



GENERAL CONDITIONS FOR PURCHASING

GCP 10/16

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1) DEFINITIONS

The following definitions shall apply in these „General Conditions for Purchasing“(GCP):

Purchaser	=	legal entity concluding the Contract (placing the Order) with the Contractor
Contractor	=	legal entity under obligation to perform the Supplies/Services according to the Contract.
Final Customer	=	the Purchaser's customer to whom the Purchaser has to supply the Plant.
Plant	=	the technical or contractual complex to be supplied to the Final Customer into which the Supplies/Services of the Contractor are to be integrated.
Order	=	Contract = the contract between the Purchaser and the Contractor for the Supplies/Services to be performed by the Contractor.
Supplies/ Services	=	all supplies and services to be performed by the Contractor according to the Contract. The terms Service and/or Services on their own are also to be understood to have the same meaning.

2) GENERAL

2.1) DUTY OF CARE

The Contractor shall exert its utmost care in the fulfillment of its Contract. This includes but is not limited to the responsibility for collecting all the information required to ensure due completion of the Order, in particular with regard to transport and conditions at site and to the integration of its Supplies/Services into the Plant.

2.2) QUALITY MANAGEMENT SYSTEM

The Contractor undertakes to apply the principles of a quality management system as per ISO-standards 9001 in its most recent version for the execution of its scope of Supplies/Services and to impose the same obligation on its subcontractors. The Purchaser and the Final Customer shall be entitled to audit the Contractor's and its subcontractors' quality management system, the documentation on the quality management system and the quality plans at any time.

2.3) VALIDITY OF SUBJECT GCP

These GCP shall govern the relationship between the Contractor and the Purchaser unless a deviation from these conditions is specifically stated in the individual Order.

The Contractor's conditions (offers, sales conditions) shall only apply if explicitly accepted by the Purchaser and confirmed in writing.

In any Order placed by the Purchaser, references to quotations shall under no circumstances imply the Purchaser's acceptance of the Contractor's conditions.

These GCP shall be considered accepted with the commencement of the execution of the Order by the Contractor.

2.4) CLARIFICATION OF INCONSISTENCIES

In the event of any inconsistency in the terms of the Contract between the Contractor and the Purchaser, the following order of precedence shall apply:

- the written order (in form of a letter, telefax or electronically conveyed);
- the annexes mentioned in the written order, particularly the Minutes of Meetings including the annexes contained in them;
- these GCP.

If this order of precedence does not give clarification, best suitability of the Contractor's Supplies/Services for the particular purpose intended shall be decisive as far as the scope of Supplies/Services is concerned.

3) PRICES

All prices are considered fixed prices including all taxes, charges etc. but exclusive of Value Added Tax. In case of deliveries abroad, the Contractor's services shall include the customs export formalities. Unless otherwise provided in the order, prices are quoted Free Carrier (FCA) named place of departure as set forth in the INCOTERMS 2010.

4) TERMS OF PAYMENT

4.1) ACCOUNTING

Invoices shall either be submitted to the Purchaser per letter post or electronically addressed to Rechnungen@cec-cranes.de.

4.2) PAYMENT

Payment of installments agreed upon shall be made according to the agreed payment terms after receipt of an auditable invoice and after all requirements set out in the Order, including but not limited to due delivery of documentation, have been met.

Payment shall not be deemed to imply any acceptance of Contractor's Supplies/Services, nor shall it be construed as a waiver by the Purchaser of any right to claim for the proper fulfillment of the Contract and/or warranties, nor of any right to guarantees, claim damages, penalties, etc.

4.3) FINAL INVOICE

The last payment shall not be effected prior to the Contractor's presentation of a final invoice concerning all the Supplies/Services performed by the Contractor and all claims connected therewith.

By presenting the final invoice the Contractor declares that any and all claims in connection with the respective Contract have been put forward thereby and that no further claims will be raised.

5) DOCUMENTATION

Documentation is the total of written, drawn or other documents related to the Contractor's Supplies/Services. Such documentation may be related to manufacture, quality control, potential risks, safety instructions, dispatch, transport, export, transit, import, customs clearance, excise, identification of parts, logistics, storing, erection, commissioning, training, accounting, invoicing, operation, repair, maintenance, procurement of spare parts, etc.

The documentation shall form an essential part of the Contractor's Supplies/Services.

The Purchaser shall be granted the right to use the documentation and, inter alia, shall be entitled to pass on any documentation received from the Contractor or its subcontractors to other contracting partners of the Purchaser and/or to the Final Customer.

5.1) SCOPE

The documentation is to be submitted to the Purchaser as specified in the Order. If not specified in detail, the documentation shall be adequate for the respective case regarding volume, standard and due availability. All documentation is to be in the German language or if other-wise agreed, in the English language and (additionally) the language(s) of the final country of destination at the Final Customer (especially documentation relating to safety, such as operating and maintenance instructions, so that they can be understood by

the personnel of the Final Customer) and shall be conveyed electronically. All documentation shall be "Delivered Duty Paid" (DDP) to the address of the Purchaser according to INCOTERMS 2010, unless agreed otherwise.

5.2) DOCUMENTATION OF ORIGIN

The Contractor shall enclose, free of charge, a valid evidence of entitlement to preferential tariff treatment (movement certificate, preferential certificate of origin, certificate of origin, confirmation of origin, declaration of origin, etc.) with the goods supplied across frontiers, as necessary for preferential clearance for import in the country of destination of the goods.

That certificate shall include in particular also the Order number and project number of the Purchaser. The value of the goods must not be indicated!

Unless agreed otherwise, the country of the Contractor shall be deemed the country of origin.

Certificate of origin:

At the Purchaser's request the Contractor shall provide at its costs a certificate of origin certified by the competent chamber of commerce and the competent consulate or embassy respectively.

Confirmation of origin:

In case the certificate of origin will be made out by the Purchaser, the Contractor shall provide specifying the manufacturer (including exact address) and/or the country of origin.

All fees, duties and extra charges resulting from failure.

6) TIME SCHEDULE

6.1) DATE OF DELIVERY

For documentation the Date of Delivery shall be the date shown by the "received" stamp of the Purchaser or the date of an individual receipt if all documents have been completely and correctly presented in accordance with the Contract.

For Supplies/Services the Date of Delivery shall be the date when all of the Contractor's respective obligations under the Contract (including those regarding documentation) have been fulfilled completely and free of defects.

6.2) DELAYS

The Contractor shall immediately advise the Purchaser as soon as it realizes that the agreed dates or periods may not or cannot be met. A full report of the reasons and extent of such delays must be immediately sent to the Purchaser in writing.

Where a Contract requires the Purchaser to take a form of action by a certain date to enable a delivery date to be achieved, the Contractor shall notify the Purchaser in due time. If the Contractor fails to do so, it may not refer to a default of the Purchaser or delayed co-operation activities when its own Supplies/Services are delayed. Should the Contractor be hindered in duly fulfilling its commitments under the Contract because of the Purchaser's late delivery or co-operation activities despite due notification, the agreed dates and periods shall be extended by not more than the number of days of delay caused by the Purchaser. The Purchaser shall not be liable for any additional costs. The original contractual dates/periods extended by such delays shall be the new due dates e.g. for calculation of penalties, etc.

In the event of possible or actual delays the Contractor is required to minimize such delays by taking all constructive measures, regardless of the causes of such delays.

6.3) PREMATURE FULFILLMENT

Supplies/Services before the due date shall only be accepted if agreed in writing by the Purchaser and shall not advance agreed payment dates.

7) LIABILITY OF THE CONTRACTOR

7.1) PENALTIES FOR DELAY

Should the Contractor not meet the periods, intermediate or final dates set out in the Contract, the following penalties, in each case to be calculated from the total Contract value, shall apply for the period until the actual Date of Delivery. Such penalties may also be deducted from the Contractor's accounts receivable or open invoices if any.

– For Supplies/Services 1 % for each week or part-week of delay, up to a maximum of 10 % of the total Contract value.

– For documentation 0.5 % for each week or part-week of delay, up to a maximum of 5 % of the total Contract value.

Penalties to the Purchaser shall become due with the occurrence of the delay. In case of defects in Supplies/Services the period between taking over and giving notice of the defect by the Purchaser is not subject to penalties.

If the scope of Supplies/Services is changed or if the Contractor is in any other way detained from supplying its Supplies/Services by the Purchaser and this results in changes to dates which are subject to penalties, the changed dates are thus also subject to the penalties in equal measure (i.e. the dates which are subject to penalties are delayed only, the penalties, however, are not annulled).

Payment of penalties does not release the Contractor from its obligation to fulfill the Contract nor from any related liabilities.

Penalties pursuant to these GCC are not subject to judicial mitigation.

7.2) LIABILITY FOR DOCUMENTATION

The Contractor hereby declares to be fully aware of the importance attached to the timely sub-mission and correctness of documentation, and confirms its liability for any damages resulting from any delays or errors.

7.3) LIMITATION OF LIABILITY

The Purchaser and the Contractor shall not be liable for loss of profit and loss of production.

8) GUARANTEE

8.1) GENERAL

The Contractor is liable not only for the conditions/qualities expressly specified or promised in any other way or to be reasonably expected but also for completeness of its Supplies/Services, for the absence of defects and for their best suitability for the specific purpose intended. This guarantee particularly covers the qualities and suitability of the Contractor's Supplies/ Services for continuous operation in the Plant under the operating conditions prevailing at site, conformity with all standards and regulations applicable at site (e.g. safety, environmental protection, including noise), uninterrupted availability with adequate performance and consumption data, easy erection, maintenance and repair, design and manufacture to represent the latest state of the art.

8.2) GUARANTEE PERIOD, REMOVAL OF DEFECTS

The guarantee period ends 24 months after the date of Acceptance of the whole Plant, how-ever, latest 36 months from complete fulfillment according to the Contract.

The guarantee period shall be extended by any period of standstill caused by defects. In case of replacement or repair of a part a new guarantee period equal to the one for the original supply, commencing on the date of installation of the new part or of completion of the repair, shall apply.

The Contractor waives any objection due to delayed notice of defects; a notice of defects may be raised until one month after the expiry of the guarantee period. The limitation period provided by law for instituting legal proceedings against the Contractor with respect to guarantee claims shall start upon the expiry of the guarantee period. The Purchaser shall have no obligation whatsoever to inspect the Supplies/Services of the Contractor before the agreed functional and Performance Tests are carried out.

In case of any defects including serial defects, even if a defect has not yet occurred to all Supplies of the same kind, arising before or within the guarantee period, the Contractor shall carry out, within the shortest possible time, the necessary repair at site or shall replace the defective item at site as per the Purchaser's instruction. All related Services and any additional costs e.g. for transport, customs, dismantling and erection shall be carried out by the Contractor or at the Contractor's expense.

For smaller defects (up to EUR 10.000,- per single case) or if immediate repair is imperative, e.g. in critical stages such as trial runs, the Purchaser shall be entitled to remedy or have remedied any such defects immediately and without prior notification to the Contractor. Such work shall be carried out at the expense of the Contractor and shall not affect the Purchaser's rights or other claims. The same shall apply if the Contractor fails to remedy defects in time, despite having been requested to do so.

In addition, the Contractor is obliged to immediately remedy all defects reported by the Purchaser at its own costs according to the above provisions, even when, with regards to the claim, no agreement on the defect is made between the Contractor and Purchaser. Should, after the remedy of the defect, the Contractor be able to prove that no defect on the part of Contractor occurred, the Purchaser will refund the Contractor with the actual costs that were incurred during the remedying of the defect.

9) EXPORT LICENCE

The Contractor commits to provide the Purchaser with all export data in connection with its Supplies/Services for possibly required export licenses (among others also pursuant to US re-export regulations) as well as the respective export documents.

This is information on whether the goods are subject to an export permit pursuant to Reg. (EC) 1334/2000 in the relevant version ("Dual Use Regulation"), pursuant to nationally applicable export law and/or pursuant to US re-export law (Export Administration Regulations). If so, the corresponding export list number and/or the Export Control Classification Number (ECCN) are to be forwarded in the order confirmation.

Provided that the Contractor holds general permits for export-controlled goods, they are to be handed over to the Purchaser.

The Contractor guarantees that, at the time of the Order is placed, the complete performance of all Supplies/Services is ensured; otherwise the Contractor shall indemnify the Purchaser and/or the Final Customer against any damages or losses resulting from any non-compliance. Promptly after the conclusion of the Contract, the Contractor shall inform the Purchaser of possible new export bans/limits/restrictions and shall submit timely alternative solutions to the Purchaser free of charge.

10) FORCE MAJEURE

The Contractor shall be wholly or partly discharged from the due performance of the Contract if prevented by events of force majeure.

Events of force majeure are limited to fire, floods, Acts of God, war and riot. If the Contractor considers it is impeded by an event of force majeure, it shall only be entitled to claim force majeure if it submits to the Purchaser immediately, however within 5 days at the latest, by registered mail a certificate issued by the authorities or the chamber of commerce of the Contractor's country, confirming the reasons, the commencement date and the expected duration and consequences of that event.

If an event of force majeure occurs the Contractor shall make every effort to minimize the effects and damages resulting therefrom and shall keep the Purchaser fully informed of its activities in this respect.

Dates and terms which cannot be kept due to a force majeure event shall be postponed/ex-tended by the duration of the effects of force majeure.

If an event of force majeure exceeds 4 weeks, the Purchaser shall have the right to terminate the Contract in whole or in part.

The Purchaser shall not be liable towards the Contractor for the consequences arising from any unpreventable hindrance to the implementation of the Contract.

11) TERMINATION

11.1) BREACH OF CONTRACT

In the event of a breach of contract, which is not remedied by the Contractor, and after having been granted a reasonable grace period (usually 14 days), the Purchaser shall have the right to terminate the Contract in whole or in part.

The Purchaser shall be entitled to terminate the Contract in whole or in part without granting a grace period when for example:

- the Contractor after having received a reminder calling for the proper fulfillment of its contractual obligations had in fact a reasonable grace period, even if that reminder did not expressly set a grace period or threaten with termination; or
- the Purchaser already before the respective due date has reason to assume that the Contractor is not or will not be willing or able to fulfill essential contractual obligations on time; or
- one or more post performance trials have failed.

A breach of contract in the above mentioned sense, with respect to final or other contractual dates or defects which would jeopardize the fulfillment of the Purchaser's obligations vis-à-vis its contracting partners shall be considered as serious breaches of contract, even if covered by a penalty.

The Purchaser shall be entitled to carry out by itself (Self Execution), or have carried out by third parties (Substitute Execution) the defective and/or insufficient Supplies/Services of the Contractor at the Contractor's expense irrespective of any termination.

The costs resulting therefrom and/or expenses shall be either directly invoiced by the Purchaser under a payment term of 30 days from the invoice date, or be deducted from payments due to be made to the Contractor by the Purchaser. In the case of termination, the Contractor shall reimburse the amounts already paid by the Purchaser for Supplies/Services not yet per-formed according to the Contract including all related financing costs incurred by the Purchaser.

In the event that Self Execution or Substitute Execution require access to equipment or material etc. that can be found at the Contractor or its subcontractors, the Contractor shall be obligated to provide this equipment or material to the Purchaser. In the event that Self Execution or Substitute Execution require access to trademark rights, documents (such as work shop drawings and calculations) or other information, the Contractor shall be obliged to provide these trademark rights, documents and information to the Purchaser.

Right of use:

In case of termination or cancellation of the Contract the Purchaser has the right to use the Supplies/Services of the Contractor free of charge until acceptance of an alternative solution.

11.2) CANCELLATION

The Purchaser shall have the right at any time to partly or wholly cancel the Contract even though the Contractor is not in default of its obligations. In this case the Purchaser shall pay the Contractor that portion of the Contract value which corresponds to the

Supplies/Services already performed according to the Contract, plus verified direct costs related to work in progress and related to compensation payable to its subcontractors. After the Contractor has been notified of a cancellation, it shall make every effort to minimize all costs and compensation arising therefrom.

11.3) SUSPENSION

The Purchaser shall have the right to call for a suspension of the work at any time. In such case the Contractor shall specify in detail to the Purchaser all the consequences resulting therefrom and suggest the best possible and most economical alternatives available for the further implementation of the project. For suspensions not exceeding 3 months the Purchaser shall not be liable for any compensation to the Contractor. At the end of the Purchaser's suspension the Contractor is to commence with the execution of its Supplies/Services under the Order immediately.

12) OTHER TERMS AND CONDITIONS

12.1) AUTHORITY

Persons giving statements vis-à-vis the Purchaser on behalf of the Contractor shall be deemed fully empowered to do so.

12.2) ASSERTION OF CLAIMS BY THE CONTRACTOR

Possible claims of the Contractor for payments made over and above the total Contract value, no matter on which legal grounds, are to be presented in writing with detailed verification and specifications to the exact amount of the claim within 30 days from the onset of the event, which according to the Contractor entitles him to make these claims. The Contractor shall not be entitled to make such claims in the event that this 30 days period has expired.

12.3) THIRD PARTIES' CLAIMS

The Contractor shall fully indemnify the Purchaser for all claims of third parties caused by defects in, or improper execution of, the Contractor's Supplies/Services.

12.4) THIRD PARTIES' RIGHTS

The Contractor shall ensure that the use of its Supplies/Services is not affected in any way by claims of third parties regarding trademarks, copyrights, patents, protected territories, etc. and that no boycott clauses, black lists, etc. are violated.

The Contractor shall immediately inform the Purchaser of any infringement of third parties' rights or any violation of boycott clauses or black lists, etc.

In case of any such infringement or violation, the Contractor shall fully indemnify and hold the Purchaser and the Final Customer harmless against any claims of third parties, and guarantee the Purchaser and the Final Customer the unlimited use of the Supplies/Services, or shall provide other acceptable alternatives free of charge to the Purchaser/Final Customer.

13) APPLICABLE LAW AND JURISDICTION

13.1) All disputes arising in connection with the Purchase Order, including disputes in regard to validity, violation, cancellation and / or nullity, which cannot be settled by mutual agreement, shall be finally settled under the Rules of Arbitration and Conciliation of the International Center of the Economic Chamber in Vienna by one or more arbitrators appointed in accordance with the rules.

The rules for accelerated procedure shall apply.

Arbitration proceedings shall be held in English language.

UN-Convention on Contracts for the international Sale of Goods and additional the Austrian substantive law to the exclusion of the Private International Law shall apply.
The place of arbitration shall be Vienna.

- 13.2) The Purchaser reserves the right of recourse to the civil court competent according to the applicable law of civil procedure at the place of business of the Purchaser.
Also in this case UN-Convention on Contracts for the international Sale of Goods and additional the Austrian substantive law to the exclusion of the Private International Law shall apply.
- 13.3) Otherwise the Conditions for Purchasing, referred to in the Purchase Order shall be applicable.
Subsequent pages and supplements shall be an integral part of every order.

For the Contractor :

.....
Company Name

.....
Date / Signature

For the Purchaser:

.....
Date / Signature