

General Terms of Purchasing of Raffinerie Heide GmbH – Employment Contract

These General Terms of Purchasing for Services (AEBD) shall apply exclusively to contracts for work and labour.

1. Conclusion of contract

(1) The contract is concluded subject to the exclusive applicability of our AEBD and notably regardless of whether you perform the services personally or engage third parties for the performance.

(2) The AEBD shall also apply to all future contracts of the same kind, without requiring us to refer to them in each individual case. Changes to our AEBD shall apply as of the date of their introduction or in any case as of notice being given in text form.

(3) Any opposing agreements or such that deviate from our AEBD shall apply only if we have expressly agreed in writing to their applicability. This requirement for agreement applies in any case, for example, also if we unconditionally accept a service in awareness of your General Terms and Conditions.

(4) Exclusively orders placed in writing are legally binding. The subsequent written confirmation is required for the validity of orders that were placed verbally or by telephone.

(5) Compensation or reimbursements for visits or the drafting of quotes, projects etc. will not be granted or reimbursed by us.

2. Scope of service and execution

(1) The services shall be determined according to their kind and scope by the contract and the following parts of the contract. In the case of discrepancies, the priority and order as follows shall apply:

- our offer,
- these General Terms of Purchasing – Contract for Services (AEBD),
- our Refinery Policies,
- our General Terms of Purchasing – Purchase Agreement (AEBK),
- our General Terms of Purchasing – Contract for Work and Labour (AEBW),
- the generally applicable guidelines and engineering standards, as well as the guidelines to which reference is made in the documents that are material to the conclusion of the contract,
- your tender

(2) You shall perform the services and the work assigned to you in your own responsibility. You have the exclusive right to give instructions to your employees. You are obligated to supervise the employees working for you to the required extent.

(3) You are not permitted to delegate the contract to third parties without our prior agreement. If you engage third parties, these will be deemed your vicarious agents. In the event that services are delegated to third parties, you will be obligated to ensure that the contract with the third party is arranged in such a way, so that

the observation of the contractual agreements concluded between you and us is ensured.

(4) During the performance of the contract, you and your employees are obligated to observe our Refinery Policies (available at:

http://www.heider refinery.com/fileadmin/Presse/Downloads/Raffinerievorschriften_Partnerfirmen.pdf), all of our relevant work safety policies, safety standards, and safety policies, the generally accepted safety and occupational medical rules including the accident prevention regulations applicable to you and/or us in their respectively valid versions. Furthermore, the moral values and principles of ethical conduct regarding responsibility that are presented on our website www.heider refinery.com (in particular: <http://www.heider refinery.com/de/verantwortung/sicherheit/>) and the Code of Conduct of Raffinerie Heide GmbH must be observed. The managers (supervisors) engaged for the implementation the work are competent and responsible for the thorough instruction of your employees. Insofar as you engage third parties, you must ensure that the aforementioned requirements are likewise adhered to and that the work conditions comply with legal standards.

(5) You assure that neither you nor any external employees assigned by you employ any workers without proper employment papers. You undertake to always keep copies of the employment papers (social insurance cards, employment permit, residence permit) on hand. We have the right to check the presence of the employment papers at any time.

3. Performance period/delay

(1) The dates specified by us in the order are binding. Decisive for the timeliness of the service is the performance of the contractual service by the agreed deadline at the agreed place of performance. If you realise that an agreed deadline cannot be kept for any reasons whatsoever, you shall inform us in writing thereof without delay, specifying the reasons and expected duration of the delay.

(2) Our rights shall be determined according to the legal regulations in the event that you do not perform your service correctly or if you are delayed with the service performance. The acceptance of a delayed service performance shall not constitute a waiver of compensation claims.

(3) If you are delayed with the service performance (Sec. 286 BGB [German Civil Code]), we can demand a contract penalty in the amount of 0.1% of the net contract total per calendar day, whereas no more than 5% of the net contract total. It shall be at your discretion to prove that missing the deadline was outside of your responsibility. We reserve asserting further rights including damage compensation. The contract penalty, however, shall be deducted from damage

compensation claims. A contract penalty will be claimed at the latest in the final payment in case the delayed service is accepted.

4. Compensation

(1) The agreed prices are fixed prices. Price changes are excluded. All expenses necessary for the complete and proper performance of the services must be included in the calculation of the prices. All secondary services, all internal costs and all external costs that are incurred by you in the context of your services shall be settled by the agreed compensation.

(2) You are obligated to seek information prior to submitting a tender about the local conditions, the characteristics of existing structures, the premises, technical infrastructure, software used, and all further questions relevant for the performance of the contract. No objections or subsequent requests will be accepted that are made at a later point in result of a lack of familiarity with the relevant facts.

(3) Hourly wage work will be compensated only if it has been expressly contracted by us prior to the execution. The timesheets for hourly wage work must specify the work including the date, precise place of performance, name and qualification of the worker, name of the person initiating the work, working/driving hours, used equipment and consumed materials. Signing off on timesheets is merely deemed an acknowledgement with regard to the kind and scope of the performance. We reserve reviewing whether these are services that exceed the contractually owed target and if the services are appropriate.

5. Changed/additional services

(1) If we instruct changes of services or order services not provided for in the contract, you will be obligated to inform us in writing of the resulting additional costs within due time before the execution and on the basis of the updated contract calculation. The calculation of the new prices including the calculation bases of the contractually agreed prices shall be submitted to us for examination and review, and the required information shall be provided to us. The notice must be given in the normal case at least 10 days before the planned start of execution.

(2) You may not execute the work for as long as no written agreement has been made on the price changes due to costs and schedules. In the interest of an unobstructed execution, however, we can instruct that you perform the changed or additional services even if no written agreement on the costs and effects on the schedule has been concluded yet, in particular if we have acknowledged the claims to additional compensation and extension of deadlines on the merits – whereas subject to review of the amount – and/or the if the performance of the service is not to be postponed.

(3) You are not entitled to a claim of additional compensation for changed and/or additional services if the additional costs have not been notified to us prior to the execution or if you perform changed and/or additional services before a written agreement has been concluded and respectively before we have instructed their immediate performance. An exception

shall apply only if the immediate performance of the service is necessarily required for technical or economic reasons or the notification of the additional costs was omitted at no fault or if we culpably omitted agreeing on the price.

6. Invoicing and payment

(1) Invoices shall be submitted to us in two official copies including all related documents and data in a proper form, whereas the second copy shall be marked visibly as copy.

(2) Payment shall be made in the commercially customary manner and notably without deductions (strictly net) by the 30th day of the following month, calculated from the complete performance of the service and receipt of a correct invoice.

(3) We will not owe any default interest. The legal regulations apply to default on payment.

7. Term of contract and cancellation

(1) We have the right at any time to ordinary cancellation of a contract for which no fixed term was agreed. In that case, we will pay for the services you have performed up to the termination of the contract and the costs verifiably incurred by you in addition and directly in result of the cancellation, less saved expenses.

(2) The right to cancellation for good cause remains unaffected. Good cause is constituted for us in particular, but not exclusively, if:

- you breach your contractual duties in spite of warning and expiration of a grace period set in the warning;
- you suspend your payments (to third parties);
- an insolvency procedure (Sec. 14 and Sec. 15 InsO [Insolvency Code]) or a comparable legal proceeding over your assets is opened and the insolvency administrator refuses to enter into the contract or if the opening of such procedure is rejected for a lack of assets.

(3) If extraordinary cancellation of the contractual relationship is declared, the services performed up to this point shall only be settled at the contractual prices to the extent, as we can utilise the services as intended. The damage caused shall be considered in the settlement.

8. Product and environmental liability

If we are claimed against for violation of relevant safety rules, environmental regulations or based on product liability provisions because of the deficiency of the service, which is fully or partly caused by your service performance, you shall indemnify us from all claims arising from this. Further statutory claims remain unaffected.

9. Confidentiality and reservation of title

(1) We reserve property and copyrights to plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents shall be used exclusively for the contractual service and be returned to us upon the end of the contract. The documents shall be kept secret from third parties and notably also after the termination of the contract. The confidentiality obligation shall expire only if and insofar

as the knowledge contained in the provided documents has become generally known.

(2) The foregoing provision shall apply accordingly for substances and materials (e.g. software, finished and semi-finished products) as well as tools, templates, samples and other items that we make available to you for production. Items of this kind shall be retained by you separately at your cost – for as long as they are not processed – and be insured to appropriate extent for destruction and loss.

10. Assignment, offsetting

(1) You are not permitted without our prior approval, which shall not be refused unfairly, to assign your claims against us to another party. This shall not apply to monetary claims.

(2) You may only offset claims against uncontested claims, or such that have been found valid by final and absolute judgement, or against claims according to Sec. 320 BGB resulting from this contractual relationship and assert only for such claims a right of withholding.

(3) We are entitled to offset claims that are in the entitlement of one of our affiliates in the definition of the Stock Companies Act (cf. Sec. 15 AktG) against your claims.

11. Industrial property rights and copyrights

(1) You guarantee that your service performance does not infringe on any industrial property rights of third parties and in particular not on any copyrights, patents, utility patents or license rights. You shall indemnify us and our customers from claims of third parties based on property rights.

(2) The results of your service performance, in particular any documents, drawings, drafts, computer programs, files, etc. created according to special requirements, shall transfer to our ownership upon payment of the compensation. We shall be entitled to the limited, transferable, sublicensable right without limitation in terms of content and time to use the results of your service performance in any optional way, reproduce, modify them and make them publicly accessible, publish or exploit them. You shall be obligated to your employees, freelance staff or other third parties to ensure that the rights to use the results of your services are in our exclusive entitlement without limitation of time.

12. Final provisions

These AEBD and the contractual relationships established on this basis are governed by the law of the Federal Republic of Germany in exclusion of international harmonised law, in specific the UN Convention on Contracts for the International Sale of Goods. Should individual parts of these AEBD be or become invalid or impracticable, the validity for the rest will not be affected thereby. Instead of the invalid or impracticable provision, the Parties shall agree on a provision that comes closest to the invalid or impracticable agreement within the legally permissible meaning and ensures its intended economic success. The foregoing agreements shall apply accordingly if omissions in the provisions of the contractual

relationship were to become apparent in retrospect. The place of jurisdiction – to the legally permissible extent – is Hamburg.