



Priority Conditions Completing the General Purchasing Conditions for the Supply of Goods and Services (GPC- Services)

of all companies of the BORSIG Group

1. GENERAL, FIELD OF APPLICATION

- 1.1 The following GPC-Services shall form an important integral part of all services, especially engineering, erection, commissioning services (jointly called "Services") to be contracted or contracted by us. These conditions shall with priority complete the General Purchasing Conditions for the Supply of Goods and Services (GPC). They shall be applied to relations with entrepreneurs, public law bodies and public special assets (Contractors).
- 1.2 By acceptance of these GPC- Services without objection, Contractor shall agree to their exclusive application to the service in question as well as possible follow-up business. If, for a certain service, special arrangements are made which deviate from these GPC-Services, these GPC-Services shall be subordinated and applied additionally.
- 1.3 The decisiveness of deviating General Terms and Conditions of Contractor is opposed hereby even for the event that they should be transmitted to us in letters of confirmation or otherwise.

2. SCOPE OF SUPPLIES AND SERVICES OF CONTRACTOR

- 2.1 Contractor shall provide a service according to the rules of the art and in a timely manner in conformity with the purchase order and the technical documentation provided by Purchaser even if necessary partial work should not be fully described in the purchase order. Transports of materials and persons within the plant or site shall be up to Contractor and included in the compensation.
- 2.2 Contractor shall undertake to carry out additional work and rework under the contract after written request of Purchaser. Contractor shall refrain from arrangements and agreements with the customer of Purchaser or other parties involved, and without the consent of Purchaser such arrangements and agreements shall not be binding for the latter.
- 2.3 Contractor shall obtain, at his own charge, the necessary knowledge of the site and the purpose of his service, especially regarding climatic and environmental conditions as well as the infrastructure. In good time before the start of his work Contractor shall check the site with regard to foundations, soil conditions, connections, site-markings, etc. and, in case of complaints, shall inform Purchaser without delay in writing.

3. WORK WITHIN PLANT AREA AND ON SITES

- 3.1 Purchaser shall be represented at site by his site manager or agent while permanent presence need not be given. The site manager of Purchaser shall have the right to issue instructions on the site. The presence of an erection management of Purchaser on the site shall not relieve Contractor from his responsibility for the work to be carried out by him. Contractor shall confer the necessary powers to his erection manager and safety officer. A change of the erection manager and/or safety officer shall require the prior written approval of Purchaser.
- 3.2 Should the site management of Purchaser hold site meetings, Contractor and/or his agent shall be obliged to take part in such meetings. Should minutes be drawn up during such meetings, the contents shall be deemed binding for Contractor unless he objects to it within five (5) working days after receipt of the minutes.
- 3.3 Contractor shall be obliged to coordinate the provision of his services with other parties involved if this should be necessary for the execution of all construction work or be requested by the erection management of Purchaser. Utilization of scaffolds, equipment, etc. by other parties involved may be requested against compensation. Arrangements for the simultaneous execution of work by various parties involved shall be agreed so that smooth performance of the contract will be warranted. Insofar claims of Contractor due to hindrance of work shall be excluded. Before the beginning of each work section, the erection manager of Contractor shall agree with the site manager of Purchaser whether the work shall be executed unchanged, i.e. in line with the contractual documents, or whether changes have occurred. Should Contractor refrain from said agreement before the respective start of his work, Contractor shall bear all costs resulting there from.
- 3.4 Contractor shall comply with all safety regulations and protection rules (e.g. for labor, environmental, fire, and explosion protection) applicable to the place of performance, especially to the site, and shall appoint a safety officer and employ him for the erection period.
- 3.5 Contractor shall leave the site broom-cleaned and remove, at his expense, all pollution and contamination caused in his area of responsibility.

4. MANPOWER ASSIGNED BY CONTRACTOR AND BEHAVIOR ON THE SITE

- 4.1 Before the start of work Contractor shall submit to the site manager of Purchaser at site a list with the names of all persons he wishes to employ in the plant/site area. Said list shall be constantly updated. On request, Contractor shall furnish proof that said persons are covered by the legally provided social insurance. For important cause, employees of Contractor and others contracted by the latter and/or their employees may be declined access to the plant/site area of Purchaser.
- 4.2 Contractor shall submit, on his behalf and on behalf of the persons mentioned under para 4.1 above, to the respective instructions and indications of Purchaser. He shall in particular see to it that his employees and those of his agents comply with the site regulations, the instructions of Purchaser for the maintenance of order and safety and submit to the usual checks on the site. All objects which will be brought to the site of Purchaser by Contractor and/or his agents, shall in advance be clearly identified by these with their names or distinctive company symbols. Such objects shall be subject to the inspection right of Purchaser. Before transport to and removal from the site a listing of such objects shall be presented for initialing to the site manager of Purchaser and shall be deposited with the latter.
- 4.3 Installation of site signs shall require prior approval.

5. ACCEPTANCE

- 5.1 Services of the type defined in these conditions shall require a qualitative and quantitative acceptance.
- 5.2 The acceptance date shall be fixed on the written request of Contractor. The acceptance result shall be laid down in an acceptance record. Acceptance may not take place nor be completed in a different form, in particular not by tests, so-called technical inspections, issue of certificates or other evidence, taking into use, oral statements, silence or by payments of Purchaser. The material costs of acceptance shall be borne by Contractor. Purchaser and Contractor shall bear the respective personnel acceptance charges incurred by themselves. All costs of failed acceptances shall be borne by Contractor alone.
- 5.3 If not stipulated otherwise, acceptance of the services is carried out as part of the acceptance of the entire plant by the end customer, as well as after the handover of the contractually agreed final documentation, whereas the payment becomes due independent of the acceptance according to the provisions of the contract, if the Contractor furnishes the agreed warranty bond to the Purchaser concurrent against payment.

Alternatively, the parties can stipulate that acceptance of the services is carried out independent of the acceptance of the entire plant by the end customer, during a separate acceptance test between the Purchaser and the Contractor, after successful completion of a possibly agreed trial operation and after the handover of the contractually agreed final documentation.

6. PRESCRIPTION OF CLAIMS FOR DEFICIENCIES

The warranty limitation period for the services of the Contractor shall begin with the date of the issue of the acceptance certificate. However, in case acceptance of the services of the Contractor is carried out as part of the acceptance of the entire plant by the end customer, the warranty limitation period for the services of the Contractor starts at the latest six (6) months after the complete performance of the contractually owed service and the written notice of completion by the Contractor to the Purchaser, or, if commissioning and a test run are stipulated, six (6) months after successful commissioning, successful trial run and notice of readiness for acceptance by the Contractor to the Purchaser.

7. TERMINATION

- 7.1 In the event of early termination of the contract by Purchaser, invoicing of the contractual supplies/services provided by Contractor by the time of termination shall exclusively be based on the contract. Regarding the portion of supplies or services not executed, Contractor shall receive a compensation for unavoidable, necessary costs. Lost profit shall not be compensated.
- 7.2 In cases of early termination of the contract through termination by Purchaser for important cause, only those supplies and services shall be compensated which were provided by Contractor by the time of termination and can



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be used by Purchaser for the intended purpose. Unperformed supplies and services shall not be compensated.

Any damage to be made good to Purchaser shall be considered in the invoice just as expenses incurred by Purchaser due to the fact that he performed, or caused third parties to perform, the supply/service not provided by Contractor. The same shall be applicable to any contract penalty due. By the time of final invoice Purchaser shall in addition be entitled to reimbursement of payments due to Contractor.

Important causes for early termination shall be in particular:

A delay of Contractor or deficiencies of work which seriously endanger the fulfillment of contract by Purchaser towards his contracting partners; suspension of payments/absolute insolvency of Contractor, filing of a petition in solvency over the assets of Contractor or in case of voluntary liquidation of Contractor. The provisions of the above sub-paras of para 7.2 shall also be applicable to such termination.

- 7.3 Purchaser shall be entitled to request Contractor at any time to suspend further performance of the contract (suspension). In such a case Contractor shall inform Purchaser in detail about the resulting consequences and offer Purchaser - in connection with the project - economically best possible modifications of the time schedule. Contractor shall not have any claims due to suspensions of up to two (2) months maximum.

8. QUALITY ASSURANCE

Contractor shall undertake, and cause his agents, to apply the principles of quality assurance according to the relevant standards ISO 9000 to ISO 9004 during the performance of his services and supplies.

9. SUB-CONTRACTING

Contractor shall be obliged to inform Purchaser in due time about intended sub-contracts.

10. DOCUMENTATION

The documentation which constitutes an important part of the scope of services of Contractor shall be submitted in the quantity and language given in the purchase order. If no data should be available, the documentation shall correspond in quantity, quality and timely respect to the concrete business transaction.