

## General Terms of Order of Nyrstar Stolberg GmbH

### 1. General, Scope

- a) Our terms and conditions of order ("Terms") shall apply in particular to agreed work and services as well as to service relationships of any other kind. Our Terms shall apply exclusively; we shall not recognize any terms and conditions of the contractor that conflict with or deviate from our terms and conditions of order, unless we have expressly agreed to their validity in writing. Our Terms shall also apply if we accept the Contractor's performance without reservation in the knowledge that the Contractor's terms and conditions conflict with or deviate from our Terms.
- b) All agreements made between us and the Contractor for the purpose of executing this contract shall be set out in writing in this contract.
- c) Our Terms also apply to the future business with Contractor.
- d) Individual agreements made with the Contractor in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these Terms and Conditions. A written contract or our written confirmation shall be authoritative for the content of such agreements.
- e) Our Terms shall only apply to companies pursuant to Section 310 (1) of the German Civil Code (BGB).
- f) For contracts for work and services involving construction work, the VOB/B shall apply in addition. In addition, clause 6 of these Terms shall apply.

### 2. Price

- a) The price confirmed by us is binding and includes delivery "free domicile" including packaging.
- b) All prices are fixed prices and include the complete completion of the work in careful, workmanlike execution. Any expected increases in wages and material prices are generally taken into account in the prices. The provision of all necessary tools, equipment, etc. is included in the prices, unless otherwise agreed. The statutory sales tax is not included in the price.

### 3. Terms of payment

- a) Payments shall be made within 30 days after performance or completion of the work (acceptance) and receipt of the invoice. If we make payment within 14 calendar days, the Contractor shall grant us a 3% discount on the net amount of the invoice. If we make payment within 21 calendar days, the Contractor shall grant us a 2% discount on the net amount of the invoice. In all other respects, the invoicing and execution of work performances shall be carried out in accordance with the provisions of the VOB (German Construction Contract Procedures) on the basis of a limitation period of 4 years.
- b) In the event of a notice of defects, we shall have the right of retention until the payment made by us in this respect has been reimbursed by the Contractor.
- c) The Contractor shall invoice its services on the basis of an auditable invoice. Unless otherwise agreed in individual contracts, no payments on account shall be made.
- d) We shall be entitled to rights of set-off and retention to the extent provided by law.

### 4. Performance

- a) Place of performance is our plant in Stolberg. If no time of performance is specified, performance shall take place immediately.
- b) Deliveries are to be cleared by the Contractor. Deliveries by cart or messenger are to be made by 2 p.m. at the latest. The material required for the execution of an order, including work equipment, shall be delivered in such a way that it can be inspected by us in terms of pieces or weight.
- c) The dimensions (masses) specified by us are based on estimates. In case of additional work, agreed unit prices will not be changed. The measurement is carried out together with our construction company.

### 5. Delay

- a) In the event of a delay in performance, we shall be entitled, after setting a period of grace, to make other arrangements for the contractual performance. Any additional costs incurred shall be borne by the Contractor.
- b) We are entitled to claim a contractual penalty in addition to performance. This penalty shall amount to 0.25% of the order value per full week, but not more than 5% of the total order value. We undertake to declare the reservation of the contractual penalty to the Contractor within 10 working days, calculated from acceptance of the delayed performance. Further claims and rights remain reserved. The Contractor reserves the right to prove that we have incurred no damage at all or only significantly less damage.

### 6. Obligations of Contractor

- a) The applicable accident prevention and occupational health and safety regulations, including any internal company regulations, must be strictly observed by the Contractor, paying particular attention to local conditions. In this connection, we refer to the observance of our leaflet for external companies and external employees. The Contractor shall insure the persons commissioned by him to carry out the assigned work against all risks that may arise during this work.
- b) As a precautionary measure, we would like to point out that exposure to lead-containing substances and other hazardous substances is possible in specially designated areas of the plant ("lead area"). The Contractor may only deploy personnel on our plant premises to carry out work/services in the lead area who have taken part in the mandatory preventive medical check-up to be arranged by the Contractor prior to the start of the activity within the meaning of § 4 of the Ordinance on Preventive Occupational Medicine (Arb-MedVV). The Contractor shall confirm to us in writing the participation of its employees in the corresponding occupational medical precaution prior to commencement of work. The Contractor shall bear the costs of the occupational medical precaution.
- c) Insofar as a notification of construction and assembly work to the responsible employers' liability insurance association is prescribed, the Contractor shall submit a copy thereof to us. In addition, a copy of the assembly instructions for the construction site supervisor on measures for stability and the prevention of accidents at work during assembly work shall be submitted to us prior to commencement of the work, insofar as this is prescribed.

- d) The Contractor undertakes to notify us immediately, without being asked, of any accident that may occur on our factory premises or on the way to and from work and to file an accident report. The same applies in the event of occupational illness in connection with work on the factory premises.
- e) The persons employed by the Contractor are subject to our domiciliary rights on the plant premises. They shall in each case observe the applicable safety and order regulations, including any internal company regulations, and submit to the general gate controls carried out to prevent theft.
- f) If the Contractor is commissioned within the scope of a construction project, he is also commissioned by us in accordance with § 4 of the Construction Site Ordinance (Baustellenverordnung) with the measures in accordance with § 2 and § 3 of the Construction Site Ordinance on his own responsibility, unless an agreement to the contrary has been made.
- g) The Contractor shall be responsible for monitoring and securing the construction site, in particular against unauthorized access, as well as for guarding the materials and scaffolding stored there, including the materials already installed, and shall also bear the risk of loss for installed materials until completion and proper acceptance of the work for surplus materials and scaffolding until the construction site is cleared. The Contractor shall also be responsible for keeping the construction site clean and for properly clearing and cleaning it after completion of the work.
- h) The Contractor shall provide all services owed by it with its own personnel. The use of external personnel must be reported. The work shall be performed by sufficiently qualified skilled personnel.
- i) The Contractor shall constantly review the service to be provided for improvement possibilities, take into account new findings and point out to us the corresponding possibilities and possible necessities.

#### **7. Legal Status of Contractor**

The Contractor performs his activities as a self-employed person for a number of other companies. He is completely free with regard to the manner in which he performs his services. He is not subject to our instructions and is in no way integrated into our company organization. The contractor is also completely free to determine the place of work and the working hours, unless the order requires a specific execution (e.g. working hours) at our premises.

#### **8. Acceptance**

In the case of work performances, formal acceptance shall always take place after notification of completion. A joint written record of the acceptance shall be drawn up, showing the acceptance and any defects to be remedied. If we refuse acceptance, we shall inform the Contractor in writing of the reasons for the refusal of acceptance.

#### **9. Defects, Warranty, Liability**

- a) We shall be entitled to the statutory warranty claims in full; irrespective of this, we shall be entitled to demand that the Contractor, at our discretion, rectify the defect or provide a replacement. In this case, the Contractor shall be obliged to bear all expenses necessary for the purpose of rectification of defects or replacement delivery, including any installation and removal costs. The right to claim damages, in particular for non-performance, is expressly reserved. The statutory warranty periods (§ 634a BGB) shall apply unless the VOB/B applies (cf. Section 1 letter f).
- b) The Contractor shall be liable to us and to third parties for all property damage, personal injury and financial loss as well as for the costs of an official claim due to environmental damage caused by his own fault and by the fault of his vicarious agents and assistants in connection with the execution of the order. The Contractor shall adequately insure itself against the above risks at its own expense and shall provide evidence of the existence of sufficient insurance upon request.
- c) Our liability for damages caused to the Contractor or its vicarious agents by our legal representatives or vicarious agents shall be limited to intent and gross negligence, except in cases of injury to body, life or health, liability under the Product Liability Act and breach of material contractual obligations ("cardinal obligations"). An essential contractual obligation is an obligation the fulfillment of which characterizes the contract and on which the Contractor may rely. In the event of culpable breach of cardinal obligations, we shall only be liable for the foreseeable damage typical for the contract, unless such damage was caused intentionally or by gross negligence.

#### **10. Retention of Title**

If, in connection with agreed work or services or other performances, materials, tools, objects and special packaging are provided by us to the Contractor or, in particular, are handed over for repair or modification, we shall retain title thereto.

#### **11. Termination**

- a) We are entitled to termination rights to the extent provided by law. In addition, we are entitled to terminate the contract without notice, if necessary, if the obligations listed under item 6 are culpably violated.
- b) Declarations of termination must be made in writing by both parties. The application of § 625 BGB is excluded. In the event of termination, the Contractor's remuneration shall be governed by the statutory provisions.

#### **12. Confidentiality**

- a) The Contractor shall use all information of which it becomes aware during its work for us, be it personal or factual, be it business or trade secrets, be it processes of which it becomes aware or other business or operational facts, only within the scope of our order. The Contractor must obtain our consent before passing on or disclosing such information.
- b) The Contractor undertakes to pay us a contractual penalty in the amount of 5% of the order sum for each case of infringement of the above agreed confidentiality obligation to the exclusion of the continuation connection. We reserve the right to prove higher damages. The Contractor shall have the right to prove that we have incurred no damage at all or only significantly less damage.

#### **13. Compliance with corporate social responsibility (CSR) and environmental protection**

- a) Contractor undertakes to comply with internationally generally accepted CSR standards and conventions regarding the protection of human rights, safe and healthy working conditions, and abolition of child labour. In this respect, Contractor shall (i) support and respect the protection of internationally

recognized human rights; (ii) uphold the elimination of all forms of forced and compulsory labour; (iii) uphold the effective abolition of child labour; (vi) uphold at least a wage level and working hours according to legal minimum standard; (vii) provide a safe work environment for employees and contractors.

- b) Contractor undertakes, at our reasonable request, to participate in audits within the framework of our internal audit program with respect to compliance with the conventions and standards referred to in this clause. In case of such an audit, Contractor shall without undue delay provide the documentation reasonably requested and otherwise reasonably cooperate in connection thereto. Contractor shall bear its own costs in connection with any such audit and shall maintain strict confidentiality of all the information provided to it for such audit and any of its findings.
- c) In addition, Contractor undertakes to comply with the relevant statutory regulations on environmental protection and to work to reduce the negative effects on people and the environment in its activities. For this purpose, Contractor shall set up and further develop a suitable management system within the scope of his possibilities.
- d) Furthermore, Contractor will comply with the principles of the UN Global Compact Initiative.

#### **14. Energy Efficiency**

Due to our certification according to DIN ISO 50001: 2011, we also want to commit our business partners to implement the energy efficiency in their business processes. Within the framework of the agreed deliveries, the supplier must implement the most energy efficient execution of its plants, equipment and processes. Electrical, electronic and electro-mechanical components must be labeled according to the latest energy efficiency standards. If the supplier has more energy-efficient alternatives to the products we request, we must be informed about them.

#### **15. Advertising Purposes**

Mention of our company name for advertising purposes in business letters, customer lists, advertising brochures and other publications is only permitted with our prior written consent.

#### **16. Rights of Use**

The Contractor shall transfer to us all rights of use, ancillary copyrights and other industrial property rights to all creative services rendered, such as agency services, which are not limited in terms of content, location or time, exclusively for every type of use currently known, for comprehensive exploitation. This transfer of rights also includes the right of modification, the right of transfer to third parties and all exploitation rights.

#### **17. Jurisdiction and Applicable Law**

Jurisdiction for all legal disputes is Aachen. The contract is subject to German law excluding the UN Sales Convention (CISG).