



GENERAL PURCHASING CONDITIONS SHORT VERSION

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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 Purchasing Conditions – Short Version ('GPC – SHORT VERSION') and the other Contractual Documents as defined in Clause 2 below, if nothing else has been agreed by the Parties in accordance with these terms.

Any general terms and conditions of the Contractor shall not apply.

The Contract will determine the scope of the Contract and will qualify the Services, if required.

When concluding a Contract with the TSO including these GPC – SHORT VERSION, the Contractor authorizes all Affiliates of the TSO to order Services based on this Contract and, unless agreed otherwise in writing, the terms and conditions of this Contract (including these GPC – SHORT VERSION) shall govern the contractual relationship between the Contractor and this Affiliate. If an Affiliate orders Services under this Contract, the TSO shall 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).

Background IP: Means any and all Intellectual Property Rights held, controlled, developed and/or acquired by a Party outside of the scope of the Contract.

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

Contract: Any agreement based on the Contractual Documents between the TSO and the Contractor incorporating these GPC – SHORT VERSION.

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

Contractual Documents: The documents defined as such in the PO.

Days: Unless stated otherwise in the Contract, the term Days means 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.

General Purchasing Conditions – Short Version (GPC – SHORT VERSION): These General Purchasing Conditions – Short Version.

Intellectual Property Rights (IP): Means any and all rights, title and interest in copyrights (including, without limitation, copyrights in plans, drawings, programs, software (including source codes) databases and semiconductor topographies), database rights, neighboring rights, patents, utility certificates and models, designs (whether registered or unregistered), trademarks and trade and business names, domain names, moral rights, trade secrets, confidentiality and other proprietary rights including all rights to know-how and other technical information, rights in the nature of unfair competition rights, rights to sue in passing off, the benefit of all registrations and applications to register any of the foregoing, any and all other rights similar or analogous to any of the foregoing whether arising or granted in any jurisdiction.

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

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

Safety Document: Any safety document applicable to the Services.

Services: The services, goods or works to be performed or delivered 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 the TSO or of its Affiliates where activities relating to the performance of the Services are carried out.

Specific Purchasing Conditions – Short Version (SPC – SHORT VERSION): The Specific Purchasing Conditions which contain 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.

Working Days (*Arbeitsstage*): Means all Days not including Saturdays, Sundays, public holidays, and mandatory closing days of the company or sector of the Contractor.

3 HIERARCHY AMONG DOCUMENTS

Terms of contract individually negotiated and agreed in writing between the Parties shall always take priority over general documents, including these GPC – SHORT VERSION.

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

The Contractual Documents 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.

If there is a contradiction between any Contractual Documents issued or executed by the TSO, 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 sequence, so that the first mentioned document shall prevail:

- main body of the PO;
- any annexes to the PO in the following order:
 - Safety Documents prevail over other annexes;
 - Annex 1 prevails over Annex 2, Annex 2 over Annex 3 and so on;
- The General Purchasing Conditions prevail over all other general documents except for the respective SPC – SHORT VERSION which shall take precedence over the GPC – SHORT VERSION.

4 STAFF

The Contractor shall ensure that the staff performing the Services will have the appropriate professional qualifications and trainings including the potential specific TSO safety training and accreditation requested to perform the Services.

If applicable, the Contractor must strictly comply with – and ensure that its staff, subcontractors, and suppliers do the same - any applicable laws and regulations (including the provisions relating to the well-being of the workers, access, environment, and hygiene conditions stipulated in Elia's General Safety Regulations) and with the last version of the Safety Documents. Should the nature of the Services to be delivered require any presence of the Contractor near or close to high voltage equipment of the TSO, the Contractor is liable to check for the applicable safety regulations and to apply those. In accordance with Safety Documents, if a staff member of the Contractor has an accident or a near-miss accident at work on Site, the Contractor shall notify the TSO immediately.

5 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 the identity of the intended subcontractors and the part of the Services to be subcontracted.

6 QUALITY OF SERVICES

The Contractor shall perform the Services in compliance with all applicable laws and regulations, technical standards, Best Practices, the stipulations of the Contractual Documents and all relevant rules applicable on Site. Unless otherwise stipulated in the Contractual Documents, the 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. .

7 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.

8 FEES AND PRICES

Unless otherwise agreed in writing by the Parties, all prices shall include all costs in connection with the fulfilment of the Services by the Contractor and shall be mentioned in the Contractual Documents in Euros and shall be fixed prices.

All prices shall be exclusive of value-added tax, but inclusive of any other taxes, duties and fees. The Contractor shall fulfil all formalities and legal requirements in connection with tax invoices in order to ensure a VAT refund where applicable.

Payment of the price is subject to acceptance of the Services in accordance with Article 10 and the procedures defined in the Contractual Documents. In addition, in case of hourly or daily rates, by signing the time sheets, the TSO is only confirming that the hours were worked, not that the Services are compliant.

9 DEADLINES & PLANNING

Where the Parties have provided a timetable or other planning for the Services, this timetable or planning shall be kept up to date by the Contractor. Updates made to the timetable or planning, as well as their approval by the TSO, will in no way release the Contractor from its obligation to observe the initial deadline, unless otherwise agreed in writing, or from its liability.

10 ACCEPTANCE

10.1 Unconditional acceptance

Unless otherwise agreed in writing, the Services are subject to acceptance.

Acceptance will be granted if the Service is completed in full and may be used in accordance with its intended purpose. Acceptance shall not be rejected in the event of a minor default and the TSO should not unreasonably delay acceptance. A number of minor defaults may result in a significant fault.

Unless the TSO requires the Contractor to use an electronic process for acceptance, as described in the Contractual Documents, the Contractor shall submit a written notice with the request to the TSO to sign the acceptance certificate if the Contractor is of the opinion that the conditions for acceptance are fulfilled . Within 30 Days after receipt of this request from the Contractor, the TSO shall either submit a signed acceptance certificate or refuse the acceptance by providing to the Contractor the reasons of such refusal.

In case the TSO does not respond within the above mentioned period of 30 Days, the Contractor shall send a final notice by registered letter to the TSO with the request to respond within 30 Days after the date of the registered letter's receipt. If the TSO does not respond within this additional period, the milestone linked to the acceptance shall be granted by the TSO to the Contractor.

10.2 Unconditional acceptance

Unconditional acceptance is granted if the Service meets all the requirements of the Contractual Documents, applicable law and complies with the Best Practice.

10.3 Acceptance with reservations

Where applicable, the TSO will grant acceptance with reservations or comments in the event of minor default(s) which reasonably allow the Service to be used for its intended purpose and should not unreasonably delay acceptance. In these cases, the TSO reserves payment of a reasonable amount of the price owed.

The Contractor must cure such minor defaults and address these reservations or comments as soon as possible and as per agreed deadlines.

10.4 Refusal of acceptance

If the Services do not comply with the contractual requirements (except for minor defaults, unless those minor defaults may be considered as significant fault in accordance with 10.1), the TSO may refuse acceptance.

The Contractor must provide all modifications and improvements and/or, at the choice of the TSO, re-perform the non-compliant Services in whole or in part, without prejudice to any other right or remedy available to the TSO, as soon as possible.

All expenses linked to this refusal of acceptance shall be borne exclusively by the Contractor.

11 WARRANTY

Without prejudice to its obligations and liabilities under applicable law, which are in no way diminished by this Article, the Contractor warrants (*gewährleistet* if the Contract is subject to German law, *waarborgt or garantit* 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.

The warranty period starts at the acceptance in accordance with Article 10 or six (6) months after delivery in case no acceptance is foreseen.

Unless otherwise agreed in writing, the warranty period for the above warranty is twelve (12) months from the start of the warranty period defined in this Article. The expiration of the warranty period will not prevent the TSO from introducing a claim if the defect arose during the warranty period.

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.

Unless the Contractor proves that the defect results from an external cause attributable to the TSO, the Contractor shall remedy the defects as well as any consequences resulting therefrom at its own expense, and shall replace 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.

12 TERMINATION

12.1 Termination for cause

Either Party shall have the right to terminate the Contract, in whole or in part, with immediate effect and without prejudice to any other right or remedy available to it if this other Party:

- is in breach of the Contract materially detrimental to the terminating Party and, if the breach is capable of remedy, the Party in breach has failed to remedy the material breach within reasonable period depending on the circumstances, usually fifteen (15) Days after receiving written notice requiring it to rectify the breach or any other term agreed upon by the Parties;
- is in breach of an essential obligation of the Contract such as its obligations under Articles 16 (Intellectual Property), 17 (Confidentiality), 18 (IT Security).

The termination 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 counterclaims.

The termination will be effective on the day the termination notification is received by the other Party. The Contractor must immediately return all documents, information, source codes, etc. provided by the TSO.

The Contractor will not oppose the takeover of the Services by the TSO or by a third party. Nothing herein shall prevent the Parties to terminate the contract for cause in accordance with the applicable statutory provisions.

12.2 Termination for convenience

The TSO may terminate the Contract, in whole or in part, at any time without justification, observing a prior notice period of 30 Days. In the event of termination of the Contract for convenience, the Contractor is entitled to receive payment for the Services already rendered in accordance with the Contract and a compensation up to 5% of the ongoing PO value for any direct damages incurred which has been duly justified by the Contractor, it being understood that the compensation shall not include compensation for loss of profit or margin on the material.

13 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 contract 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 committed by the indemnifying Party in relation to the Contract execution.

The Parties' total liability will be limited in aggregate for any matters arising under or in connection with the Contract to one million EUROS (1.000.000,00 EUR). Liquidated damages and/or penalties (as provided in the SPC – SHORT VERSION) 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, wilful misconduct or 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 scenarios which were foreseeable at the time of the breach.

14 INSURANCE

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 the PO.

The insurance policies 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 policies from the insurer at any time.

The insurance policies must provide for a waiver of recourse for the damage in excess of 1,000,000.00 EUR.

15 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 means of written communication at the earliest possible opportunity and without undue delay.

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.

16 INTELLECTUAL PROPERTY RIGHTS AND TRANSFER OF KNOW-HOW

16.1 Background IP

Any and all Background IP held, controlled, developed and/or acquired by a Party outside of the framework of the Contract shall remain the exclusive property of that Party.

The Contractor hereby grants to the TSO, to the extent permitted by applicable law, a worldwide, (except in case of an subscription or rental agreement) perpetual, non-exclusive, transferable, sub-licensable, and fully paid up license to use the Contractor's Background IP to the extent necessary or useful for the operation and/or maintenance of the Services. The license is valid for the whole term of protection of the right concerned.

16.2 IP in Developments

The Contractor shall, to the extent permitted by applicable law, transfer and assign to the TSO any and all Intellectual Property Rights in all creations, results, inventions, designs, data, databases, information and software developed or generated by the Contractor, its employees, agents, suppliers and subcontractors in the framework or in relation to the Contract ("Developments").

The transfer and assignment include, without limitation, the worldwide rights to reproduce, adapt, modify, make available to the public, rent, and distribute the Developments, partially or completely. This should apply both for internal and external use, for commercial and non-commercial purposes. The scope of the rights transferred shall be deemed to include the most extensive way permitted by applicable law. The Developments are deemed to be commissioned by the TSO. The Intellectual Property Rights in the Developments are exclusively assigned to the TSO, as they are generated, for the whole term of protection and for the whole world.

To the extent that the aforementioned Intellectual Property Rights cannot be transferred to the TSO under the applicable statutory law, respective, worldwide rights of exploitation, use and adaptation without restrictions in terms of time, territory and content shall be granted to the TSO.

16.3 Third Party Rights and Indemnification

The Contractor shall hold harmless and indemnify the TSO from and against all claims (including attorneys' fees and costs) brought 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 at its own expense, to pay royalties, secure the necessary transfers, licences, and authorisations or, in the absence of an agreement, modify the Services in order to avoid any infringement to third party Intellectual Property Rights.

Prior approval by the TSO of the modifications to be made to the Services will in no way modify the obligations of the Contractor, especially in the event of new infringement proceedings following such modifications.

17 CONFIDENTIALITY

Confidential Information shall be any and all information exchanged and/or made accessible under and/or in connection with the Contract, namely any technical specifications, drawings, technical / operational data, know-how and any other kind of technical, financial, commercial and/or any other kind of information marked as confidential or being confidential by its nature, in any form whatsoever 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. Neither Party shall seek to obtain Confidential Information through reverse-engineering of an item, unless such item has already been made publicly accessible or except mandatory copyright law provisions apply.

Each Party shall keep confidential and not divulge any Confidential Information to any third party. The confidentiality obligations will be in force for ten (10) years from the termination of the Contract or in the event that the Contract is not concluded from the disclosure of the Confidential Information.

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

The Contractor acknowledges to be aware of the TSO's specific confidentiality obligations regarding the management of the electricity transmission network. The TSO shall especially be entitled to submit any Confidential Information, including documents, technical data, software or simulation models, to neutral third parties for validation or technical consulting purposes. The TSO is also entitled to disclose the Contract to the regulator or to any of its contractors, who will be obliged to confidentiality, to the extent that it is necessary to coordinate and match all interfaces.

18 IT SECURITY

The Contractor shall also take sufficient measures according to at least the Best Practices to ensure the security and integrity of all information and data of the TSO.

19 PROCESSING OF PERSONAL DATA

When processing personal data under or in connection with the Contract, each Party shall comply with its obligations under applicable data protection legislation and privacy legislation in force from time to time, including the General Data Protection Regulation 2016/679 ('GDPR'), and any corresponding or equivalent national laws or regulations.

If and to the extent that the Contractor processes personal data on behalf of the TSO in connection with the provision of the Services, the Contractor will do so as a Processor (within the meaning of the GDPR). Such processing will be governed by the terms set out in the Data Processing Agreement ('DPA') model provided by the TSO, which is incorporated into and forms an integral part of the Contract. If the TSO does not consider this Data Processing Agreement necessary, 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.

Further details of how the TSO will process personal data are set out in its Privacy Policy (<https://www.elia.be/en/privacy-policy>) and Cookie Policy (<https://www.elia.be/en/cookie-policy>) (which are both hereby incorporated into the Contract).