



SPECIFIC CONDITIONS FOR WORKS - GERMANY

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S1. FIELD OF APPLICATION

These Specific Conditions Works Germany (also referred to as "**SC WORKS GERMANY**") shall be incorporated in Contracts made by companies of the Elia Group and shall apply together with the Elia Group General Conditions for Works (also referred to as "**GC WORKS**") in all cases where these SC WORKS GERMANY are expressly incorporated, but also for all other Contracts made by the TSO as a purchaser which are governed or supposed to be governed by German law.

S2. STRUCTURE AND HIERARCHY

Where applicable, these SC WORKS GERMANY shall form an integral part of the terms and conditions provided in the GC WORKS, and provisions of the GC WORKS addressing the content of the document (such as rules of interpretation or a severability clause) shall also apply hereto. In case of contradiction between a particular clause in these SC WORKS GERMANY and a particular clause in the GC WORKS, the provision in these SC WORKS GERMANY will prevail over the provision in the GC WORKS.

S3. DEFINITIONS

Terms defined in the GC WORKS, when used herein, shall have the same meaning as in the GC WORKS, unless a definition of the relevant term is made in this document.

S4. PAYMENT

S4.1 Invoicing

S4.1.1 Purchase-to-Pay process

Unless otherwise agreed by the Parties, a P2P process is applying. To the extent that the use of the P2P process has been agreed between the Parties, the Contractor must complete the activity record electronically via the portal pursuant to the confirmed measurement/acceptance protocol/time sheet. The performance of the Services has to be documented in the appropriate form (e.g. by including measurement protocols, time sheets).

S4.1.2 Conditions for payments and payment terms

S4.1.2.1 P2P process

Unless the Parties agreed otherwise, the P2P process is applying. The payments owed by the TSO under the Contract are due thirty (30) Days after the proper online registration of the Services by the Contractor, but not earlier than thirty (30) Days after the completion of the Services.

If the Services are registered by 50Hertz, the payment will take place thirty (30) Days after the proper online registration of the Services or after the receipt of the Services was booked, but not earlier than thirty (30) Days after the completion of the Services.

The Parties may agree to apply the credit memo procedure.

Exclusion of P2P process

If P2P process is excluded by the Parties, payments owed by the TSO under the Contract will fall due following the complete fulfilment of the Services (or partial Services, if agreed) by the Contractor (and any agreed Provisional Acceptance) or, where no Provisional Acceptance shall be required, after performance, but not before thirty (30)

Days after receipt of a proper invoice, provided that the Contractor has correctly followed the instructions of this Article, and not earlier than thirty (30) Days after the due date or deadline provided in the Contract.

Invoices must always satisfy the applicable legal requirements, above all those concerning VAT law.

S4.1.2.2 General

If the Day that the payment is due is not a day where banks are usually open for business in Berlin and Frankfurt a.M., the payment will be due on the following bank Working Day.

Payment will be made by bank transfer, unless the Parties have agreed otherwise for a particular Contract.

S4.1.3 Mandatory invoice content

The invoice, and any correction of the invoice, will contain:

- a) complete name, complete address and VAT number of the TSO and the TSO's order number;
- b) the Contract reference;
- c) the PO number;
- d) the name of the administrative responsible for the PO;
- e) the Services performed and the date of Service performance as well as the bill of quantities if need be;
- f) complete name and complete address of the Contractor;
- g) the invoice date of issuance;
- h) the invoice number given by the Contractor;
- i) the fees broken down by tax rates and individual tax exemptions, and the gross amount;
- j) the separate identification of the relevant tax rates and the VAT amount applicable to the fee;
- k) the federal tax identification number or the VAT identification number of the Contractor;
- l) time sheets / records of materials / records of tools or other records if need be.

If the Contractor has his official address outside the Federal Republic of Germany the following information also need to be included in the invoice:

- a) the product description;
- b) the eight-digit serial number of the product indices for the export statistics;
- c) the statistical total product value free at the German border (without additional costs);
- d) the net weight in kg;
- e) the country of origin of the products;
- f) the IBAN (International Bank Account Number) as well as the Swift Code (BIC) of the TSO bank.

More details on the presentation of invoices are available under <https://www.50hertz.com/Partners/Suppliers> (document "Rechnungsinhalte und mögliche Rücksendungsgründe" (invoice content and potential reasons for its return)). However, these details are only for informational purposes and in no way guarantee the completeness and (tax) legal accuracy. Only the arrangements made in Contractual Documents are legally binding.

Incomplete or inaccurate invoices can be rejected by the TSO and shall not meet the conditions which need to be satisfied to trigger a due date.

S4.2 Due date interest and default

Parties are not liable for payment of any interest on payments having fallen due, unless the TSO is in payment default (Zahlungsverzug). The Contractor's claim to default interest, if any, remains unaffected.

The TSO shall not be in payment default before having received a payment reminder from the Contractor.

The TSO can refuse to pay default interest to the extent that the TSO can prove that the actual loss caused by the payment delay suffered by the Contractor was lower than the statutory interest.

S4.3 Partial and final invoices

Invoices should be marked as ongoing partial invoices or final invoice according to their purpose. Partial invoices should be presented by the Contractor so that they can be used as parts of the final invoice. Each partial invoice must include details about the scope and value of all the Services to date and the partial payments already received. The final invoice should itemize the Services according to the items in the Contractual Documents and should cite the partial payments separately.

If it emerges after the presentation of a partial invoice that there will be no further partial invoices to come, on the request of the TSO the last partial invoice should be declared retrospectively by the Contractor in writing to be the final invoice.

Partial or complete payment by the TSO does not imply an acceptance and/or acknowledgement of the Services.

S4.4 Tax deduction process in accordance with sections 48 et seqq. German Income Tax Act (EStG) and section 13b German Value Added Tax Act (UStG)

The Contractor will submit to the TSO a certificate of exemption in accordance with sect. 48 b of the EstG at the latest with the presentation of the first invoice, or in the case of the credit note procedure with the first service performance. Otherwise, the TSO, as principal of a construction service in accordance with the German Law to Combat Illegal Employment in the Building Trade (sections 48, 48a to 48d EstG), is obliged to take a withholding tax amounting to 15 % of the consideration and pay it to the tax office responsible for the Contractor. The Contractor must accept amounts thus paid to the tax office as paid for the remuneration owed by the TSO to the Contractor.

The Contractor must report to the TSO any modification in connection with the certificate of exemption presented without delay.

The TSO must likewise be granted a certificate of exemption under the meaning of sect. 48 b of the EstG from the tax office.

S4.5 Assignment of claims

The Contractor is not entitled to assign his claims against the TSO or have them collected by third parties without the TSO's written consent; sect. 354a of the German Commercial Code (HGB) remains unaffected. This does not apply if the Contractor has been granted an extended retention of title in the course of normal business.

S4.6 Offsetting and Rights of Retention

The Contractor shall only be entitled to exercise any right of set-off or retention with respect to undisputed claims or claims which have been finally confirmed by a court or other competent body.

S5. ACCEPTANCE

S5.1 Commissioning and test operation

S5.1.1 Commissioning

If applicable, the commissioning (ie. physical connection to the grid) after completion of the Services (Werkleistungen) will take place at the risk of the Contractor. The Contractor will inform the TSO in writing that the Services are ready to be commissioned. The start of the commissioning should be agreed in advance in a written form by the TSO.

If the PO did not provide for any test operation, the commissioning ends when the Contractor has evidenced that the Services are compliant to what was agreed upon by the Parties in the Contract.

S5.1.2 Test operation (ie. electrical connection to the grid)

Following the commissioning and before the acceptance, if provided for in the PO, there will be a test operation conducted at the risk of the Contractor and under the direction of the TSO to prove the complete functionality and performance. The test operation will be carried out using the TSO's staff and the Contractor will provide instructions to these staff members during the test operation in such a way that they will be familiar with all the details of the installation by the time the test operation is finished. The TSO remains free to decide the type and means of operation and the daily operating times. The Parties will agree in writing when the test operation shall start.

If a disturbance arises during the test operation that is the Contractor's responsibility, which causes the operation of the Services to be interrupted or hindered, then the test operation will begin again from the start following the resolution of the disturbance. Otherwise the test operation will be extended corresponding to the duration of the disturbance.

If during the test operation, defects are discovered that make it impossible to prove the contractually agreed performance of the Services based on the test operation carried out, the test operation needs to be repeated.

The Contractor will prepare a report concerning the running and results of the test operation that is to be signed by both Parties. The report must in particular provide information about the defects discovered, if any, and the current performance status and the deadline within which such defects, if any, should be remedied. The contractually agreed deadlines and the requirements concerning delays are unaffected by Article.

S5.2 Granting of acceptance

S5.2.1 Acceptance procedures

Unless otherwise agreed in writing, Services are subject to acceptance (Abnahme).

Acceptance will be granted if the Services (including test operation if agreed) are completed in full and may be used in accordance with their intended purpose. The use of the Services (in whole or in part) does not constitute an acceptance.

Acceptance shall not be rejected in the event of minor default(s) and the TSO should not unreasonably delay acceptance. A number of minor defaults may result in a major default.

Unless the TSO requires the Contractor to use an electronic process for Acceptance, described in the Contractual Documents, in which case this electronic process will prevail over the below described acceptance process, if the

Contractor is of the opinion that the conditions for acceptance are fulfilled, it shall submit a written notice with the request to the TSO to sign the acceptance certificate ("Abnahmeprotokoll") within a reasonable deadline which deadline must be at least twenty (20) Days. Within such deadline, the TSO shall either submit a signed acceptance certificate or refuse the acceptance by providing to the Contractor the reasons of such refusal which reasons must state at least one major default (wesentlicher Mangel) or incompleteness. In case the TSO does not grant or refuse acceptance in accordance with the above provisions and within the above mentioned deadline the acceptance shall be deemed granted by the TSO to the Contractor.

S5.2.2 Documents to be provided for acceptance

The TSO reserves its rights to deny acceptance if the copies of the contractually required Documentation for acceptance have not been submitted in advance to the TSO by the Contractor. This shall not apply where the missing documents are of minor importance and do not affect the ability of the TSO to put the Services into operation.

By the time of acceptance, the Contractor shall submit a complete file to the TSO, accompanied by a classification of material whose contents are subject to the prior agreement of the TSO. This file must contain all the documents drawn up during performance of the Services, including as-built dossier, detailed plans of all items of equipment provided and works carried out. These plans must correspond with the actual performance of the Services on the Site.

S5.2.3 Unconditional acceptance

Unconditional acceptance is granted if the Services meet all the requirements of the Contractual Documents, applicable law and comply with the Best Practice.

S5.2.4 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 Services to be used for their intended purpose and should not unreasonably delay acceptance.

The Contractor must cure such minor defaults and address these reservations or comments as soon as possible and, in any case, within a reasonable deadline to do so set by the TSO in writing.

Refusal of acceptance

If the Services do not comply with the contractual requirements (except for minor defaults), the TSO may refuse acceptance.

The Contractor must provide all modifications and improvements and/or re-perform the non-compliant Services in whole or in part (including, if necessary, the demolition and reconstruction), without prejudice to any other right or remedy available to the TSO, as soon as possible.

Moreover, upon request of the TSO, the Contractor shall remove from the Site, at the Contractor's expense and responsibility, the Services that are considered to be non-compliant, where this is the only possibility to fulfill the Services in the quality owed by the Contractor under the Contractual Documents.

All expenses linked to a justified refusal of acceptance shall be borne exclusively by the Contractor, including costs and expenses linked to the TSO's cooperation, if need be. The amount of the reimbursement for costs and expenses can be calculated - if applicable - based on the agreed daily rates; in each case, it is limited to the necessary and proportionate costs and expenses corresponding to the expense for the acceptance test (e.g. taking into account the number of persons participating in the acceptance test on the TSO's part). The costs and expenses due by the Contractor according to this regulation can be set off with the reimbursement to be paid by the TSO.

Unless the TSO decides to terminate the Contract in accordance with Article 28.1 of the GC WORKS, the Contractor will take the necessary actions to make the Services compliant with the Contract. The acceptance procedure described in Article S5.2 will be repeated until the acceptance is granted by the TSO.

S6. LABOUR AND SOCIAL SECURITY LAWS

The Contractor represents to comply with applicable labour and social security laws including documentation requirements and will provide the TSO with proper evidence on request. A default on its labour and social security obligations is recognized by the Parties as a serious breach of the Contractor's obligations and entitles the TSO to terminate the Contract, pursuant to Article 28.1 (g) of the GC WORKS. The TSO cannot be held liable for the payment of fines or taxes if the Contractor does not comply with such obligations. This will in particular apply to the German Minimum Wage Act (Mindestlohngesetz - MiLoG) and the further duties under the MiLoG will be adhered to. The Contractor shall safeguard and prove on request of TSO that this is taken care of for any of its subcontractors as well. The Contractor will hold the TSO free of any claims made by third parties vis á vis TSO by public authorities or private persons based on a culpable breach of any labour or social security laws by the Contractor and/or his subcontractors.

S7. PENALTIES FOR FAILURE TO PERFORM

For each single case of culpable (i.e. at least negligent) breach of an obligation of the Contractor having been agreed to be penalized in the Contract, the Contractor shall pay a contractual penalty. The amount of the penalties is set forth in the Contractual Documents which may stipulate different amounts, depending on the degree of severity and type of default. Otherwise, the Contractor shall owe an adequate penalty, which if disputed between the Parties, is to be fixed by a competent court or arbitral tribunal.

If TSO is claiming further damages as a result of such breach of duty, the Contractor may deduct any contractual penalty paid for such breach of duty.

The penalties are not subject to the liability cap(s) in accordance with Article 29 of the GC WORKS and with Article S13 of the SC WORKS GERMANY.

The TSO is not required to expressly reserve the right to claim a penalty at the time of Acceptance of any Services; the TSO may reserve the right to claim such penalties within a reasonable time period (of no more than three (3) Weeks) after receiving the final invoice of the Contractor.

S8. PENALTIES FOR LATE PERFORMANCE

The culpable exceeding of a deadline by the Contractor shall entitle the TSO to a penalty. Unless otherwise agreed between the Parties, this shall apply for the deadline for completion of the Services and other deadlines individually specified by the Parties in the Contract (for instance by adding the letter "P" or the remark "penalised" to the deadline)

Where the Parties have not agreed on individual rates or amounts elsewhere in the Contract, the penalties for late performance are equal to 0.2% of the amount of the Contract per Working Day of delay, up to a limit of 5% of the amount of the Contract or, in case of framework agreements, the respective PO for all penalties including those set out in Article S7 above. In case of default with interim deadlines ("Zwischentermine") the penalty shall be 0,2 % of the proportion of the contract or PO value attributable to the part of the Services to be completed by the deadline in question. If the Contractor is in default with a subsequent interim deadline or the deadline for overall completion periods of default at previous deadlines shall not again be taken into account (no cumulation of penalties for the same delay). Unless expressly agreed different between the parties in writing in the Contract Documents, penalties incurred for the failure to meet interim deadlines shall become void if the final deadline is met.

If TSO is claiming further damages as a result of such breach of duty, the Contractor may deduct any contractual penalty paid for such breach of duty.

The penalties for late performance are not subject to the liability cap(s) in accordance with Article 29 of the GC WORKS and with Article S13 of the SC WORKS GERMANY.

The TSO is not required to expressly reserve the right to claim a penalty at the time of Acceptance of any Services; the TSO may reserve the right to claim such penalties within a reasonable time period (of no more than three (3) Weeks) after receiving the final invoice of the Contractor.

S9. FINANCIAL GUARNATEES

This Article S9 shall apply only to the extent that there is no individual agreement in the Contracts on this subject matter.

S9.1 Performance Bond

Unless otherwise agreed by the Parties in writing, the Contractor shall provide collateral in the form of a performance security with an amount corresponding to 10% of the preliminary overall net order value plus VAT. This performance security shall secure all obligations arising from the contract, including invoicing, net amount of the prepayment plus the legally payable VAT at the time of the prepayment due date remedy of defects before acceptance and damage claims as well as refund of overpayment including interest.

The performance security shall be provided in the form of an absolute bank guarantee (selbstschuldnerische Bankbürgschaft) and shall be issued by a first-rate credit institution approved in the EU (i.e. a credit institution that has been rated at least "A-" (Standard & Poor's and Fitch) or "A3" (Moody's) in the long term by a rating agency (Standard & Poor's, Moody's or Fitch) and a rating of at least "A-2" (Standard & Poor's) or "P-2" (Moody's) or "F2" (Fitch) in the short term by the same rating agency or better or in the form of a guarantee of an insurance company with an equal rating.

If the required rating is lost or reduced, the Contractor will notify this to the TSO without undue delay. The TSO reserves its rights to require the Contractor to provide a Performance Bond from a bank /insurance company that complies with the minimum rating requirements, within 20 (twenty) Business Days after the loss of the minimum required rating by the first bank/insurance company.

The guaranty shall not include an expiry date and the guarantor shall waive the defenses of failure to pursue remedies against the debtor (Vorausklage), voidability (Anfechtbarkeit) and set-off (Aufrechenbarkeit) and the right to deposit the guarantee amount (Hinterlegung), save that the waiver of the defense of voidability shall not apply, where voidability is the result of malicious deceit ("arglistige Täuschung") or illegal threat ("widerrechtliche Drohung") in the meaning of section 123 subsection 1 GCC and the waiver of the defense to set off where the claim to be set off is either undisputed or finally awarded in court.

The performance guarantee shall be handed over to the TSO within fourteen (14) Days of entering into the Contract. If the guarantee was not made available when the first invoice is received, the TSO shall have the right to withhold payments up to the amount of the agreed performance security.

S9.2 Defects Liability Bond

If not otherwise agreed upon by the Parties in writing, the TSO shall be entitled to withhold the amount of 5% of the net value of the Contract plus VAT from the final invoice as security for warranty claims.

The amount shall be released to the Contractor (when otherwise due) if the Contractor provides a warranty bond that meets the same requirements set out for the performance security in Clause 8.1. The warranty bond shall secure all warranty claims, including compensation claims and the refund of overpayments including interest but in no case warranty claims from prior to acceptance. A warranty claim shall be considered made prior to Acceptance if the claim was raised in writing prior to Acceptance.

S9.3 Prepayment or advance payment security

Insofar as agreed in the Contract, the Contractor provides the TSO with a security that is free for the TSO, irrevocable, unconditional and directly enforceable security to ensure any agreed prepayments within the term agreed in the Contract and no later than when the corresponding invoice has been presented, thereby waiving the right of advance claim, invalidity and set off (unless the counterclaim is undisputed, ready for a decision or determined by final enforceable judgement) at a first-rate credit institution approved in the EU (i.e. a credit institution that has been rated at least "A-" (Standard & Poor's and Fitch) or "A3" (Moody's) in the long term by a rating agency (Standard & Poor's, Moody's or Fitch) and a rating of at least "A-2" (Standard & Poor's) or "P-2" (Moody's) or "F2" (Fitch) in the short term by the same rating agency. Insofar as the credit institution is rated by several of the agencies mentioned, the majority of all available ratings cannot be lower than the minimum requirements mentioned above.)

The security shall not be limited in time. The amount of the security shall cover the net amount of the prepayment plus the legally payable VAT at the time of the prepayment due date. It will be returned in accordance with the provisions made in the payment schedule.

S10. PRICE

Section 313 GCC shall remain unaffected by Article 19.1 of the GC WORKS.

S11. VARIATIONS

S11.1

Differing from what is set forth in Article 18.2, third paragraph, first sentence of the GC WORKS, as a matter of principle such request to implement a variation should be made by the TSO not earlier than thirty (30) Days after the Contractor has received a request for a variation from the TSO.

The Contractor must nevertheless comply with a request of the TSO prior to the expiry of thirty (30) Days in the following cases:

- in cases of imminent danger;
- if according to the specific circumstances it must be assumed that the efforts of the TSO and the Contractor to come to an agreement have finally failed;
- if the Contractor has not presented its offer pursuant to Article 18.3, first subparagraph of the GC WORKS without undue delay and a deadline of at least three (3) Days set by the TSO thereupon to present the offer has lapsed without the Contractor either presenting his offer or comprehensibly substantiating, why he is not yet able to provide the offer;
- if the interest of the TSO to have the variation executed immediately clearly outweighs the interest of the Contractor to have the additional or reduced remuneration agreed in advance and if the variation is acceptable for the Contractor also taking into account as the case may be the necessity to involve subcontractors;
- if the variation is only of a minor nature and in respect of a negligible portion of the Services in total.

S11.2

In addition to what is set forth in Article 18.4 of the GC WORKS the price for the variation may under no circumstances exceed what is provided for in section 650c subsection 1 first sentence German Civil Code ("**GCC**").

S11.3

Should the Parties fail to reach agreement in respect of the amount of additional remuneration for a variation that has been executed and should the Contractor claim a down payment of up to 80 % of his offer pursuant to section 650c subsection 3 GCC the TSO shall only be obliged to pay such amount if the Contractor in turn provides a security for overpayments in form of a bank guarantee in the amount of the potential overpayment resulting from the differing positions of the Parties. Article S9.1 paragraphs 2, 3 and 4 shall apply accordingly.

S11.4

Article 18.5 of the GC WORKS shall apply upon the condition that the provisions of this Article S11 shall also apply and are taken into account.

S12. LIABILITY

§3 of Article 29 of GC WORKS is replaced by the following:

Parties' total liability will be limited in aggregate for any matters arising under or in connection with the Contract to two times the value of the Contract or the value of the PO in case of a framework agreement or 5.000.000 euro, 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.

S13. RISK BEARING

Risk bearing ("Gefahrtragung") shall be governed exclusively by section 644 GCC.

S14. GOVERNING LAW AND JURISDICTION

The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by and construed in accordance with the law of Germany, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). The Parties agree that the courts of Berlin shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims). In addition, the TSO is entitled to take legal action at the competent court at the domicile or place of principal establishment of the Contractor.