

Appendix 3 Mandatory criterias.

1.1. Company equipment standards (Betriebsmittel-Werknormen)

Where relevant, the company equipment standards to be complied with were made available to the Supplier prior to the submission of the offer and the negotiations. Compliance with these standards has been warranted by the Supplier.

1.2. High Energy Efficiency Requirements

VITESCO's target is to increase the energy efficiency based on product output.

It is expected that every new equipment complies with standards for High Energy Efficiency and minimum consumption.

In case the High Energy Efficiency Standards according to guideline "Energy Efficiency Requirements for new machines" have been requested for the quote, these standards have to be warranted by the Supplier (prior to the submission of the offer and the negotiations). The requirements have to be reviewed and checked by the responsible Equipment Project Manager (EPM) prior to the negotiation.

If requested the energy consumption of the equipment is to be indicated, preferably with the document "Entry Sheet Consumption Values". It must be reviewed and approved by the responsible EPM. In case of deviations from the requirements in the guideline "Energy Efficiency Requirements for new machines" or from the indicated consumptions the local Energy Manger has to approve.

Especially the following requirements are to be aligned and checked during dispatch and final acceptance:

- Easy "Switch off/Switch on" of the equipment
- Energy Saving by implementing an automatic stand-by modul
- Monitoring of the energy consumption with minimum 1 measurement device per line (kWh) is to be realized if is it specify in the technical requirements.

The details of these functions must be agreed with VITESCO.

The Supplier is aware that the evaluation of the energy performance of the equipment might influence VITESCO's sourcing decision.

2. Adherence of the Machinery Directive

Following properties of the delivery item are regarded as agreed :

- Applicable regulations in order to make the product available on the market. These are in particular the relevant EU-/EG-Directives and if appropriate the national german directives for the non-harmonised area of the EU, thereby in particular the Product Safety Law concerning products for which its §3(2) applies.
- For the product relevant, from the EU published harmonised european standards must be adhered to. „C-Standards“ take priority over B- und A-Standards. Deviations thereof must be agreed in advance.
- In the absence of harmonised european standards, the supplier is obliged to observe other, in accordance with the state of the art applicable, international standards or if appropriate national standards or other technical specification/ regulations. The application of those specifications must be agreed in advance.
- The benchmark for technical solutions has to be the latest level of science and the state of the art technology.

The Obligations include among other things:

- CE-labelling as far as demanded by the relevant EU-/EG-Directives.
- Execution of the Conformity Assessment Procedure or the procedure laid down in article 13 Maschinen-RL 2006/42/EG (for incomplete Machines) in accordance with the relevant EU-/EG-Directives
- Delivery of the operating instruction in accordance with the relevant regulations (also for incomplete Machines) or an operating instruction for products in accordance with ProdSG § 3 (2) in the national language of the operator.
- The presentation of a technical documentation in accordance with the relevant regulations, including the risk assessment.

Other requirements, which if necessary have to be agreed seperatly:

- The observing of specific harmonised european standards, which were published in current Official Journals of the EU.
- The observing of other agreed standards and technical specifications as far as they do not contradict any legal regulations.
- Delivery of the risk assessment in accordance with the machinery directive or excerpts of it in the national language of the operator.
- Delivery of integral parts of the technical documents in accordance with the relevant regulations in the national language of the operator.
- Training of employees.

These obligations are part of the purchase agreement. If they are not fulfilled, the buyer has rights in accordance with the legal regulations or rather the contractual rights.

In case of interlinked systems:

The supplier will hand over the CE-Dokumentation to both, the general contractor and VITESCO in accordance with the Maschinen-RL 2006/42/EG.

3. Total net order value inclusions and Incoterms

The delivery is made (in accordance with Incoterms 2010)

- DDP

works DDP including professional and fit-for-purpose (seaworthy, if applicable) packaging for the truck transport.

The total net order value includes a complete machine/system that contains all parts that are necessary for fault-free operation in accordance with the warranted characteristics, even if individual components necessary for that are not specified. The Supplier shall be responsible for checking the data provided by VITESCO. Machine elements and parts must be designed and arranged to allow quick and easy maintenance, inspection and replacement. Wearing parts must have a long service life.

In addition to that, the total net order value includes the following services in particular:

- Trial run at the Supplier if its applicable base on the technical requirements
- Assembly, commissioning, trial operation, final acceptance of the machine/system at VITESCO, where the Supplier's competent assembly personnel are provided.
- Packaging
- Freight and transportation costs free our works
- Customs and additional customs costs
- Training and instruction of our operating and maintenance personnel if its applicable base on the technical requirements
- Color scheme/surface design in accordance with VITESCO requirement specifications
- documentation in accordance with requirements / delivery specifications
- Premium for transport and installation insurance to be taken out by the Supplier up to the final point of use, if this is to be assumed by the Supplier in accordance with the applicable Incoterms 2010
- Costs for necessary software licenses, software updates and releases as well as the maintenance and repair costs for the duration of warranty

- The price also includes the costs of all software licenses required for the system's operation and functions.

4. Project milestones must be provided in the below format together with the quotation.

Purchase order:	(PO date)
Purchase order confirmation with time schedule*:	(PO date + 2 days)
Preliminary acceptance of entire line at the Supplier (delivery-acceptance if it is applicable base on the technical requirements):	(PO date + supplier evaluation in weeks)
Binding delivery date at VITESCO:	(PO date + supplier evaluation in weeks)

Start of commissioning at VITESCO:	(PO date + supplier evaluation in weeks)
End of commissioning at VITESCO:	(PO date + supplier evaluation in weeks)
Operational handover at VITESCO:	(PO date + supplier evaluation in weeks)
Final acceptance:	(operational hand over day + 12 weeks)

** Time schedule should be updated in every two weeks and forwarded to the team members.*

With a written purchase order after the agreed date and without a written notification of the supplier all deadlines will be postponed weekly proportional. In case of a written notification of the supplier the deadlines will be adjusted accordingly.

In the event that an order is placed, the Supplier shall provide together with the confirmation of order a binding workflow schedule that contains the deadlines relevant for the project. Within the framework of the project, regular discussions will be held to coordinate the progress of the project. The frequency of the coordination discussions shall be determined in the project launch meeting.

The Supplier grants VITESCO the right to inspect the respective project progress at any time and shall communicate all other project-related information that is requested. In addition, the Supplier shall grant VITESCO access during normal working hours to the areas where the project work is being carried out.

5. Deadline guarantee clause

In the event of commonly agreed deadline of the critical milestone defined in the technical requirements is not met for reasons for which the Supplier is responsible, VITESCO has the right to demand an amount per deadline and commenced week of the delay of 1 % per week in total to no more than 5% of the total net order value however. VITESCO expressly reserves the right to assert a more extensive claim for damages caused by delay in accordance with the German Civil Code (BGB).

5.1. Right of rescission

VITESCO is entitled to withdraw from the contract / order in writing if the agreed scope of delivery/service in the agreed specification is not present and subsequent improvements are not successful within in an appropriate time frame.

6. Preliminary acceptance at the supplier (delivery acceptance if its applicable base on the technical requirements)

6.1. The preliminary acceptance of the machine/system is conducted at the Supplier's plant. The criteria are general and individual machine specifications as agreed at the time the purchase contract was agreed as well as machine capabilities in line with the requirement specifications.

The Supplier and VITESCO together draw up a preliminary acceptance certificate. This preliminary acceptance certificate is to be signed by the Supplier and by VITESCO.

No later than two calendar weeks before the planned preliminary acceptance date, the Supplier must present:

- a conformity or installation declaration
- operating instructions and
- main drawings (Assembly drawings, BOM, detail drawings of all components in contact with customer parts as well as product- or process-specific components)
- a risk analysis in the national language of the operator and, if necessary, in English as defined in section 2

to the respective technical project manager. This is a precondition for preliminary acceptance.

6.2. A precondition for the issue of the preliminary acceptance is furthermore the presentation of a complete offer for the spare and wear parts.

6.3. It is mandatory to have the preliminary acceptance in accordance with the stipulations of the requirement specifications.

6.4. In case that the pre-acceptance is failed for reasons for which the Supplier is responsible, any following pre-acceptance visit costs (accommodation, travel, flight ticket, car rental, etc) will be under-taken by the Supplier.

7. Commissioning and operational handover

The commissioning and final acceptance of the machine/system is conducted at the VITESCO plant.

The criteria for the operational handover encompasses 100% fulfillment of all performance characteristics specified in point 1 and 2 of this record of negotiations as well as machine capabilities in line with the requirement specifications.

8. Final acceptance

8.1. Final acceptance encompasses 100% fulfillment of all performance characteristics specified in point 1 and 2 of this Record of Negotiations. An acceptance certificate is to be drawn up and signed by the Supplier and by VITESCO.

8.2. A precondition for final acceptance is a trial operation defined in the technical requirements. Final acceptance of the machine/system is only carried out after prior receipt of the agreed documentation. Acceptance cannot be carried out if these documents have not been received.

9. Reimbursement of costs incurred

If VITESCO has to perform services for the trial run and/or the final acceptance – without being contractually obliged to do so – it is entitled to demand reimbursement of any costs incurred.

10. SPARE PARTS PRICES

10.1. VITESCO receives a comprehensive spare/wearing parts offer with corresponding list of manufacturers (reference order numbers) promptly from the Supplier latest with the delivery.

10.2. Subject to general acceptance by VITESCO, the prices specified there are valid for the period of the warranty.

10.3. The Supplier ensures that spare parts are available for 10 years after the machine/system has been accepted. If production is discontinued, VITESCO is to be informed in such good time that it is able to make alternative arrangements.

10.4. The warranty period for spare parts (after the warranty of the whole machine defined in section 17 of this Record expired) is 12 months without shift limitation, commencing on the date of the delivery.

11. Assembly charge rates

The assembly charge rates must be integrated parts in the binding quotation from the supplier and shall apply to assembly / repair services that VITESCO may have to utilize and that are subject to a charge.

12. Supplies

If supplies that form part of VITESCO's order are delivered directly from the subcontractor to the Supplier, the Supplier has an obligation to inspect the shipment immediately and to fax VITESCO a copy of the delivery note together with the Supplier's acknowledgement of receipt. If any delays for which the Supplier is responsible lead to the loss of cash discounts for VITESCO in respect of the contractual relationship with the subcontractor, VITESCO reserves the right to charge these amounts to the Supplier. The supplied goods are the property of VITESCO.

13. Liability for defects, response time, spare parts

13.1. The warranty period is minimum 24 months without shift limitation, commencing on the date of the final acceptance. Additional warranty free of charge for VITESCO (36 or 48 months) will be consider as a bonus for supplier in the matrix of evaluation criteria.

13.2. During the warranty period, the Supplier shall be obliged to eliminate any defects at its own expense; i.e. in addition to delivering the spare parts or the error-free system, the Supplier shall also bear all ancillary costs connected with the warranty.

13.3. During the warranty period and also after the warranty has expired, the Supplier guarantees a response time for the elimination of defects according to defined requirements from technical specification.

14. Business liability insurance

14.1. Before the Supplier's assembly personnel commence work, it is to be ensured that liability insurance is concluded at the Supplier's expense to cover the entire period of installation, where the policy shall have a minimum coverage amount of (*group requirement EUR 5,000 000.00*)

5,000,000.00 EUR for personal injury

and

5,000,000.00 EUR for physical damage

14.2. In addition to domestic cover, this insurance must include international cover if the installation work is intended to be performed abroad.

14.3. Confirmation of the insurance is to be presented to VITESCO on request.

14.4. Furthermore, the certificate must indicate that the insurance policy has been taken out in accordance with the AHB – General Terms and Conditions for Liability Insurance (*Allgemeinen Versicherungsbedingungen für die Haftpflichtversicherung*).

15. Intellectual property rights

15.1. The Supplier shall be liable for ensuring that the machines/systems to be delivered by it do not infringe any existing, registered or published intellectual property rights of third parties. In the event of liability, VITESCO can demand that the Supplier shall immediately indemnify VITESCO against the claims of third parties.

15.2. In addition, VITESCO can demand that the Supplier, at its own expense, enables VITESCO to use the machine/system without infringing property rights by redesigning the machine/system within a reasonable period without impairing its serviceability or by providing VITESCO with the rights to use the relevant intellectual property right of the third party.

15.3. If VITESCO is forced by the third party to decommission the supplied machine/system, the Supplier has to remove this machine/system at its own expense and repay a sum amounting to the current value of the machine/system at the time of decommissioning. In the event of decommissioning within two years of final acceptance, the total net amount is to be paid back to VITESCO by the Supplier.

15.4. The above also applies to software to be supplied by the Supplier within the framework of the record of negotiations.

16. Confidentiality

20.1 The Supplier shall use the information, objects and documents (referred to in the following as the “INFORMATION”) received from VITESCO exclusively to carry out the works stipulated in this Record of Negotiations; It shall not make this INFORMATION accessible to third parties and only make it accessible to those of its employees who require it to carry out the possible order addressed here and who have an obligation on the basis of their employment contract or another written agreement to maintain confidentiality at least on a par with this Record of Negotiations; it shall treat this INFORMATION confidentially and in doing so exercise the same care as it exercises with regard to its own information of similar importance or at the least an appropriate degree of care.

20.2 After the works under this record of negotiations have been completed – unless otherwise agreed in writing in the individual case – the Supplier shall return to VITESCO immediately, fully and without being requested all INFORMATION handed over to it in connection with this Record of Negotiations, including any copies that may have been produced, or destroy this INFORMATION at the appropriate request of VITESCO and confirm the destruction in writing to VITESCO. The Supplier is not entitled to exercise a right of retention in such documents.

20.3 The obligations contained in sections 20.1 and 20.2 do not apply to such INFORMATION that verifiably

- (I) was already lawfully known to the Supplier without an obligation to maintain confidentiality before it was handed over; or
- (II) is or becomes publicly accessible, without the Supplier being responsible for this, provided that the INFORMATION is not already regarded as publicly accessible because only parts of it are or become publicly accessible; or
- (III) is communicated or handed over to the Supplier by a third party lawfully and without a non-disclosure requirement, provided that the third party does not infringe – to the Supplier’s knowledge – any non-disclosure requirements of its own when handing over the information; or
- (IV) has been developed by the Supplier independently and without recourse to the INFORMATION or pursuant to the exceptions regulated in section 20.3 (I) - (III) or (VI); or
- (V) has to be disclosed on the basis of an official or judicial order or mandatory legal regulations, provided that the CLIENT informs VITESCO of this immediately in writing so that it can protect its rights and furthermore provided that the CLIENT undertakes what can be reasonably expected of it to ensure that the INFORMATION is treated confidentially; or
- (VI) has been released by VITESCO in writing.

20.4 All INFORMATION that the Supplier receives in connection with this project remains the property of VITESCO.

20.5 Disclosures concerning the project are only permitted with the written consent of VITESCO.

17. Terms and conditions of payment are accepted only in this form

17.1 40 % of the total net order value: payable not later than minimum 45 days after receipt of the unconditional confirmation of order and presentation of an absolute bank guarantee of a major bank that is valid for a indefinite period of time and free of charge for VITESCO, waiving the defenses of avoidance, failure to exhaust remedies and notification in accordance with sections 770 and 771 of the *Bürgerliches Gesetzbuch* (BGB – German Civil Code), as well as presentation of a corresponding down payment invoice.

The Supplier has to ensure that the down payment invoice shows the VAT contained in the final amount. The final amount of the guarantee (grand total in whole euro, please) and the final amount of the down payment invoice must be identical.

17.2 50 % of the total net order value: payable no later than minimum 45 days after handover of the entire scope of supply to VITESCO’s contract freight forwarder or delivery of the entire scope of supply to VITESCO as well as the presentation of an express written confirmation of the Supplier that the scope of delivery is not subject to either a third-party right of retention or security interest.

17.3 10 % of the total net order value: payable no later than minimum 45 days after completed final acceptance documented by acceptance certificate and fault-free function however no later than calculated days form the sum of payment days+ final acceptance period after delivery if the final acceptance is delayed for reasons for which the Supplier is not responsible.

18. Packaging

18.1 The packaging must fulfill the requirements of the goods to be shipped and take into account the means of transport, the route and duration of shipment, the country and place of destination, any storage and onward carriage.

18.2 If the packaging is part of the scope of delivery to be performed by the Supplier, it shall ensure that an appropriate specialist contractor is commissioned with this.

The safety of the loading and of the transportation must here be incorporated as a key basis of any contract award to third parties.

18.3 The express written consent of VITESCO must be obtained in advance if the Supplier intends to change the forwarding agent employed to date.

18.4 If VITESCO agrees to have the packaging provided by the Supplier, the costs incurred are to be billed at cost price.

18.5 The packaging material remains the property of VITESCO and shall be disposed of correctly by VITESCO.

19. Loading

The loading at the Supplier's plant is to be arranged by the Supplier at its own expense, even if delivery ex works (Incoterms 2010) has been agreed by VITESCO.

The Supplier is responsible for ensuring that the goods are loaded securely.

Trucks shall be loaded in accordance with recognized normal practice in the freight forwarding and road haulage industry.

20. Transport

20.1 Information:

The type, dimensions and weight of the packages as well as the date and time of the delivery shall be notified to VITESCO in such good time that VITESCO can prepare the necessary means of transport for internal transport after unloading (see also company equipment standard).

If necessary, country-specific special regulations are to be taken into consideration; these, however, are to be subject to a separate agreement between the Supplier and VITESCO.

20.2 Freight forwarder shall be employed and the costs borne by Supplier.

20.3 Transport insurance

Shall be performed and the costs borne by Supplier.

20.4 If necessary, the Supplier shall draw up an "incomplete export declaration" (unvollständige Ausfuhranmeldung UAM") in the event of direct shipment, or shall notify the exporter VITESCO in a timely manner all relevant data, so that the export with provision at the site of packing / loading can be registered. This procedure has to be agreed before delivery of the goods with VITESCO.

If it is agreed to draw up an "incomplete export declaration" the supplier is obliged to send the electronic export notice immediately upon receipt to VITESCO. If the electronic export notice is not automatically sent, the supplier is obliged to provide and submit in time an alternative proof (for example a "statutory export certificate") to the export customs office.

20.5 If the country of consignment grants an exemption from customs duties or tariff concession due to free trade agreements with the agreed delivery country, the supplier is obliged to issue a preference document (EUR.1, NAFTA-certificate, A.TR, Form A, Declaration of origin on the invoice) for the total amount of supplies and to handover to the receiving plant provided that the conditions of the respective agreement are met.

If the delivery and invoicing is performed via VITESCO in the EU or the dispatch is not made directly to the country with free trade agreements, the supplier is obliged to provide and submit in time a statutory exact suppliers declaration to VITESCO, provided that the conditions of the respective agreement are met.

20.6 Special information:

Details of the transport and customs activities must be agreed with and approved by the responsible logistics department of VITESCO.

21. Invoicing

The Supplier has an obligation to send its invoices to the appropriate invoice address and always to state the reference number of the order that is to be completed.

22. Liquidity problems

If the Supplier faces liquidity problems after the contract has been concluded or at a later point in time within the ongoing contractual relationship (e.g. if a petition is filed for the opening of composition, insolvency or similar proceedings), VITESCO is entitled to withdraw in full or in part.

In the event of insolvency or the discontinuation of the business operations, the Supplier undertakes to provide VITESCO with all source codes that have been used as well as copies of all documentation used in the production of the system (drawings/documents/access codes, etc.). The terms and conditions governing the provision of this information shall be agreed separately between the Supplier and VITESCO.

23. Minutes of meetings

After a possible agreement has been concluded, minutes of all meetings concerning technical details are to be produced and numbered consecutively by the Supplier. These are to be signed by the Supplier and forwarded for countersignature to the VITESCO employees responsible for technical and commercial matters. The minutes of meetings are only binding if they have been countersigned.