

1. Definitions

In these General Purchasing Conditions, the following terms are defined as stated below:

Affiliate	means an affiliated company in the understanding of § 15 AktG;
Conditions:	these General Purchasing Conditions for Goods and Services;
Purchaser:	Van Oord Offshore Germany Wind GmbH or one of its affiliates in the understanding of § 15 AktG;
Supplier:	the natural or legal person with whom the Purchaser has entered into the Agreement;
Agreement:	the agreement between the Purchaser and the Supplier which has been concluded in accordance with the provisions set down in Clauses 2 and 3 of the Conditions;
Goods	the goods which must be provided by the Supplier, as specified in the Agreement;
Purchase Order:	the purchase order issued by the Purchaser containing a description of the Goods or Services to be provided or executed by the Supplier;
Services	the work and/or deliverables and/or services to be executed by the Supplier, other than supplying Goods, as specified in the Agreement;
Site:	the premises where the Goods will need to be delivered or where the Services will be executed,
Price:	the price defined in Clause 4.

2. Scope of Application

- a. The Conditions shall apply to all purchase contracts (*Kaufverträge*), contracts for labour and materials (*Werklieferungsverträge*) and works contracts (*Werkverträge*) agreed between the Purchaser and the Supplier and to the Purchaser's requests for quotations and enquiries to the Supplier.
- b. The Conditions shall apply exclusively. Varying, deviating or modifying standard business terms of the Supplier are excluded and shall only apply in case the Purchaser explicitly agrees to their application in writing.
- c. All correspondence with regard to the Agreement shall be

addressed to the contact person(s) as mentioned in the Purchase Order or notified in writing to the other party.

- d. Within the scope of this Agreement, "in writing" means text form as defined by section 126b BGB.
- e. References to the application of certain legal regulations only have clarifying character. Even without such clarification legal provisions apply unless they are amended or expressly excluded in these Conditions.

3. The Agreement

- a. The Conditions together with the Purchase Order and the drawings, specifications and/or technical data (if any) issued by the Purchaser constitute the Agreement and set forth the terms and conditions for the delivery of Goods and/or the supply of Services by the Supplier.
- b. The Agreement shall only be concluded in case the Purchaser has, upon receipt of an offer by the Supplier, accepted the offer in writing by issuing the Purchase Order. The Supplier shall confirm the receipt of the acceptance in writing. In case the Purchaser has sent a Purchase Order without an earlier offer of the Supplier, the Agreement shall only be concluded when the Supplier accepts the Purchase Order in writing within 14 calendar days after the receipt of the Purchase Order. The Purchaser is entitled to cancel the Purchase Order until the Supplier has confirmed the acceptance in writing (receipt by the Purchaser is decisive). Any late acceptance of the Purchase Order by the Supplier is considered a new offer and requires acceptance by the Purchaser.
- c. Any changes of the Agreement or the Purchase Order are only binding if accepted by the Purchaser in writing.
- d. The Purchaser may assign and/or transfer (*Abtretung*) any or all of his rights and interest arising out of the Agreement to any other party.
- e. The documents forming the Agreement are to be taken as mutually explanatory. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence: [1] the Purchase Order, [2] the Conditions, [3] specifications, [4] technical data, [5] drawings, [6] the Supplier's proposal [7] Purchaser's code of conduct for supply chain partners and any other documents forming part of the Agreement. If an ambiguity or discrepancy is found in the documents, the higher

ranked document shall prevail.

- f. Any offer for a contract (including quotation) issued by the Supplier to the Purchaser shall be based on the Conditions and shall be valid for at least 28 calendar days.

4. Price and conditions of payment

- a. The Supplier shall deliver the Goods and/or perform the Services for the price(s) mentioned in the Agreement. All prices for Goods and/or Services are fixed and firm excluding VAT but including delivery of the Goods with the Delivered Duty Paid (= DDP, in accordance with the INCOTERMS 2020).
- b. The unloading of the Goods is at the Supplier's risk and account at the Site as well as any other taxes, duties, levies and fees (including license fees, charges and inclusive all costs).
- c. Unless otherwise stated in the Agreement, the price covers all the Supplier's principal and ancillary obligations under the Agreement including inter alia the delivery of the Goods and/or execution of the agreed Services.
- d. After completion of an agreed payment milestone and/or completion of all his obligations under the Agreement, the Supplier shall invoice the agreed price to the Purchaser. The invoices shall explicitly state the PO/reference numbers in accordance with the Agreement.
- e. In case day rates have been agreed, the invoice shall explicitly state (i) the name of the employee who has executed the Services, (ii) the applicable rate, (iii) the time period of the Service performed, (iv) a description of works executed and, (v) the amount to be invoiced. The time sheets duly signed by Purchaser and Supplier shall be attached to the invoice. The signature of time sheets does not mean an acceptance of the correctness of the recorded times by the Purchaser.
- f. The Purchaser does not owe any commercial maturity interest as defined by section 353 HGB. For the default of payment the legal provisions apply.
- g. The Purchaser shall make the respective payment within 60 calendar days after receipt of the proper invoice.
- h. The Purchaser reserves all rights to set off or retain payment provided by applicable law. The Purchaser shall fur-

thermore be entitled to offset claims of the Supplier arising out of or in connection with the Agreement

- i) against claims the Purchaser may have against Affiliates of the Supplier,
 - ii) against claims Affiliates of the Purchaser may have against the Supplier;
 - iii) against claims Affiliates of the Purchaser may have against Affiliates of the Supplier;
- or to exercise retention rights in that respect.
- i. The Supplier has a right of set-off or retention only regarding undisputed counterclaims or such established as final and absolute.

5. Right of retention

If the Supplier fails to comply with his obligations under 4 d) and e) as well as 12 e), the Purchaser has the right of retention until the Supplier has fulfilled its obligations.

6. Shipping and delivery

- a. The Supplier shall at his costs package the Goods to be delivered as economically and safely as possible, in such a way that the consignment is manageable and remains undamaged and protected for all climate conditions throughout its transportation in the entire logistics chain.
- b. The Supplier shall deliver all Goods and/or Services to or at the Site specified in the Agreement at the times being fixed under the Agreement. The Purchaser shall be entitled to change the site of delivery and/or delivery time as long as the change is not unreasonable for the Supplier. If a site of delivery or time for delivery has not been specified, the Supplier shall request an instruction from the Purchaser. The Supplier shall not be entitled to claim any additional costs for the delivery to the instructed site of delivery as long as the delivery costs are comparable to the costs of a delivery to the initially agreed delivery site.
- c. The delivery must be accompanied by a delivery note, attached to the outside of the packages, specifying the date (issue and shipping), the content of the delivery (item number and quantity) as well as the Purchaser's order code (date and number).
- d. While on the Purchaser's premises, or at any location where the Goods and/or Services are to be delivered or the Services are to be executed, the Supplier and its personnel and agents shall comply with all of the health and

safety requirements, the Purchaser's Code of Conduct and any other policies, standards, certifications and requirements of the Purchaser that are relevant to the performance of the Agreement. The Purchaser reserves the right to refuse access or to remove from its premises or the Site any person who fails to comply with such requirements.

- e. If and when the Supplier becomes aware of the fact that the Goods and/or Services are at least likely not going to be delivered in time, he shall immediately notify the Purchaser of this in writing. This notification does not affect the Supplier's obligation to comply with the Agreement and the delivery time.
- f. If the delivery obligations specified in the Agreement are not met, not met in time, incorrectly met or it becomes evident that these will not be met, the statutory regulations – in particular regarding withdrawal, termination and/or damages – apply. This does not affect the regulations in subsection e.
- g. If the agreed final deadline for delivery of Goods, performance of the Works Contract and/or provision of Services is exceeded, the Supplier shall be obliged to pay a contractual penalty (*Vertragsstrafe*) of 0.3 % of the final net price (*Abrechnungssumme*) for each working day of the delay, but not more than a total of 5% of the final net price, unless the Supplier is not responsible for the delay. This penalty shall not relieve the Supplier from his obligation to deliver all Goods and/or Services, or from any other duties, obligations or responsibilities which he may have under the Agreement. This delay penalty shall apply without prejudice to any of the other rights of the Purchaser.
- h. The right to claim further damages by the Purchaser is not excluded; however, the contractual penalty forfeited shall be taken into account by way of deduction when calculating any Purchaser's entitlements for damages. If – instead of only one final deadline – also intermediate milestones have been agreed, the provisions under clause 6. g. shall apply with the following amendments: If the Supplier is in delay with the intermediate milestones, he shall pay a contractual penalty for each working day of the culpable delay. This penalty shall amount to 0.3% of the net price corresponding to the value of the Goods

and/or Services to be delivered/ performed by the respective intermediate milestone.

If and to the extent the delay to an intermediate milestone has an effect on the delay of a further intermediate milestone or the final deadline, the corresponding delay period shall not be taken into account more than once when determining the delay and penalty.

7. Place of performance, transfer of risk, acceptance, default in acceptance

- a. The respective Site of delivery is also the place of performance for the delivery and any supplementary performance (*Bringschuld*). The risk of accidental perishing and accidental deterioration of the Goods passes to the Purchaser upon delivery at the place of performance.
- b. If the Agreement is a works contract, transfer of risk shall occur upon acceptance. The acceptance must be recorded in writing in a mutually signed acceptance report.
- c. With regards to the Purchaser's default of acceptance (*Annahmeverzug*) the legal regulations apply. The Supplier must continue to offer its Goods and/or Services to the Purchaser even if a specific or determinable calendar time has been agreed for an action or participation on the Purchaser's part (e.g. provision of material). If the Purchaser is in default in acceptance, the Supplier may demand compensation of his additional expenses in accordance with the statutory provisions. In case of an Agreement about the production and delivery of non-fungible Goods by the Supplier (one-off production) and deviating from section 650 sentence 3 BGB, the Supplier shall only be entitled to further rights – e.g. damages and termination – if the Purchaser has violated an agreed obligation to cooperate in the production.

8. Transfer of ownership, retention of title

The transfer of ownership of the Goods to the Purchaser must be made unconditionally and without consideration for the payment of the price. If, however, the Purchaser in individual cases accepts an offer of the Supplier for the transfer of ownership conditioned by the purchase price payment, the retention of title of the Supplier expires at the latest with payment of the purchase price for the delivered Goods. The Purchaser shall however remain permitted to transfer ownership of the Goods to a third party

prior to payment of the purchase price in the ordinary course of his business activities, as long as he has previously or at the same time assigned his corresponding claim against the third party to the Supplier (alternative validity of retention of title and extended retention of title (*verlängerter Eigentumsvorbehalt*)). In any case, this excludes all other forms of retention of title.

9. Drawings, specifications and technical data

- a. If the Purchaser supplies drawings, specifications and/or technical data for the specification of the performance, the Supplier shall not deviate from these without prior written consent of the Purchaser.
- b. Upon receipt of these drawings, specifications and/or technical data, the Supplier, exercising due care and skill, is obliged to check these immediately for omissions, inconsistencies and inaccuracies and notify the Purchaser thereof without undue delay. If the Supplier fails to do so, the Supplier forfeits the right to rely on the omission, inconsistency, inaccuracy, amendment or modification.
- c. The Purchaser reserves ownership and copyright to such documents.

10. Substances and materials provided by the Purchaser

- a. With regards to substances and materials provided to the Supplier by the Purchaser Supplier shall mark and store them separately from other property making it clear that such items are the property of the Purchaser. They shall also be adequately insured against destruction and loss.
- b. Any processing, intermixture or combining (*Verarbeitung*) of substances and materials provided by the Purchaser shall be done in the name and to the benefit of the Purchaser as the producer. The same applies to any processing, intermixture or combining of delivered goods conducted by the Purchaser himself. The producer gains property of the product of the processing, intermixture or combining according to the statutory provisions.
- c. The risk of loss of or damage to the substances and materials provided by the Purchaser to the Supplier remains with the Supplier until said substances and materials are returned to the Purchaser and are unloaded at their destination.
- d. The Supplier is obliged to inspect the provided materials without undue delay (*unverzüglich*) after the handover by

the Purchaser and to issue a written note to the Purchaser of any detectable failures or defects. In case hidden failures/defects, which were not identifiable at the inspection after handover, show at a later point in time, Supplier has to issue a written notice to the Purchaser without undue delay after the failure/defects were identified. If the Supplier does not comply with these obligations, the Purchaser is entitled to compensation according to the statutory provisions.

11. Inspection and testing

- a. The Purchaser and his client[s] or third parties (with a reasonable interest in such inspection and testing) as instructed in writing by the Purchaser, are entitled to inspect and test the Goods and/or Services at any time during processing, manufacturing, execution or storage prior to delivery free of charge. The Purchaser shall announce the intended inspection/testing with reasonable time in advance. The Supplier shall only be entitled to reject such demand for inspection/testing for serious cause. The Supplier shall ensure that any other suppliers of the Supplier also cooperate in that regard with the Purchaser free of charge.
- b. Whether the Purchaser has exercised the right referred to in paragraph a. of this article or not, the Supplier shall retain full responsibility for the correct and defect-free delivery of Goods and Services.
- c. The Supplier is obliged to carry out all the tests agreed upon or otherwise required until delivery/acceptance at his own expense and to submit the results to the Purchaser, even if this is not explicitly stated in the Agreement. The Supplier shall provide the certified test certificates to the Purchaser at his first written request.

12. Liability, warranty

- a. The Purchaser's rights in case of material and legal defects of the Goods and Services (including wrong and incomplete delivery as well as improper installation and faulty installation or operating instructions) and other breaches of duty by the Supplier are subject to the statutory provisions, unless otherwise stated below.
- b. According to the statutory provisions, the Supplier war-

rants that the Goods and Services have the agreed quality upon passing of risk to the Purchaser.

- c. The Supplier warrants in any case that the Goods and/or Services:
 - i. comply with all applicable standards, laws and government regulations; and
 - ii. comply with applicable laws, orders, resolutions and regulations regarding anti-bribery, sanctions, trade embargoes and/or export controls.
- d. The Supplier warrants that the Goods and/or Services are free from rights of third parties and that delivery of the Goods does not violate any rights of third parties. The Supplier shall indemnify the Purchaser, upon first demand, from any claims of third parties in this regard.
- e. The Supplier shall provide the Purchaser with full information, in writing, on the status of the Goods in respect of any applicable export control legislation or regulations, including that which is applicable within the EU, the US and elsewhere, relating to “dual-use” goods (i.e. where any Goods may have a military application and be listed as controlled dual-use items).
- f. Deviating from section 442 (1) sentence 2 BGB, the Supplier's defects liability shall not be restricted by the Purchaser's gross negligent failure to notice and notify the defect upon the conclusion of the contract.
- g. For the Purchaser's commercial inspection obligation as well as his obligation to notify defects (applicable only in case of purchase contracts), the legal regulations (sections 377, 381 HGB) apply with the following amendments: The Purchaser's obligation to inspect is limited to defects which become evident upon the common Purchaser's incoming-goods- inspection including inspection of the delivery documents (e.g. transport damage and wrong and short delivery) or upon Purchaser's quality control sampling. If the Supplier and the Purchaser have concluded a works contract, there is no obligation to examine. In all other respects, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. The Purchaser's obligation to notify about later discovered defects remains unaffected. Regardless of the Purchaser's inspection obligation, his complaint (notification of defects) is by all means presumed

promptly and in good time as long as he notifies within 5 working days after discovery of the defect or, in the case of obvious defects, after delivery.

- h. If the Supplier is in breach of any condition/requirement of the Agreement, the Purchaser shall issue a notice of default to the Supplier in writing. The Supplier shall rectify such breach within a reasonable period, commencing the day after the notice of default was sent by the Purchaser to the Supplier.
- i. The supplementary performance (*Nacherfüllung*) also includes disassembling of the defective goods and reinstallation, provided that the defective goods have been integrated in another thing corresponding to the purpose intended. The Supplier bears all cost incurred through inspection and remedy (including any disassembling and installation costs) even if it turns out that actually no defect existed. The Purchaser's liability for damages in case of unjustified requests for the remedying of defects remains unaffected; however, the Purchaser is liable in this respect only if he has recognized or gross negligently has not recognized that there was no defect.
- j. The Purchaser is entitled, at his discretion, to claim remedy of defects and/or delivery of conforming goods. If the Supplier does not comply with his obligation to remedy or deliver within a reasonable period of time set by the Purchaser, the latter can remedy the defect himself or through a third party and claim reimbursement of the expenses required from the Supplier or require a reasonable advance payment. If the supplementary performance by the Supplier has failed or is unreasonable for the Purchaser to accept (e.g. due to special urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline is required; such circumstances shall be announced by the Purchaser to the Supplier promptly or, if possible, beforehand.
- k. Furthermore, the Purchaser can, in case of a material defect or defect in title, reduce the purchase price or withdraw from or terminate the contract according to the statutory provisions or those stipulated in this Agreement. In addition, the Purchaser is entitled to compensation and reimbursement of expenses according to the statutory

provisions.

affect the Supplier's responsibility under the Agreement.

13. Particular provisions regarding termination

In addition to the statutory provisions, the Purchaser is entitled to terminate from the Agreement without prior notice if

- a. control over the Supplier and/or relevant business activities changes owner to a significant extent (section 225a (2) and (3) InsO remain unaffected); or
- b. a substantial deterioration of the financial position of the Supplier occurs or threatens to occur and thereby the fulfilment of obligations towards the Purchaser is at risk.

14. Manufacturer's liability, insurance

- a. If the Supplier is responsible for damage (either for product damage or the consequence of a breach of obligation), he shall, on first demand, indemnify the Purchaser and hold the Purchaser harmless from and against any claims of third parties (in case of a product damage as far as the Supplier is liable to these third parties himself).
- b. As part of his indemnity obligation, the Supplier has to reimburse expenses that arise from or in connection with a third-party claim according to sections 683, 670 BGB, including recalls carried out by the Purchaser. The Purchaser shall inform the Supplier – as far as possible and reasonable – about the content and extent of recall measures and give him the opportunity to comment. Further statutory claims remain unaffected.
- c. The Supplier must take out and maintain a business liability insurance, including a product liability insurance with a coverage of at least EUR 10 million per personal injury/property damage per event. The Supplier shall provide a copy of the insurance certificate to the Purchaser upon request.

15. Subcontracting

- a. The Supplier shall not be entitled to assign, to have it carried out by third parties or to subcontract the Agreement, neither in full nor in part, without prior written permission from the Purchaser.
- b. Transferring or subcontracting the Agreement does not

16. Statute of Limitations

- a. The statutory periods of limitations apply, unless otherwise stated below.
- b. Deviating from sections 438 (1) no. 3, 634a (1) no. 1 BGB, the general limitation period for claims for defects is 3 years, commencing upon transfer of risk. If the Agreement is a works contract, the period of limitation commences upon acceptance. The 3-year limitation period shall also apply to claims arising from defects in title, whereby the statutory limitation period for claims for returning goods or materials (*dingliche Herausgabeansprüche*) by third parties (section 438 (1) no. 1 BGB) shall remain unaffected. Claims arising from defects of title shall in no case become time-barred as long as the third party is still able to exercise the right against the Purchaser.
- c. The limitation periods of the purchase law including the above extension apply – to the legally permissible extent – for all contractual claims for defects. As far as the Purchaser is additionally entitled to non-contractual claims for damages due to a defect, the statutory limitation period applies (sections 195, 199 BGB) as long as the application of the limitation periods of the purchase law does not lead to a longer limitation period.

17. Confidentiality

- a. The Supplier shall not reproduce or divulge, disclose or make accessible to third parties, and shall keep in the strictest confidence, any and all information that he receives from the Purchaser. Information contained herein shall include all information, know-how, data, technical reports, drawings and any written or oral information of a similar nature. The Supplier shall not make any public announcement or statements to third parties (including the press at large) with regard to the Agreement, without the prior and written consent of the Purchaser. This obligation of secrecy shall only expire, if and insofar the knowledge regarding the respective information has become generally known or at least 5 years after delivery of Goods or Services.
- b. Drawings, specifications and/or technical data as well as other documents supplied by the Purchaser to the Supplier shall not be disclosed or used by the Supplier for any

reason other than the execution of the Agreement and are to be returned to the Purchaser after the completion of the Agreement. The documents must be kept secret to third parties, even after the Agreement has ended. This obligation of secrecy shall only expire, if and insofar the knowledge contained in the provided documents has become generally known.

- c. Non-disclosure agreements individually agreed between the Purchaser and the Supplier shall remain unaffected by the provisions under a) and b) of this clause.

18. Applicable law and disputes

- a. These Conditions and the Agreement[s] to which these Conditions apply, are governed by German law with the exclusion of its conflict of law rules. The applicability of the United Nations Treaty Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) is expressly excluded.
- b. If the Supplier is a merchant within the meaning of the Commercial Code (HGB), a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction shall be Hamburg, Germany. The same applies if the Purchaser is an entrepreneur in the sense of section 14 BGB. However, the Purchaser is in all cases also entitled to take action at the place of performance for the delivery stipulated in these Conditions or at the general place of jurisdiction of the Supplier.
- c. These Conditions have been drawn up in two languages. Where there is a difference between the German and the English version, the German version shall prevail.

