

## General Conditions for Service Contracts entered into by Blue Cube Germany Assets GmbH & Co. KG

### 1. Scope

- (1) The following General Conditions of the Contracting Body are equally valid for service contracts as for contracts dealing with work, labor and materials.
- (2) Insofar as the work involves substances to be supplied by the contractor (work, labor and materials contract) the contracting body's General Conditions of Purchase are valid supplementary unless the contracting body's present General Conditions for Service Contracts does not include any regulations.
- (3) The contractor accepts the validity of the contracting body's present General Conditions for Service Contracts, and agrees that they invalidate any of the contractor's additional or variant business conditions, even in the event of unconditional acceptance of services.
- (4) These General Conditions for Service Contracts apply also to all future business relations between the parties.

### 2. Service Items

- (1) Unless otherwise expressly stated, the contractor will supply all materials as well as provide any tools, equipment, auxiliary and needed substances and means of transportation that may be required in the contractual fulfillment of the work. Should he, his employees or contractual assistants make use even once of the contracting body's tools, equipment, auxiliary or needed substances or means of transportation, it is done at the contractor's own risk.
- (2) Not previously stipulated services, which are necessary for the performance of the contract and requested by the contracting body must be performed by the contractor, unless his company is not equipped to perform such services. Before performance of such a previously unstipulated service begins, an agreement concerning payment for said service must be reached.

### 3. Performance and Liability

- (1) The contractor is an independent entrepreneur. Before work begins, he appoints a representative to being able to contact during office hours for the contracting body. The contractor is incumbent to the exclusive right of giving instructions to his employees and contractual assistants and as well as exclusive liability for the performance of services, in compliance with the relevant contractual, statutory, official, trade association and technical rules and regulations. Any instructions made by the contracting body to the contractor's employees or contractual assistants can be disregarded, as long as no personal safety issues are involved.
- (2) The contractor must ensure that:
  - (a) the contractor himself, his employees and contractual assistants comply with the contracting body's on-site safety regulations;
  - (b) all personnel hired are able to understand and follow verbal and written instructions and information in German, particularly any instructions or information pertaining to safety issues;
  - (c) the legitimate interests of the contracting body are taken into account when selecting hired personnel. In

particular, the contractor should only hire those employees and contractual assistants who possess the necessary contract-related specialized knowledge, professional experience and reliability.

### 4. Remuneration

- (1) Remuneration ensues:
  - (a) in contracts where calculations are in accordance with the stipulated lists of materials, amount of spent working-units, unit prices and settlement rates;
  - (b) in contracts where costs for time / materials are in accordance with the stipulated hourly rates and/or unit prices;
  - (c) in contracts where flat rates are in accordance with the stipulated flat rates.
- (2) When the contractor does work without a corresponding contract or arbitrarily deviates from the contract, such work will not be remunerated unless the contracting body subsequently recognizes it. Upon request, the contractor must dispose of such work at his own expense within a given time period. He is furthermore liable for all damages to the contracting body that may result from such work. German Civil Code regulations pertaining to business dealings without a contract (§§ 677 ff.) are not affected.
- (3) At the contracting body's option, all verifiable invoices are payable either fourteen (14) days after receipt with a 3% discount off the gross invoice amount, or 30 days net. The runtime for the term of payments begins with completion and acceptance. All payments are done under reserve of inadequate supply or imperfect services.

The contracting body reserves the right to stop payment in the event of inadequate supplies or services. Insofar as the deficiency has already been noticed by the invoice due date, the contracting body may withhold payment proportionally. Otherwise the contracting body is entitled to all its legal rights with respect to settlement and liens.

### 5. Transfer, Settlement and Assertion of Contractor's Liens

- (1) The contractor's contractually incurred claims may only be transferred to a third party with the written consent of the contracting body. Third-party collection is excluded.
- (2) Any outstanding accounts arising from the business relation that are charged to the contracting body must be based on a claim that is legally binding or expressly recognized by the contracting body. The same is true for the contractor's assertion of his liens.

### 6. Contracting Body's Right of Access and Inspection

In order to oversee contractual preparation and execution of services, the contracting body may have access to the relevant workstations, shop floors and storage areas. The contractor must provide opportunities for safe access and inspection. Drawings, other design-relation documentation and quality control results must be made available to the contracting body upon request, and the requisite information given, unless the contractor's doing so would disclose restricted business information. If the contractor does not construct or build

in all parts, the contractual body must be informed about the actual place of production, so that the right of inspection may be exercised. The inspection in no way constitutes acceptance or approval.

### 7. Third-Party Involvement

- (1) In order to ensure a coordinated effort, the contractor must work closely with both the contracting body and any third parties involved to accurately adjust the work with them. The contractor must neither engage in nor permit any activity that will prevent the performance of other work done through the contracting body or the third party.
- (2) Before and during performance of the work, the contractor must inspect the work done by the contracting body or the third party to ascertain whether his (i.e., the contractor's) services have been or would be influenced by said work. If the contractor should thereby notice any defects, he must inform the contracting body immediately in writing and only commence or resume work when the defects have been remedied and when he (the contractor) has received written authorization from the contracting body to commence or resume work.
- (3) Any culpable breach of this obligation by the contractor renders him liable for the costs of remedial action and any and all consequent damages.

### 8. Work-related Documents

- (1) Where stipulated, the contracting body must make copies of all drawings, specifications and any other documentation required to complete the work (work-related documents) available free of charge to the contractor. The contractor must keep copies of all work-related documents on-site for inspection by the contracting body.
- (2) If there is any divergence between work-related documents or if there are any noticeable discrepancies, the contractor must inform the contracting body immediately in writing. The contractor is not permitted to begin work until the work-related documentation is complete, free of defects, has been approved by the contracting body, and all discrepancies therein have been clarified. Approval of work-related documentation by the contracting body does not release the contractor from responsibility for the accuracy of any documents he generates or adapts.

### 9. Materials

All materials or equipment parts used in the completion of the work must be new, and conform to the stipulated level of quality. The contractor must have the contracting body's written authorization to proceed with replacement of contractually stipulated materials, apparatuses or procedures. At the contracting body's request, material samples and inspection certificates must be presented for approval.

### 10. Trial Implementation and Acceptance

- (1) Before or after the contractor, in conjunction with the contracting body, has issued a notice of completion, the contracting body is entitled to use and/or take possession of the work or parts thereof on a trial basis. Acquisition or implementation of this nature in no way affects either the contractor's contractual obligations or his liability. Insofar as the acquisition or implementation period does not exceed the time deemed suitable for the

comprehensive trial, neither does said acquisition or implementation constitute full or partial approval, endorsement of departure from stipulated deadlines or evidence of such approval or endorsement. Damages to part of the work resulting from a trial acquisition or implementation for which the contracting body cannot be held responsible will be debited to the contractor.

- (2) Upon completion, if the contractor should request acceptance in writing, the contracting body must implement acceptance within a 6-week period.
- (3) Partial acceptance is not permitted. Acceptance of the full work shall prevail.
- (4) Should inspections carried out or arranged by the contracting body bring to light any defects; the contractor will bear the costs of the inspections.

### 11. Warranties

- (1) The contractor undertakes to guarantee that, at time of acceptance, his services comply with the characteristics laid down in the contract, correspond to recognized technical regulations and are free of any imperfections that would nullify or reduce their value or fitness for ordinary or contractually stipulated usage.
- (2) The contractor must remedy defects in a professional manner at his own expense. He must remove defective material at his own expense and replace it with material that is free of defects.
- (3) If the contractor does not receive a request for remedial action within the period allotted and reasonably determined by the contracting body, the contracting body can have the defects remedied at the contractor's expense.
- (4) Warranty claims come under the statute of limitations 2 years after acceptance for movables and on-site work and 5 years after acceptance for buildings.
- (5) The contracting body retains all other legal rights to warranty. The contractor is liable to the full extent of the law for defects in materials and articles of equipment used and also for defects in the plans and design documents he has generated or adapted.

### 12. Right of Property

- (1) Completed installations or parts thereof, or those still under construction, as well as all materials already delivered and those stored at the building site that are to become part of the work, become the property of the contracting body no later than at time of payment.
- (2) Should articles belonging to the contracting body be processed, mixed up or joined together with other articles, the contracting body acquires joint ownership of these new items, in a ratio of the former articles' market value to the latter's.

### 13. Exemption

- (1) The contractor releases the contracting body from all third-party recourses that may validate rights to the service, to a part thereof or to the utilized substances.
- (2) The contractor keeps the contracting body's property free from any claims, liens or encumbrances for third-party benefit (barring subcontractors) that may arise in connection with the performance of services.

- (3) The contractor will immediately inform the contracting body regarding any such recourses or when he hears of a third party laying claim to such a right.

#### **14. Contractor Liability for Bodily Injury and Property Damage**

In compliance with legal regulations, the contractor is liable for bodily injury and property damage occasioned by himself, his employees or contractual assistants.

#### **15. Insurance Coverage**

- (1) The contractor must be covered, at his own expense, by commercial general and environmental liability insurance.
- (2) The contractor's liability insurance must provide the following annual minimum coverage:

5,000,000 EURO for bodily injury and material damage  
5,000,000 EURO for environmental damage  
500,000 EURO for financial losses

For every event of damage or loss involving bodily injury and/or material damage, there must be a minimum guaranteed coverage of 1,500,000 EURO.

- (3) The contractor must cover all registered vehicles with an appropriate third party liability motor insurance.

The contractor is responsible for insuring all apparatuses, construction site facilities, construction equipment, ancillary structures and materials.

- (4) Before commencement of work, the contractor must present the contracting body with corresponding confirmation of underwriter coverage. The contracting body must be informed of any change in underwriter or alterations to the coverage.

#### **16. Subcontractors**

- (1) The contractor may only employ subcontractors with the contracting body's written authorization. When contracting-out work, the contractor must ensure that these conditions for work and services also apply thereto. This does not imply a contractual relation between the contracting body and the subcontractor.
- (2) Before commencement of work, the contractor must provide the contracting body with a written list of the designated subcontractors.

#### **17. Authorizations and Licenses**

- (1) The contractor must assume the costs of supplying all rights regarding usage and execution as well as authorizations and licenses required by the contractually stipulated services, with the exception of those that the work-related documents specifically state must be supplied by the contracting body. Where necessary, the contractor ensures that subcontractors also have the corresponding rights, authorizations and licenses at their disposal. The contractor declares the executed service to be free from third-party claims.
- (2) The contractor pledges to transfer all these rights, authorizations and licenses to the contracting body, insofar as this is required by the utilization of the completed work.
- (3) The contractor releases the contracting body from all third-party recourses resulting from neglect of one of

these duties. This also includes legal costs as well as any incidental building conversion and reconstruction work.

#### **18. Compliance with Legal Provisions**

The contractor must obey all laws, regulations and other provisions that are to be observed in connection with his service and ensure compliance by his employees and contractual assistants, and also any possible subcontractors, as well as their employees and contractual assistants. The contractor releases the contracting body from any kind of recourse based on alleged or proven violation of such provisions. This obligation to release the contracting body no longer exists if, after reviewing the work-related documents delivered to him by the aforementioned body, the contractor provides written notification to the contracting body of the possible violation of such a provision.

#### **19. Provision of Security**

- (1) At the contracting body's request, the contractor must provide security in due kind and amount, such as would secure the contractual performance of services and the warranty pertaining to them.
- (2) The use of payment bonds as security presupposes that the contracting body has acknowledged the fitness of the guarantors. The certificate of bond must be delivered in writing, with any objection to the preliminary proceedings being waived (§ 771 German Civil Code); it must not be limited to a specific period and must be written out according to the contracting body's instructions.

#### **20. Termination of Contract**

- (1) In accordance with § 649 of the German Civil Code, the contracting body retains the right to terminate the contract.
- (2) The contracting body can terminate the contract when the contractor suspends payment, or when settlement or bankruptcy proceedings are proposed or initiated against the contractor. The contracting body can claim damages for non-performance of the remaining services.
- (3) The contracting body can terminate the contract:
- (a) when any deficiencies that are noticed during performance of services are not remedied within a suitable period of time, to be determined by the contracting body; or
  - (b) when the contractor delays commencement of work, defaults on work completion or else when labor, equipment, scaffolding, substances or components are so inadequate as to manifestly prevent him from meeting his deadline, and when the contractor does not immediately take appropriate corrective measures at the contracting body's request; or
  - (c) when the contractor violates another fundamental contractual obligation and does not redress said violation within a suitable period of time, to be determined by the contracting body; or
  - (d) when the contractor was awarded the contract on an informal basis, constituting an undue restriction on competition.
- (4) If the contracting body should become aware of circumstances that cast reasonable doubt on the contractor's ability to provide services in technically

sound and completely safe conditions, he is entitled to withdraw from the still-outstanding supplies or services outlined in the contract without having to pay compensation.

- (5) In the event of termination, as outlined in section 3, the contracting body is entitled to have the work required by the contractual provision of services performed by a third party at the contractor's expense. Irrespective of this, in the event of such a termination, the contractor must pay compensation for all damages resulting there from and from non-performance. In the event of termination, as outlined in section 3, until work completion, the contractor can lay no claim to further payments. If the reasons that led the contracting body to terminate the contract also mean he has no further interest in completing the work, the contracting body is also entitled to forgo further fulfillment and demand compensation for non-performance.

#### **21. Acts of God**

Acts of God, labor disputes, riots or other circumstances that interrupt operations and for which the contracting body is not answerable free it for the duration and extent of the attendant repercussions from obligatory acceptance and liability for damages.

#### **22. Non-disclosure**

Documentation and information of any kind which the contracting body places at the contractor's disposal, or for which he reimburses him, may not be passed on to a third party or used for the contractor's own purposes. The contractor must abide by nondisclosure with respect to the aforementioned items. Also, he must immediately return them, free from defect, not withholding copies, individual pieces, etc. Otherwise he must destroy them at the contracting body's request, as soon as the work order has been processed, when it becomes apparent that the work order will not be conferred, or when client-contractor relations are terminated. The nondisclosure obligation continues to be in effect following settlement of this contract. It expires if and to the extent that the information contained in the ceded documentation becomes common knowledge.

#### **23. Contracting Body's Liability**

The contracting body is only liable for intentional or grossly negligent actions on the part of his organs or executives. He only accepts liability for intentional or grossly negligent actions on the part of auxiliary persons performing insofar as they have contravened a fundamental contractual obligation.

#### **24. Place of Execution, Place of Jurisdiction and Applicable Law**

Unless the purchase order states otherwise, the place of execution for all supplies or services and payments is the Stade plant in Germany.

The place of jurisdiction for all trades people is Stade, Germany. The contracting body is also entitled to bring the contractor before the courts being competent for the district in which the place of his business is located.

This contract and its interpretation are subject to German law with the exception of the regulations pertaining to Private International Law.

#### **25. Written Terms**

Any changes or additions to this contract must be made in writing. This applies to the clause of Written Terms as well.

#### **26. Data Storage**

The contracting body and all other Olin corporate organizations are entitled to store and process any data obtained in connection with this contract in accordance with the federal Data Protection Act.

#### **27. Safeguard**

Should any of the aforementioned provisions be deemed invalid or unenforceable, this in no way affects the validity or enforceability of the remaining provisions. An invalid or unenforceable provision will be replaced by a new provision, providing a suitable legal framework that enables the contracting parties to attain their economic objective.

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