

## **Section 1 General provisions and scope of application**

(1) The following General Terms and Conditions of Purchase and Procurement ('GTCPP') shall apply to all business relations between Neptune Energy Deutschland GmbH as well as Neptune Energy Holding Germany GmbH (each referred to hereinafter as 'Neptune') and their business partners concerning the procurement of supplies and services (the aforementioned business partners are hereinafter referred to as a 'Contract Partner' or 'Contractor'). These GTCPP shall apply to contracts for the purchase and delivery of movable property goods (including those to be manufactured or created), regardless of whether those goods are produced by the Contract Partner itself or by third parties, as well as to contracts of work and services entered into with Neptune.

Special contractual conditions shall apply to construction works and construction planning services as well as to IT services. These can be viewed and downloaded via the Neptune website ([www.neptuneenergy.de/einkauf](http://www.neptuneenergy.de/einkauf)).

(2) The last amended version of this GTCPP shall apply also to future contracts or offers for goods and services with the same Contract Partner, even if this is not specifically pointed out in the individual case.

(3) Orders placed by Neptune shall be exclusively subject to these GTCPP as well as to the special contractual conditions referred to under paragraph 1, if applicable. Any other general terms and conditions of business, particularly those that oppose, deviate from or supplement these terms and conditions, shall

apply only if Neptune expressly confirms such terms and conditions in writing, in accordance with section 126 of the *Bürgerliches Gesetzbuch* (German Civil Code, 'BGB'), even if an offer has been unconditionally accepted by Neptune in full knowledge of the general terms and conditions of the Contract Partner in question.

(4) Individual arrangements entered into between Neptune and the Contract Partner in individual cases (including ancillary agreements, supplements and amendments) shall always take precedence over these GTCPP. The content of such arrangements shall be valid only if laid down in a written agreement or confirmed by Neptune in writing. There are no oral ancillary agreements. Unilateral declarations and notifications (for example warnings, notices of deadlines, declarations of withdrawal or termination) issued by the Contract Partner shall be valid only if executed in written form.

## **Section 2 Contract formation**

(1) Orders placed by Neptune shall be binding only if issued in written form or in text form, or – in case of orders placed orally, including by telephone – if confirmed in written form or text form. Neptune reserves the right to withdraw any issued orders at any time until their acceptance, and the Contractor shall not be entitled to assert any claims in respect thereof.

(2) Any late acceptance (later than 14 calendar days following receipt), or acceptance containing additions, restrictions or other modifications, shall be deemed a new offer, which may, in turn, be accepted by Neptune with a period of 14 (fourteen) calendar days of receipt.

### **Section 3 Prices**

(1) The price is exclusive of VAT,

but inclusive of all other costs, including freight, insurance and other delivery costs, as well as expenses, including board, lodging, provision of equipment and tools, payment of the Contract Partner's staff (including salaries, wages, bonuses and other forms of remuneration, statutory fees and charges, pension provisions or overtime) as well as compliance with all obligations arising from the concluded contract.

(2) In case of prices determined by weight, the official weight measurement shall be decisive or, in the absence thereof, Neptune's own weight measurement shall apply.

### **Section 4 Delivery times, contractual penalties**

(1) The dates or deadlines specified in the order for delivery or provision of services shall be fixed and binding and refer to the date of receipt at the destination address. The Contract Partner shall notify Neptune in text form, without undue delay, in the event of any apparent delays in delivery or the provision of services. Unless prior, written consent has been given, the Contract Partner may not render the performance owed before the date agreed upon for delivery or provision of the service.

(2) If the Contract Partner enters into default with the delivery or provision of the services, Neptune may, for each fully completed calendar day of default, demand a contractual penalty in the amount of 0.2%, up to an overall maximum of 5%, of the net price of the overall contract amount. The contractual penalty shall

be payable in addition to performance and the right to assert more extensive claims for damages shall remain unaffected; the contractual penalties may not be set off against the latter. A contractual penalty, once triggered, cannot be cancelled through acceptance of performance.

### **Section 5 Delivery and performance, acceptance, transfer of risk, delayed acceptance**

(1) Title to and risk in the supplies or goods shall pass to Neptune upon delivery at the place of delivery (company premises or, by way of example, a Neptune construction site). The Contract Partner shall be responsible for ensuring that the goods are insured at their full replacement value until the risk passes to Neptune.

(2) The Contract Partner shall enclose a packing slip or delivery note, or verifiable proof of performance, with all deliveries and shall, on the date of delivery, send corresponding notices of dispatch or delivery to Neptune's purchasing department, as well as to the specified destination address. The delivery documents must include the date (issue and dispatch) as well as a description of the item (item number and number of items), the order numbers, order date, quantities and weights, as well as the type of packaging. If the packing slip or delivery note is missing or incomplete, Neptune shall not be responsible for any resulting delays in processing or effecting payment for the relevant delivery. Signature of the delivery note by Neptune constitutes neither an acknowledgement that the delivered goods are contractually compliant nor acceptance.

(3) The services shall be accepted by Neptune exclusively by formal means. Acceptance must be recorded in written form.

(4) The Contract Partner must enclose with all deliveries those documents that are necessary, pursuant to technical regulations, for the proper use of the items (e.g. certifications, acceptance certificates). The same applies to other documents required by Neptune in the relevant order or that are necessary for contractually compliant use.

(5) The Contract Partner may only arrange for a third party (e.g. subcontractor) to provide the services if Neptune has given its prior, written consent to this. Any commissioning of subcontractors shall not affect the Contract Partner's liability under this contractual relationship with Neptune.

(6) If services are provided on Neptune's company premises or when working within the sphere of responsibility of Neptune Energy Deutschland GmbH, the Contract Partner must also observe the "*General Safety Regulations for Contractors*" of Neptune, which can be downloaded from Neptune's website [www.neptuneenergy.de/einkauf](http://www.neptuneenergy.de/einkauf).

#### **Section 6 Title and retention of title, copyrights, secrecy**

(1) Any drawings, drafts, samples, pictures, plans, calculations, instructions for execution, product descriptions or similar types of confidential information that Neptune provides to the Contract Partner to enable it to make an offer or perform a contract shall remain the property of Neptune and may not be used for any other purpose, copied or passed to third parties; all copyrights in the

foregoing shall remain reserved to Neptune. Following performance of the contract, the confidential documents provided must be returned to Neptune in their entirety or, upon request, proof of their destruction must be provided. If such confidential information contains personal data, the provisions set out in section 15 shall take precedence.

(2) Neptune retains the title to any substances or materials and other tools and objects that Neptune places at the disposal of the Contract Partner for the purposes of providing the services. If the Contract Partner processes or produces mixtures or compounds of the substances, materials or objects provided, this shall be considered as performed on behalf of Neptune.

#### **Section 7 Defective delivery and other breaches of obligation**

(1) Unless otherwise agreed below, the statutory provisions shall apply in respect of material defects and defects of title in the delivered goods or services rendered, as well as in respect of any other breaches of obligation by the Contract Partner.

(2) The statutory provisions shall apply to the commercial obligation to conduct inspections and give notice of defects, subject to the following terms: Unless otherwise agreed, notices of defects shall be deemed to have been given on time in any case if they are received by the Contract Partner within 30 (thirty) working days – or in the case of hidden defects that are discovered only later, within an additional 14 (fourteen) working days – of discovery of the non-conformity.

(3) The limitation period for asserting claims for defects shall be extended, in each case, by the time that elapses between notification of the defects and remedying the defects. Neptune's statutory right of recourse within a supply chain (recourse by an entrepreneur under sections 445a and 478 of the BGB) shall remain available to Neptune, without restriction, in addition to its claims for defects.

#### **Section 8: Industrial property rights**

(1) The Contract Partner shall be responsible for ensuring that no industrial property rights of third parties are infringed in connection with its delivery or provision of services.

(2) Neptune shall be entitled to use all products and services delivered or provided under the contract, including underlying patents and other industrial property rights, within its corporate area and for the recipient of the products or services. This right of use shall also entitle Neptune, or parties commissioned by Neptune, to make modifications or repairs to the contractual products or services and covers also the use of pictures, drawings, calculations, analysis methods, formulas and other works, produced or developed by the Contract Partner in connection with the formation or performance of the contract. The Contract Partner affirms that there are no third-party rights, particularly those of its subcontractors, that preclude this right of use from being granted and shall indemnify Neptune against any claims brought in this respect.

(3) The Contract Partner guarantees that delivery and use of the contractual products or services does not infringe any copyrights or other industrial property rights of third parties.

The Contract Partner shall indemnify, and otherwise hold harmless, Neptune, the Neptune Group and all recipients of the products or services against any claims brought by third parties based on an infringement of such rights.

(4) If any third-party rights are infringed by the agreed deliveries and/or services, or by their use, the Contract Partner shall either acquire for Neptune, at its own expense, the unencumbered right of use, or shall modify the affected deliveries and/or services, without delay and at its own expense, in such manner that the affected deliveries and/or services become non-infringing while still fulfilling the requirements defined in this contract. Any more extensive claims and rights on the part of Neptune shall remain unaffected by this.

#### **Section 9 Insurance**

(1) The Contract Partner shall be required to effect, at its own expense, business public liability insurance or – if movable goods are to be supplied under the relevant contract – business public and product liability insurance, with an appropriate insured sum, no later than the time of delivery of the goods or commencement of provision of the services or works and shall maintain this insurance for the entire warranty period under the relevant contract.

(2) The insurance must – insofar as possible – cover all property losses or damage, personal injury and financial losses, insofar as caused by the Contract Partner or its subcontractors, or insofar as they are responsible for such losses or damage regardless of fault, and the insurance must

provide for an insured sum of at least EUR 5 (five) million per claim.

(3) The insurance must also cover environmental damage, unless a sound assessment of the relevant contract type and the particular subject matter of the contract, as well as the other circumstances of the individual case, leads to the conclusion that such damage can be ruled out from the outset.

#### **Section 10 Payment, invoicing, default, set off and retention**

(1) The Contract Partner hereby agrees to send its invoices to Neptune in the format, and to the address, specified in the relevant order or concluded contract. Each invoice must be sent to the following email address, specifying Neptune's SAP order/call-off number as well as the Contract Partner's supplier number:

**AccountsPayable-DE@neptuneenergy.de**

If available, countersigned delivery notes or proof of working time shall be attached. All supporting documents must be clearly and permanently legible. Payments will be effected only upon receipt of complete invoices.

(2) Payments shall be effected subject to a subsequent invoice audit:

- within 14 days with a 3% discount; or
- within 30 days net;
- at Neptune's discretion, either by cheque, bank transfer, or discountable bill of exchange; or
- if agreed between Neptune and the Contract Partner – by credit note procedure.

(3) Neptune shall be fully entitled to assert its rights of set off and retention, or to plead non-fulfilment of the contract. Due payments may be retained, in particular, if there are any outstanding claims based on incomplete or defective performance.

(4) The Contract Partner shall be entitled to assert rights of set off and retention only in respect of counter-claims which are undisputed or have been declared final and binding by a court of law.

#### **Section 11 Place of performance**

The place of performance for the deliveries and services shall be the destination address specified by Neptune in the relevant order or concluded contract.

#### **Section 12 Assignment, subcontractors**

(1) The Contract Partner may not, without the prior, written consent of Neptune, assign its rights and/or obligations arising out of the contract, or components thereof, or otherwise transfer them to third parties.

(2) The commissioning of a subcontractor shall require the prior, written consent of Neptune.

#### **Section 13 Health, safety and environmental (HSE) regulations and sustainable development, energy management**

The Contract Partner shall comply with the health, safety and environmental (HSE) regulations as well as the sustainability standards to which the Neptune Group has committed itself. These can be downloaded from the website [www.neptuneenergy.de/einkauf](http://www.neptuneenergy.de/einkauf).

**Section 14 Business ethics (Ethics Code), Code of Conduct, trade controls**

(1) The Contract Partner shall adhere to the Neptune Group's ethical principles and Code of Conduct and shall act in manner consistent with the same.

The Contractor can access the latest versions of each via the website of Neptune Energy Deutschland GmbH at: [www.neptuneenergy.de/einkauf](http://www.neptuneenergy.de/einkauf). The Contract Partner affirms that the other companies within the Contract Partner's group of companies will comply with these principles and act in a manner consistent with the same.

(2) The Contract Partner shall – and shall furthermore ensure that the other members of the Contract Partner's Group shall – comply with all applicable trade sanction laws, anti-boycott and export control laws, including those of the European Union and the United States of America, that relate to the goods, software applications or technology to be provided under the contract, and shall not carry out or permit any act or omission which would result in a breach of, or non-compliance with, the same. In this regard, the Contract Partner shall be responsible for ensuring that any required government authorisations, including applicable export licenses or exemption authorisations have been obtained. Neptune shall, upon request, provide the Contract Partner with relevant information concerning the end-use, end-user and country of end-use in relation to the goods, software applications or technology to be provided under the contract. On the basis of such information, and in reliance thereon, the Contract Partner shall provide such goods,

software applications or technology in a manner compliant with applicable trade sanction laws, as well as anti-boycott and export control laws, including those of the United Kingdom, the European Union and the United States of America. The Parties hereby acknowledge that any change in end-use, end-user or country of end-use may be restricted or prohibited by applicable trade sanction laws, or anti-boycott and export control laws.

(3) The Contract Partner affirms that neither it, nor any other member of the Contract Partner's group of companies, nor, to the best of its knowledge, one of its legal representatives is: (a) a person subject to sanctions; (b) under the ownership or control of a person subject to sanctions; (c) based in a country or region that is itself, or whose government is, subject to applicable sanctions (currently, but without limitation, Cuba, Iran, North Korea, and Syria, as well as the regions of Crimea and the so-called People's Republics of Donetsk and Luhansk), or registered in, or has its registered office in, those countries or regions. The Contract Partner must, insofar as this relates to actions linked to this contract, comply with all sanctions and requirements laid down in export control laws that are applicable to it and its business activities. In this regard, 'sanctions' shall mean all economic or financial sanctions or trade embargoes implemented, administered, or enforced by the European Union (EU), its member states, the United Kingdom, the United Nation's Security Council, or the United States of America, provided that such sanctions or trade embargoes, or compliance with the same, would not constitute a violation of blocking measures itself, provided under applicable law. The Contract Partner shall refrain from selling,



supplying or forwarding to third parties any goods or items received from Neptune if this would result in the Contract Partner or Neptune violating applicable sanctions or export controls. The Contract Partner shall furthermore refrain from engaging in any actions that would cause Neptune to be in violation of applicable sanctions or export controls. The Contract Partner hereby agrees to inform Neptune, without undue delay, if it acquires knowledge of events or factual circumstances that could, in connection with the concluded contract or order, lead to a violation of applicable sanctions or export control regulations by the Contract Partner or Neptune.

(4) Any breach of these sanctions-law provisions shall constitute a fundamental breach of contractual obligations which shall entitle Neptune to terminate the contract or cancel the order without notice.

#### **Section 15 Data protection**

(1) Within the framework of applicable data protection law, as amended from time to time, Neptune processes personal data concerning employees of the Contract Partner and other data (collectively 'data') as provided by the Contract Partner in connection with this contractual relationship between Neptune and the Contract Partner, for the purposes of establishing, implementing and terminating the contractual relationship. The data are not passed to other third parties.

(2) Further information on how the above-mentioned data are processed can be read in the data protection information for suppliers and service providers, which is accessible via the Neptune website

[www.neptuneenergy.de/einkauf](http://www.neptuneenergy.de/einkauf) as well as in any supplementary data protection information relating to any individual orders.

(3) The Contract Partner shall, in accordance with the data protection information for suppliers and service providers that is accessible via the Neptune website [www.neptuneenergy.de/einkauf](http://www.neptuneenergy.de/einkauf), inform its employees who are involved in implementing the contractual relationship of the fact that, and the extent to which, data concerning the Contract Partner's employees are being processed by Neptune and the Neptune Group.

(4) If and to the extent that the Contract Partner, for the purposes of fulfilling its contractual obligations towards Neptune, processes personal data that are disclosed or provided to it by Neptune either:

- for the purpose of processing on behalf of Neptune (contracted processing);
- for the purposes of independent processing; or
- based on a joint responsibility between the Contract Partner and Neptune;

the statutory data protection provisions, particularly the GDPR and the *Bundesdatenschutzgesetz* (Federal Data Protection Act, 'BDSG') shall apply.

(5) Personal data that have been made available by Neptune may not be used or transferred by the Contract Partner for the purposes of advertising, market research or opinion research, unless Neptune has given its express, written consent to this or the agreed service explicitly provides for this.

#### **Section 16 Validity**

If any individual provisions of the above terms and conditions are invalid or inoperable, this shall not affect the validity of the remaining provisions. In such event, the Parties shall be obliged to form a new agreement which corresponds as closely as possible to the economic intent of the invalid or inoperable provision.

**Section 17 Place of jurisdiction, applicable law, written form**

(1) The place of jurisdiction for all disputes – with the exception of disputes with Contract Partners who are not merchants within the meaning of the *Handelsgesetzbuch* (German Commercial Code, ‘HGB’) – shall, at Neptune’s discretion, be either Hanover or the court at the place of performance. This shall also apply to the international place of jurisdiction. Neptune reserves the right to agree upon the jurisdiction of a court of arbitration in individual cases.

(2) The laws of the Federal Republic of Germany shall apply to each order or contract, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980. The language of the contract shall be German or English, depending of the language of the relevant order. Accordingly Neptune’s GTCPP shall also apply exclusively in the relevant contract language. Other translations shall not be relevant for the purposes of interpretation.

(3) The prerequisites and effects of a retention of title shall be subject to the laws where the goods in question are stored, provided that thereafter the law chosen becomes impermissible or inoperative and German law prevails.

(4) If reference is made to public holidays in a concluded contract, only public holidays observed throughout Germany shall be relevant.

(5) Any amendments or supplements to these GTCPP, as well as amendments or supplements to the content of the orders must be executed in written form. Permissible ‘written form’ in this sense shall also include – in addition to a document signed manually as provided for by law – an electronically signed and electronically transmitted document for which a digital log of the document history (certificate of completion) issued by the provider (e.g. Adobe Sign or DocuSign) ensures that the signatory is identifiable and any subsequent change to the data is apparent.