed by a central settlement bank/company. For this exclusively the contractual conditions of the agreement on central settlement with del credere apply. Payment is made with the deduction of a 3% discount within 30 days or within 60 days net.

22. Cession of claims and ban on pledging

Pursuant to Section 398 BGB [Civil Code] the cession of claims is excluded. The claims to which the Contractor is entitled may neither be ceded to third parties nor pledged without the written agreement of the Client.

23. Counterclaims

The Contractor can only set its claims off against the Client insofar as the Contractor's claims are undisputed or have been legally established.

24. Statute of limitations

The statutory provisions apply for the statute of limitations.

25. Provision of items by the Client

If materials, equipment, equipment parts or other services supplied by the Client exhibit defects which hinder or delay the proper fulfilment of the agreement, the Contractor must inform the Client of this immediately in writing, precisely defining and specifying the defect. If the Contractor omits to undertake this written notification, it can no longer invoke this defect later.

If there is no agreement between the Client and the Contractor as to whether a complaint raised by the Contractor should be regarded as a defect, this shall be decided by an expert appointed by the Chamber of Industry and Commerce in Koblenz.

The expert's technical findings shall have binding effect for the parties involved. The costs of the expert shall be borne by the contractual partner that loses.

26. Removal of construction rubble, refuse, packaging material

Construction rubble and refuse created must be removed from the construction/ assembly site permanently and in good time by the Contractor at its own expense unrequested by the Client. If the Contractor does not fulfil this obligation, the Client shall organise the removal without special notification. The costs of this shall be borne by the Contractor.

27. Access to factory premises, production halls

A visitor's pass must be collected from the gatekeeper before entering the factory premises. In addition the respective house rules must be observed.

These consist of:

- The safety and behaviour instructions for external companies
- Hygiene regulations
- Information sheet for technical delivery personnel

Knowledge of and adherence to the house rules is a necessary requirement for entering the premises.

28. Cleaning

The working and storage areas made available to the Contractor must be handed over in perfect condition after the conclusion of the works; damage and dirt caused by the Contractor must be removed by the latter at its own expense. If the Contractor does not fulfil this obligation, the Client can organise the cleaning at the Contractor's expense.

29. Hazardous materials

Hazardous materials must be specially labelled in accordance with the respectively valid ordinance on hazardous substances. The safety information sheets must be handed out at the latest with the first delivery. If during a later disposal of the object of the order or individual components thereof hazardous materials comprise special waste, reference must be made to this and a possible disposal must be indicated. For non-consumable items the costs for removal for disposal after use must be shown separately. Otherwise it shall be deemed to be agreed that these shall be removed and disposed of free of charge.

30. Liability insurance

The Contractor must have taken out liability insurance in the appropriate amount before the start of work. At the Client's request, proof of this liability insurance for the object of the agreement must be provided by the Contractor before the order is placed.

31. Working clothes

The Contractor shall oblige its personnel to wear clean working clothes with a company logo in accordance with the hygiene regulations applicable to the Client for the duration of the assembly works.

32. Infringement of property rights

The Client shall be exclusively entitled to the results of the delivery or performance of whatever kind that have arisen during the fulfilment of the purchase order.



The above applies irrespective of the question of whether the results are subject to intellectual and/or industrial property rights. The cession of the right to the results at the time of delivery or performance to the Client is included in the price of the order.

The Supplier (Contractor) surrenders to the Client all rights of use of the results and partial results of the deliveries or performances, and in particular the rights to the present and future illustrations and reproductions of any kind on any chosen media, the rights to the use, sale, marketing, translation, alteration, insertion, editing, utilisation and adaptation of the stated results and/or partial results, and for the worldwide use of these rights for their entire duration without restriction or limitation.

The Supplier (Contractor) undertakes not to oppose its industrial and/or intellectual property rights to the Client insofar as these are necessary for the use of the results and/or the partial results from the ordered performances. The Supplier (Contractor) warrants that the executions of the delivery or services do not infringe any third party property rights. Any licence fees or other payments due for the use of third party property rights shall be borne exclusively by the Supplier (Contractor).

The Supplier (Contractor) warrants that no patents or commercial property rights of third parties are infringed through the delivery, use and exploitation of its performance. The Supplier (Contractor) shall indemnify the Client from all claims by third parties that are asserted as a result of such infringement.

33. Duty of confidentiality

The Supplier (Contractor) undertakes to maintain secrecy towards persons not affiliated with it in respect of all documents made available to it as well as other written and verbal information. This also applies to business facts and processes that have become known during site inspections. The Contractor shall be liable for all damages incurred by the Client as a result of the infringement of the aforementioned duty of confidentiality and for which it is responsible.

34. Code of conduct for suppliers (Contractors)

The Supplier (Contractor) is obliged to comply with the laws of the respectively applicable legal system(s). In particular it shall not participate either actively or passively, directly or indirectly, in any form of corruption, infringement of the basic rights of its employees or child labour. The Supplier (Contractor) shall moreover take responsibility for the health and safety of its employees in the workplace, observe the laws on environmental protection and as far as possible encourage and require adherence with this code of behaviour by its suppliers (contractors). If the Supplier (Contractor) is culpably in breach of these obligations, without prejudice to further claims the Client shall be entitled to withdraw from or terminate the agreement. Insofar as it is possible to remedy the breach of duty, this right may only be exercised after the fruitless expiry of an appropriate period for the remedying of the breach of duty.

35. Miscellaneous

The contracting rules for the award of public works do not apply. The construction/assembly site equipment is included in the total price. The attached leaflets “Hygiene Regulations for the Production Area” and “Information Sheet for Technical Delivery Personnel”, and the “Rules of Safety and Behaviour for External

Companies” are an integral element of the agreement. The Contractor is obliged to inform its employees, vicarious agents and subcontractors of these General Terms and Conditions of Contract in good time before the start of works and to hand them the aforementioned leaflets.

The Supplier (Contractor) hereby declares its irrevocable agreement to the personal details it has provided being handled or processed in relation to orders taking account of the statutory provisions.

36. Contractual language

The contractual language is German. The German version of these General Terms and Conditions of Contract is decisive. If the content of the English version or a translation into another language should differ from that of the German version, the German version shall take precedence over the translation.

37. Contractor’s Terms and Conditions of Business

Exclusively the Client’s Terms and Conditions of Business and of Contract apply. The application of any terms and conditions of business of the Contractor is expressly excluded. Without the express written acknowledgement of the Client, the Contractor’s terms and conditions of business shall also not become content of the agreement even if they are not objected to.

38. Place of jurisdiction/place of performance/ applicable law

Insofar as the Contractor is a merchant, the exclusive place of jurisdiction for all claims arising from this agreement and its fulfilment is Koblenz. The place of performance for delivery and payment is the Client’s place of business.

Exclusively German law applies. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.

39. Severability clause

If individual provisions of this agreement should be or become ineffective, the remaining provisions of this agreement shall remain unaffected by this. In such a case the Parties hereby undertake to replace the ineffective provision by a legally effective provision that comes as close as possible to the ineffective provision in terms of its economic result. The same applies for any loopholes in the agreement.

40. Modifications of the agreement

All contractual agreements and all side agreements require the written form unless a stricter form is prescribed. Equally modifications and/or additions to the agreement require the written form. The written form is exclusively observed by the written confirmation of the agreements by the Client.

For the written confirmation by the Contractor of the amendments or additions to the contract to become effective, the written counter-confirmation of the Client is required. The waiving of the requirement for the written form or a renunciation of the requirement for the written form also requires the written form.

Information Sheet for Technical Delivery Personnel (Manual workers, fitters, technicians)

You are performing your work at our company on the instructions of your company. In connection with the order which you are here to work on, your company has accepted general terms and conditions of contract which also contain important points that you need to observe. Please therefore request these from your company without fail and read it through carefully. We would like our cooperation with you to run smoothly and ask you to observe the points below:

1. The gatekeeper will issue you with a visitor's pass. You should collect this every day when you register with the gatekeeper and give it back to him when you leave the factory premises.
2. We ask you to stay only within the workplace that is indicated to you and use the path you have been shown. You are not permitted to enter the remaining business areas.
3. The provisions of the road traffic regulations apply throughout our factory premises with the additional agreement that vehicle speed is restricted to 10 km/h. Vehicles are only permitted on the factory premises for the time required to unload and load your tools, materials etc.
4. You will receive your instructions here at our company from the factory manager or a contact appointed by the factory manager, who you will be introduced to during an initial conversation.
5. We assume that as a skilled worker you are familiar with the relevant regulations and safety provisions of your professional association, and we expect you to comply with regulations without fail. In addition we ask you also to observe the safety instructions that we give you.
6. We ask you to align your working hours with our business hours. Insofar as work is necessary outside these times, this must be agreed in good time with the factory manager or the contact named to you by the factory manager.
7. In your own interest we ask you to have your work sheet (proof of materials used and hours worked) signed every day by a named contact. When undertaking calculations later we can only recognise signed documentary evidence. By signing your work sheet we are only confirming to you the quantity of materials used. For the number of hours worked only the times countersigned by the gatekeeper count. This does not imply any acceptance of the work.
8. Your company undertakes to provide the contractually agreed services professionally and technically in accordance with the applicable specialist regulations using flawless materials which correspond to the respective state of technology and using personnel who are suitably qualified for the task. In the case of services which require special processing the manufacturer's implementation instructions must be observed and complied with.
9. If you want to use tools and appliances belonging to the Client, please discuss this beforehand with the factory manager or the contact named to you by the factory manager.
10. After finishing your work, please clean and tidy your workplace and respective location in the production area (in the case of employment for several days, daily), because otherwise we will have to do these tasks ourselves or instruct third parties to do so, and would have to invoice your company for the costs thus incurred.
11. You undertake to maintain silence towards persons not associated with you about all the documents made available to you as well as other written and verbal information. This also applies to facts and processes that have become known to you during site inspections. You will be liable for all damages the Client incurs due to the breaching of the aforementioned obligation of confidentiality.
12. Taking photographs and filming within the factory premises is strictly forbidden.
13. Please also note our information sheet "Hygiene regulations". Your company has a copy of this too.

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