

## **GENERAL TERMS AND CONDITIONS OF PROCUREMENT OF GOODS AND SERVICES**

**VOLKSWAGEN BANK GmbH Sp. z o.o. Oddział w Polsce,**  
**VOLKSWAGEN FINANCIAL SERVICES Polska Sp. z o.o.**  
**and VOLKSWAGEN SERWIS UBEZPIECZENIOWY Sp. z o.o.**

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## **1. Definitions**

### **1.1 Company**

The Company or Companies shall mean Volkswagen Bank GmbH acting through its Branch in Poland, Volkswagen Financial Services Polska Sp. z o.o. and Volkswagen Serwis Ubezpieczeniowy Sp. z o.o.

### **1.2 Terms and Conditions**

The Terms and Conditions shall mean these General Terms and Conditions of Procurement of Goods and Services.

### **1.3 Goods**

The Goods shall mean all movables as well as any form of energy and water.

### **1.4 Goods Procurement Contract**

A Goods Procurement Contract shall mean any contract whereby the Company acquires the ownership title in the Goods, except for the services procurement contracts.

### **1.5 Services**

The Services shall mean any services provided to the Company.

### **1.6 Services Procurement Contract**

A Services Procurement Contract shall mean a contract whereby the Vendor provides the Services to the Company.

### **1.7 Vendor**

A Vendor shall mean an entrepreneur submitting to the Company a bid to sign a contract or to whom the Company sends a request for bid concerning the signing of a Goods or Services Procurement Contract.

### **1.8 Request for Bid**

A Request for Bid shall be an invitation address by the Company to the Vendor to submit a bid within the framework of a bidding contest held by the Company or for the purpose of becoming familiar with the Vendor's current offering.

## **2. Scope of Application of Terms and Conditions**

**2.1** These Terms and Conditions shall apply to all Goods and Services Procurement Contracts made by the Companies as the buyers of the Goods or Services as well as to the activities associated with and/or preceding the signing of such contracts. These Terms and Conditions shall apply also to preparation and submission of the bids by the Vendor in response to a request for bid.

**2.2** Unless otherwise agreed, the Terms and Conditions shall apply in the version in force as at the date of the signing of the contract. The up-to-date version of the Terms and Conditions shall be delivered to the Vendor ahead of the signing of the contract. The up-to-date version of the Terms and Conditions can be found at any time in the electronic version at [www.vwbank.pl](http://www.vwbank.pl) and [www.vwleasing.pl](http://www.vwleasing.pl)

**2.3** Unless the Company and the Vendor agreed otherwise in writing, any use of the Vendor's specimen contracts is precluded even if the Company has not expressly objected to their incorporation. Acceptance of the Goods or Services by the Company without an express reservation or execution of a payment by the Company in consideration of the Goods or Services without objection shall not in any case be tantamount to acceptance of the Vendor's specimen contracts. The Company's employees shall not be authorized to incorporate in a Goods or Services Procurement Contract any of the Vendor's specimen contracts, acknowledge the same as binding, not even in part, unless expressly authorized to do so under their power of attorney.

**2.4** In the case of a conflict between the wording of the contract made by the Company with the Vendor and that of these Terms and Conditions, the provisions of the contract shall prevail.

**2.5** For the purpose of construction of the contract made between the Company and the Vendor, the following order of the documents making up the contract is adopted:

- Contract / Purchase order placed by the Company;
- These Terms and Conditions;
- Company's request for bid; and
- Technical conditions and quality standards applicable to the Goods or Services.

### **3. Governing Law**

The provisions of all contracts to which these Terms and Conditions apply shall be governed by the Polish law unless expressly agreed otherwise.

### **4. Requests for Bids and Bids**

**4.1** If the Company sends, together with the request for bid, a bid form used by the Company, the Vendor shall be obliged to submit a bid using that form.

**4.2** Bids shall be prepared in the Polish or English language. A bid must be complete and contain all information required for making an assessment whether the offered Goods or Services satisfy the requirements specified in the request for bid. In the case of the bids submitted using the bid forms used by the Company, the Vendor shall be obliged to incorporate in the bid all information required by the Company. Together with the bid, the Vendor shall submit a written statement of acknowledgement and approval of the wording of these Terms and Conditions.

**4.3** If the Company has accurately defined in the request for bid the requirements to be satisfied by the Goods or Services and the terms of their procurement, the Vendor shall be obliged to identify all discrepancies between the requirements or terms and conditions defined in the Company's request for bid and the wording of the bid submitted by the Vendor and the reasons for the Vendor's departure from the requirements or terms and conditions identified by the Company. A list of such discrepancies shall be enclosed to the bid submitted by the Vendor.

**4.4** The replies to the requests for bids as well as the bids themselves and the appendices to those replies or bids shall be submitted by the Vendor to the Company free of charge. The Company may at any time demand submission by the Vendor, free of charge, of additional information or documents concerning the Goods or Services constituting the object of the bid.

**4.5** The bid's currency and price shall be expressly defined therein. All prices shall be gross prices incorporating the tax on goods and services (VAT) at the applicable rates unless it has been expressly stipulated to the contrary. Unless stipulated to the contrary, the prices quoted in the bid shall also comprise the costs of materials, equipment, loading, transportation, dispatch, packaging, insurance, unloading, assembly of the items used by a Vendor of the goods or services in performing the contract and the cost of travel and accommodation of the persons required to perform the contract until the final acceptance at the Company's headquarters or plant designated in the request for bid, as well as the costs of documentation and training. Unless agreed otherwise, all prices quoted in the bid shall be lump sum prices covering all works, materials and activities required to perform the subject-matter of the contract consistently with its wording even if the individual works, materials or activities have not been expressly listed.

**4.6** The bids are to be sent to the address specified in the requests for bids and shall bear the number of the request for bid and the bid's number.

**4.7** A bid prepared in response to the Company's request for bid shall be submitted within two weeks of the date of delivery of the request for bid to the Vendor unless another deadline has been set in the request for bid. If the Company fails to submit a statement of acceptance of the Vendor's bid, the bid shall be deemed not accepted.

## **5. Vendor's Specific Obligations in connection with Preparation of Bid**

- 5.1** The Vendor shall be obliged to prepare its bid based on the applicable laws and regulations. Such bid shall comprise all performances required for due delivery of the Goods or Services in a correct manner consistent with the best practice and available technology that assures the highest possible quality and safety standards and attainment by the Company of the intended economic objective.
- 5.2** Whenever any amendments are made to the documentation made available to the Vendor, the Vendor shall be obliged to ensure participation of the Company's representatives and, possibly, representatives of the entities which have developed that documentation for the Company in all work associated with amendment of that documentation. The Vendor shall bear all costs associated with participation of the aforementioned persons in the work associated with amendment of the documentation unless the contract stipulates otherwise.

## **6. Signing of Contract**

A contract with the Vendor shall be signed in writing.

## **7. Invoices and Terms of Payment**

- 7.1** The Vendor shall send the invoices documenting procurement of the Goods or Services to the Company's address. Each invoice must specify the tax identification number (NIP), identifier of the purchase order, additional Company information agreed by the Company and the Vendor as well as the price of the Goods or Services agreed in the contract, with a separately specified amount of the tax on goods and services.
- 7.2** Unless agreed otherwise, the terms of payment shall be thirty (30) days from the date of delivery of a correctly issued invoice to the Company. An invoice shall be issued based on delivery of the Goods or Service consistently with the Goods or Service Procurement Contract. The invoice cannot be issued later than seven (7) business days after the end of the adopted settlement period. If the invoice has been issued incorrectly, the Vendor shall issue a related correcting VAT invoice or correction note at the Company's request. Upon receipt and acceptance of premature deliveries, the terms of payment shall apply consistent with the previously agreed date of delivery of the Goods or Services.
- 7.3** The Vendor shall enclose all documents required for making the settlement to the invoice.
- 7.4** If the parties have agreed a payment schedule, the Company shall make payments consistently with that payment schedule. If a prepayment in excess of PLN 20,000.00 has been agreed, disbursement of such prepayment shall be conditional upon presentation of a permanent, irrevocable, unconditional and payable on demand bank guarantee in the amount of the agreed prepayment plus tax on goods and services (VAT). The guarantee shall be returned upon final settlement of a goods or services procurement contract. The wording of the guarantee and list of the entities that may issue a bank guarantee recognized by the Company can be found in the Company's Internal Services Division.
- 7.5** In the case of undue performance of the contract by the Vendor, the Company shall be authorized to withhold payments or a part thereof until due performance of that contract.
- 7.6** The agreed purchase price of the Goods or Service shall be paid into the bank account designated in the VAT invoice. The Vendor shall be obliged to inform the Company of each change of the bank or account number without delay, however not later than within three (3) business days of occurrence of such change. The letters concerning the changes of the bank account number or bank shall comprise the signatures of the persons authorized to represent the Vendor and the details of the authorized contact person. The Vendor shall be obliged to transmit the information referred to in the preceding sentences in writing. The Vendor's failure to transmit that information shall release the Company from liability for correctness of the executed bank funds transfers.

## **8. Legal Compliance**

**8.1** In performing a Goods or Services Procurement Contract, the Vendor shall be obliged to comply with the applicable laws and regulations and orders of the competent bodies. In particular, that obligation shall apply to the design, structuring or manufacturing, transportation and assembly of the delivered Goods or Services so that they satisfy all safety requirements and quality standards and do not breach the regulations governing occupational health and safety, environmental protection or third party rights. The Vendor shall be held fully liable for all penalties as well as personal injury and property damage caused by breaches of those regulations and standards.

## **9. Obligation to Co-operate and Performance of Contract**

**9.1** The Vendor shall be obliged to inform the Company promptly and on an ongoing basis of any important matters concerning performance of the Goods or Services Procurement Contract and to assure participation of the Vendor's duly authorized representative in all discussion concerning performance of the contract. That representative shall be authorized to make the necessary decisions and give orders to the other persons acting for the benefit of the Vendor in performing the contract.

**9.2** In connection with performance of the Goods or Services Procurement Contract, the Vendor shall be obliged to take into consideration and respect all of the Company's rights as well as the regulations and orders in force on the Company's premises. In particular, the Vendor shall be obliged to offer appropriate guidance to all persons acting on the Vendor's orders in performing the contract for the purpose of securing its due performance.

**9.3** The Vendor shall be obliged to organize all procedures associated with performance of the contract in such manner that they do not impede the Company's everyday business operations.

**9.4** The Company reserves the right to voice its objection to entrusting to a given person the responsibilities referred to in Item 9.1 of these Terms and Conditions or to dismiss a given person from that position.

**9.5** In the case of a change of the dates of completion of the individual milestones of performance of a Goods or Services Procurement Contract or of the final date of its completion, the parties shall agree the new deadlines for performance of the obligations arising under the contract; this shall not preclude the Company's right to seek redress of the damage caused by the Vendor's failure to keep the original deadlines.

**9.6** If a performance is made with the participation of more than one Vendor, each of the Vendors shall be obliged to use their best efforts to provide the remaining Vendors with a possibility to make timely and due deliveries of the Goods or Services. All disputes and obstacles in that respect shall be promptly reported to the person in charge on the part of the Company. In such case, the Company shall have the right to decide, at its own discretion, about the further method of provision of the Services.

**9.7** The Company shall not be liable to the Vendor for the impediments and obstacles caused by the other business partners acting for the benefit of the Company.

**9.8** All impediments or obstacles concerning due performance of the Goods or Services Procurement Contract shall be promptly reported by the Vendor in writing to the person in charge on the part of the Company. Failure to report the obstacles or impediments shall deprive the Vendor of the right to lodge any claims attributable to those obstacles or impediments. The Vendor shall be obliged to inform the Company without delay and on an ongoing basis about all important matters concerning procurement of goods or services and to assure participation of the Vendor's duly authorized representative in all discussions concerning performance of the Goods or Services Procurement Contract.

## **10. Co-operation on the part of Company**

- 10.1** The Company shall have the right to oversee continuously the method of performance of the Goods or Services Procurement Contract by the Vendor or the Vendor's subcontractors. The Company shall exercise that right through authorized persons who may stay on the premises of the Vendor or the Vendor's subcontractor's enterprise in compliance with applicable laws and regulations.
- 10.2** On the Company's demand, the Vendor shall be obliged to present a report on execution of the subject-matter of the contract to the Company. The Company shall define the wording, date and method of submission of that report in the summons for its submission.

## **11. Deliveries on the part of Company**

- 11.1** If, within the scope of performance of a Goods or Services Procurement Contract, the Company delivers to the Vendor independently or through third parties materials, inputs or devices or provides specific services, the Vendor shall be obliged to check thoroughly, at its own risk, quality and quantity of those materials, inputs, devices or services and report to the Company without delay in writing all identified defects and faults, in particular those likely to impede or prevent due performance of the contract.
- 11.2** The Vendor shall be obliged to store the materials delivered by the Company in the appropriate conditions assuring preservation of the properties of those materials and prospects for proper provision of the Services. In consideration of storage of the materials transmitted by the Company, the Vendor shall not be entitled to any additional remuneration.
- 11.3** The materials transmitted to the Vendor by the Company shall be stored separately from the remaining materials accumulated by the Vendor. Those materials shall also be marked as the Company's property in a durable and visible manner. The materials cannot be removed from the agreed storage site without the Company's prior written consent unless their transfer is necessary within the scope of provision of the Services or for the purpose of prevention of destruction of or damage to those materials.
- 11.4** The Vendor shall be fully liable for the materials entrusted by the Company in the amount of the market value of the so entrusted materials. If necessary, the Vendor shall also be obliged to insure the materials transmitted to the Vendor against fire, flood or theft as well as any other damage.
- 11.5** On the Company's demand, the Vendor shall be obliged to carry out stock-taking.

## **12. Impediments and Obstacles**

All impediments or obstacles concerning due performance of the Goods or Services Procurement Contract the Vendor shall report without delay in writing to the person in charge on the part of the Company. Failure to report the obstacles or impediments shall deprive the Vendor of the right to lodge any claims attributable to those obstacles or impediments.

## **13. Subcontractors**

- 13.1** The Vendor shall perform the Goods or Services Procurement Contracts within the scope of the Vendor's own enterprise. Partial or full performance of the contract by a Subcontractor shall be acceptable. Partial or full performance of the contract by the Subcontractor shall not release the Vendor from liability for performance of the contract, subject to the general laws and regulations.
- 13.2** The Vendor shall be fully liable for the Subcontractors' actions and shall be obliged to check whether those Subcontractors comply with the applicable laws and regulations, in particular as regards the labor law and product safety.

## **14. Assignment of Receivables**

The Vendor cannot, without the Company's prior written consent, assign to a third party the receivables held by the Vendor against the Company in consideration of the Goods or Services Procurement Contract or authorize third parties to assert such claims.

## **15. Refraining from Making a Counter Performance. Set Off.**

**15.1** Any and all limitations of the Company's right to withhold the making of a counter performance for the benefit of the Vendor or restrictions on the Company's ability to set off mutual claims shall be ineffective in respect of the Company.

**15.2** The Vendor hereby authorizes the Company to set off any amounts receivable due to the Company from the Vendor against all amounts receivable due to the Vendor from the Company.

## **16. Unfair Competition. Liability of Collective Entities.**

**16.1** The Vendor shall be obliged to ensure that the Vendor's employees or other persons acting for the Vendor's benefit under the other legal relations do not commit, to the Company's detriment, any of the acts designated in Chapter 2 of the Act on Combating Unfair Competition of 16 April 1993 (Journal of Laws of 2003 No. 153 Item 1503, as amended).

**16.2** In connection with performance of the contract, the Vendor shall be obliged to observe the following principles:

- The Vendor shall not violate the provisions of the applicable laws and regulations through its conduct (act, tolerance or omission). That prohibition shall apply also to the Vendor's employees, representatives and other persons acting for or on behalf of the Vendor, in particular to the conduct that may lead to commission of the acts defined in Article 16 of the Act on Liability of Collective Entities for Prohibited Acts under Pain of Penalty of 28 October 2002 (Journal of Laws of 2002 No. 197 Item 1661, as amended). In particular, that prohibition shall apply, but not be restricted, to such prohibited acts as, *inter alia*, breach of trust, capital fraud, impaired seeking of claims, money laundering, keeping of inaccurate records, impairment of public tenders, bribery and paid protection, fraud, forgery of documents, attestation of an untruth, use of an attestation of an untruth, computer sabotage, tax offences against tax duties and settlements made on account of grants or subsidies, tax offences against customs duties and principles of international trade in goods and services, exportation of hazardous waste in violation of applicable laws, breach of company secret, product copying, money and value marks counterfeiting;
- The Vendor shall be obliged to use its best efforts to protect the Company's good name and to avoid any acts or omissions that are likely to result in a breach of the Company's good name;
- The Vendor shall be obliged to act within the scope of the assignments commissioned to the Vendor (as well as granted powers of attorney and other authorizations). Any departure from the scope of the commissioned assignments (or granted powers of attorney or other authorizations) shall be possible with the Company's prior written consent only;
- The Vendor shall be obliged to inform directly the Company's Management Board or person designated in writing by the Company's Management Board of any fact known to the Vendor if that fact is likely to expose or threaten the Company's interests in any way. In particular, this shall apply to the information about any prohibited acts that are likely to be committed in connection with performance of the duties commissioned by the Company.

**16.3** The Vendor shall be obliged to return, on the Company's first demand, all letters and documents that attest to or confirm the Vendor's authorization or the authorization of the other persons to act on behalf of the Company. A demand to return a document shall be tantamount to the revoking of a given authorization unless a reservation to the contrary has been made in such demand. The document shall be returned after completion of the acts defined therein, at the latest, unless the original of the document has been submitted to the competent administrative body or court. In such case, an official confirmation of submission of the original of a given document shall be presented.

**16.4** Granting of further powers of attorney by the Vendor shall be acceptable only if this is provided for in the power of attorney. The Company's Legal Department shall be notified of the granting of a further power of attorney in writing.

**16.5** The parties jointly and expressly agree that any breach of the aforementioned rules and obligations may be treated as the basis for the Vendor's liability towards the Company. The Vendor is aware of the fact that a breach of those rules may constitute the grounds for dissolution of the contract (or another legal relation) binding the Vendor with the Company.

**16.6** The Company reserves the right to assert claims for damages under the general principles of civil law on account of the breaches of the rules or obligations defined in these Terms and Conditions.

## **17. Copyright and Industrial Property Rights. Confidentiality. Advertising.**

**17.1** The Company shall hold all rights, including intellectual property rights, in all plans, drawings, sketches, calculations and other documents, regardless of the media carrying the same, as well as models and specimens transmitted to the Vendor in connection with the signing of the contract. The objects of those rights may not be made available to third parties without the Company's prior written consent. The Vendor may use those exclusively for the purpose of performance of the contract signed with the Company and, promptly after completion of its performance, shall return the same to the Company without the separate summons from the Company.

**17.2** The Vendor may place the logotypes and trade marks of the Company or other entities with capital links to the Company on the items or products manufactured by the Vendor under the Services Procurement Contract if such authorization is derived expressly from the documents submitted by the Company in connection with performance of the contract or if the Company instructs the Vendor to do so. The items or products marked in such manner may be transmitted to the Company only. In the case of a justified return of the items or products bearing the Company's logotype, trade mark or part number, the Vendor shall use its best efforts to prevent the use of such items or products unless otherwise instructed by the Company.

**17.3** Prior to disclosing to the Vendor any confidential or highly classified information, the Company shall have the right to conduct, against payment, an audit of the Vendor's information security measures. Such audit shall be conducted by a person authorized by the Company. The Vendor shall be obliged to treat all information, documents and other items transmitted to the Vendor by the Company in connection with preparation of the bid, signing and performance of the contract as the Company's business secret within the meaning of Article 11 Section 4 of the Act on Combating Unfair Competition of 16 April 1993 (Journal of Laws of 2003 No. 153 Item 211, as amended). The confidentiality obligation shall survive the performance of the contract by the Vendor unless the information, documents or other items covered by the Company's business secret are found in the public domain or have been made public.

**17.4** The Vendor shall also be obliged to keep secret the fact of the signing the contract with the Company unless the Vendor is required under the mandatory rule of law to disclose the above to the persons statutorily eligible to obtain such information. The Vendor may disclose its business relationship with the Company for advertising purposes exclusively with the Company's prior written consent. Such consent shall be granted by the Company exclusively for a specific advertising purpose described by the Vendor in the request addressed to the Company.

**17.5** The Vendor shall be obliged to assign all copyright held by the Vendor if such copyright applies to the deliverables created in connection with performance of the Services Procurement Contract.

**17.6** When relying on the items or programs subject to protection under third party copyright or industrial property rights for performance of the Services Procurement Contract, the Vendor shall be obliged to use its best efforts to prevent any breach of those rights. The Vendor shall be held fully liable for claims for damages or other claims raised by authorized third parties in connection with breaches of such third party rights.



- 17.7** Any breach by the Vendor of the provisions of Items 17.1 to 17.6 hereof shall be deemed a material breach of the contract made between the Vendor and the Company and may constitute the basis for dissolution of the contract by the Company without notice.
- 17.8** If, as a result of a breach by the Vendor of the third party rights specified in Item 17.6 hereof, an eligible third party requests the Company to redress the damage caused by that breach, the Vendor shall be obliged to redress such damage. The above shall not preclude the Company's right to seek damages to the extent in which the breach of those rights damaged the Company's business or infringed upon the Company's personal rights.
- 17.9** Any means of production manufactured by the Vendor on the basis of the data or documents provided by the Company such as templates, moulds, dies, models, designs, tools, masters, programs etc may be used by the Vendor exclusively to process the purchase orders placed by the Company. The Vendor must not use such means of production to its own advantage or offer or make the same available to third parties.
- 17.10** Any technical documentation (drawings, plans, calculations, spare parts lists, programs etc) which is or may be required, in particular for the purpose of assembly, operation, use, repair, manufacture or purchase of spare parts and obtaining the permits required by law, shall be transmitted by the Vendor to the Company in due time in the number of copies and standard of workmanship requested by the Company. Such documentation shall be transmitted no later than by the dates agreed in the contract.

## **18. Other Obligations of the Vendor**

- 18.1** The Vendor shall be obliged to conduct a quality inspection of the Goods prior to their delivery to the Company. In particular, the Vendor shall be obliged to check whether the Goods possess the agreed properties and are suitable for their intended use specified in the contract or the use customarily accepted for that type of the Goods. The scope and object of the quality inspection conducted by the Vendor may be agreed in the contract made between the parties. The Vendor shall be obliged to conduct the quality inspection while taking into consideration the type of the Goods, their importance and the best available knowledge of the Goods' technical properties.
- 18.2** The Vendor shall use and improve or update the quality assurance system in line with the state-of-the-art technical knowledge applicable to the type and properties of the Goods delivered by the Vendor.
- 18.3** Any breach by the Vendor of the duties specified in Items 18.1 to 18.2 shall result in the Goods from a given batch being deemed to incorporate hidden defects.
- 18.4** Unless the Services Procurement Contract stipulates otherwise, the Vendor shall receive the documentation required for due performance of that contract immediately after its signing. The Vendor shall be obliged to check completeness and correctness of the documents transmitted to the Vendor by the Company in connection with the signing of the Services Procurement Contract. The Vendor shall report the shortcomings or errors, if any, to the Company without delay and shall make the necessary changes or additions to those documents in consultation with the Company.
- 18.5** The Vendor shall be obliged to control on an ongoing basis the quality of the provided Services.
- 18.6** The Vendor shall use and improve or update the quality assurance system in line with the state-of-the-art technical knowledge applicable to the type and properties of the Services provided by the Vendor.

## **19. Inspection of Purchased Goods by Company**

- 19.1** The Company shall be obliged to perform a preliminary inspection consisting exclusively in checking the delivered Goods for conformity to the purchase order, visible shortages and defects,

damage in transport, and a quantity check. Defects or quantity shortages, if any, identified by the Company during the preliminary inspection shall be notified to the Vendor promptly after their identification. The time limit for eliminating the defects shall be agreed with the Company.

**19.2** The Company shall otherwise check the Goods during the final inspections. The so identified defects shall be reported to the Vendor promptly after their detection.

## **20. Manufacture of Goods. Reporting of Changes.**

**20.1** If it becomes evident during performance of a contract that departures need to be made from the previously agreed properties of the Goods for technical or other reasons, each party shall be obliged to promptly notify the other party thereof in writing.

**20.2** If the change impacts the previously agreed purchase price of the Goods, the parties undertake to agree the new price.

**20.3** If, as a result of the timing of the change of the method of performance of the contract, delivery of the Goods by the Vendor by the previously agreed delivery dates is not possible or is severely impaired, the parties shall agree the new date of delivery of the Goods.

**20.4** Any changes to the method of manufacturing of the Goods cannot be made until receipt of a written order modification request. The above shall not apply to the works that need to be carried out to protect human life or health or avoid major damage to the property of the Company or third parties.

## **21. Tools**

The Company can make available the tools necessary to manufacture the Goods to the Vendor. Such tools shall remain the property of the Company and the amount of the remuneration due for making the same available shall be incorporated in the price agreed by the parties. The Vendor shall be obliged to use such tools exclusively for the purpose of performance of the contract made with the Company. The Vendor shall be obliged to take out insurance contracts protecting the tools against fire, flood and theft and to assign to the Company any claims vested in the Vendor under such insurance contracts. The Vendor shall be further obliged to perform all repairs of the tools at its own expense. The Vendor shall promptly notify the Company of any damage to the tools.

## **22. Successful Performance**

**22.1** Delivery of the Goods by the Vendor shall be deemed by the parties to constitute the Vendor's warranty to the effect that the Goods possess the properties defined in the contract and are free from defects.

**22.2** The Vendor shall be obliged to deliver the Goods free of defects, in compliance with the contract, together with the complete documentation in the Polish or English language (such as warranty cards, user manuals, data sheets, conformity declarations, certificates etc) unless stipulated otherwise in the wording of the Goods Procurement Contract itself. The Goods constituting the object of the contract shall incorporate all parts and elements required for their proper, correct and uninterrupted operation, even if not explicitly specified in the request for bid or purchase order.

**22.3** If operation or incorporation of the Goods is conditional upon obtaining the permit for their use or another official certificate or attestation admitting the Goods for operation, the Vendor shall obtain such decisions, certificates or attestations and present the same to the Company no later than on the date of delivery of the Goods.

**22.4** Delivery by the Vendor of the Goods that are not free of defects shall not be deemed to constitute successful performance. The delivery of the Goods which are not free from defects shall

mean delivery of the goods other than the goods defined in the contract or delivery of the Goods in an incorrect quantity or delivery of the defective Goods or delivery of the goods without the required documentation.

**22.5** The Company shall not be obliged to accept the Goods that are not free of defects. The Company reserves the right to accept the Goods that are not free of defects without breaching the rights vested in the Company by statute or contract.

### **23. Scope of Contract. Amendments to Contract.**

**23.1** The Services Procurement Contract shall cover complete and due provision of the Services and performance by the Vendor of any other works associated with provision of the Services together with the complete documentation unless the Services Procurement Contract itself stipulates otherwise.

**23.2** Should the Vendor appoint a project manager in connection with the signing of the Services Procurement Contract, such manager shall not be authorized to contract on behalf of the Company any additional works or make any arrangements amending the contract. Such authority shall be vested exclusively in the persons in charge on the part of the Company.

**23.3** If, in the course of performance of the Services Procurement Contract, it transpires that a change must be made to the scope of the provided Services, each party shall be obliged to promptly notify the other party thereof in writing. The regulations governing bids shall apply accordingly to the bids amending the contract.

**23.4** All changes to the scope of the Services Procurement Contract shall require signing of an annex (change of the purchase order). The above shall not apply to the works that need to be carried out to protect human life or health or avoid major damage to the property of the Company or third parties.

**23.5** The Company shall be authorized to change the scope, method and timing of performance of the Services Procurement Contract and to offer the Vendor guidance in that respect. In making such changes, the Company shall consider the Vendor's technical and HR capabilities.

**23.6** The Vendor shall be obliged, immediately after the signing of the Services Procurement Contract, to contact the Company's division designated in the request for bid or purchase order in order to agree the detailed aspects of provision of the Services while keeping the provisions contained in the Services Procurement Contract, its appendices and in these Terms and Conditions. In particular, the Vendor shall agree such method of provision of the Services that it does not interfere, to the extent greater than necessary, with the Company's everyday operations and does not impede performance of the contracts made by the Company with other entities.

**23.7** In the case of provision of the Services consisting in management of the Company's assets, the Vendor shall be obliged to take all measures aimed specifically at long-term optimization of utilization of those Company's assets within the scope of the business activity pursued by the Company.

**23.8** Prior to engaging in provision of the Services, the Vendor shall be obliged, in particular, to check the location of all installations and devices, adapt the method of provision of the Services to the existing conditions and to protect the Company's property against damage or destruction in the course of or in connection with provision of the Services.

**23.9** The Vendor shall be obliged to schedule provision of the Services whereby co-operation of the Company with the third parties with whom the Company signed relevant contracts is required in such manner that the Company or such third parties are able to familiarize, at the most convenient time, with the scope of their activities and prepare for their performance.

**23.10** A Vendor who purchases from the third parties the devices, materials, inputs etc required for provision of the Services shall be obliged to identify to the Company such third parties for the

purpose of quality assurance. Such third parties shall be identified in the Vendor's bid. The Company may, for valid reasons, refuse to grant its consent to the purchase by the Vendor of the devices, materials or inputs required for provision of the Services from the third parties identified by the Vendor.

#### **24. Liability. Third Party Liability Insurance. Security.**

Unless otherwise agreed herein, the Vendor shall be obliged to cover the damage borne directly or indirectly by the Company as a result of undue or defective delivery of the Goods or provision of the Services, the Vendor's breach of administrative regulations concerning safety or any other reasons attributable to the Vendor, even if the latter cannot be held liable.

**24.1** Unless otherwise agreed, the Vendor undertakes to take out a third party liability insurance contract covering its own business, damage caused by hazardous products and damage caused to the natural environment. The above insurance contract shall be maintained throughout the term of the contract made between the Company and the Vendor. The Company may request presentation of the insurance policy together with the detailed terms of insurance.

#### **25. Personal Data Protection**

The parties shall be obliged to collect, store and process all personal data in such manner as to prevent any breaches of the applicable laws and regulations.

#### **26. Final Provisions**

All changes to the legal relation binding the Company and the Vendor of the Goods or Services must be made in writing.

#### **27. Severability Clause**

If any provision of these Terms and Conditions or another contractual provision binding the parties is or becomes invalid or unenforceable in the future, validity or enforceability of the remaining contractual provisions shall not be affected. The above shall apply to any contractual loopholes, respectively.

#### **28. Place of Performance. Competent Court.**

**28.1** The place of performance of the services resulting from the Goods or Services Procurement Contract shall be the Company's registered address unless the parties have expressly agreed another place of performance.

**28.2** The court competent for dispute resolution shall be the common court having jurisdiction over the Company's registered address. However, the Company may assert its claims also before the court having jurisdiction over the Vendor's registered address.