

**PART C – ADDITIONAL GENERAL CONDITIONS FOR THE SUPPLY OF SITE WORKS**

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**1 General**

1.1 These general conditions for the supply of site works apply, in addition to Part A and any other agreed parts of these general purchase conditions, to all offers and orders pertaining to the supply of site works by a Vendor to Vopak and to all agreements entered into with Vopak in this regard.

**2 The site works**

2.1 The Vendor shall provide all the equipment including sheds, personnel, work and services necessary to execute and complete the site works in accordance with the applicable technical specifications and any and all other plans, procedures, specifications, drawings and requirements.

2.2 The Vendor ensures that all facilities, services and equipment used for the execution of the site works are fit for their intended purpose and of good quality and workmanship throughout the term of the agreement. The Vendor shall provide all management services, supervision, personnel and labour as necessary for performing the site works.

2.3 The Vendor shall immediately visually inspect all materials and equipment furnished by Vopak and its other suppliers before using same and shall notify Vopak within 5 (five) days of any defect therein to permit replacement or repair. Upon completion, the Vendor shall return all relevant materials and equipment

furnished by Vopak and its other contractors in the same condition or better as received taking into account normal wear and tear.

- 2.4 The Vendor shall manufacture, document, deliver, install, commission and/or repair the site works in accordance with any reasonable instructions of Vopak.
- 2.5 The Vendor shall undertake that any applicable certificates of compliance or design approval from a certifying agency and/or all necessary approvals from the authorities shall be obtained in time and at the earliest available opportunity.
- 2.6 Partial supply of the site works shall not oblige Vopak in any way to make a partial approval of the site works or consideration as to whether the supplied part of the site works complies with the Vendor's obligations.

### **3 Variations**

- 3.1 Vopak has the right at any time to issue instructions to the Vendor to make any increases, decreases, omissions, substitutions and changes to the personnel, time schedules or any other part of the site works as regards its quality, form, character, kind or dimension, provided that Vopak submits a written change order to the Vendor.
- 3.2 The Vendor shall not make any variation except with the written approval of Vopak.
- 3.3 All variations shall be executed and completed under the provisions of the agreement and these general purchase conditions.
- 3.4 Changes and additions shall not lead to an increase of the agreed price or an extension of the agreed time or date of delivery unless and to the extent reasonable, and provided that the Vendor has made a written proposal to Vopak with respect to an increase or an extension before the execution of the variation and always provided that Vopak has approved such price increase or extension of time in writing.
- 3.5 If a change results in a decrease of the supply by the Vendor or a decrease of the agreed price thereof, Vopak is entitled to a proportional price decrease.

### **4 Design and drawing verification**

- 4.1 Unless Vopak has indicated that a third party will be responsible for the basic and/or detailed design of the site works, the Vendor is responsible for the basic and/or detailed design of the site works and shall deliver same in accordance with good engineering practice and any design conditions.
- 4.2 The Vendor shall be responsible for the accuracy and completeness of the specifications, drawings and other documentation provided by Vopak and/or any third party and shall never be able to rely upon the inaccuracy or incompleteness of the documentation provided. The Vendor shall notify Vopak within 5 (five) days after receipt when the specifications, drawings and other documentation received from Vopak and/or any third party for the supply of site works should be adjusted and/or amended.

- 4.3 Upon the request of Vopak, the Vendor shall prior to the commencement of the work related to the manufacturing and supply of the site works, furnish to Vopak for its review and approval, complete drawings, calculations for the design and other construction documentation. The Vendor shall remain responsible for the design and the documentation related thereto, whether or not such documentation has been approved by Vopak.

## **5 Working plan**

- 5.1 The Vendor shall furnish a detailed working plan in which the Vendor describes the order, timing and duration of the site works as well as the number and disposition of workmen, sheds at the site of Vopak and utility requirements during the various stages and phased of the site works for the assessment and approval of Vopak.
- 5.2 As soon as Vopak has approved such working plan, the working plan forms an integral part of the agreement. Deviation from the approved working plan is only permitted with the prior written approval of Vopak.
- 5.3 If the term for completion of the site works is described in workable days, workable days shall only qualify as unworkable if and when the site works could not be executed more than 5 (five) hours on a day due to circumstances that are for the risk and account of the Vendor.

## **6 Progress reports and certificates**

- 6.1 The Vendor shall provide progress reports on a monthly basis, unless Vopak requests for reports on a shorter or longer basis.
- 6.2 If Vopak has to make or makes progress payments for the site works, progress certificates shall be prepared by the Vendor when and as required by Vopak. Such certificates contain the quantity of work executed during the preceding period and the value of such work on the basis of the agreed price.

## **7 Fees and payment**

- 7.1 If no fixed price for the supply of the site works has been agreed, Vopak shall pay to the Vendor the fees that are set forth in the agreement. The Vendor shall only be entitled to fees for time which is actually spent on the required level of competency by the Vendor's personnel supplying the site works for Vopak and approved as such by Vopak.
- 7.2 If the site works cannot be supplied by Vendor due to a waiting period occurring on Vopak's site, the first hour of the waiting period is for the account of the Vendor. Vopak shall pay to the Vendor the agreed (hourly) fees of Vendor's personnel during the following hour(s) of the waiting period against the presentation of time sheets approved by Vopak and provided that the waiting time has been notified by the Vendor to Vopak within 30 (thirty) minutes after occurrence of the waiting period.

- 7.3 All expenses relating to travel by the Vendor's personnel to the location where the site works are performed and lodging are for the account of the Vendor and not chargeable to Vopak.
- 7.4 With respect to all site works supplied for Vopak by all Vendor's personnel, the Vendor agrees to submit to Vopak every 3 (three) months reports to Vopak detailing the site works supplied.

## **8 Performance bond**

- 8.1 If Vopak has to make payments prior to the acceptance of the site works, the Vendor shall provide Vopak, upon its request, with an unconditional and irrevocable performance bond as security for the fulfillment of the Vendor's obligations under the agreement, for the amount(s) which Vopak has to pay to the Vendor prior to the acceptance.
- 8.2 The performance bond shall be issued by a first class international bank or insurance company approved by Vopak.
- 8.3 If the validity of the performance bond expires before the date of acceptance of the site works, the Vendor shall arrange for extension of the validity.

## **9 Handover of documentation**

- 9.1 The Vendor shall prepare and handover a complete set of all documents in connection with the site works, including warranty and test certificates, CE (inspection) certificates of individual items and test results. All documentation and required certificates are included in the agreed price.
- 9.2 Language of documentation shall be in the English language. However, documents as required by the applicable law or regulations shall also be made available in the language prescribed in such laws or regulations.

## **10 Access to site**

- 10.1 Vopak shall allow the Vendor and persons on behalf of the Vendor access to the site provided that this is deemed necessary for the execution of the agreement or in connection therewith, subject to the following provisions which the Vendor shall be bound to communicate to all persons on his behalf needing access to the site.
- 10.2 Access shall only be authorized during normal working hours as established for the site. Outside normal working hours, access can only be obtained after prior approval in writing from Vopak.
- 10.3 Access is only granted to those persons whose particulars – initials, name, date of birth, complete address, date of appointment or hiring and function – have been registered on a list that the Vendor is bound to submit not later than 1 (one) day before the start of each working week. These persons shall be bound to identify themselves forthwith, upon request, and will allow Vopak to make copies of identification documents and, if applicable, residence and work permits.

- 10.4 All persons who enter the site and are present there, are obliged – and deemed – to have acquainted themselves with the legal regulations and applicable business rules at these premises, and must strictly adhere to these rules and regulations, as well as all instructions and directions given by or on behalf of the principal for the benefit of order, safety or otherwise, all of this under pain of removal therefrom.
- 10.5 All persons who enter the site and are present there, do so entirely at their own risk, even if they have been granted access by or on behalf of Vopak or if they are under escort by Vopak or persons on its behalf, and even if they adhere to the rules, regulations, instructions and directions as referred to in this article.
- 10.6 The risk referred to in this article shall equally be applicable to vehicles and all other goods and materials that may be taken to or be present in and/or at the site.
- 10.7 Any sheds of the Vendor at the site of Vopak used for the execution of the site works shall contain a locking system and are for the full risk and account of the Vendor. Vopak shall not be responsible for any incidents regarding these sheds.

## **11 Site regulations, safety, health and environment**

- 11.1 The Vendor is responsible for the safe performance of the obligations under the agreement and specifically the safe performance of the site works and shall give the highest priority to safety in order to avoid injury to any person and/or damage to any property.
- 11.2 The Vendor shall ensure that both Vendor and its subcontractors strictly comply with any applicable safety, health and environmental legislation and any safety, health or environmental policies, procedures and standards of Vopak. Upon request Vopak is entitled to carry out an audit in this respect. All costs incurred in complying with this provision shall be for the sole account of Vendor.
- 11.3 In the event that conditions arise or occur which do or are likely to endanger the safety during the Vendor's performance of its obligations under the agreement or the safety during operations by Vopak, the Vendor shall so inform Vopak and proceed to take such action as Vopak deems necessary.
- 11.4 All accidents, environmental hazards and/or spills which incur in relation to the execution of the site works shall be reported immediately to Vopak. Appropriate measures shall be taken by the Vendor to prevent further damage. If needed Vopak shall be allowed to take appropriate action by itself or to order a third party on the costs and the responsibility of the Vendor.
- 11.5 The Vendor shall submit to Vopak a written annual report on health, safety and environment within Vendor's organization stating the number of incidents, cause, injury status (if applicable) together with the adequate measures that have been taken by the Vendor to prevent reoccurrence of such event and any further damage.

## **12 Inspection and testing of site works**

- 12.1 Vopak and its appointed representative(s) are at all times entitled to inspect or have inspected the site works or part(s) thereof, to examine or have examined the site works and/or to test or have tested the site works or part(s) thereof, irrespective of where the site works or part(s) thereof are performed. The same applies to all results of the site works. For this purpose, they have free access to the sites on which the site works or part(s) of the site works are being performed.
- 12.2 Upon the discovery of any discrepancies or defects in or to the site works, Vopak will inform the Vendor. The Vendor shall repair and replace without cost or delay any discrepancy or defect discovered during inspection.
- 12.3 Failure of Vopak to make such quality surveillance in or to the site works or to discover defective design, materials or workmanship shall not relieve the Vendor from its obligations under the agreement nor prejudice the rights of Vopak thereafter to reject or require correction of the defective work, in accordance with the provisions of these general purchase conditions.
- 12.4 Inspection, review, examination, testing, purchase, comment, approval and/or payment by or on behalf of Vopak do not release the Vendor from any obligation, warranty or liability.

## **13 Completion and acceptance of site works**

- 13.1 The Vendor shall be responsible for the complete execution of the site works at the site of Vopak in accordance with the applicable specifications and requirements. The Supplier shall see to it that the site works have been properly performed and shall verify this prior to the agreed date or time for acceptance by Vopak.
- 13.2 Upon completion of the site works, Vopak may instruct an independent surveyor to conduct a survey with regard to the (results of the) site works. If the surveyor holds the opinion that (the results of) the site works does not meet the applicable specifications and requirements, the Vendor shall for its own account make such changes, modifications and/or additions to the site works or any part thereof as may be necessary to meet the applicable specifications and requirements. The same shall apply if and when Vopak establishes such non-compliance by the Vendor.
- 13.3 The Vendor shall clean and restore the site and/or the storage space used for the execution of the site works in the old condition for its own risk and account, at the latest on the day on which the site works are ready for acceptance.
- 13.4 The Vendor shall remove from the site all waste material and other residues that resulted from the execution of the site works and/or any cleaning activities undertaken by the Vendor.
- 13.5 Vopak shall accept the site works as soon as the Vendor has complied with his obligations under this article 13.

## **14 Warranty**

- 14.1 In addition to Part A – article 16, the following applies. If the Vendor is requested to remedy a defect, and in the event that the Vendor does not commence work to correct the warranty claims within 7 (seven) days, Vopak has the right, after written notice to the Vendor, to arrange the repair/correction at the Vendor's expense. In such event, the Vendor shall furnish to Vopak the Vendor's technical instructions within 1 (one) day of the written notice in order to bring Vopak in the position to follow such instructions. In the event the Vendor does not provide technical instructions, the technical instructions are incomplete or otherwise inadequate to resolve the claimed issue, Vopak has the right, after 1 (one) day of written notice to the Vendor, to define the repair/correction based on the local knowledge and arrange repair/correction at the Vendor's expense. The Vendor's warranty shall remain in full force and effect, including any repairs made by Vopak.

## **15 Insurances**

- 15.1 The Vendor shall at its own cost as of the effective date of the agreement until signing of the certificate of acceptance by Vopak, obtain and maintain in effect adequate and sufficient insurance, including but not limited to: Public Liability Policy against liability for death or injury, liability for property damage and liability for financial loss, Professional Indemnity Policy, Motor Vehicle Policy, Construction All Risks Policy, Goods Insurance Policy including coverage for transportation and goods in transit, Land Based Equipment Insurance, Employer's Liability Insurance and any other insurance which the Vendor is obliged to carry under applicable legislations.
- 15.2 The Vendor shall furnish promptly to Vopak upon request reasonable evidence of the insurance coverage set out in this article (and undertakes promptly to ensure similar co operation from its subcontractors).