

General Terms and Conditions of Purchase for Services

DELO Industrial Adhesives Inc. | Japan
2019/11

1. Subject and definitions

1.1 These terms and conditions shall apply to any contracts (hereinafter referred to as "Contract" or "Order") by which DELO commissions any services (hereinafter referred to as "Services"), particularly service activities and work which are neither construction services nor information technology services nor development-related services. Manufacture and delivery of materials intended for processing by DELO shall neither be covered by these terms and conditions.

1.2 Pursuant to the restrictions specified in 1.1, Services within the meaning of these terms and conditions shall particularly comprise:

- services of any kind
- cleaning activities of any kind
- transportation services
- servicing and maintenance activities
- assembly work
- repair activities
- surface processing
- services in the field of electrical engineering
- analytical services

2. Conclusion of contract

2.1 Any declarations aiming at conclusion of contract or amendment of contract, such as orders, offers, order confirmations, etc., shall only be binding if they are made in writing. Any correspondence must be directed to the respective contact persons in the responsible division of DELO.

2.2 Contractor's general terms and conditions of business shall not apply even if not explicitly opted out in the individual case.

2.3 Contractor shall treat the conclusion of Contract as confidential. They may only use DELO as a reference towards third parties upon DELO's written consent.

3. Contents of contract

The contractual arrangements consist of:

- DELO's order letter or confirmation letter
- these "General Terms and Conditions of Purchase for Services"
- any regulations and subject-specific standards as well as DELO's guidelines or the like applicable to the services agreed at conclusion of contract referenced in the documents relevant for the conclusion of contract
- contractor's quotation.

The above-mentioned documents shall be decisive in the given order.

4. Performance of contract

4.1 The scope of order shall include the provision of any machines, devices, scaffolding, lifting gear, accommodation, etc. required in order to execute the Order. If DELO provides such items in the individual case, contractor shall be liable for loss of or damage to the item not attributable to normal wear and tear.

4.2 If contractor wants to bring in third-party contractors in order to fulfill their obligations, they must obtain DELO's written consent prior to conclusion of sub-contracts. This shall not apply to any services for which contractor's business is not equipped, provided that the services placed with the sub-contractor are not of essential relevance. In any case, contractor is obliged to inform DELO in writing of the involvement of sub-contracts already prior to placement of the Order. Contractor shall arrange terms and conditions with the sub-contractor in such a way that compliance with the contractual stipulations between DELO and contractor is ensured.

4.3 Any Services to be rendered in DELO's plant area must not hinder their operation and any third parties more than to an inevitable extent.

4.4 When providing Services, contractor shall have special duty of care regarding environmentally hazardous substances. If during performance of Services contractor releases any pollutants, finds any pollutants or assumes the presence of any such substances, they shall immediately inform DELO.

4.5 DELO shall have authority to give instructions towards the contractor. This, however, shall not involve a general right of instruction towards contractor's staff.

4.6 Contractor shall supervise the staff working for them to the necessary extent.

4.7 On request, contractor shall provide DELO with a list detailing the names of staff supposed to be employed in the plant area. The list shall always be kept up to date. On DELO's request contractor shall prove that any staff employed has the statutory social security coverage. For cause, any staff employed by contractor may be denied access to DELO's plant area.

4.8 Contractor shall ensure that the staff employed by them comply with DELO's instructions regarding the maintenance of order and safety and submit to their usual control procedures.

4.9 Any Service where substances hazardous to health may emerge as well as hot work and work with danger of ignition requires a permit from the building management or the fire protection officer which has to be requested in time. Any possible obstructions, e.g. due to delayed application, shall be borne by contractor.

4.10 Contractor shall ensure that information on occupational safety for employees of external companies are complied with. These are an integral part of the Contract. Furthermore the regulations valid at the respective business premises of DELO, particularly the external company guideline, shall be complied with. If the external company guideline contains any provisions contradicting these General Terms and Conditions of Purchase, these General Terms and Conditions of Purchase shall take precedence. DELO exercises the domiciliary right. There is the obligation to wear the visitor's pass in clearly visible manner.

4.11 Unless otherwise stipulated, contractor's highest-ranking employee shall contact the responsible employee of DELO prior to commencement of Services, coordinate the provision of Services and check out after provision of Services.

4.12 Prior to commencement of work, contractor will clarify with DELO how and by whom the disposal of waste is ensured. This applies, among other things, to the provision of containers, selection of the intended disposal contractor, sampling and classification of waste. After completion of Services, waste must only be left upon consultation.

4.13 Prior to commencement of Services, contractor shall take over the place of service provision and shall verify its correctness with regard to foundations, connections, staking-out, etc.. Should contractor's Services be queried at a later time, contractor can only appeal to defects of preliminary work recognizable for them if contractor informed DELO of these defects in writing immediately after having checked the preliminary work.

4.14 Unless otherwise agreed, contractor shall establish any supply lines for electricity and water to the point of use in accordance with DELO at their own expense considering the valid technical regulations and shall remove them immediately after completion of work.

4.15 If contractor recognizes that DELO's specification of Services - any concept, other definitions of tasks or requirements - are objectively unfeasible, faulty or vague, they shall inform DELO of this fact immediately in writing stating well-founded reasons.

5. Prices

5.1 Any prices and remuneration rates agreed shall be fixed prices and - except when otherwise agreed - shall include customary ancillary costs, such as material, protection of exposed items against damage, travel costs and traveling time. They are subject to the statutory value added tax

5.2 Additional services compared to the order documents require DELO's written consent. Should any additional services be rendered without this consent, contractor shall only be entitled to remuneration if the additional services were necessary and obtaining prior consent was not possible.

6. Deadlines, delays

6.1 Any execution periods agreed and set down in writing shall be binding contractual deadlines.

6.2 If contractor recognizes that the agreed deadlines cannot be met, they shall inform DELO immediately of this fact. The obligation to comply with any agreed deadlines shall remain unaffected.

6.3 In the event of contractor's delay DELO shall be entitled to demand lump-sum delay damages per completed week of delay amounting to 1% of the unit price of the Service with which contractor is in delay, however, a maximum of 5% of the total order value; any further statutory claims (cancellation or compensation for damage instead of fulfillment) shall remain reserved. Contractor has the right to prove that the delay did not result in any damage or only an essentially lower damage.

6.4 In the event of contractor's delay and after unsuccessful expiry of a reasonable grace period set by DELO, DELO may execute themselves the Service not yet rendered or have it executed by a third party at contractor's expense; if any documents are required for this purpose, which are in contractor's possession, they shall immediately hand them over to DELO. Instead, DELO may withdraw from the contract after unsuccessful expiration of a reasonable grace period set by them. In case of service agreements, cancellation shall be replaced by a right of termination for cause.

6.5 In addition to the stipulations in the above subsections, the statutory provisions shall apply.

7. Insurance coverage and distribution of risks

7.1 Contractor must have a liability insurance sufficient in value when placing the order. The liability insurance shall at least include a sum insured of 300.000.000 JPY for personal injury and damage to property and 30.000.000 JPY for financial losses. On request, DELO must be provided with a copy of the insurance policy and a confirmation from the insurance company.

7.2 Contractor shall be responsible for insuring their equipment and materials. DELO's liability for loss of or damage to equipment and materials shall be excluded unless caused by gross negligence or intent by DELO or their employees.

8. Settlement in the event of termination for breach of contract

If DELO exercise a vested right of termination for contractor's breach of contract, the Services rendered until then will only be invoiced at contractual prices to the extent to which they can be used by DELO as intended. Settlement shall be made on contractual basis. Any damage to be compensated towards DELO shall be considered in the settlement.

9. Acceptance of Services requiring acceptance

9.1 Contractor shall request the acceptance in writing. The acceptance date will be agreed between DELO and contractor for a reasonable point of time after receipt of the written request.

9.2 Any material costs incurred during acceptance shall be borne by contractor. Any staff costs for acceptance shall be borne as incurred individually by DELO and contractor.

9.3 Acceptance – both of the overall Service and of partial Services – shall be regarded as granted only upon DELO's written confirmation. DELO confirms the acceptance using the acceptance report signed by them. Any legal consequences, such as transfer of risk or commencement of the statute of limitations of material defects liability and warranty of title, shall not be affected by any partial acceptance.

10. Statute of limitations for material defects liability and warranty of title

10.1 The statute of limitations for material defects liability and warranty of title shall be two (2) years. The statute of limitations for material defects liability and warranty of title commences upon acceptance of the overall Service in case of Services requiring acceptance and upon completion in case of other Services.

10.2 In the event of improved or replaced Services, a new statute of limitations for material defects liability and warranty of title shall commence upon written acceptance of these Services and, in case of Services not requiring acceptance, upon their completion. If DELO does not issue the written declaration of acceptance within 18 workdays after contractor's written communication of proper completion of the elimination of defects, the new statute of limitations for material defects liability and warranty of title shall commence upon expiration of the above-mentioned period of 18 workdays. Saturdays shall be regarded as workdays.

10.3 The claim shall expire by limitation at the earliest after six (6) months after giving notice of defects.

11. Performance documents

11.1 Any documents required for performance shall be submitted to contractor on request.

11.2 Any performance documents submitted to contractor remain DELO's property and shall be kept safe for DELO at contractor's expense for the duration of the performance of Contract. They may only be used for the contractual purposes and made available to third parties only to this extent.

11.3 If contractor has to create any documents, they shall be obliged to provide them in the required quantity and form free of charge and to transfer the ownership of them to DELO at no charge. The intellectual property shall not be affected by this. DELO and any third parties may use these documents free of charge in order to carry out maintenance and amendments.

11.4 DELO's consent to any drawings, calculations and other technical documents shall not affect contractor's responsibility for the Services. This shall also apply to DELO's suggestions and recommendations implemented by contractor and to any amendments agreed between contractor and DELO. Contractor shall only be responsible for any implemented instructions given by DELO if they do not object to them in writing stating a reasonable justification.

12. Legal duty to maintain safety, prevention of accidents, emission control, immission damage, fire prevention

12.1 Contractor is obliged to comply with the legal duty to maintain safety, particularly with any laws, directives and regulations regarding the health and safety of employees, the protection of the environment, the transport of hazardous goods, including the leaflets of professional associations and of Verband der Sachversicherer (German Association of Property Insurers), provided they are applicable to the performance of the services.

12.2 Contractor shall obtain information on requirements and restrictions imposed at the place of fulfillment from DELO's experts responsible for occupational health and safety, environmental protection and fire prevention. Any measures required must be coordinated with the mentioned experts.

12.3 Contractor shall ensure that any staff employed by them behave in an environmentally sound, safety-conscious and fire prevention-conscious way.

12.4 Any demands of the fire protection officer regarding fire prevention must be complied with in any case. If any work associated with fire danger on facilities subject to fire and/or explosion hazards, such as oil containers, cable systems, etc., or in their vicinity is unavoidable, it may only be carried out upon DELO's permission. Follow-up checks shall be carried out after completion of the Services.

12.5 Contractor shall keep DELO and DELO's employees indemnified from and against all claims directed against them for any damage caused by breach of regulations to be complied with by contractor in the context of the Service provision. This also applies to any claims due to damage to third-party facilities (e.g. supply lines and waste pipelines) occurred during performance of Services; contractor shall thoroughly obtain information on any such third-party facilities prior to commencement of Services from any competent bodies. Should any damage occur, DELO must immediately be informed.

13. Work conducted at hourly rates

13.1 Any work conducted at hourly rate *additionally* becoming required (attached hourly rate) must only be performed on DELO's explicit instruction. Instructions will preferably be given in writing.

13.2 Unless otherwise agreed, activity reports shall be submitted to DELO for signature on a daily basis without request in single copy including one press copy. DELO shall return the activity report in single copy without press copy to contractor immediately, however at the latest after six (6) workdays of receipt of the activity reports. Saturdays shall be regarded as workdays. DELO can raise written objections on the activity report itself or separately. Contractor shall submit the signed activity reports together with the respective invoice. Activity reports to which objections were raised will not be settled. The hourly rates applied by contractor in the quotation shall prevail. The activity reports must at least include the following data: DELO's company name, order date and invoice date, performer's name and qualification, service rendered, beginning and end of work, duration of work, material used.

14. Delivery and shipping instructions

14.1 The packaging shall be limited to the extent required in order to protect the goods and may only consist of environmentally compatible and recyclable materials. Unless otherwise agreed, packaging shall be taken back.

14.2 Any delivery of materials required for the Order prior to performance of Contract is permissible upon prior consultation with DELO. A representative of contractor shall be present for the delivery at DELO's premises.

14.3 Any costs incurred by DELO due to non-compliance with the delivery and shipping instructions and the packaging specifications shall be borne by contractor.

15. Settlement and surrender of documents

15.1 Invoices shall be submitted in single copy, settlement drawings and any other evidence in duplicate.

15.2 Revision plans or inventory plans shall be created electronically and shall be enclosed with the final account. DELO irrevocably acquires a non-exclusive right of use of the revision plans and inventory plans developed for DELO as well as of any other Service results, which is unlimited in time and space, comprises every known kind of use including (but not limited to) the right of rework, reproduction, amendment, extension and granting of simple rights of use to third parties, unless restricted by the below clauses. If any third-party rights in external plans or other external service results incorporated in the Services exclude the acquisition of a right of use, the scope of DELO's right of use shall be arranged by individual agreement. Contractor shall remain entitled to make further use of any standard plans and plan components used by them and any know-how contributed by them when producing the service results also for third-party commissions. Completeness of the revision plans or inventory plans as well as granting the right of use shall be a prerequisite for the final account.

15.3 Should any errors be found in the settlement documents after final payment, the final account shall be corrected. DELO and contractor are obliged to mutually reimburse any amounts then due to them.

16. Payment

16.1 Payments shall only be made on the basis of invoices. The invoice must clearly indicate the assignment of the associated Services.

16.2 Assignments or pledging of contractor's claims towards DELO shall only be permissible upon DELO's written consent.

16.3 Contractor is obliged to immediately refund any overpayment determined during auditing by further audit bodies. Subsequent payment shall be made if underpayment is determined.

16.4 Any installments already received must be listed individually in all requests for payment stating the date, and their total amount shall be deducted from the amount invoiced.

16.5 Newly added items shall be listed at the end with reference to the follow-up order.

17. Data privacy

Contractor may only employ persons for the performance of contractual Services who have been obliged to data secrecy.

18. Non-disclosure

18.1 Contractor is obliged to treat any information brought to their knowledge by DELO (e.g. any business and company secrets, data as well as their procedures and results, any other technical or commercial information of any kind) as confidential and only to use them in order to perform the Contract. The information must not be brought to the knowledge of third parties in any way; exceptions to this rule are contractor's employees or other vicarious agents provided that they need the information in order to perform the Contract.

18.2 The secrecy obligation shall continue to apply until expiration of five (5) years after termination of the Contract.

18.3 The secrecy obligation does not apply to any information which

- is generally known, or

- has been brought to contractor's knowledge by a third party without breach of a secrecy obligation.

18.4 If contractor receives or stores any information subject to data privacy in electronic form, they shall protect them against unauthorized access like personal data.

18.5 Contractor shall commit their employees and any other persons used by contractor in order to fulfill their contractual obligations to confidentiality according to the above stipulations and shall ensure that this obligation is complied with.

19. Closing provisions

19.1 The place of fulfillment for any services and payments shall be DELO's registered office.

19.2 Should one stipulation of these General Terms and Conditions of Purchase be legally invalid or become inoperable, this shall not affect the remaining stipulations. The contractual partners shall endeavor to replace any such ineffective stipulation by any other stipulation which corresponds to the meaning of the old stipulation and of these General Terms and Conditions of Purchase.

19.3 If one contractual partner suspends payment or if application for insolvency proceedings in respect of their assets or for extrajudicial settlement proceedings is made, the other contractual partner shall be entitled to withdraw from the part of Contract not yet fulfilled.

19.4 The place of jurisdiction shall be the general court competent for DELO's registered office.

19.5 There are no verbal side agreements. If any such verbal side agreements have nevertheless been entered into prior to involvement of these General Terms and Conditions of Purchase, they shall become null and void upon involvement of these General Terms and Conditions of Purchase.

19.6 In addition to the contractual stipulations, the laws of Japan relevant for legal relationships of domestic parties shall exclusively apply. Application of the United Nations Convention on Contracts of International Sale of Goods (CISG) shall be excluded.