



HOLBORN EUROPA RAFFINERIE GMBH

GENERAL TERMS AND CONDITIONS FOR SUPPLY CONTRACTS, FORM H/ACP/03

Unless agreed otherwise in the contract, the following terms and conditions apply to all supply contracts (hereinafter referred to as "contracts") between HOLBORN Europa Raffinerie GmbH (hereinafter referred to as HOLBORN) and Suppliers – including tenderers regardless of whether or not an order will be placed – (hereinafter referred to as Contractor).

1. Quotation

- 1.1. Quotes do not incur any costs for HOLBORN and are not binding on HOLBORN. Any deviations from our request for quotation must be clearly marked as "Deviations" in the quote.
- 1.2. HOLBORN is interested in alternatives that are more favourable from a technical and financial perspective. The Contractor may therefore also offer solutions that it believes to be more favourable for HOLBORN under the heading "Alternative solution".
We would also like to emphasise that the evaluation of the procurement of energy services, products and facilities that may have an impact on core energy usage is, in part, based on energy-related performance. This means that energy efficiency is also a deciding factor.
- 1.3. In submitting its quote, the Contractor recognises these General Terms and Conditions for Supply Contracts and other conditions relating to the request for quotation without reservation.
- 1.4. Unless expressly stated otherwise, prices are understood to be DAP (destination: Holborn, Hamburg) in accordance with ICC Incoterms 2010. Transport insurance at our expense must only be offered if explicitly requested.
If carriage-free delivery is not being offered, the prices quoted must be itemised as follows:
Delivery ex works, loading, packaging, freight, customs duties, import duties. Net prices excluding value-added tax must be quoted. Value-added tax must be shown separately.

2. Contract

- 2.1. With regard to the content of the contract, in the event of contradictions, the following applies in the order of precedence shown here:
 - The wording of the contract;
 - The wording of any minutes of negotiations/meetings;
 - The service/supply description and/or the technical requirements specification in all its constituent parts, where available;
 - These General Terms and Conditions for Supply Contracts.
- 2.2. The General Terms and Conditions for Supply Contracts form part of the contract and apply exclusively. Any deviating, conflicting or supplementary provisions of the Contractor to which HOLBORN has not expressly agreed in writing are deemed not to have been agreed.
- 2.3. Only contracts awarded and change requests issued in writing are binding on HOLBORN. Verbal agreements or agreements made by telephone must therefore be confirmed by HOLBORN in writing in order to be valid. Transmission via fax is also sufficient to satisfy the requirement for the written form. Contracts/change requests may only be sent via email if sent in PDF format.
- 2.4. HOLBORN is entitled to request a change or addition to the contract at any time, even if the Contractor has already started to produce the deliverables. In this situation, the Contractor must inform HOLBORN of the increased/reduced prices within 14 days. In the case of additional requested services, the basis used for calculating the relevant prices must correspond to that used for the main contract. An amendment or addition to the contract is only deemed to have been agreed upon if HOLBORN has confirmed it in writing, explicitly acknowledging the new prices.
- 2.5. If the Contractor and HOLBORN agree on changes to the scope of supply and/or the execution of the contract, any changes (see Item 2.4) will not affect the deadlines and/or periods agreed upon for supply or for rendering the service. If a different deadline or new period has not been agreed with HOLBORN, the Contractor may not cite the change to the contract as the reason for the delay should a delay occur.

3. Scope of supply, execution

- 3.1. When making deliveries, the Contractor must observe all official and statutory provisions and orders, execute the deliveries in accordance with the latest state-of-the-art technology, warrant that the deliveries made are in the contractually agreed condition and ensure that the deliveries are suitable for the intended purpose. In the case of any contradictions between the regulations specified above and the terms of the contract, the Contractor is obligated to inform HOLBORN in writing of such contradictions and propose changes accordingly.
- 3.2. All deliveries made must be complete such that reliable and economic use is guaranteed, even if parts and tasks necessary to ensure such use are not specifically mentioned in the contract documents.
- 3.3. The prices agreed upon also include any ancillary services that the Contractor must render in order to execute its contract.
- 3.4. Proper completion of the delivery also includes the provision of documentation, such as factory certificates, acceptance certificates, operating manuals etc.

4. Contract confirmation, acceptance in case of changes

Upon receipt of a written contract from HOLBORN, the Contractor must confirm this contract within ten days using a copy of the HOLBORN contract. If HOLBORN's contract deviates from the quote submitted by the Contractor, the Contractor must – if it does not agree to the deviations – declare this to HOLBORN in writing within ten days of receiving the contract. Deviations from the awarded contract that are specified in this declaration will only form part of the contract if HOLBORN then confirms these deviations in writing.

5. Shipment

- 5.1. The deliverables must be shipped in accordance with the requirements set out in the "Transport instructions" and "Shipping documentation instructions".
- 5.2. Any costs incurred as a result of non-compliance with the requirements mentioned in item 5.1 must be borne by the Contractor.
- 5.3. The risk of accidental destruction, loss or deterioration of the deliverables, even in the case of sale by dispatch, is transferred to HOLBORN only upon handover of the deliverables. If an acceptance is agreed, this shall be authoritative for the passage of risk. Acceptance is deemed to be declared, if HOLBORN is proven to be in default in acceptance.

6. Invoicing

Invoices must be prepared consistently with the items specified in the contract and – irrespective of the location where the deliverables are received – must be sent to the address specified in the contract, detailing the account assignment, contract number and contract date.
All account assignment information and designations provided for the relevant item must be included in full.
HOLBORN will return any invoices that do not include the information specified above to the issuing party for completion.
HOLBORN shall not be responsible for any resulting delays in payment.

7. Payment

- 7.1. The requirements for payment are:
Proper, verifiable delivery of the ordered goods, including documentation; Submission of the invoice in accordance with Item 6. HOLBORN shall not be responsible for any delays in payment caused by a failure to provide the above-mentioned documents.

7.2. Advance/partial payments will only be made if explicitly agreed upon in the contract. Further requirements for such payments are:

- Proper, verifiable performance of the partial service;
- Submission of a written request for payment, indicating the value-added tax, pursuant to Item 7.1; and
- Provision of any collateral agreed upon for the advance/partial payment.

The provision of an advance/partial payment neither confirms that the partial invoice is correct nor deems the deliveries already made as accepted.

7.3. HOLBORN reserves the right to exercise its right of retention and right to refuse performance (e.g. defence of non-performance of the contract).

This applies in particular if a payment schedule has been agreed upon.

7.4. Unless agreed otherwise, payment will be made net within 30 days of the payment requirements being fulfilled pursuant to Item 7.1 or 7.2.

7.5. The Contractor may not assign claims against HOLBORN to a third party without HOLBORN's written consent.

7.6. HOLBORN is not automatically deemed to be in default following expiry of the 30-day payment period. In order for HOLBORN to be deemed in default, the Contractor must first issue a written reminder following expiry of the 30 days.

8. Liability/indemnity insurance

8.1. The Contractor is liable to the extent required by law.

8.2. In order to cover any claims for compensation asserted by HOLBORN, the Contractor is obligated to take out and maintain – at its own expense – (product) indemnity insurance for personal injury and material, financial and environmental damage, as well as for damage to property in its care, custody or control and for damage to work in progress. The indemnity insurance must cover all liability risks arising from the contract. The indemnity insurance must also cover the personal liability of persons used by the Contractor in order to execute the contract. The Contractor shall provide proof of this insurance coverage at any time upon HOLBORN's request.

8.3. A limitation of liability is not set by Item 8.2.

9. Deadlines/force majeure

9.1. The delivery and/or service deadlines specified or jointly agreed upon in the contract are binding; this also applies to intermediate deadlines. The goods must have arrived at the specified destination in order for the delivery deadline to be deemed to have been met.

9.2. If the Contractor becomes aware that an agreed deadline cannot be met for any reason, it must inform HOLBORN of this fact immediately in writing, providing the reasons for the delay and the anticipated duration of the delay.

9.3. If an agreed delivery deadline or a delivery deadline that has been postponed by mutual agreement is not met, HOLBORN may set a reasonable extended deadline for the delivery. Once this extended deadline has passed, HOLBORN is entitled to withdraw from the contract and/or to assert a claim for compensation against the Contractor.

9.4. If a contractual penalty is agreed upon for missing agreed deadlines, then HOLBORN's right to request the contractual penalty is not excluded by HOLBORN accepting the delayed fulfilment, by HOLBORN not requesting payment of the contractual penalty upon acceptance of the delayed fulfilment, or by HOLBORN not reserving the right to payment of the contractual penalty. HOLBORN's right to payment of the contractual penalty is excluded, however, if HOLBORN does not request the contractual penalty within one month of HOLBORN acknowledging and paying the Contractor's final invoice. In addition to the contractual penalty, HOLBORN may request compensation from the Contractor for any further damages. § 343 of the German Civil Code does not apply.

9.5. Events of force majeure and industrial action release the contractual parties from the contractual obligations for the duration of and to the extent of the disruption. Events of force majeure are exclusively natural catastrophes, war, riots, sabotage and organised industrial action. However, wildcat strikes, the rejection of parts (casting/forging etc.), rejection

during the acceptance procedure or delays caused by sub-suppliers are not classed as events of force majeure. The contractual partner affected undertakes to immediately provide the other contractual partner with the required information about the duration of the disruption. The contractual partners shall undertake to adapt the contract to the changed circumstances in good faith. HOLBORN is entitled, at its own option, to withdraw from or terminate the contract, either in full or in part, if – as a result of the delays caused by the force majeure event or industrial action – it has a justified interest in refusing the service/delivery. The obligation to pay remuneration for partial deliveries and/or services accepted by HOLBORN remains unaffected by this. In all other respects, the Contractor ceases to be entitled to remuneration.

10. Inspection and acceptance

10.1. HOLBORN is permitted to enter the construction site, workshops and offices of the Contractor and its subcontractors during normal business hours in order to review the services being rendered and monitor deadlines.

10.2. Inspections and acceptance procedures must be carried out in accordance with the contractual agreements.

10.3. Unless stipulated otherwise in the contract, the following applies to costs incurred in the course of inspecting and processing deliverables:

If the inspections and acceptance procedures are carried out by HOLBORN itself, by one of HOLBORN's contractors or by a contracted private inspection company, the Contractor shall bear the material inspection and acceptance costs and the personnel costs for the inspectors.

If authorities require inspections and acceptance procedures to be carried out by the TÜV (Technischer Überwachungsverein – German Technical Inspection Association) or similar institutions, the Contractor shall bear the material and personnel costs.

11. Limitation of right of retention, right to refuse performance and right of set-off

The Contractor, who is obligated to deliver in advance, has a right of retention, right to refuse performance and right of set-off only in the event of undisputed and/or legally established counterclaims.

12. Technical documents

12.1. All of the Contractor's drawings, calculations, circuit diagrams, designs etc. – irrespective of their origin – which are used to execute the contract must be approved by HOLBORN by means of a notice of approval before work is started. This approval does not release the Contractor from its responsibility to ensure that the dimensions, design and function are correct according to the calculations and in line with the regulations and/or specifications applicable to the contract in question. DIN formats must always be used.

12.2. All drawings and technical documents must be labelled with:

- a) The contract and unit number or site designation;
- b) The apparatus and construction or machine number.

12.3. Each change must be clearly noted down on the drawing. All changes must be labelled using lower-case letters, starting with "a".

The final, as-built drawings must be labelled as such and delivered as a "transparent" copy.

12.4. The drawings, specifications, calculations etc. that HOLBORN provides to the Contractor remain the property of HOLBORN and must be returned immediately at the request of HOLBORN. However they must be returned at the latest upon completion of the work. and these drawings, calculations etc. may not be passed on to uninvolved third parties or used in any other way.

12.5. If the Contractor identifies a discrepancy between the contract and the drawings and specifications it is provided by HOLBORN, the Contractor is obligated to notify HOLBORN of this discrepancy in writing and to request clarification.

13. Contractor's warranty/liability for defects

13.1. The Contractor warrants that, at the time of acceptance, its deliveries and/or services:

- Are free from material defects and defects of title;
- Are in the contractually agreed condition;

- Correspond to the recognised rules of engineering and comply with the applicable regulations;
 - Correspond to the drawings and specifications forming the basis of the contract; and
 - Are suitable for the intended use.
- 13.2. The acceptance of goods is always subject to quantity and quality control. For the delivery of goods that HOLBORN is required to examine pursuant to § 377 of the German Commercial Code, the period allowed for examination and giving notice of obvious defects in the goods is two weeks from receipt of delivery. The period allowed for giving notice of hidden defects is two weeks from discovery of the defect.
- 13.3. Unless agreed otherwise, claims for defects become time-barred 24 months after commissioning, and no later than 30 months following delivery. In the case of building materials or items that have been used for a building in accordance with their usual purpose and are the cause of a defect in said building, the limitation period only ends five years following delivery. Under no circumstances does this Item 13.3 reduce the statutory limitation period for claims for defects that may be asserted by HOLBORN.
- 13.4. Should a defect exist or arise during the limitation period for claims for defects, HOLBORN may first decide whether subsequent performance is to be rendered by means of repair or by means of a replacement delivery within a reasonable grace period to be set by HOLBORN. The Contractor shall bear all costs of subsequent performance.
- 13.5. If the subsequent performance period expires without success, HOLBORN may – at its own option exercise its further statutory rights including the right of withdrawal and the right to request compensation for damages.
- 13.6. Upon submission of a written request for subsequent performance and the Contractor's declaration that it is willing to deliver said subsequent performance, the limitation period is suspended until such time that the defects concerned have been remedied. The agreed warranty period for the part that was replaced or repaired under the warranty then starts anew.
- 13.7. In the case of a replacement delivery in the course of subsequent performance or following withdrawal from the contract, the deliverables will remain available to HOLBORN until the replacement delivery is complete or until another, adequate replacement has been procured.
- 13.8. Approval of the Contractor's final design documents and the completion of inspection and acceptance procedures by HOLBORN or by other parties contracted by HOLBORN do not release the Contractor from its liability for defects.
- 13.9. The Contractor is liable for all damage to the extent required by law, where such damage has been culpably caused by the Contractor and/or its vicarious or auxiliary agents in connection with its contractual obligations. Any strict liability of the Contractor that exists alongside the liability described above continues to apply in full.
- 14. Property rights**
- 14.1. If third-party industrial property rights or copyrights are affected by the execution of the contract, the Contractor must – at its own expense – procure the necessary licences and release HOLBORN from any obligations, disadvantages and damages that HOLBORN may incur as a result of using such rights.
- 14.2. If the Contractor's own industrial property rights or copyrights are affected, the Contractor grants HOLBORN, upon execution of the contract, the irrevocable right to use these rights without limitation and free of charge in connection with the deliverables.
- 14.3. In the course of executing the contract, particularly when manufacturing items, should the Contractor produce an invention that, for example, improves the item in question or parts thereof, the Contractor shall immediately inform HOLBORN of this fact and offer the rights to the invention. HOLBORN shall inform the Contractor in writing, within four weeks of receiving the offer, whether HOLBORN will assume the rights to the invention. The Contractor shall keep the invention and any details shared with it about said invention secret for as long as is necessary to apply for property rights.
- 14.4. If copyrights exist for the plans, design drawings, tables and similar documents used in connection with the contract, the Contractor grants HOLBORN the right to produce copies – or to arrange for copies to be produced – of the plans, design

drawings, tables and similar documents, to alter the plans and design drawings, and to use these documents in connection with the deliverables free of charge and without limitation. HOLBORN is also entitled to make these documents available to third parties if HOLBORN entrusts third parties with the modification, replacement or repair of the deliverables.

15. Confidentiality

The Contractor must treat as confidential all information acquired from HOLBORN within the framework of the contract, unless said information is public knowledge or generally accessible. The Contractor must obtain HOLBORN's consent for news articles and press releases relating to the contract or the work that it is undertaking within the context of the contract prior to publication.

16. Compliance

- 16.1. The Contractor undertakes to comply with the applicable statutory and legal provisions. This includes in particular but not exclusively, the observance of and the compliance with the applicable anti-bribery provisions and money laundering regulations. The prohibited practices include, in particular to promise, offer or grant, either directly or indirectly, an advantage to any person, including employees of Holborn, or to request or accept benefits or undue advantages, in order to influence actions.
- 16.2. The Contractor undertakes to observe the Oilinvest Code of Conduct. The Oilinvest Code of Conduct is available at www.holborn.de/procurement and can be obtained from HOLBORN. Any amendments of the Oilinvest Code of Conduct will be published on the HOLBORN website.
- 16.3. If the Contractor violates one of the obligations set out in item 16.1 and 16.2, HOLBORN shall be entitled to demand omission of the infringing activity. If the infringement concerned is not insignificant and is - upon receipt of a request for remedy - not remedied within a reasonable period of time set by HOLBORN, or in case of repeated violations, HOLBORN shall be entitled to terminate the contract affected by the violation for good cause. The assertion of further claims and rights shall remain unaffected by this. A request for remedy is not required if it is not reasonable for Holborn to adhere to the contract until the expiry of a deadline or if setting a deadline apparently does not make any sense.

17. Place of performance

The delivery destination is deemed as the place of performance for all deliveries (see Item 1.4).

18. Severability clause

Should provisions of the contract be or become invalid, ineffective or unenforceable, or should any gaps be identified in the contract, this will not affect the validity of the remaining provisions. In order to replace the void, ineffective or unenforceable provision or to fill the gap, an appropriate agreement must be reached that comes as close as possible to what the contractual parties would have wanted had they considered this point. If the invalidity is based on the definition of performance or time, the statutory standard applies instead.

19. Applicable law and place of jurisdiction

The statutory provisions of the Federal Republic of Germany apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods. The exclusive place of jurisdiction for both parties is Hamburg, Germany. HOLBORN also has the right bring action against the Contractor at the Contractor's registered office.

20. Binding version

These Terms and Conditions for Supply Contracts are available in German and in English. In the event of any inconsistency between the German and the English version, the German version shall prevail.

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