

Purchase Contract
Vacuum Valves for Drainage System

Between

Ringkøbing-Skjern Forsyning A/S

Ånumvej 28
6900 Skjern
Denmark
Company reg.no. DK33050119
represented by xxxxxxxxx

Hereinafter referred to as Purchaser

and

[Supplier Name]
[Address]
[Zip code and city]
[Country]
Company reg.no. [xxxxxxxxxxxxx]
represented by xxxxxxxxx

Hereinafter referred to as Supplier

The Purchaser and the Supplier are each regarded as a Party, and jointly as Parties, to this Contract.

1. Introduction

1.1. Background

Through this Contract, which is a result of a procurement process conducted in accordance with chapter IV in the Danish Public Procurement Act, the parties intend to specify the terms and conditions of purchase of the Supplier's equipment.

The equipment to be purchased by Purchaser and delivered by the Supplier under this Contract comprehends valves as described in the Technical Specifications.

1.2. Language

The language of any communication and documentation shall be English or Danish unless otherwise expressly agreed.

2. Attachments

The following documents is an integral part of the Contract:

1. Technical Specification for vacuum valves
2. Filled in Tender Form
3. (To be filled in)

In the event of any discrepancies in provision between the attachments and the Contract, the Contract take precedence over the attachments, and the attachments shall apply among themselves in designated order.

In case of doubt whether the Supplier has deviated from Technical Specification, the Technical Specification shall take precedence.

3. Alterations to the Contract

3.1. Alterations, Adjustment, etc.

Purchaser is entitled to require variations to the number of valves stipulated in the Tender Form by +/-10 %. The price will be varied accordingly.

Any request for variation shall be made in writing and shall specify the variations to be made and the impact this will have on the time schedule and the Contract Price.

Negotiations for this purpose shall in no way delay the delivery of any orders according to this Contract.

3.2. Options

Purchaser has the right to place additional orders with the supplier within the duration of the Contract based on agreed prices and other conditions of the Contract. An additional order shall include a minimum number of 10 (ten) valves.

4. Assignment of the Contract

4.1. By the Supplier

Supplier may not assign his rights and obligations under the Contract to a third party without Purchaser's prior written consent. Such consent shall not be unreasonably withheld.

4.2. By Purchaser

Purchaser shall be entitled to assign all or part of Purchaser's rights and obligations under this Contract to a wholly owned subsidiary, division or affiliated company or mother company, provided that Purchaser shall remain responsible beside the assignee for the final obligations arising from this Contract.

If Purchaser wishes to exercise this right, the parties shall enter into negotiations to secure the Supplier's right as against the assignee.

The Supplier shall upon request but without thereby being required to undertake additional obligations or responsibilities issue such declarations or documentation as may be required to enable Purchaser to assign all or part of their rights and obligations under the Contract in accordance with the stipulations above.

5. Performance

5.1. General

The product shall be made in full conformity with the Technical Specification and the appendices thereto, and the Supplier shall supply the equipment, all material, services etc. exactly as specified in appendix Technical Specification and including packing and transportation.

5.2. Requirements

The supplier shall be responsible for ensuring that Purchaser is provided with all required and related approvals, documents and certificates before the receipt of any consignment.

These documents, as well as any other documentation, is the property of Purchaser who shall be entitled at its discretion to use any and all such documents internally as well as when negotiating with Danish authorities.

5.3. Terms of Delivery

The delivery terms according to Incoterm's latest edition shall be DAP - Delivered at place of destination (Ringkøbing-Skjern Forsyning A/S, Ånumvej 28, DK-6900 Skjern), including unloading at the destination.

5.4. Rejection of the Delivery

In case of rejection of the received delivery Purchaser shall state the reason for rejection within 5 (five) days after receipt of the valves and documents related thereto.

5.5. Extension of Time

Extension of time of delivery can only be granted in the following cases:

5.5.1. Force Majeure

The performance of any obligations of either party under this Contract may be postponed or suspended while, but only as long as, such party is prevented from performance by a cause or causes beyond his control (hereafter called Force Majeure) such as strikes, lock-outs, damage by fire, unusual events of nature, epidemics, war whether declared or not, civil commotion, military mobilisation, discontinuance of work caused by orders issued by public authorities.

If affected by such Force Majeure, the affected party shall without delay inform the other party of the occurrence of Force Majeure preventing the fulfilment of his obligations under the Contract and the estimated duration of the Force Majeure situation.

The contractual obligations of the affected party will then, subject to clause 11 (Termination), be postponed for the duration of the consequence caused by and ascribable to Force Majeure.

6. Prices and price adjustment

6.1. Price

All prices are set in forth in attachment Prices and include all the Supplier's obligations under this Contract. Hence, it includes Tests (as described in Technical Specification), packaging, documentation etc., as well as any other costs for the Supplier's personnel.

6.2. Price adjustment

The prices are fixed and firm for all orders issued before December 31st, 2020. From January 1st, 2021, the prices can be adjusted (both up and down) on the base of the development of net price index once a year.

The request for adjustment must be submitted in writing no later than November 20th, the year before the new price shall concerned. If one of the Parties wants to adjust the prices suitable documentation and calculation of the proposed prices adjustments must be forwarded to the other party.

Net Price Index (PRIS117: EU-harmoniseret forbrugerprisindeks (HICP) (2015=100) efter varegruppe og enhed), can be monitored at the following website: <http://www.statistikbanken.dk/statbank5a/default.asp?w=1920>

New rates are calculated as follows

$$\text{Price}_{\text{new}} = (\text{Index}_{\text{New}} / \text{Index}_{\text{Old}}) \times \text{Price}_{\text{Old}}$$

The first time the rates can be adjusted January 1st, 2021, and the adjustment shall be based on the percentage development in the above index from OCT 2019 to OCT 2020.

To be effective, any agreed adjustments of the prices must be approved in advance in writing by the Parties.

7. Payment

7.1. Conditions of Payment

Payments will, provided that the total delivery according to the Purchase Order including all required certificates, tests, documents and a commercial invoice has been received by Purchaser (cf. clause 5.2 (Requirements) and 9.1(Accompanying Documents)), take place within the current month plus 30 (thirty) days.

Final payment will only take place after Purchaser`s acceptance inspection.

Invoice shall be furnished with the following information:

- Name of Purchaser and name of representative
- Date of delivery

and be enclosed with copy of the receipt for the delivery.

The invoice shall be submitted in pdf-format to the e-mail address faktura@rsforsyning.dk

Should an invoice or part thereof be subject to dispute, for whatever reason, Purchaser shall be entitled to withhold payment corresponding to the disputed amount.

7.2. Terms of Payment

Payment will be effectuated according to clause 7.1 when the agreed delivery has been delivered.

8. Certificates of Origin and Quality Assurance

The Supplier shall provide proof of the origin of the materials used in the production and shall arrange for material certificates.

The Supplier shall establish and maintain a certified Quality Assurance System in accordance with ISO 9000 as a minimum.

Purchaser and/or their representative may reject products or materials not being in conformity with the specifications or not being produced in accordance with the approved QA system. Such rejection shall not give rise to any extension of schedule of delivery or increase of costs.

9. Documents

9.1. Accompanying Documents

All deliveries shall, at the cost of the Supplier, be accompanied by the following documentation:

- a) Documentation as stated in Technical Specification

10. Responsibility and Risk

10.1. General

The parties shall - subject to modifications, which might be a consequence of the provisions of these conditions - mutually agreed upon - be liable one towards the other exclusively to the extent of the provisions of these conditions.

10.2. Delay

In the case of delayed delivery of valves and documents according to agreed delivery time, the Supplier shall after expiration of a grace period of one week to Purchaser pay a weekly penalty for each calendar week the delivery has been delayed. The weekly penalty is fixed at an amount corresponding to:

- 5‰ (five per mille) of the order value

The total sum of the penalties cannot exceed a sum equivalent to 10% (ten percent) of the order value. The weekly penalties are deducted from the payment.

In case Purchaser cancels the Contract, the penalty shall only be paid until the date Purchaser declares to cancel the Contract.

10.3. Warranty

The Supplier warrants that any and all services, items or parts thereof delivered under this Contract are in full conformity with the Technical Specifications and the requirements of the Contract.

Any item, not conforming to the provisions of the Contract shall, at the Supplier's discretion, be replaced by new items or repaired by the Supplier at the Supplier's expense. The warranty period is 24 months from date of delivery.

The warranty and all other provisions of this clause shall apply mutatis mutandis to all replacements of defective items pursuant to this clause for causes, which occur prior to the expiration of the warranty period.

10.4. Passing of Risk

The risk passes at the time fixed in the Terms of Delivery provided for in Clause 5.3 (Terms of Delivery).

11. Ethical and Social Responsibility

The Supplier and substantial sub-suppliers shall adhere to any international convention ratified by the Kingdom of Denmark, including the International Labour Organization Conventions, including but not limited to prohibition of forced labour, child labour, the right to organize in a trade union, and suffer no discrimination.

The Supplier and substantial sub-suppliers are furthermore obliged to respect fundamental human rights by adhering to the UN Universal Declaration of Human Rights.

Failing to fulfil these obligations by the Supplier or a Sub-supplier constitutes a substantial breach of contract, which entitles the Purchaser to terminate the contract.

12. Non-Disclosure Obligations

The Supplier, possible sub-suppliers and any employees hereof are not allowed to disclose any information received in connection with this Contract without the written consent of the Purchaser.

13. Termination

The Contract shall enter into force upon execution by the parties and shall apply thereafter until 1 year from the date of signature.

Although the Agreement is terminated, the Supplier is responsible to fulfil the delivery and warranty obligation entered into before the termination.

Without prejudice to rights of action or claim accrued at the date of termination either party may by written notice forwarded by registered mail to the other party forthwith terminate the affected part of this Contract if:

- a) The other party suspends payments, enters into bankruptcy or liquidation, becomes insolvent, enters into a deed of arrangement for the benefit of his creditors or commits or suffers any equivalent thing or act under any applicable law.
- b) The other party substantially violates any of the terms and conditions of this Contract and fails to take steps to remedy the violation within a reasonable period of time.
- c) The other party for more than 8 (eight) consecutive weeks has been prevented from fulfilling his obligations because of force majeure.

14. Disputes

14.1. Legal Framework

The Contract shall in every respect be construed under and governed by the laws of the Kingdom of Denmark, and Danish law only should be valid for the governance of this Contract.

14.2. Place of Arbitration

Any disputes between the parties arising out of or in connection with this Contract shall - to the extent such dispute will not be subject to settlement - be decided by Danish Institute of Arbitration (Copenhagen Arbitration), Denmark according to its rules of procedures. The arbitration will take its seat in Copenhagen and the language shall be in English.

15. Liability

The Supplier is responsible for product liabilities. The Supplier is obliged to maintain a usual product liability insurance for the duration of the contract and until 2 years after the latest delivery under the contract. The liability of the Supplier shall not be limited to the amount of the insurance coverage.

Neither party shall be liable to the other party for consequential damages, loss of production or loss of profit.

Signature page

Date: x. xxxx 2020

Purchaser

Supplier
