

General Terms and Conditions of Purchase



1. Scope of Application

1.1 All deliveries and services provided by entrepreneurs [*Unternehmer*], as defined by Section 14 German Civil Code [*BGB*], to DEA Deutsche Erdoel AG (hereinafter "DEA") shall be governed by the following General Terms and Conditions of Purchase (hereinafter "GT&Cs of Purchase"), unless otherwise expressly agreed upon in the individual case concerned.

1.2 The Contractor's terms and conditions of business shall apply only if and to the extent DEA has expressly declared in writing its agreement therewith. Lack of any explicit objection, acceptance of the service rendered or any mere reference to a letter from the Contractor containing, or referring to, the Contractor's terms and conditions of business shall not suffice for this.

2. Purchase Order and Acknowledgement of the Order

2.1 DEA may revoke its purchase order at any time before the Contractor's written order confirmation is received.

2.2 If the order confirmation deviates from the purchase order, such deviation shall only apply if and to the extent DEA has given its written consent thereto. Neither acceptance of the service nor payments by DEA shall constitute consent.

2.3 Purchase orders and all agreements, amendments and notices of termination in connection therewith, as well as all other legally relevant declarations and notices submitted after the conclusion of the contract (e.g. setting of a time limit, issuance of a reminder, declaration of rescission) shall only be effective in writing.

3. Place of Performance, Delivery Dates, Alteration of the Scope of Performance, Packaging, Transportation

3.1 The place of delivery or performance indicated in the purchase order or agreed upon elsewhere shall be the place of performance. This shall apply even if shipment has been agreed upon. Deliveries shall be made on the basis of DDP (Incoterms 2010) place of performance mentioned above.

3.2 Dates and periods given for delivery or performance shall be binding. If the Contractor becomes aware that an agreed date cannot be met, it shall give DEA prompt written notification thereof, specifying the reasons and the expected duration of the delay. Acceptance of late delivery or performance shall not constitute a waiver of compensation claims by DEA. Sub-deliveries or premature deliveries shall be permissible only after prior consultation with DEA and with DEA's written consent.

3.3 If a contractual penalty has been agreed upon, DEA may, without the reservation of a right under Section 341 para. 3 *BGB* being required, assert

this penalty at any time before the due date of the final payment.

3.4 DEA shall be entitled to demand changes to the scope of delivery and performance, including the dates agreed upon in the contract, insofar as this is reasonable for the Contractor. The effects thereof, particularly in respect of any increase or reduction in costs and in respect of delivery dates, shall be appropriately taken into account and, subject to the following sentence, be agreed upon in writing between DEA and the Contractor before the changes are carried out. In the case of any impending delay in meeting a set date or in cases of imminent danger, the Contractor shall begin carrying out the changes even before a written agreement has been made.

3.5 The Contractor shall, at its expense, take back the packaging at the place of hand-over of the goods and properly dispose of the packaging.

3.6 Delivery notes shall be affixed to the packaging in such a way that they are clearly visible, and shall contain the order number, the name of the article, the delivery quantities and indications of any sub-deliveries. Deliveries made up of multiple parts shall be marked as belonging together.

4. Prices, Invoicing, Due Date and Deductions, Default in Payment

4.1 The prices quoted or otherwise agreed upon in the purchase order shall be binding (fixed prices), shall apply throughout the entire duration of the contract, shall exclude additional claims and shall be net prices exclusive of value-added tax; any applicable value-added tax shall be added at the statutory rate. Insofar as price adjustment provisions have been agreed upon exceptionally in an individual contract, such price adjustment shall not enter into effect, before written notice thereof has been given; there shall be no retroactive assertion. Unless otherwise agreed upon in writing in an individual contract, the prices shall include all services, supplementary services and incidental expenses. Insofar as reimbursement of travel expenses has been agreed upon exceptionally in an individual contract, such reimbursement shall be limited to the sum of the flat-rate amounts under the German Income Tax Act [*EStG*].

4.2 The invoices issued in respect of the deliveries and services provided shall meet the respective valid statutory requirements concerning invoices under the value-added tax law of the countries whose value-added tax law applies to the deliveries/services invoiced.

4.3 Promptly after the delivery has been made or any other service has been rendered, an invoice or a credit note is to be issued, in verifiable form, to the invoicee named in the purchase order and to the invoice address specified therein. Such invoice or credit note may be sent electronically as a pdf file,

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- if the specifications laid down in the information sheet "Electronic Invoicing", which can be viewed on DEA's website at <http://www.dea-group.com/en/about-dea/procurement>, are observed. All records of performance and other documentary evidence in readable form shall be enclosed with the invoice. The invoice shall include the purchase order number, the project name or the maintenance order, the delivery address, a description of the individual invoice items, the allocation to items ordered as well as the quantity and the unit prices. Any agreed discounts, where applicable, as well as the bank account details and payment currency shall be specified in the invoice. Down payments and payments on account already made shall be itemised in the invoice. The fee shall be payable within 60 days of delivery or performance and receipt of a verifiable and proper invoice at DEA. In the case of payment or set-off within 14 days of receipt of the invoice, the Contractor shall allow a 3 % early payment discount. In the event of defective performance, this time limit shall not begin until the defect concerned has been fully eliminated.
- 4.4 Any rights arising from default in payment shall not be asserted by the Contractor before a reasonable grace period set in writing has expired to no avail. The default interest rate shall be five percentage points above the base interest rate. The claim to default interest rate shall be reduced insofar as the debtor proves that a lower loss was actually incurred.
- 4.5 Neither the issuance of an acknowledgement of receipt nor payment by DEA shall constitute a waiver of possible claims or rights.
- 5. Assignment, Set-off, Right of Retention**
- 5.1 Except with DEA's prior written consent, the Contractor shall not be entitled to wholly or partly assign its contractual claims to third parties or have these claims collected by third parties.
- 5.2 The Contractor shall set off only against counter-claims that are undisputed or have been determined by a final court judgement and shall assert a right of retention only on account of such claims.
- 6. Liability for Defects**
- 6.1 Save as otherwise provided hereinafter the Contractor's liability for defects and other liability shall be determined in accordance with the statutory provisions.
- 6.2 The obligation to inspect under Section 377 German Commercial Code [*HGB*] shall be limited to inspection for defects that come to light during the inspection of incoming goods under external appraisal, including the delivery documents, or during quality control by means of random checks. A notification of defects shall in any event be deemed timely, if it is given within ten calendar days of hand-over. Defects not discovered until later shall in any event be deemed reported in due time, if notification is given within ten calendar days of their discovery. DEA shall be entitled to warranty claims without limitation, even if, due to gross negligence, DEA remained unaware of a defect at the time of hand-over or formal acceptance.
- 6.3 The Contractor shall, on first request, indemnify DEA against all claims asserted by third parties due to defective delivery or performance or due to any other breach of duty by the Contractor, unless the Contractor proves that it is not responsible for the event that caused the damage.
- 6.4 The warranty period shall be extended by the period during which the defective performance cannot be used as intended.
- 6.5 By repairing or exchanging the delivery or service or parts thereof due to a defect reported by DEA, the Contractor shall acknowledge DEA's claim to supplementary performance resulting therefrom.
- 6.6 The Contractor hereby warrants to DEA that neither the delivery/service nor the use thereof in conformity with the contract shall infringe any patent rights, copyrights or other property rights of third parties. Notwithstanding the statutory claims, the Contractor shall indemnify DEA against all third-party claims resulting from any property right infringement for which the Contractor is at fault. The Contractor shall bear all expenditure and costs incurred upon DEA for avoiding or eliminating property right infringements.
- 7. Compliance**
- 7.1 DEA explicitly refers to the "DEA Code of Conduct" that can be read in German, English, Spanish and Arabic language on DEA's internet site at <http://www.dea-group.com/en/about-dea/compliance>. DEA also refers to the principles on human rights, labour relations, the environment and anti-corruption laid down under the Global Compact Initiative of the United Nations that can be read in German, English, Spanish and Arabic language on the internet site of the Global Compact at www.unglobalcompact.org. DEA expects the Contractor to support compliance with the regulations and principles expressed in the DEA Code of Conduct and with the principles of the Global Compact.
- 7.2 The Contractor represents and warrants that he and any person acting for the Contractor or on his behalf, in all actions and matters related to the performance of the obligations according to this agreement, have complied and do comply with all applicable laws, in particular all applicable anti-corruption laws and regulations (including, but not limited to, the United States Foreign Corrupt Practices Act and the United Kingdom Bribery Act). The Contractor also represents and warrants that he promptly reports to DEA's Chief Compliance Officer any promise or offer of, and any request or

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- demand for any financial or other advantage for or from the Contractor in connection with the performance of this agreement, if the promise or offer, request or demand, or the giving or receiving of the advantage would violate any anti-corruption laws or regulations.
- 7.3 A breach of this clause 7 entitles DEA to withdraw from the contract with immediate effect and to claim damages resulting from the breach. In addition, the Contractor shall indemnify, defend and hold DEA, its employees, directors and officers harmless from any and all liabilities, costs, and damages resulting from a breach of this clause 7.
- 8. Minimum Wage**
- 8.1 The Contractor hereby warrants
(i) to pay, in due time, to the employees deployed by it for performing the contractual obligations a remuneration at least in the sum of the applicable statutory or, insofar as higher, collectively agreed minimum wage and
(ii) to place every subcontractor and temporary employment agency contracted by it under an obligation to this effect and under an obligation to impose a corresponding obligation upon their subcontractors and temporary employment agencies. The Contractor shall, at DEA's request, prove to DEA that it has complied with the above obligation.
- 8.2 DEA shall be entitled to terminate the contract without prior notice, if the Contractor or any of its subcontractors or temporary employment agencies at any stage breaches duties arising from the Minimum Wage Act [*MiLoG*] or this Section 8 or the respective contractual obligation.
- 8.3 The Contractor shall compensate DEA for all loss arising at any stage in connection with any claim brought against DEA under Section 13 *MiLoG* by employees of the Contractor or its subcontractors or temporary employment agencies, and shall indemnify DEA on first request.
- 9. Subcontracting**
Any contracting of subcontractors for rendering the service as a whole or any part thereof, as well as any exchange of such subcontractors or any complete or partial transfer of the contractual rights and duties to third parties by the Contractor shall require DEA's prior written consent. The Contractor shall, also in these cases, remain fully responsible for the performance of the contractual obligations and for compliance with the duties transferred. The Contractor shall place all contracted subcontractors under an obligation commensurate with the duties incumbent upon the Contractor itself in relation to DEA, in particular under Sections 7, 8, 10 and 12.
- 10. Health and Safety at Work, Environmental Protection, Safety Rules**
- In respect of its deliveries and services, the Contractor shall comply with the recognised technical rules, the recognised safety regulations and the relevant provisions concerning accident prevention, environmental protection and health and safety at work. The Contractor hereby undertakes to work in a safety-orientated manner, taking account of DEA's safety guidelines, which can be viewed on DEA's website at <http://www.dea-group.com/en/about-dea/procurement>.
- 11. Rights of Use, Industrial Property Rights, Inventions**
- 11.1 Insofar as intellectual property is affected by use of the deliveries and services or arises in connection with the rendering of the service, the Contractor hereby grants DEA an irrevocable, perpetual without restriction as to the content and geographic location, transferrable, sublicensable right to use such intellectual property.
- 11.2 Insofar as inventions protectable as a patent or utility model arise in the course of the implementation of the contract, the Contractor hereby transfers to DEA the rights in connection with such invention, including the right to register the invention as a property right. Insofar as new services protectable by property rights arise in the course of the implementation of the contract, the Contractor hereby grants DEA therein the comprehensive, exclusive, irrevocable, perpetual without restriction as to the content and geographic location, transferrable and sublicensable right of use. DEA shall be entitled to exploit the work results in any manner, in particular to reproduce, rearrange and publish these. These transfers and this granting of rights shall be deemed compensated for by the agreed prices.
- 11.3 All work results produced and developed in connection with the implementation of the contract by the Contractor, including all data, documents, plans, drawings etc., shall, without a separate fee being paid, become DEA's exclusive property upon their creation and shall, no later than upon completion of the order, be handed over to DEA in the original and, at DEA's request, on data carriers; there shall be no right of retention in respect thereof.
- 12. Insurance**
During the entire term of the contract and thereafter until all applicable statutory limitation periods have expired, the Contractor shall, at its own expense, maintain sufficient business and environmental liability insurance (including insurance prescribed by law) against loss emanating from the Contractor and/or its authorised agents in terms of contractual and tortious liability, and against all risks arising from product liability. The Contractor

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shall prove to DEA the sums insured. The Contractor's contractual and statutory liability shall remain unaffected by the scope and level of the insurance cover.

13 Confidentiality, Data Protection, Advertising

- 13.1 The Contractor shall maintain absolute secrecy in respect of all business and trade secrets that come to its knowledge in connection with the implementation of the contract, as well as all other business and operational circumstances, information, work results and documents (hereinafter "Confidential Information") and shall not make this Confidential Information accessible to third parties without DEA's prior written consent. This duty to maintain secrecy shall not apply insofar as and when the Confidential Information is or becomes generally known, was already known to the Contractor prior to its disclosure by DEA or is made known to the Contractor by third parties without any breach of a non-disclosure obligation, or is realised or developed by the Contractor autonomously and independently of its disclosure by DEA or is required to be published on account of mandatory statutory provisions. The Contractor may pass on Confidential Information to its personnel, subcontractors, their personnel and/or any of its other authorised agents only insofar as the passing-on of this Confidential Information is absolutely essential for the performance of the contract, and the Contractor has beforehand placed these recipients under an obligation of secrecy commensurate with the requirements of this subsection 12.1. The Contractor shall not use Confidential Information for third-party purposes, and shall take suitable precautions to protect Confidential Information against unauthorised third-party access. If the Contractor becomes aware that Confidential Information has come into the possession of unauthorised third parties, it shall promptly notify DEA thereof.
- 13.2 The Contractor shall comply with the applicable data protection regulations including the General Data Protection Regulation and the Federal Data Protection Act. The Contractor shall ensure that DEA and its affiliates are entitled to process and use for the performance of the contract and any other agreed purpose, all personal data the Contractor and its representatives make available. The Contractor may process and use the personal data DEA and its representatives make available only for the agreed purposes and only in compliance with the applicable data protection regulations.
- 13.3 The business relations between DEA and the Contractor, and enquiries or purchase orders shall not be used for advertising purposes.

14. Choice of Law and Place of Jurisdiction

- 14.1 These GT&Cs of Purchase and all legal relations between DEA and the Contractor shall be subject solely to the laws of the Federal Republic of Germany, excluding the international uniform law, in particular the Uniform Sales Law of the UN Convention on Contracts for the International Sale of Goods (UN Sales Convention - CISG).
- 14.2 Hamburg shall be the exclusive place of jurisdiction for all disputes arising out of the contractual relationship, unless otherwise stipulated by mandatory law.

15. Final Provisions

If any individual provisions agreed upon separately are or become wholly or partly invalid, this shall not affect the validity of the other provisions. The Contractor and DEA shall replace such invalid provision with a valid provision that most closely reflects the economic purpose intended by them. This shall also apply in case of any omissions in the contract.