

**«Internal tender terms and conditions»**

**Version: 2023-07-03**

**The amendments have been made to the following chapters/paragraphs (regarding Version 2023-03-20):**

- Amendments throughout the text due to the AGR name change;
- Chapter “Definitions”;
- Chapter 2, Clause 2.2.

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**ОБЩЕДОСТУПНО**

## «Internal tender terms and conditions»

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### Definitions

**Request** is request for Commercial offers, invitation to make offers (commercial offers) for participation in the AGR internal Tender.

**Commercial offer (CO)** is an offer (a proposal to conclude a contract) sent by the Entrant for participation in the Tender in compliance with the Terms of Reference.

**Tender** is an internal tender procedure of AGR to select a Contractor and considers appropriate commercial proposals (offers).

**Contractor** is a legal entity, an individual entrepreneur or an individual with whom AGR plans to conclude an agreement, including for the sale of used goods/waste to the Contractor.

**Obligation** is an Obligation not to disclose confidential information (for information referring to the class «Конфиденциально/confidential/vertraulich») or an Obligation to ensure safety and confidentiality of information (for information referring to the class «Строго конфиденциально (Коммерческая тайна) / Secret / Geheim»).

**GPC** is AGR LLC General Purchase Conditions / Sphere of General Acquisition (hereinafter, the “GPC”). They are posted in electronic form in the Internet at: <https://vwgroup.ru/purchasing>, unless a different address is provided by the AGR to the Counterparty additionally.

**Entrant** is a person considered by AGR for sending information on the Tender held by AGR and corresponding Request with the ToR.

**Regulatory documents** are the documents the list of which is sent by AGR to the Entrants simultaneously with the Request and regulation the order of holding the Tender, terms of the future Contract and other requirements.

**Terms of Reference (hereinafter referred to as ToR)** is the document describing the AGR requirements to Contractor / services / works / goods to be acquired through the Tender.

**Sales Conditions** is Sales Conditions of OOO VOLKSWAGEN Group Rus/General Purchasing Department. They are posted in electronic form in the Internet at: <https://vwgroup.ru/purchasing>.

**Tender participant** is a person sending to AGR a signed Commercial offer to be considered in the course of AGR Tender for choice of performer/contractor/supplier/consultant.

**AGR** is AGR LLC.

Terms used in the ToR and not defined above have the meaning defined for them in GPC.

### 1. Legal nature and terms of the Request for participation in the Tender

**1.1** AGR LLC is sending Requests for Commercial offers on conditions specified in the Request and in ToR for considering Commercial offers by AGR within the Internal Tender framework. The Request shall be treated by its recipients as an invitation to make offers in the form of CO for the purpose of participation in the AGR Internal Tender; furthermore, nothing in the Request shall be considered as creating any obligations for AGR and/or the duty of AGR to accept any of the offers (COs) received on the terms and conditions set forth therein.

**1.2** The Request and ToR are not:

- an offer;
- a public offer;
- a preliminary agreement;
- an AGR’s consent to the conclusion of legally-binding contracts;
- a notice of bidding (in the meaning of Articles 447–449 of the Civil Code of the Russian

- Federation);
- an advertisement of holding a public tender (in the meaning of Articles 1057–1061 of the Civil Code of the Russian Federation);
  - an initiation of negotiations to conclude a contract(s) or other legally-binding documents (in the meaning of Article 434.1 of the Civil Code of the Russian Federation).

Therefore, nothing in Request and ToR shall be construed as being subject to regulation by the laws of the Russian Federation establishing the legal regime, rules, procedures, and consequences for any of the aforesaid civil structures, and the person receiving the Request shall be deemed duly notified about that and about all other conditions set forth herein, which is unconditionally confirmed by the presentation of the CO by such a person.

**1.3** AGR does not recruit performing Contractor through bidding and/or similar procedures that are governed by the relevant provisions of the law and/or incur or may incur any rights and/or duties of AGR to the third parties. The tender is solely AGR's internal procedure. AGR employees maintaining communication and participating in negotiations with the Bidders who replied to this Request do not have the right to nor shall be considered as persons entitled to make statements or send notices that may be considered as information about the bidding and/or public tender held by AGR.

**1.4** Selection from among the Bidders during the Tender shall be performed by AGR at its sole discretion, inter alia, by way of internal monitoring of the market and comparison of the previous works of the potential performing Contractors. The decision will be based, among other things, on the presented materials' compliance with the ToR enclosed to the Request, price considerations of AGR, and other criteria as AGR may deem appropriate at its sole discretion. For the avoidance of doubts, the list of criteria and requirements specified in the Request and ToR is not exhaustive, and it may not cover all aspects and issues that AGR will find applicable for the purpose of decision-making.

**1.5** The Entrants shall decide on their own whether to send a CO under Request and bear all expenses and losses associated with the execution and presentation of their COs and/or any cover information and documents, as well as with the participation in the Tender on their own, and shall not demand compensation for any expenses, costs, or loss from AGR. AGR shall not bear any responsibility to these persons or other third parties, including for expenses, costs and / or losses that will or may be incurred by Entrants/Bidders or other third parties in connection with the submission of the CO and their participation in the Tender, irrespective of the Tender outcomes.

## **2. Tendering procedure**

**2.1** Prior to the Request, AGR shall send to Entrants via e-mail for signing an Obligation not to disclose confidential information (for information referring to the classes «Для внутреннего пользования / Internal / Intern», and/or «Конфиденциально/confidential/vertraulich») or an Obligation to ensure safety and confidentiality of information (for information referring to the class «Строго конфиденциально (Коммерческая тайна) / Secret / Geheim»), except for the cases when an Obligation was signed and submitted by an Entrant before (e.g., when participating in other AGR internal tenders). The type of the Obligation is selected by AGR independently, based on the class of information planned for transfer. If the Entrant for the Tender, who has received an Obligation for signing from AGR, desires to participate in the Tender, it shall send the signed Obligation to AGR.

**2.2** After receiving a signed Obligation from the Entrant for participation in the Tender, or if there is a previously signed Entrant's Obligation, the AGR shall send the Request and the ToR by e-mail.

**2.3** The Entrant shall send its CO to AGR, the CO to be drawn up according to the Request and the ToR and within the time specified in the Request. From the moment the CO is sent, the Entrant acquires the status of a **Bidder**. The Entrant's acquisition of the Bidder status only means inclusion of its CO in the list of COs to be considered under the Tender, and in no way guarantees or may be considered as the AGR's acceptance of the CO of such Bidder, and it neither confirms the initiation of negotiations or the AGR's willingness to initiate negotiations with such Bidder (in the meaning of Article 434.1 of the Civil Code of the Russian Federation), nor creates any obligations for AGR to accept the offer of such Bidder and/or to conclude any binding documents with the Bidder.

**2.4** By sending the CO, the Bidder confirms that they are familiar with the content of the GPC/Sales Conditions, fully accepts their provisions and will fulfill their obligations under the contract in accordance

with the requirements of the GPT/ Sales Conditions.

**2.5** Each Entrant may submit only one CO. If an Entrant submits more than one CO, and the CO previously submitted by it has not been withdrawn by it, then AGR shall consider the CO received last, unless otherwise indicated by the Entrant.

**2.6** By sending its CO, the Entrant confirms their consent to the participation in the Tender, and confirms that:

- they have read and understood the legal nature, goals, tasks, and conditions of the Request and the Tender, including those specified herein;
- they are familiar with the ToR and all the documents attached to it, including all additions and clarifications provided by the AGR, as well as with these Terms and conditions of the internal tender process and other Regulatory Documents;
- they have adequately evaluated the tasks and duties required for the provision of services/performance of work/supply of goods;
- they have been duly and adequately notified on all claims and rights of AGR;
- the documents and information submitted to them are sufficient to determine the kinds and scope of the necessary services/work/goods and their cost.

**2.7** AGR may refuse accepting the Entrant's CO in the following cases:

- if the form and content of the CO do not comply with the form and requirements established by the Request, the Terms of Reference and/or these Terms and Conditions;
- if the CO and the commercial offer do not contain documents according to the requirements of the ToR, if the information submitted is incomplete, or these documents contain misleading information;
- if the Bidder has submitted incorrect data;
- if the documents are not signed in a due manner in accordance with the requirements of the Request;
- in case of lack of access to the EDW systems;
- for other reasons that the AGR is not entitled to disclose.

For avoidance of doubts, a refusal/denial to accept CO without declaring the reasons shall be the AGR's right about which the Entrant has been duly notified and in respect of which the Entrant has expressed its consent and understanding by filing the CO.

**2.8** If an illegible document is submitted within the content of the CO (e.g. due to poor quality of copying/scanning, a damaged document, etc.), this document shall be deemed not submitted and shall not be considered.

**2.9** The Bidder's CO shall have the legal status of an offer and shall be considered by the AGR accordingly. However, AGR reserves the right to clarify the Request for CO and ToR, allow or propose the Bidders to change their COs within the Tender process if all Bidders are provided with the same access to the AGR's clarifications and equal opportunities for making changes. The AGR will have the right at any time to negotiate with the Bidders in order to improve the economic and/or other terms of the transaction. Negotiations are also possible after completion of the Tender procedure with the successful Tenderer. For the avoidance of doubts, the Request and ToR are not exhaustive, inter alia, in terms of the description of the terms and conditions of the deal, and they may not cover all aspects and issues requiring discussion in the course of developing binding documents under the deal, which may be additionally determined. Such discussions/negotiations are only aimed at updating the terms and conditions of the COs, and in no way are or shall be considered as the Customer's acceptance of the respective CO by AGR and/or the initiation of or the AGR's willingness to initiate negotiations for settling a deal in respect of such a CO (in the meaning of Article 434.1 of the Civil Code of the Russian Federation).

**2.10** Consideration of the CO is carried out by the AGR exclusively in accordance with the approved internal procedure of the AGR for compliance with the requirements set out in the ToR and in the documents attached to it, on the basis of documents submitted as part of the CO, as well as other sources of information, including information from official websites of state bodies, organizations in the Internet. The price of the CO is not the only criterion to determine the successful tenderer.

**2.11** The AGR shall hold meetings with the Bidders at the stage of CO consideration so that they could present their offers.

**2.12** If the Bidder establishes the effective period of the CO, the Bidder may be proposed to extend the term of its CO before its expiry. The Bidder has the right to refuse to extend the term of its CO.

**2.13** At any time prior to summarizing the results of the tender and evaluation of the Cos, the Bidders may be sent a request to provide information and documents required to prove that their services/works/goods offered under their COs meet the requirements stated in the documentation. The Bidders may not change their COs when presenting such requested information and documents. If there is information and documents proving that the services/works/goods offered under the Bidder's CO fail to meet the requirements stated in the documentation, the Bidder's CO shall be rejected.

**2.14** The documents and materials provided by the Bidders within their COs shall not be returned.

**2.15** The Bidders and their representatives may not take part in the consideration, studying, evaluation and comparison of the Cos.

**2.16** Information related to examination, assessment and comparison of the COs shall not be disclosed to the Bidders. The Bidders' attempts to get such information before the official results of the Tender are summed up by the AGR shall serve as the ground for rejecting the COs of such Bidders.

**2.17** The CO of the Bidder may be rejected by the AGR after the CO is accepted for participation in the Tender in the following cases:

- if it is revealed that the CO does not contain documents / does not meet the requirements specified in the ToR, the Request or these Terms and Conditions;
- providing incomplete/unreliable information. At that the AGR shall have the right not to admit the Bidder to participation in any subsequent selection procedures held by the AGR if such Bidder has submitted incomplete/unreliable information;
- if the CO is signed by an unauthorized person;
- if the Bidder refuses to extend the term of its CO;
- upon establishing unfair conduct of the Bidder. Unfair conduct of the Bidder includes offering, giving, or agreeing to give a remuneration in any form to the AGR's officer (employee) by the Bidder, whether directly or indirectly (employment offer or any other service, or monetary remuneration), for the purposes of influencing the Tender process, performing other actions, decision-making, or applying any procedure;
- for other reasons that the AGR is not entitled to disclose.

For avoidance of doubts, rejection/exclusion of the CO without declaring the reasons shall be the AGR's right about which the Bidder has been duly notified and in respect of which the Bidder has expressed its consent and understanding by filing the CO.

**2.18** This Tender procedure may be terminated by the AGR at any time at the AGR's sole discretion without explaining the reasons thereof. The AGR shall bear no liability to the Bidders and to individuals and legal entities that suffer damages from such termination. The AGR is not obliged to inform the Bidders of the causes of Tender cancellation.

The selection/exclusion of COs and/or termination of the Tender at any stage thereof at the AGR's discretion shall be the AGR's right about which the Entrants are deemed to be duly informed by the AGR for the purpose of making the decision on the participation in the Tender, which is confirmed by submitting their COs. For the avoidance of doubt, by submitting their COs the Entrants express their agreement to this condition, and the rejection/exclusion of COs and termination of the Tender may not be regarded as unfair conduct of the AGR.

**2.19** If the Tender is not canceled early at the AGR's discretion and the AGR selects one of the Bidders as the successful Bidder, it does not mean that the AGR automatically accepts such Bidder's CO and incurs obligations to conclude a deal with the tender winner on the terms and conditions of such CO, but only means that the AGR has selected the Bidder with whom it may at its discretion negotiate concluding a deal for project implementation in order to discuss, modify and improve the economic and/or other conditions of the deal to conclude a binding contract. For the avoidance of doubt, the selection of the Tender winner and initiation of negotiations with the Tender winner shall be the AGR's right rather than a duty, and the AGR may or may not exercise such right at its sole discretion.

### **3. The procedure for processing personal data during the Tender**

**3.1** Entrants guarantee that they have legal grounds under the legislation of the Russian Federation for

the transfer of personal data for the purpose of participating in the Tender (in particular, the necessary consents giving grounds for such transfer or other legal grounds for the transfer of personal data).

**3.2** Entrants/Bidders and AGR shall process the personal data of the persons sent to each other to the extent necessary for running the Tender.

**3.3** The Bidders and the AGR are independent operators in relation to the personal data transferred and received during the Tender.

**3.4** The Bidders guarantee compliance with the legislation in the field of personal data protection, principles and rules of personal data processing, ensuring the confidentiality of personal data transferred to them or transferred by the AGR during the Tender. Bidders guarantee that the personal data shall be safe when being processed.

**3.5** During personal data processing, the Bidders guarantee use of all necessary legal, organizational, and technical measures, or ensure such measures are used, for the protection of personal data against unauthorized or accidental access, destruction, modification, blocking, copying, provision, distribution, as well as against other illegal actions in relation to personal data.

**3.6** The Bidders guarantee compensation to AGR for all losses and expenses incurred by AGR as a result of violation by the fault of the Bidder of the confidentiality of personal data received from AGR or the safety of the personal data during their processing.

#### **4. Requirements to submitted COs and cost estimates**

**4.1** If the Bidder believes that some issues which may affect the cost, volume, list, term of works / services / delivery of goods are not included in the ToR, these issues shall be discussed by the Bidder with AGR before sending the CO.

**4.2** If the Bidder considers it possible to achieve the required result of works / services / delivery of goods in a more efficient way, including in terms of possible costs of the AGR, deadlines for the performance of works / services / delivery of goods, without reducing the level of quality requirements, the Bidder has the right to provide the AGR along with the main CO, compiled in accordance with the requirements of the ToR, a separate alternative CO.

**4.3** The CO submitted to AGR has to include:

- copies of certificates, permits and licenses certified by the Bidder, required in accordance with the legislation of the Russian Federation, for the performance of works / services / delivery of goods;
- a detailed description of the works/services, including, if there is a mechanical and electrical part of the work, as well as a description of the IT part with a calculation of their cost and the cost of materials, taking into account the requirements set out in paragraphs 4.4. and 4.5 below;
- sketches, drawings and other documents containing a description of the principles and methods of execution of works, the materials used in the execution of works, technical and operational characteristics, overall and mounting dimensions of the equipment/fittings/instrument, etc.;
- at the request of the AGR filled leaves of the accounting of energy consumption and impacts on total value, the form of life cycle assessment equipment;
- if the Bidder applies the simplified taxation system (USN), it is necessary to attach a copy of the relevant confirmation (for example, a notification of the transition to the USN, an information letter from the tax authority, etc.);
- and other documents.

**4.4** Prices for services/works/goods, etc. are broken down by individual units/blocks (if available), as well as indicating the total cost and currency without VAT. VAT shall be indicated in a separate line. For works/services, the above information must be provided by the Bidder in the form given in the Appendix to the ToR (if any), indicating the following information on the items listed in it:

- name;
- volume or quantity;
- unit price.

Unit prices are given for the following items, if any:

- equipment, fixtures, materials used in the performance of work;

- development and preparation of technical documentation;
- works performed;
- services provided;
- other expenses (organizational, etc.).

The total cost of works/services must be calculated and allocated by the Bidder separately in the form of the total value of all unit prices for the above items multiplied by their volume.

**4.5** Prices for services/works/goods, etc. are given taking into account all expenses (including travel expenses, accommodation, meals, flight/relocation, per diem, etc.). The Counterparty's overhead costs can be reimbursed by the AGR only in cases stipulated by the contract, in accordance with the provisions of the GPC.

The CO must include and take into account all upcoming expenses that may arise during the performance of works / services / delivery of goods, as a result of which the Counterparty's future demands for an increase in price, an increase in volume, deadlines, or a change in the list of works/services/goods are excluded.

This requirement does not apply to cases when the rise in price, increase in volume, deadlines, change in the list of works/services/goods is due to the presentation of additional requirements by the AGR, which the Entrant, when sending the CO, did not know or should not have assumed.

**4.6** The cost of intellectual property rights (when transferring such to AGR) shall be indicated in the CO (estimate) separately.

**4.7** AGR shall not reimburse nor allow including in the estimate the costs of developing the CO for participation in the Tender in accordance with the ToR, as well as the costs incurred by the Bidder for the purposes of compliance with the requirements of the ToR (technical, organizational, other).

**4.8** If a Bidder plans to involve third parties as an agent, the estimate must clearly mark the blocks of services/work which will be performed by the Bidder independently and those which will be performed by third party contractors following the Counterparty's assignment. Also, the amount of agent's fee based on the rates of contractor's specialists and a required number of hours (days) of work of each specialist must be indicated separately (agent's fee may be also included in the cost of services provided by the contractor independently, if any).

**4.9** If an event is held at the AGR's request, the Bidder shall indicate in its CO the commencement date for services provision / works performance / delivery preceding the event.

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