



GENERAL CONDITIONS FOR WORKS

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1. FIELD OF APPLICATION

The contractual relationships between the Contractor and the TSO (jointly referred to as the "Parties") are exclusively determined by these General Conditions for works ('GC WORKS') and the other Contractual Documents as defined in Article 2 below, if nothing else has been agreed by the Parties in accordance with these terms.

Any general terms and conditions of the Contractor that contradict, deviate from or supplement these GC WORKS are not accepted and are rejected by the TSO, unless the incorporation of such terms has been agreed in writing by the TSO.

The English version of these GC WORKS will prevail in case of discrepancies between the original English version and its translations (Dutch, French and German). Wherever a Belgian or German law legal term or concept highlighted by italics has been used in these GC WORKS, such Belgian or German law legal term or concept shall be authoritative. Furthermore, where the Contract including these GC WORKS is subject to German/Belgian law, the language used in the original English version shall be construed as referring to the underlying concepts of German/Belgian law.

These GC WORKS shall apply to all Contracts entered into by the TSO as ordering party for works (including but not limited to electrical works), including construction works (including above-ground and below-ground constructions, steelwork), demolition, site preparation, civil engineering works, painting works and to all other Contracts incorporating those GC WORKS.

In addition to these GC WORKS, specific conditions for works (SC WORKS) for the respective jurisdictions (Belgium, Germany) are applicable and shall in case of discrepancies prevail over the provisions in these GC WORKS.

The Contract will determine the scope of the Contract and will qualify the Services.

When concluding a Contract (framework agreement or qualification contract) with the TSO including these GC WORKS, the Contractor authorizes all Affiliates of the TSO to order Services on basis of this Contract and, unless agreed otherwise in writing, the terms and conditions of this Contract (including these GC WORKS) shall govern the contractual relationship between the Contractor and this Affiliate. If an Affiliate orders Services under this Contract, the TSO will not be responsible for the rights and obligations of this Affiliate.

2. DEFINITIONS

Affiliated Company or Affiliate: in relation to a company, any company, which directly or indirectly controls, is controlled by or is under joint control with that company (*verbundenes Unternehmen* if the Contract is subject to German law, *verbonden onderneming / société liée* if the Contract is subject to Belgian law). For this purpose, a company is deemed to control another company if it (a) owns, directly or indirectly, at least 50 percent of the capital of the other company, or (b) in the absence of such ownership interest, substantially has the power to direct or cause the direction of the management and set the policies of such company or entity.

Best Practice: Means *allgemein anerkannte Regeln der Technik*, if the Contract is subject to German law and *volgens de regels van de kunst / dans les règles de l'art* if the Contract is subject to Belgian law.

Construction Site: the area within the Site where the Services must be carried out.

Contract: any agreement between the TSO and the Contractor incorporating these GC WORKS.

Contractor: the company or group of companies (in case of a consortium) that enters into a Contract with the TSO.

Contractual Documents: the whole formed by the documents relating to each Contract considered individually, namely, as applicable, (1) the Service(s) description of the TSO, (2) documents which state the requirements and needs of the TSO (these documents ((1) and (2)) are referred to hereafter as the “Call for Tender”), (3) the bid of the Contractor (to the exclusion of any general terms and conditions included or referred to in his bid), (4) any subsequent negotiation document, (5) the purchase order(s) (PO), (6) the execution planning and/or works reports, (7) the GC WORKS and (8) the applicable Specific Conditions for Works incorporated into the Contract and (9) any additional documents incorporated into the Contract and addenda thereto, if any.

Days: unless stated otherwise in the Contract, the term Days is to be understood as calendar days and includes Saturdays, Sundays, public holidays, holidays, and closing days.

Documentation: any plan, instruction for use, calculation or any other document drawn up in connection with the Contract.

GC WORKS: These General Conditions for works.

Health and Safety Execution Coordinator: means *SIGEKO* for contracts under German law and *Health and Safety Execution Coordinator* for contracts under Belgian law.

Party: The Contractor or the TSO (together the Parties).

PO (Purchase Order): written order (including its annexes) placed by the TSO to the Contractor.

Provisional Acceptance: is referred to provisional acceptance in Contracts governed by Belgian law and to acceptance in Contracts governed by German law and has the meaning assigned in the respective SC WORKS.

Safety Document: any safety document annexed to or explicitly referred to in the Contract.

Services: the works to be performed by the Contractor as further described in the Contractual Documents.

Site: Any place or location operated or managed by the TSO, an Affiliate of the TSO or another contractor of TSO or of its Affiliates where activities relating to performance of the Services are carried out.

Specific Conditions for Works (SC WORKS): The Specific Conditions for Works which contains terms specifically applicable to the performance of the Services by the Contractor under the Contract.

TSO (Transmission System Operator): one of the companies of the Elia group entering into a Contract.

Week: unless stated otherwise, the term Week corresponds to a calendar week made of seven (7) Days and starting on Monday. Any started week will be considered as a full week.

Working Days: all Days not including Saturdays, Sundays, public holidays, and mandatory closing days of the TSO or sector of the Contractor.

3. HIERARCHY AMONG DOCUMENTS

The hierarchy of documents is generally specified in the Contract. If this is not the case, the priority of the documents shall be in accordance with the following:

3.1 Terms of contract individually negotiated and agreed in writing between the Parties shall always take priority over general documents, including the GC WORKS and SC WORKS.

3.2 Otherwise, documents shall apply with the following hierarchy, so that the first mentioned document shall prevail:

- PO;
- any annexes to the PO in the following order:
 - o Safety Documents prevails over other annexes;
 - o Annex 1 (or Annex A) prevails over Annex 2 (or Annex B), Annex 2 (or Annex B) over Annex 3 (or Annex C) and so on;
- main body of the Contract;
- Any annexes to the Contract in the following order:
 - o Safety Documents prevails over other annexes;
 - o Annex 1 (or Annex A) prevails over Annex 2 (or Annex B), Annex 2 (or Annex B) over Annex 3 (or Annex C) and so on;
- GC WORKS prevail over all other general documents with the exception of SC WORKS which shall take precedence over the GC WORKS.

3.3 The bid of the Contractor and any other document issued by the Contractor, including any exceptions to / deviations from the other Contractual Documents proposed by the Contractor, only apply if they are explicitly accepted by the TSO in the Contract and/or in the PO.

3.4 The Contractual Documents issued by the TSO are to be taken as mutually explanatory of one another. The omission of an element in one of the Contractual Documents does not mean that it is not a part of the Contract if it appears in another Contractual Document.

4. INTERPRETATION

In these GC WORKS, except where the context requires otherwise:

- a) words indicating one gender include all genders;
- b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- c) "including" or "include" mean including or include but not limited to and introduces a non-exhaustive list of items;
- d) provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing; and
- e) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record (including e-mail).

The headlines shall not be taken into consideration in the interpretation of these GC WORKS and of the Contract.

5. JOINT AND SEVERAL LIABILITY

When the Contract is concluded with an association or temporary company, the shareholders of these entities will be indivisibly and jointly and severally liable to the TSO for all of the contractual obligations of the Contractor. The shareholders of this association or temporary company will appoint one of them as the only representative with full power of attorney to ensure the coordination of performance of the Contract.

6. SUBCONTRACTING

The Contractor is allowed to use subcontractors for the performance of its Services, subject to the prior written consent of the TSO. The Contractor shall provide prior notice to the TSO confirming its intention to subcontract the performance of the Services and the identity of the intended subcontractors before entering into any subcontract. The TSO reserves the right to reject subcontractors in justified cases if the use of the subcontractor cannot reasonably be expected of the TSO, taking into account the interests of the TSO and the interest of the Contractor in employing the subcontractor for the respective Services. Such a justified case exists in particular if the use of the subcontractor would pose a safety risk or if the subcontractor or his employees obviously do not have the necessary qualifications to perform the Services.

If subcontractors are used, the Contractor must agree (back-to-back principle) with the subcontractor that the latter will also comply with all obligations which the Contractor has towards the TSO, including the technical specifications, quality requirements, contractual deadlines and safety rules. Any approval of a subcontractor pursuant to this Article 6 shall not release the Contractor of any of its liability under the Contract or create any legal or contractual relations between the TSO and any subcontractor. The Contractor shall remain fully and personally liable towards the TSO for the parts of the Contract that were subcontracted.

The Contractor shall not conclude any exclusivity agreements with its subcontractors that prevent them from directly entering into contractual agreements with the TSO or Affiliates of the TSO. In the event of termination of the Contract, the TSO shall have the right (but no obligation) to step in the rights and obligations of the Contractor under the contracts entered into with the subcontractors. The Contractor is obliged to provide for such step-in right for the benefit of TSO in the Contract he concludes with his subcontractors

The transfer of the total performance to subcontractors/suppliers is excluded in accordance with paragraph one of this Article.

7. TSO'S COOPERATION

If (and to the extent) the TSO's cooperation is required for the Services, the Contractor shall request such measures or actions in writing at least fourteen (14) days in advance. Should the period of fourteen (14) days be too short and cooperation of the TSO be required sooner, the Contractor shall specify this in his request and give the reasons. Requests for cooperation must, in any case, be made in such a timely manner that the orderly fulfillment of the Contract including the meeting of deadlines is not endangered. The request shall specify the date by which the cooperation is required and sufficient details on the matter of the request.

8. STAFF

8.1 General

The Contractor shall ensure that the staff performing the Services will have the appropriate professional qualifications and trainings.

Access to the TSO's premises by the Contractor or his employees on foot or by vehicle is only permitted during normal working hours (unless otherwise contractually agreed) and provided that they comply with all Safety Documents.

The TSO may request that the Contractor replaces one of his employee if this employee in question is professionally unsuitable.

8.2 Independence with regard to the TSO

The Contractor and its staff remain entirely independent of the TSO and may at no point be considered employees of the TSO. The Contractor solely exercises authority over its staff and is responsible for them, bearing all of their salaries, bonuses, taxes, social security contributions or charges.

As far as the Contractor's employees are concerned, nothing in these GC WORKS shall be construed to give TSO the power to exercise the employer's authority on such employees.

8.3 Attendance list

The Contractor will submit to the TSO an updated attendance list of staff (including staff of subcontractors) assigned to perform the Contract at a Site. In the event that this list is not kept by the Contractor or in the event of inaccurate or incomplete entries, the Contractor must compensate the TSO for any damage it has therefore incurred.

9. QUALITY OF SERVICES

The Contractor shall perform the Contract and the Services in good faith and with the level of professionalism, care, loyalty, conscientiousness and diligence as may be awaited from a company offering comparable services to those offered by the Contractor. The Contractor shall perform the Contract in compliance with all applicable laws, regulations, permits, technical standards, Best Practice, the stipulations of the Contractual Documents and all relevant rules applicable on Site.

Unless otherwise stipulated in the Contractual Documents, Contractor's obligations under the Contract are obligations of result, meaning that the Contractor must effectively meet and achieve obligations and requirements set by the Contract, and not just provide its best efforts. Unless otherwise stated in the Contractual Documents, the performance of Services by the Contractor includes the performance and supply by the Contractor of all labor force, materials, facilities, utilities, construction equipment and tools, scaffolding, cranes, consumables, warehousing, waste disposal containers, waste removal, Site cleanup and, in general, any other work, activities and supplies required for the performance of the Services.

The Contractor shall promptly notify the TSO of any information, situation, event, incident and/or matter which negatively affects or may negatively affect the performance of (including the continuation of) the Contract and/or Services under the Contract. The Contractor shall respond to the inquiries and communications of the TSO in a timely manner.

The Services shall be complete and fit for the purpose for which the Services are intended as defined in the Contract. They include all the elements required for full performance of the Contract or realization of the guaranteed performances and Services, even in the absence of any explicit mention thereof in the Contractual Documents.

If the Contractor has doubts (“Bedenken” in Contracts under German law), especially about the proposed design, other instructions given by the TSO, e.g. concerning materials, treatment, processing, the quality of materials or components ordered and/or provided by the TSO or the services provided by other contractors of the TSO, the Contractor shall promptly notify the TSO thereof in writing, stating in detail the reasons for his doubts, before starting to perform the Service(s).

10. DOCUMENTATION

10.1 The TSO’s Documentation

The Contractor is, before and after conclusion of the Contract, obliged to review the tender documents and the Contractual Documents with the knowledge and diligence to be expected from an experienced Contractor for the type of works in question and to immediately inform the TSO of, among others, any faults, omissions, discrepancies, uncertainties.

By submitting his tender, offer or quotation, the Contractor confirms having received information from the TSO and familiarized himself with the Documentation needed to properly execute the Contract, having understood and accepting the invitation to bid, including but not limited to, the specifications, safety conditions and the basis of remuneration.

In case of additional information required to execute the Contract/PO, the Contractor will immediately ask the TSO for guidance in the relevant matter. Should there be any doubt during the performance of the Contract, the Contractor will clarify the issues with the TSO before starting the performance of the works in question and in no case make any assumptions on its own.

The Contractor ensures that the Documentation submitted to it by the TSO comply with the actual conditions (reality of the field) and are compatible with the works already performed and/or to be performed. The Contractor must notify the TSO of any anomaly within fifteen (15) Days of receipt of the Documentation.

If, despite inspection by the Contractor, there are shortcomings or incompleteness and/or a lack of plausibility or other errors in the Documentation, which could have been discovered by the Contractor in the course of his due fulfillment of his obligations under this Contract or prior to its conclusion to review the Documentation, the Contractor shall not be entitled to any claims for an extension of the deadlines and/or for reimbursement of costs, regardless of the legal grounds.

10.2 Contractor’s Documentation

The Contractor shall provide all Documentation (with all necessary details) in accordance with the Contractual Documents to allow the TSO to verify the compliance of the Services and to make use thereof. The Contractor warrants that the Documentation is complete and correct. Unless otherwise provided in the Contractual Documents, the Documentation will be delivered before Provisional Acceptance according to Article 5 of the SC WORKS applicable. This communication will be done immediately after the Documentation is ready (and no later than the due date set out in the Contractual Documents). The TSO may always ask for additional Documentation in order to verify that the Contractor complies with his contractual obligations, if such Documentation is customary for that kind of project and/or in order to allow the TSO to comply with its legal and regulatory obligations.

Unless otherwise stipulated in the Contractual Documents, the TSO has thirty (30) Days from the date of its receipt to accept or reject the Documentation submitted by the Contractor. The Contractor shall make the requested changes within fifteen (15) Days of receipt of the TSO's comments. The approval given by the TSO will in no way release the Contractor neither from any liquidated damages and/or penalties (as provided in the SC WORKS) nor from its liability.

11. SAFETY

11.1 General

For the performance of the Services, the Contractor must strictly comply with - and ensures that its staff, subcontractors, and suppliers do the same - the provisions relating to the well-being of the workers (including accident prevention regulations and use of tools and installations), access, and hygiene conditions stipulated in the last version of the Safety Documents and in any other applicable laws and regulations, including laws and regulations regarding the temporary or mobile Construction Sites. The Contractor agrees to bear all of the related expenses, which are supposed to be included in its prices, including waiting times. However, if a new version of a Safety Document is published by the TSO after the conclusion of the Contract and increases Contractor's costs, these costs will be charged to the TSO upon the condition to be duly evidenced by the Contractor.

The Contractor is liable for committing any breach of this obligation and agrees to bear all the consequences of the same. A breach of this obligation entitles the TSO to take any necessary measure, at the expense and risk of the Contractor, including the exclusion of staff from the Site. Any default of this obligation is considered to be gross negligence allowing the TSO to terminate the Contract pursuant to Article 28.1.

In accordance with Safety Documents, if a member of the staff of the Contractor has an accident or a near-missed accident at work at the Site, the Contractor will notify it immediately to the TSO.

11.2 Safety and health coordination

During performance of the Services, all modifications discussed in consultation with the Health and Safety Execution Coordinator will be added in the order in which they are presented in the health and safety plan, so that this plan reflects the state of progress of the works at all times.

All directives relating to safety, given by the Health and Safety Execution Coordinator, must be strictly observed. The Contractor shall indemnify and hold the TSO harmless against any claims resulting from non-compliance with these rules and regulations by the Contractor in accordance with Article 29.

11.3 Coordination log

The coordination log designates the file composed of all the documents kept updated by the Health and Safety Execution coordinator and which contains information and notes relating to the coordination and events occurring during the performance of the works. The coordination log must be completed and kept updated pursuant to the applicable regulations.

All modifications proposed regarding performance of the Contract, as well as all complaints by the Contractor and by the TSO relating to safety, will be systematically recorded and countersigned by the two Parties for information purposes.

Recording in the coordination log merely serves as an organized registration and in no way indicates an acceptance of the proposed modification or submitted complaint. It does not exempt the Contractor from observing the formalities set forth in Articles 18 and 36.7, as appropriate.

12. DELIVERY OF SUPPLIES NECESSARY FOR THE PERFORMANCE OF WORKS

Every supply necessary for the Services delivered on behalf of the TSO to the Site during those works must be taken over by the Contractor– if applicable -, which must, notably, take all useful measures to ensure that they do not suffer from any deterioration or disappearance.

At the request of the TSO, the Contractor shall be obliged to insure the aforementioned supplies provided by the TSO which have come into his possession for the creation of the work against accidental loss and accidental deterioration.

The Contractor shall verify the supplies as well as tools, templates, samples and other objects for recognizable defects upon acceptance and installation and for their suitability for installation or combination with other substances, materials or other objects. If the objects are recognizably not suitable for the intended purpose or if defects are found, the TSO must be notified immediately in writing.

The storage area is defined by the Contractor and is to be approved by the TSO. All storage expenses are to be borne by the Contractor.

13. DISCOVERIES DURING WORKS

In the event of the discovery of objects of an artistic, archaeological, or historical interest, human remains, weapons, UXO, etc., the Contractor providing Services at a Site must immediately inform the TSO and the competent authorities and comply with the legal provisions in force and with the provided guidelines.

The Contractor shall indemnify and hold harmless the TSO with regards to any breaches of the above obligations in accordance with Article 29.

The Contractor hereby assigns to the TSO any rights it may obtain with regard to these remains as a result of their discovery.

14. PERMITS/ADMINISTRATIVE AUTHORIZATIONS

14.1 Permits

Unless stipulated otherwise in the Contractual Documents the TSO is responsible for obtaining the permit for the construction project as such for which the Services are to be rendered (e.g. building permit, plan approval order (Planfeststellungsbeschluss if the Contract is subject to German law, omgevingsvergunning or permis d'urbanisme if the Contract is subject to Belgian law)).

The Contractor is not authorized to claim a price supplement after the conclusion of the Contract for making its Services compliant with the requirements of the permits pursuant to Article 14.1 to the extent such permits were known to the Contractor upon conclusion of the Contract. The same shall apply if permits in the meaning of Article 14.1 are issued or amended after the conclusion of the Contract, unless such requirements were not foreseeable for an experienced and diligent contractor for works of the type in question upon conclusion of the Contract.

If the TSO will submit applications for permits in the meaning of Article 14.1 or the amendment of such permits, the Contractor agrees to provide the TSO, at the request of the latter party, with all of the information relating to the Services provided as may be necessary to do so.

14.2 Administrative Authorizations

Unless stipulated otherwise in the Contractual Documents the Contractor is responsible for obtaining the prior authorizations and licenses required by law or requested by the competent authorities and/or the approved acceptance bodies for the performance of the Services, e.g. for the use of public roads with heavy traffic, the use of public land or public authority or experts acceptances for the Services at his own expense.

15. ROAD TRAFFIC

Traffic on roads or highways, railways or waterways or access routes shall not be interrupted, even momentarily, without the written agreement of the relevant authorities and public services.

The Contractor shall submit requests to the relevant authorities and public services in due time for authorizations relating to the disruption of the usual traffic and safety on roads and waterways.

The Contractor shall nevertheless limit the disruptions to operators and local residents resulting from the Services as much as possible. Consequently, it will particularly adapt the approaches to the Sites necessary for the performance of the Contract, so as to ensure free access to properties, possessions, etc. It will create the footbridges required for use by pedestrians and vehicles.

The Contractor bears in any event full liability for the direct and indirect consequences resulting from the disruption to traffic, and this will be included in the price.

16. LOCAL CIRCUMSTANCES

The Contractor is obliged to gather sufficient information about the local circumstances and about matters of public law (possible legal framework conditions or official decrees that concern the fulfilment of his contractual obligations), to the extent that this is required for his Services. Costs arising from the non-compliance with this obligation will be borne by the Contractor.

17. ENVIRONMENT AND PUBLIC LAW

17.1 Compliance with laws and regulations

The Contractor will limit to the highest extent possible the impact of his Services on the environment and shall comply with all applicable laws and regulations or other applicable provisions such as e.g. statutes or building and operating permits relating to environmental protection as well as those relating to spatial planning, including to disposal of waste and sewage, use, storage and transportation of dangerous substances, soil pollution, emissions (noise, dust etc.).

17.2 Waste and excess material removal

The Contractor agrees to sort and remove from the Site at its own costs all waste, packaging, and excess material resulting from the performance of the Contract. It will transmit to the TSO, to the extent applicable pursuant to local regulations, the declarations of collection and processing of waste by approved waste processors, as well as any document attesting of the observance of its obligations for recovering packaging. Failing this, the TSO is entitled to evacuate the waste, packaging, and excess material at the expense of the Contractor, after a reasonable deadline of not more than 48 hours set by the TSO to the Contractor has lapsed.

17.3 Environmental damage

The Contractor must inform the TSO without delay of any incident likely to have an impact on the environment and that has arisen from the performance of the Contract.

Notwithstanding any liability for breach of contract which shall not be affected or limited by this provision, the Contractor shall be liable for the direct and indirect consequences of this incident if this incident is attributable to the Contractor (or its subcontractors) unless the Contractor proves that he is not liable for the incident. The TSO shall not be liable for the pollution caused by the Contractor or any other party.

Any default of this obligation is considered to be a gross negligence which entitles the TSO to terminate the Contract pursuant to Article 28.1.

17.4 Environmental measures

The Contractor undertakes to take environmental measures with a view to reducing the environmental impact of its Services (including products, materials, parts, components or the like used by the Contractor in performing the Services) and to monitor them rigorously. Those environmental measures will relate to the following particular areas among other things, if relevant for the Services: air, water, and soil pollution; energy and water consumption; impact on biodiversity; and greenhouse gases. Moreover, the Contractor will pay continuous attention to the different aspects of the life cycle of the products used to perform the Services, as well as use of recycling, both upstream and downstream.

The Contractor undertakes to provide, upon request of the TSO, a description of the environmental measures implemented. The applicability of this may be verified within the context of an audit. Moreover, the Contractor agrees to inform every individual within the TSO, specifically the Purchasing Department and the Environment Department, about the environmental aspects of its Services. At the request of the TSO, the Contractor will participate in the drafting of a file on this aspect of its Services.

Prior to the conclusion of the Contract, as well as during its performance, the Contractor is continuously assessed on criteria defined in the Contract or Documentation regarding this aspect of its Services.

18. VARIATIONS

18.1 Variation proposed by the Contractor

If during the performance of the Services, the Contractor considers one or several variation(s) to the Services necessary or useful, he shall inform the TSO of this in writing without delay and motivate the need or the use for the variation. The timely notification aims to enable the TSO to timely inform any other party affected by the variation(s).

18.2 Variation required by the TSO

Regardless of whether the Contractor gave a notification under Article 18.1 above, the TSO may at any time require one or several variations to the Services, such as changes to the technical scope, in which case Article 18.3 shall apply.

The TSO shall always be entitled to require the Contractor to implement variations that the TSO reasonably considers necessary in order for him to use the Services, provided that they are within the scope of customary standard of the business.

Even if the Parties have not reached agreement on all elements of an addendum to the Contract pursuant to Article 18.3, the Contractor is obliged to implement a variation if requested by the TSO to do so. This shall not apply where

the Contractor is not capable to provide the requested additional Services either himself or by employing subcontractors to do so, where the scope of the variation request is unreasonable in view of the scope of the Services previously agreed upon or where the Contractor is prevented to do so on reasonable grounds. If the Contractor intends to reject a variation request, he must inform the TSO of this in writing without undue delay. An outstanding agreement on the elements of an addendum to the Contract shall not be considered as reasonable grounds to reject the variation request but shall be resolved in accordance with Article 18.5 below.

18.3 Form

Upon receipt of a variation request, the Contractor shall present to the TSO as soon as reasonably possible but in no event later than two (2) Weeks an offer, detailing in writing what the consequences of the requested variation(s) would be, including price, deadlines, planning and/or any other consequence.

It being understood that the Contractor will make all reasonable efforts to limit all potential consequences of the requested variation(s).

The TSO shall within a reasonable period of time upon receipt of such assessment either formally agree with the variation(s) and its consequences or enter into negotiations with the Contractor.

Any variation must be set out in an addendum to the Contract which shall be signed by both Parties and/or to the PO which shall be approved by both Parties. If the Parties cannot agree on such addendum, Article 18.5 shall apply.

Having made such addendum or completed the process set out in Article 18.5 is a prerequisite for invoicing a variation.

18.4 Principles

Variations will be invoiced on basis of the prices agreed in the Contract. The Contractor is not entitled to invoice management fees. If no price and/or rate were defined, the Contractor shall duly justify the proposed price(s) and/or rate(s) and provide all the details of his price(s) calculation(s) in full transparency. The proposed price(s) and/or rate(s) shall cover all costs of the Contractor incurred in connection with the variation. Prices of variations are in all cases limited to fair market prices for these types of services.

18.4.1 Comparative offers

The TSO reserves the right, in justified cases and at his discretion, to request the Contractor to obtain comparative offers or to obtain comparative offers himself. If the settlement offers show a lower amount than the costs, additional costs or extra costs claimed by the Contractor, the contractor's claim for reimbursement of costs is limited to this lower amount.

18.5 Disputes related to variation

If the Parties disagree on the question whether a variation request is necessary or whether respective Services are covered by the Contract already, TSO shall be entitled to refer this dispute to an expert in accordance with the procedure for the resolution of technical disputes provided for in Article 35 below. The expert shall be entitled to determine whether the requested Services are covered by the Contract already or whether a variation request is necessary. Such expert decision shall have preliminary binding effect. However, each Party shall be entitled to have the expert's determination reviewed and, where applicable, revised by the competent court or arbitral tribunal.

If the Parties disagree on an addendum to the Contract following a specific variation request by TSO, the Contractor shall be obligated to perform the variation unless the Contractor has reasonable grounds to reject such a variation request. The Parties agree that such reasonable grounds to reject a variation shall be limited to the Contractor not

being capable of providing the requested additional Services either himself or by employing subcontractors to do so or to the scope of the variation request being unreasonable in view of the Services previously agreed or to other reasonable grounds.

If the Parties cannot agree on the remuneration for a variation request, the Contractor shall (upon request of the TSO) perform the requested variation without undue delay. TSO shall be entitled to refer this dispute to an expert in accordance with the procedure provided for in Article 35 below. The expert shall be entitled to determine whether the requested Services are covered by the Contract already, fully or partially, or whether a variation request is necessary and, in case the variation was not fully covered by the Contract already, the fair remuneration for the variation in accordance with the principles of the Article 18.3.

18.6 Urgency

For reason of urgency, the Parties will agree by email on technical aspects, price, deadlines, planning and/or any other consequence of the variation. Those aspects will be confirmed in an addendum signed by both Parties as soon as possible.

19. PRICE

19.1 General

Unless otherwise agreed in writing by the Parties, all prices shall be mentioned in the Contractual Documents in Euros and shall be fixed prices.

Prices cannot be revised unless otherwise mentioned in the Contractual Documents which will then specify the applicable formula. In any event, Contractor may not ask for price revision for Contracts which initial duration does not exceed one year.

In the case of deviation in quantities equal or superior to 25% from the quantities initially planned, the TSO reserves its right to renegotiate the unit prices. The Contractor shall then prove that the unit price reflects the actual Services.

Unless agreed otherwise in writing, prices shall include all costs in connection with the fulfilment of the Services by the Contractor and, as the case may be, any costs incurred for exchanging or converting foreign currency.

All prices shall be exclusive of value-added tax, but inclusive of any other taxes, duties and fees. The Contractor shall fulfill all formalities and legal requirements in connection with tax invoices in order to ensure a VAT refund where applicable. If, as a result of any action taken by the competent authorities, (increased) VAT is claimed or it turns out that VAT was charged by the Contractor without justification, both Parties shall be obliged to correct the affected invoice accordingly and settle the resulting balance on that basis.

The price is considered to have taken into account all the costs and time required to follow the training courses and to obtain the permits, authorizations, certificates necessary to carry out the Services.

The price is considered to have taken into account all possible performance constraints, including:

- foreseeable natural phenomena;
- the use of the public domain or functioning of public services;
- the presence of works, mains, lines and cables of any kind, as well as works necessary for the relocation or modification of these facilities;
- the (possible) simultaneous performance by third parties of other works or services on the Site (and, as the case may be, the resulting impossibility for the Contractor to perform its Services at the same time pursuant to contractual or regulatory constraints);
- the (possible) presence of other companies;
- the use of facilities or works.

19.2 Overtime by the Contractor

At the TSO's request, the Contractor will perform overtime (e.g. extra shift work, working nights, Sundays and holidays) in order to accelerate the Services and obtain any necessary official permits, always in accordance with the applicable provisions of law and collective agreements. The TSO will remunerate the overtime costs claimed by the Contractor if it is actually performed and if it were agreed by the Parties before the overtime was actually performed.

20. SERVICE PROVIDING IN CASE OF LATE PAYMENT

The Contractor may only withhold or refuse Services if the TSO's payment obligation is undisputed or legally binding by judicial order and remains unpaid thirty (30) Days after a notice sent by Contractor by registered letter.

21. OFFSETTING

If there are undisputed claims and debts between the Parties, the TSO will have the exclusive right to offset its debts with its claims from the Contractor or to assert its right of retention or the exception of non-performance, as if all of the claims and debts have derived from a single contractual commitment.

22. DEADLINES AND PLANNING

22.1 Deadlines

All deadlines agreed in the Contractual Documents are binding. Unless otherwise indicated, the time period to perform the Services will start from the day after the Contract or, in case of a framework agreement, from the day after the PO is sent by the TSO. Any deviation from the deadlines requires the Parties' prior written agreement. The Contractor will not unreasonably withhold its consent to an extension of a deadline. The Contractor may not invoice any cost unless duly evidenced. The TSO's agreement to postpone the deadlines upon request from the Contractor will not release the Contractor neither from liquidated damages and/or penalties for late performance (as provided in the SC WORKS) nor from its liability to the extent claims of the TSO regarding the initially agreed upon deadlines exist when the postponement takes place. Otherwise, the agreed new deadlines shall be decisive for liquidated damages and/or penalties and/or the Contractor's liability. Any postponement of deadlines caused by the TSO will not give rise to the payment of liquidated damages and/or penalties or liability by the Contractor.

To ensure deadlines are respected, the Contractor commits to inform the TSO about its work capacity when requested by the TSO. In case of any capacity issue or any other issue that threatens the observance of the deadlines, the Contractor will inform the TSO immediately and carry out its best efforts (without prejudice to any other right or remedy

available to the TSO) towards providing alternative solutions in coordination with the TSO in order to still meet the deadlines.

22.2 Planning

Where the Parties have provided a timetable or other planning for the Services, those planning shall be kept up-to-date by the Contractor. Updates made to the planning's, as well as their approval by the TSO, will in no way release the Contractor from its obligation to observe the initial deadlines or from its liability.

In case of a common root cause resulting in the delay of Services from different POs, the Contractor will immediately inform the TSO in order to redefine the planning together and decide which project(s) of the TSO and related POs should be treated as a priority, without prejudice to any other right or remedy available to the TSO.

23. TRANSFER OF PROPERTY AND RISK

23.1 Transfer of Property

The transfer of property occurs as soon as the Services are implemented on the Site.

23.2 Transfer of Risk

The risks are transferred to the TSO upon Provisional Acceptance.

24. COPYRIGHT/THIRD PARTY INTELLECTUAL PROPERTY

24.1 Copyright

The Contractor hereby grants to the TSO the exclusive, irrevocable, royalty free and unlimited right to use, change and exploit in whole or in part and without involvement of the Contractor, any and all plans and documents (in material or electronic form) as well as all other services (creations for Contracts under Belgian law) that the Contractor provides in rendering the Services. This shall apply for the whole world and for the whole protection term of the right concerned, also in case of early termination of the Contract. The right thus granted can be transferred by the TSO to a third party and shall include the right to change, use or exploit the works erected according to the plans of the Contractor.

24.2 Subcontractor rights

To the extent the Contractor transfers the execution of the Services or a part thereof to subcontractors, the Contractor guarantees to the TSO the same rights as those of Article 24.1. The Contractor shall, upon request by the TSO, make the contractual arrangements with the subcontractors in this regard available to the TSO also in respect of their services protected by copyright the unlimited right to use, exploit and change pursuant to Article 24.1; this shall also apply in case of a premature termination of Contract. The Contractor obliges himself to conclude respective contractual agreements with the subcontractor and to, upon request of the TSO, to make these available to him.

24.3 Moral Rights of the author

The moral rights of the author (Urheberpersönlichkeitsrechte) of the Contractor and its subcontractors remain unaffected by the transfer of the rights to use, exploit and change pursuant to Articles 24.1 and 24.2 above, unless stated in this Article 24.3.

The TSO has the right to exploit and publish all plans and documents (in material or electronic form) as well as all other services (creations for Contracts under Belgian law) of the Contractor and its subcontractors without stating the name of the Contractor or a third party. To the extent copyright exists in respect of the plans, documents or other creations made or performed by the Contractor or its subcontractors, the TSO will hear to a reasonable extent the Contractor or

subcontractor respectively before substantially altering these plans, documents or works erected on the basis of these, if the modification of their work would be prejudicial to their honor or reputation.

24.4 Third party rights and indemnification

The Contractor shall hold harmless and indemnify the TSO from and against all claims, demands, loss, damages, liabilities, settlement amounts, costs or expenses whatsoever (including attorneys' fees and costs), arising, directly or indirectly, from any claim, action or proceeding initiated by a third-party claiming that the exploitation or the use of the Services infringes its intellectual property rights. The Contractor shall make an arrangement with the third-party holder of the rights at its own expense, to pay royalties, secure the necessary transfers, licenses, and authorizations or, in the absence of an agreement, modify the Services in order to avoid any infringement to third-party Intellectual Property Rights.

25. WARRANTY

25.1 Warranty term

Without prejudice to its obligations and liabilities under applicable law, which is in no way diminished by this Article, the Contractor warrants (gewährleistet if the Contract is subject to German law, waarborgt or garantie if the Contract is subject to Belgian law) that its Services will be free from any defect that could affect them during the warranty period (including the general and particular warranties set out in the Contractual Documents).

If the warranty agreed between the Contractor and its suppliers or subcontractors has a duration or scope exceeding those deriving from the Contract, the Contractor agrees to subrogate the TSO in its rights with regard to its suppliers or subcontractors.

25.2 Obligations of the Contractor

25.2.1 General

During the warranty period, the Contractor will come on Site to analyse any defective Services . Unless the Contractor proves that the defect results from an external cause attributable to the TSO, the Contractor shall remedy the defects at its own expense as well as all of their consequences, and shall replace or repair every part of the defective Services as quickly as possible – and in any case within fifteen (15) Days, unless the scope of the activities to be performed for this purpose does not reasonably permit this –, taking all necessary measures to avoid the impairment of operations of the TSO. The Contractor bears all costs related to the remedying of defects, including transportation, transport of personnel and man-hours.

If the defect results from an external cause attributable to the TSO, the Contractor shall submit a quotation which shall be approved in writing by the TSO before proceeding with the remedial works. The Contractor shall remedy the defect as soon as possible after the written approval of the quotation by the TSO, and in any case within fifteen (15) Days.

Every time a defect occurs twice during the warranty period or if requested by the TSO, the Contractor will also provide as soon as possible, a root cause analysis of the problem as well as an impact study on the other works of the same type (called "4D report" for Contracts under German law). If the defect derives from a design or manufacturing error in the components used for the Services, the Contractor shall replace or modify, at its own expense, all identical components provided by the Contractor in every contract concluded with the TSO, even if these have not given rise to any incident, but only to the extent the warranty period under such other contracts has not yet expired.

The Contractor shall ensure a proactive and transparent communication during the whole intervention.

25.2.2 Serial defect

If the TSO reports a defect that makes a serial defect probable, poses a risk for the operation or significantly affects the usability (e.g. construction defect, wrong choice of materials or incorrect assembly), the Contractor shall replace all Services of the same design performed so far, provided that the assumption of a serial defect mentioned above proves to be correct but only to the extent the warranty period for such services has not yet expired.

In case of a serial defect the Contractor will provide a root cause analysis of the problem as well as an impact study on the other services of the same type.

25.3 Warranty period and extension

The warranty period starts at the Provisional Acceptance in accordance with Article 5 of the SC WORKS applicable.

Unless otherwise agreed in writing, the warranty period is thirty-six (36) months. The expiration of the warranty period will not prevent the TSO to introduce a claim if the defect arose during the warranty period.

However, in the event that the Services constitute a building or an object that as per its usual kind of use is typically used for a building (Bauwerk if the Contract is subject to German law or tienjarige aansprakelijkheid/responsabilité décennale if the Contract is subject to Belgian law) or if the Services relate to a building, the statutory warranty (time bar) period from acceptance of the Services by the TSO shall remain applicable.

If, during the warranty period, all or part of the Services are unavailable, the entire warranty period in relation to such (part of the) Services shall be extended by the cumulative duration of all of these periods of unavailability.

If, during the warranty period, it is necessary to replace or repair an element of the Services, the warranty period for the specific element shall restart from the date of rectification or replacement of such element.

If, during the warranty period, it is necessary to replace an element due to abnormal wear, breakage, or an operational defect, the extension of the warranty period applying to this element will not form an obstacle to the pronouncement by the TSO of a partial final acceptance and the expiration of the warranty linked to it, insofar as the replacement of that element does not entail the decommissioning of the Services as a whole.

26. PROVISION OF MATERIAL BY THE TSO

The TSO may impose that the Contractor uses appropriate material that the TSO has made available to it in the course of the Contract:

- if the Contractor plans to use material which is not compliant with the Contract; or
- if the Contractor is not able to observe the contractual deadlines and/or the plans and that the provision of material by the TSO could help to observe those.

In this event, the amount to be paid under the Contract will be reduced by the value of this material, without prejudice to any other right or remedy available to the TSO for breach and/or late performance. The Contractor must use this material and maintain the contractual prices concerning the other Services, even if this provision gives rise to supplementary Services.

In any event, the Contractor may not use the material provided by the TSO for any purpose other than performance of the Contract and/or the PO.

27. SUSPENSION OF THE CONTRACT

The TSO may suspend the performance of the Contract and/or the PO, in whole or in part, for the duration that it so determines at any time and without being obliged to provide justification (Suspension for Convenience).

In case of suspension for convenience, the Contractor is entitled to receive payment for the Services already rendered in accordance with the Contract. The Contractor shall also be entitled to compensation in accordance with the principles of Article 18.3, it being understood that the compensation shall not include compensation for loss of profit or margin on the Services.

This compensation will deprive the Contractor of its right to claim for a compensation for termination for convenience in accordance with Article 28.2 if the suspension for convenience were to turn into a termination for convenience.

28. TERMINATION

28.1 Termination for cause

Either Party shall have the right to terminate the Contract or the PO, in whole or in part, after written notification, by registered letter to the other Party and without prejudice of any other right or remedy available to it if this other Party:

- a) suffers proven financial difficulties;
- b) waives a significant part of its assets;
- c) commits acts of fraud, gross negligence and/or wilful misconduct;
- d) fails to comply with its legal and/or professional obligations;
- e) breaches an essential obligation under the Contract, such as (and not limited to) its confidentiality obligation under Article 33 or its obligations under Article 24 (intellectual property rights);
- f) is threatened with insolvency or an insolvency petition or similar remedy has been filed or insolvency proceedings or similar proceedings have been opened;
- g) is in material breach of the Contract and either that material breach is not capable of remedy or, if the material breach is capable of remedy, the Party in breach has failed to remedy the material breach within fifteen (15) Days after receiving written notice requiring it to rectify the material breach or any other term agreed upon by the Parties; or
- h) in any other case provided in the Contract.

The termination will be effective on the day of the receipt of the termination notification (and at least three Days after the posting of the registered letter notifying the termination). The Contractor must immediately return all documents, information, material, etc. provided by the TSO.

The Contractor will not oppose the takeover of the Services by the TSO or by a third party.

Termination for cause attributable to the Contractor will not give rise to the payment of any compensation by the TSO. However, Services which have been provided before the termination of the Contract by the Contractor shall be compensated according to the payment conditions as set out in the Contract, subject to potential counter-claims.

Nothing herein shall prevent the Parties to terminate the contract for cause in accordance with the applicable statutory provisions.

28.2 Termination for Convenience

The TSO may terminate the Contract or PO, in whole or in part, at any time by registered letter without justification, observing a prior notice period of thirty (30) Days. The notice period starts from the Day of the receipt of the termination notification (and at least three (3) Days after the date of the registered letter's posting).

Upon the termination of the Contract or the PO, the Contractor must return all documents, information, material, etc. provided by the TSO, unless the Contract or the PO was only terminated in part and the Contractor needs documents, information, material, etc. for the execution of the non-terminated part of the Contract or PO.

Termination of the Contract for convenience as mentioned in this Article will be without prejudice to the TSO's obligation to pay to the Contractor the remuneration due under the Contract for the Services to be provided up to the date of suspension or termination of the Contract (with only the first of these two dates being taken into account), subject to provision of such Services and compliance with the Contract, it being understood that the compensation shall not include compensation for loss of profit or margin on the Services.

If the Contractor has already received a compensation for suspension in accordance with Article 27, this compensation will not be due a second time.

The Contractor shall use reasonable efforts to limit the costs for the TSO in the event of such termination.

28.3 Termination for change in law

Upon prior written notice, each Party is entitled to terminate the Contract and/or the PO, without further delay, if it can establish with reasonable evidence that due to a new and/or amended, regulation, rule, piece of legislation, decision, injunction and/or interpretation, which is legally binding upon the Parties, the further performance of the Contract, in whole or in part, by the Contractor and/or the TSO would no longer be legal and/or would entail a conflict with professional rules and regulations by which the Parties are bound.

28.4 Right of replacement

In case of termination for cause attributable to the Contractor in accordance with Article 28.1, the TSO has the right to either remedy the Contractor's material breach itself or have a third party remedy the material breach at the expense of the Contractor. The right of replacement for this purpose will be exercised by simple notice by registered letter of the TSO containing the TSO's wish for replacement. This letter will contain a request for the Contractor to promptly draw up an inventory of its Services, on a joint basis after due hearing of the Parties. If the Contractor fails to draw up or countersign this inventory, the declaration by the TSO's representative alone will be deemed valid. This right of replacement also applies in the event where the Contractor fails to observe its warranty obligation, but in this case only after a reasonable deadline to remedy the defect in question set by the TSO in writing has lapsed.

29. LIABILITY

The interventions and/or approvals by the TSO will in no case reduce the liability of the Contractor.

Notwithstanding any remedies under the applicable law which shall not be affected or limited hereby, either Party shall indemnify and hold harmless the other Party, the other Party's personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) resulting from a fault ("schuldhaf" (culpably) for Contracts under German law) committed by the indemnifying Party in relation to the Contract execution, with this including damage caused by claims or other obligations resulting from abnormal neighborhood disturbances (for instance under article 544 of the Belgian Civil Code / sec. 1004 of the German Civil Code).

Parties' total liability will be limited in aggregate for any matters arising under or in connection with the Contract to the value of the Contract or the value of the PO in case of a framework agreement or five million euros (€ 5.000.000), whichever is higher. Liquidated damages and or penalties (as provided in the SC WORKS) stipulated in the SC WORKS are not included in the cap.

The limitations as foreseen in this Article shall not apply in case of death or bodily injury and in case the damage results from fraud, willful misconduct, gross negligence or breach of contractual duties the performance of which is essential to achieve the purpose of the Contract and on which the other Party may rely. In case where the latter type of duty was breached by mere negligence, recoverable loss shall, however, be limited to loss typical for comparable scenario which was foreseeable at the time of the breach.

30. INSURANCE

30.1 General

The Contractor must subscribe to and maintain in effect all of the necessary insurance policies in view of the object of the Contract and/or the PO. The Contractor's liability shall not be limited to the insurance required as part of the Contract and/or PO.

The insurance policies below as well as all those stipulated by the Contractual Documents must be in force before any performance of the Contract and/or the PO, for the entire duration of this performance and during the warranty periods if relevant. Proof of these insurance policies must be provided upon request to the TSO and the TSO may request a confirmation of maintenance of the warranties from the insurer at any time. As the case may be, the TSO may, if it considers it useful, act in the place of the Contractor to subscribe insurance policies or to pay premiums and may deduct the resulting expenses from the amounts due to the Contractor.

The insurance policies must provide for a waiver of recourse in respect of the TSO and must consider the TSO and its agents as third parties for damages caused to them by the Contractor with regard to the other policyholders as far as legally permissible.

30.2 Workplace accidents and third-party motor insurance

The staff of the Contractor and its subcontractors must be covered by the Contractor's insurance for accidents in the workplace and during travel to and from work. The vehicles of the Contractor, its subcontractors and their agents must be covered by third-party motor insurance, even if they are only used on private land.

30.3 Liability insurance and construction all risk insurance

The professional or operating, contractual and extra-contractual (tort) liability of the Contractor, as well as construction all risks, must be insured for sufficient amounts while taking into account the risks of the Contract and/or the PO, including the value of the materials/equipment provided. This insurance obligation does not in any way imply any limitation on the liability of the Contractor or any warranties of the TSO against third-party's claims for amounts exceeding the insured limits or for uninsured risks.

The policies contain at least the following coverages:

30.3.1 Liability insurance

- 'Public Liability' insurance policy (including cover for damage to items entrusted to stakeholders), insured limit per claim for bodily injury, property damage and immaterial consequential damage combined.

- 'Products and Completed Operations Liability' insurance policy, insured limit per claim and per insurance year for bodily injury, property damage and immaterial consequential damage combined.

The aforementioned policies:

- include a waiver of recourse against the TSO and all of its Affiliates;
- cite the TSO and its relevant Affiliates as an Additional Insured when third party introduces a claim against the TSO or its Affiliates for damages caused by the Contractor in the framework of the Services;
- consider the TSO and all of its Affiliates as third party for damages caused to them by the Contractor.

30.3.2 Construction All-Risk insurance (CAR)

Unless otherwise agreed by the Parties, the Contractor shall take out the Construction All-Risk (CAR) insurance (sometimes referred to Erection All-Risk (EAR)) for itself and any other relevant stakeholders (including the owner, contractors, subcontractors and engineering firms) for construction activities and for their respective rights and interests. Said insurance shall cover the following:

- The full value of all Services performed during the construction period, including all materials delivered to the Construction Site that are used during work, up to and including the provisional completion of the work performed.
- The insurance shall not cover any equipment used to perform the Services that remains the property of the Contractors and subcontractors (including site sheds and site vehicles).
- Cover during the construction, erection and testing period of physical damages caused by faulty workmanship, defect or faulty design, calculation or planning errors or mechanical or electrical breakdown or derangement inclusive the defective part even if the damages are limited to this faulty part.
- Up to the full value of the completed Services, coverage of a 12-months "Full Makers Guarantee" period. As from the Provisional Acceptance, coverage, during 12 months, of the loss of or damage to the covered Contracts caused by the insured parties in the course of fulfilling their obligations during the maintenance period in accordance with the terms of the Contract or which occurs during the maintenance period from a cause arising before the date such Provisional Acceptance was pronounced, including the damage caused by faulty material, defect in design, faulty workmanship inclusive the defective part (faulty part). With regard to the Services performed on an existing asset, CAR insurance underwritten by the Contractor is extended to cover damage to existing assets.

This CAR policy shall also contain a section 2, Public Liability, covering all bodily injury, property damage and immaterial consequential damage suffered by third parties as a result of the application of the Contract. This section shall solely cover the extra-contractual liability of the insured parties. The policy shall come into force following the application of the personal Public Liability policy of all those involved in the construction project, aside from the owner.

It is stated that:

Any loss or damage not covered through the application of the exemptions and exclusions included in the various policies shall continue to be borne by the contractor liable for the damage.

The guarantee for section 2 (Public Liability) underwritten by the Contractor shall not under any circumstances limit the Contractor's liability.

31. FORCE MAJEURE

In the event that a situation of force majeure, as defined below, is invoked by the TSO or the Contractor, performance of the obligations under the Contract which are impacted by the force majeure shall be suspended temporarily for the duration of the event giving rise to force majeure.

Force majeure shall mean any and all incidents which (i) could not reasonably have been predicted, (ii) arise after the conclusion of the Contract, (iii) are not attributable to negligence on the part of either Party and (iv) make the performance of the Contract temporarily or permanently impossible.

The Party invoking force majeure shall notify the other Party by telephone and by any means of written communication at the earliest possible opportunity and without undue delay after the Party became aware, or should have become aware, of the situation of force majeure, of the reasons why it is unable to fulfil some or all of its obligations and the period during which it reasonably envisages being unable to fulfil them.

Nevertheless, the Party invoking force majeure shall make every reasonable effort to limit the consequences of its failure to fulfil its obligations to the other Party and third parties, and to resume the fulfilment of said obligations immediately after the event amounting to force majeure has ceased to exist.

In the event that the period of force majeure lasts for ninety (90) consecutive Days or more and one of the Parties, following the situation of force majeure, is unable to fulfil its core obligations under the terms of the Contract, either Party may terminate the Contract with immediate effect subject to sending a registered letter stating its reasons for the termination, on the understanding that any amount outstanding at the time the Contract is terminated remains payable pursuant to the terms and conditions thereof. Notwithstanding the above, where the TSO is entitled to terminate the Contract for force majeure, the TSO shall have the right to propose alternate means of securing performance of the relevant Services, including the performance by a third-party pending resolution of the force majeure event.

32. HARDSHIP

If an event, such as, without being limited to, lockdown measures taken in the framework of a pandemic, which (i) could not reasonably have been predicted, (ii) arise after the conclusion of the Contract, (iii) are not attributable to negligence on the part of either Party and (iv) modify substantially the contractual equilibrium settled by the Parties, the Parties will negotiate in good faith in order to reach a fair burden of the costs caused by such event. An increase of the cost of the Services of one Party of less than 10% will never be considered as a substantial modification of the contractual equilibrium. All costs invoked by the Parties will be duly evidenced.

33. CONFIDENTIALITY

33.1 Confidential Information

Confidential Information shall be any and all information exchanged and/or made accessible under and/or in connection with the Contract, including any technical specifications, drawings, technical / operational data, know-how and any other kind of technical, financial, commercial and/or any other kind of information, in any form whatsoever (e.g. verbal, written, digitally stored or other) that is not (i) public knowledge at the time of disclosure or thereafter becomes public knowledge through no fault of the receiving Party, (ii) already known to and under the free disposal of the receiving Party before the disclosing Party gave it access to such information other than through a breach of confidentiality, or (iii) legally conveyed to the receiving Party by a third party without being subject to any kind of confidentiality duties.

33.2 Confidentiality obligations

The Contractor acknowledges to be aware of the TSO's specific confidentiality obligations regarding the management of the electricity transmission network.

The Parties shall keep secret, treat any Confidential Information as private and confidential, and not disclose it to any third party without the disclosing Party's prior written approval.

The Parties shall procure that only those of their employees, officers, agents and representatives and subcontractors have access to the Confidential Information (i) to the extent they have a strict need-to-know and (ii) who are subject to confidentiality obligations at least as strict as the ones set out in this Article. The TSO shall especially be entitled to submit any Confidential Information, including documents, technical data, or simulation models, to neutral third parties for validation or technical consulting purposes.

No reference to the TSO, its names, brands, logos, photos, codes, designs and specifications regarding its form and use may be made by the Contractor in advertisements, promotional, and publicity efforts, publications or presentations of a technical, commercial or other nature without the prior written authorization of the TSO.

33.3 Confidentiality obligations duration

The confidentiality obligations shall survive a termination of the Contract by 10 (ten) years or in the event that the Contract is not concluded, after the disclosure of the Confidential Information. After the end of the aforementioned period, the receiving Party shall upon written request of the disclosing Party immediately return or destroy all Confidential Information, copies and/or reproductions thereof and confirm return/destruction.

33.4 Disclosure

The Parties shall be entitled to disclose Confidential Information on a strict need-to-know basis to legal and tax advisors as well as technical advisors and Affiliated Companies provided they are obliged to maintain confidentiality substantially in accordance with the provisions of the Contract and that such a receiving Party or an Affiliated Company is not entitled to further forward it to third parties.

The TSO is entitled to disclose the Contract, in particular to the regulator or to any of its contractors, who will be obliged to confidentiality, to the extent it is necessary to coordinate and match all interfaces.

The Parties are entitled to disclose Confidential Information to the extent it is required under (i) mandatory applicable law, or (ii) any legally binding court decision, or (iii) any comparable administrative measure, all provided that the receiving Party informs the disclosing Party reasonably in advance of any such disclosure (to the extent in line with the applicable statutory law).

33.5 Breach of confidentiality and gross negligence

Any breach of this obligation of confidentiality by the receiving Party is considered a material breach of the Contract and entitles the disclosing Party, pursuant to Article 28.1, to terminate any contractual relationship, transaction, or other relationship with the receiving Party immediately and without any indemnity being due by the disclosing Party to the receiving Party and to liquidated damages and/or penalties (as provided in the SC WORKS, without prejudice to the right of the disclosing Party to obtain full compensation for any loss deriving from the said material breach of the Contract. The liquidated damages and/or penalties (as provided in the SC Works) will be due for each breach of a confidentiality obligations. The Contractor waives its right to invoke the continuation of the infraction with respect to intentional breaches.

34. PROCESSING OF PERSONAL DATA

If the Contractor processes personal data for the TSO for the purposes of executing the Contract, the Contractor is regarded as a Processor within the meaning of the General Data Protection Regulation ('GDPR'). The Contractor shall not be entitled to use, either in part or in full, the personal data, as defined in Article 4 of the GDPR, ("Personal Data") provided to it, in any way for any purpose other than for the execution of the Contract, except if required by law.

The TSO shall have the right to obligate the Contractor to conclude a Data Processing Agreement in accordance with a model provided by the TSO for that purpose. If the TSO does not consider this Data Processing Agreement necessary, the provisions of this Article shall apply to the performance of the Services by the Contractor. The Contractor shall process Personal Data in a proper and careful manner, in conformity with the applicable laws and regulations, especially in conformity with the arrangements set out in Articles 24, 28 and 32 of the GDPR, as well as any applicable Code of Conduct of the TSO.

The Contractor shall (and will ensure that its subcontractors) apply appropriate technical and organizational measures to protect the security, confidentiality and integrity of Personal Data, against loss or any form of unlawful processing. Taking account of the state of the art and the execution costs, these measures shall ensure an appropriate level of security with a view to the risks associated with processing and the nature of the Personal Data to be protected. The measures are partly aimed at preventing unnecessary collection and further processing of Personal Data. The Contractor shall record such measures in writing.

The Contractor, as Processor, will not (and will ensure that its subcontractors will not) transfer Personal Data to a country outside of the European Economic Area without the TSO's prior written consent.

The Contractor shall fully cooperate with the TSO in securing the following rights of data subjects within the meaning of Articles 15, 16, 17, 18 and 19 of the GDPR (i) providing access to their personal data; (ii) deletion or correction of Personal Data; and/or (iii) providing proof that Personal Data has been deleted or corrected if previously incorrect, or – if the TSO challenges the position of the data subject concerned – registering that the data subject considers his/her Personal Data to be incorrect.

The Contractor shall assist the TSO in complying with the obligations regarding the security of Personal Data, reporting obligations in the event of data breaches, data protection impact assessments and prior consultations set out in Articles 32 to 36 of the GDPR.

The TSO shall at all times be entitled (to commission a third party) to check if Personal Data is processed in accordance with the requirements of the GDPR and other applicable laws and regulations. The Contractor shall be obligated to grant access to the TSO or to third parties engaged by the TSO, and to fully cooperate in actually performing such checks.

35. RESOLUTION OF TECHNICAL DISPUTES

In the event of a dispute of a technical nature between the TSO and the Contractor (or in cases making express reference to this Article), the dispute will be submitted to an expert designated jointly by the Parties or, in the absence of an agreement on an expert being achieved within two (2) Weeks after a Party has made an according request, by the president of the Chamber of Commerce competent for the location of the registered office of the TSO. Such expert may impose appropriate intermediary measures.

In case of technical disputes, the sole mission of the expert will be to settle the technical dispute and hence, as the case may be:

- to determine whether the dispute is of technical nature;
- to impose the changes to be made to the technical conditions of the Contract, as well as the resulting modifications, particularly with regard to the prices and contractual deadlines;
- to determine whether the Provisional Acceptance should have been granted and if so, to set the date on which the Provisional Acceptance should have been granted;
- to determine whether the final acceptance, if applicable, should have been granted and if so, to set the date on which the final acceptance should have been granted.

The expert issues his or her decision within thirty (30) Days of the date of the appointment. The Parties may submit any document to the expert in advance that is of use for resolving the dispute as quickly as possible. A copy of these documents is to be notified at the same time to every other party involved in the proceedings.

The expert's decision is binding on the TSO and on the Contractor as well as on any other intervening party that has agreed to take part in the proceedings; however, a full review of the determination by the competent court or tribunal shall be permissible where agreed herein or elsewhere. The expenses of the expert shall be shared between the TSO and the Contractor, as decided by the expert.

36. MISCELLANEOUS PROVISIONS

36.1 Reputation

The Contractor shall limit to the maximum extent possible the negative impacts on neighbours when performing the Services.

The Contractor shall not undertake any action or omission which could harm the reputation of the TSO or any of its Affiliates in any way. The Contractor must inform the TSO without delay of any risk likely to have an impact on the reputation of the TSO or any of its Affiliates and that has arisen from the performance of the Contract.

The Contractor shall respond to the inquiries and communications of the TSO in a timely manner and include the TSO in any communication with the neighbours in the framework of the Contract.

36.2 Non-exclusivity

The conclusion of the Contract does not give the Contractor any right of exclusivity. Even during the validity period of the Contract, the TSO may order the performance of services identical or similar to those described in the Contractual Documents by other contracting parties or by its own services. On account of this, the Contractor may not invoke any right to compensation.

36.3 Assignment

Parties may not assign or transfer all or part of the rights, claims, and obligations resulting from the Contract to third parties, other than Affiliated Companies, without the other Party's prior approval.

36.4 Delegation by the TSO

The TSO may grant the power to any third party to carry out any action provided in the Contract in its name and on its behalf.

36.5 Languages

The language of the Contract is specified in the Contractual Documents and is to be applied to all of the documents. Without prejudice to the provisions on language and interpretation in Article 1, in the event of contradiction and/or ambiguity, the version of a Contractual Document drawn up in the language of the Contract will prevail over any other version.

36.6 Independence between the Parties

Either Party remains independent from the other. Neither the Contractor nor any person or third party designated by the Contractor to perform the Contract is the employee, associate, agent, representative or legal representative of the TSO.

No element of the Contract may be interpreted as creating an agency or distribution relationship between the Parties, creating a joint venture or permitting one Party to represent or commit the other Party regarding third parties.

36.7 Complaints

If the Contractor wishes to submit a complaint, it must provide information on the grounds of this complaint by a registered letter to the TSO within thirty (30) Days of the occurrence of the facts that caused it.

36.8 Waiver

Failure or delay by a Party in exercising, any of its rights under the Contract or failure to react in the event of breach by the other Party of the Contract will not be considered as a waiver even implied, by this Party to exercise that right or any other right under the Contract at any subsequent time. A waiver must always be made expressly and in writing.

36.9 Severability

Should any provision of these GC WORKS be or become invalid in whole or in part or should there be an omission in these GC WORKS, this shall not affect the validity and enforceability of the remaining provisions of these GC WORKS.

[If the Contract is governed by German law, in place of any general terms and conditions (*Allgemeine Geschäftsbedingungen*) which are invalid or not incorporated in the Agreement the statutory provisions shall apply. However, the Parties shall use their best efforts to replace the statutory provision by an agreement which reflects as closely as possible the original economic purpose.]

In all other cases, the Parties shall agree on a valid provision to replace the invalid or unenforceable provision which reflects as closely as possible the original economic purpose, provided a supplementary interpretation of the Agreement (*ergänzende Vertragsauslegung*) does not have precedence or is not possible.

36.10 Anti-competitive practices

If the TSO discovers, at any moment, that the Contractor is guilty of fraud or of any action, agreement, or understanding of a nature to distort normal competition conditions, the TSO is entitled to terminate the Contract without prior notice and without indemnity, and to liquidated damages and/or penalties as determined in the Contract, without prejudice to the right of the TSO to obtain full compensation for any loss deriving from the anti-competitive practice, as well as to exclude the Contractor from participating in any capacity in any contract which the TSO may conclude for a maximum period of 2 years as from the decision of exclusion. The liquidated damages and/or penalties will be due for any breach, including anti-competitive practice. The Contractor waives its right to invoke the continuation of the infraction with respect to intentional breaches.

37. REPRESENTATIONS

37.1 Accuracy of the representations

The Contractor represents, warrants, guarantees and covenants to the TSO that the representations and warranties provided in this Article are true and accurate at the date of the signing of the Contract (or at any other date specified in each case).

37.2 Absence of conflict of interest

None of the Contractor, the legal or Beneficial Owner(s) (as defined below) of the participating interests in the Contractor, nor any immediate family member or other close relative of such legal or Beneficial Owner(s), currently have or at any time in the past have had any undisclosed Conflict Of Interest (as defined below) with respect to (any prospective business partner) of the TSO.

For the purpose of this Article, Conflict Of Interest means any situation where either a legal entity or an individual is in a position to exploit a professional or official capacity in some way to further either of his/its corporate or personal benefit.

For the purpose of this Article, a Beneficial Owner means any person who indirectly, whether under oral and/or written agreement, has or had a right to receive a monetary or other benefit from a participating interest in the Contractor.

37.3 The Contractor's status

The Contractor is a legal entity duly incorporated and validly existing under applicable laws.

The Contractor is duly authorized to own its assets and to carry on its business as it is being conducted.

37.4 Anti-corruption and anti-bribery laws

The Contractor represents, warrants and covenants that it is and will remain in compliance with all applicable legislation and regulation regarding anti-corruption ("Anti-Corruption Laws").

Neither the Contractor nor any of its Affiliates or officers has, in connection with the Contract and the transactions contemplated hereby, directly or indirectly made, and will not make, any contribution, gift, bribe, rebate, payoff, influence payment, kickback, promise or other payment to any person, private or public, including any public officials, whether in money, property or services to (i) obtain favorable treatment or secure any contracts, deeds, certificates, statements, agreements or commitments, or (ii) obtain special concessions (or compensate special concessions already obtained), in each case, in violation, in any material respect, of any Anti-Corruption Laws.

37.5 Binding obligations and absence of conflict with other obligations

The Contractor confirms, by entering into the Contract, that the Contractor's obligations pursuant to the Contract are legal, valid, binding and enforceable obligations.

The entry into, and performance of the Contract and of the transactions contemplated hereby, by the Contractor, do not and will not conflict with:

- a) any law applicable to the Contractor (including any Anti-Corruption Laws);
- b) the Contractor's constitutional documents;
- c) any agreement or instrument binding upon the Contractor or concerning any of their respective assets, or constituting a default or termination event (however described) under any such agreement or instrument.