

GENERAL TECHNICAL PURCHASING CONDITIONS



Artikel 1 Definitions

- 1.1 **Acceptance:** approval by RWE, as evidenced by a written acceptance of (partial) Works or (partial) Deliveries.
- 1.2 **Services:** all the Work and connected performances to be carried out by the Supplier in accordance with the Agreement.
- 1.3 **RWE:** RWE Renewables Benelux B.V. or one of the legal entities belonging to RWE Renewables Benelux B.V. and its legal successors as referred to in Article 24a of Book 2 of the Dutch Civil Code, having its registered office in the Netherlands and concluding the Agreement.
- 1.4 **Purchasing Conditions:** this document entitled General Technical Purchasing Conditions.
- 1.5 **Supplier:** the natural person or legal entity who provides RWE with an offer or with whom RWE concludes an Agreement.
- 1.6 **Delivery:** all the performances aimed at providing RWE with possession of the Goods and/or the performance of the (associated) Services at the agreed place(s) of delivery, within the agreed period of time.
- 1.7 **Agreement:** any legal relationship to which these Purchasing Conditions may apply pursuant to Artikel 2.
- 1.8 **Working Day:** calendar day, with the exception of weekends, generally recognised public holidays within the meaning of Article 3, paragraph 1, of the General Extension of Time Limits Act and other days as stipulated in the Agreement.
- 1.9 **Work:** all work, other than an employment agreement, performed on behalf of RWE or with the purpose of realising work of a material nature for RWE.

Artikel 2 Applicability

- 2.1 The Purchasing Conditions shall apply to all current and future enquiries, offers and Agreements in respect of which RWE acts as the enquiring/purchasing party for the Delivery of Goods and/or the performance of Services.
- 2.2 The Supplier shall make sure to and commits to apply these Purchasing Conditions accordingly to suppliers, subcontractors and third parties contracted by the Supplier. The Supplier is to fully notify those suppliers, subcontractors and/or third parties of this in the correct way and in good time.
- 2.3 The (general) terms and conditions of Supplier are not applicable and shall only bind RWE if it has agreed to them in writing.
- 2.4 Deviation from the Purchasing Conditions is only possible if and insofar as RWE has expressly agreed to the deviation in writing and only in relation to the Agreement concerned, unless otherwise agreed in writing.
- 2.5 If any provision from these Purchasing Conditions should wholly or partially conflict with any provision of mandatory law, this shall not affect the validity of the other Purchasing Conditions which shall otherwise remain in full force and effect. As far as the invalid provisions, provisions declared null and void or annulled provisions are concerned, RWE shall consult with the Supplier for the purpose of determining new provisions to replace the provisions in question which come as close as possible in terms of nature and scope to the invalid provisions, provisions declared null and void or annulled provisions. If a provision from the Purchasing Conditions or the Agreement is declared partially invalid or nonbinding, this shall not affect the validity or binding nature of the other provisions from the Purchasing Conditions or the Agreement. The Parties shall replace the invalid or nonbinding part with a provision that is valid and binding and whose consequences, taking into account the substance and purpose of the Agreement, differ as little as possible from the invalid or unenforceable part.
- 2.5 For the purpose of applying the Purchasing conditions, the term "personnel of the Supplier" shall also be understood to

refer to third parties who are involved in the execution of the Agreement by or on behalf of the Supplier.

- 2.7 In these Purchasing Conditions, the term "in writing" is understood to refer to: a message sent by post, fax, e-mail or (another) electronic means (such as e.g. Electronic Data Interchange) and received by the authorised representatives of the relevant Party.

Artikel 3 Offer and conclusion of Agreements

- 3.1 An enquiry from RWE shall be followed by an irrevocable and binding offer from the Supplier.
- 3.2 An offer from the Supplier shall be valid for at least ninety (90) calendar days after receipt by RWE, unless otherwise agreed in writing.
- 3.3 RWE is not obliged to reimburse the Supplier for the costs that are connected with the submission of an offer.
- 3.4 If RWE provides a written order for the supply of Goods and/or the performance of Services that corresponds to the offer from the Supplier, the Agreement shall be concluded when RWE sends the written order to the Supplier.
- 3.5 If a written order is provided by RWE without being preceded by an offer from the Supplier, then the Agreement shall be concluded if:
- the copy of the order signed by the Supplier is received and accepted by RWE within fourteen (14) calendar days of the signing of the order; or
 - the Goods are supplied and/or the Services are carried out within fourteen (14) calendar days in accordance with the order.
- 3.6 Execution of a oral order can only take place after RWE has confirmed the order in writing via an authorised person or RWE has provided the Supplier with an order number.
- 3.7 If any part of a written order confirmation from the Supplier deviates from the order from RWE, then no Agreement will be concluded.
- 3.8 RWE has the right to make changes and additions to the offer. In that case, the Agreement shall be concluded when RWE receives written confirmation of the order for the supply of Goods and/or the provision of Services from the Supplier in accordance with the offer changed or supplemented by RWE.
- 3.9 If a framework agreement applies between the Parties, the Agreement shall be concluded each time the order for a (partial) Delivery as part of the framework agreement is received by the Supplier, unless there are deviating provisions in the framework agreement in question.
- 3.10 If the Supplier starts the Delivery of Goods and/or the provision of Services without a written order or confirmation as referred to in Article 3.4 to 3.8, it does so for its own account and risk. RWE is not obliged to pay any compensation in this respect and is entitled to require the work site and/or other property of RWE to be restored to its original state and the consequences of the Supplier's actions to be completely undone.
- 3.11 Drawings, models, specifications, instructions, (inspection) regulations or similar information made available by RWE prior to or at the time of conclusion of the Agreement or approved by RWE shall form part of the Agreement insofar as they are not contrary to the provisions in the Agreement.
- 3.12 RWE shall provide a so-called purchase number in the written order, which number at all times specified by Supplier in its invoices and on packaging.

Artikel 4 Prices

- 4.1 The agreed prices and rates are fixed and in Euros unless otherwise agreed in writing.
- 4.2 The prices specified in the Agreement exclude VAT but include all additional costs and any duties or taxes levied by the government or other levies connected with the execution of the

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Agreement. The above-mentioned costs, taxes and levies shall be paid by the Supplier, unless otherwise agreed in writing.

- 1.3 The prices specified in the Agreement cover all the work to be carried out by or on behalf of the Supplier and third parties within the framework of the Agreement.
- 1.4 The Supplier may only change an agreed price unilaterally if the facility to do so has been agreed on in writing. In that case, the Agreement must indicate the circumstances that have brought about the change and the extent to which changes to the prices of materials, exchange rates or other costs, with the exception of tax on profits, will be passed on.
- 4.5 If the facility to make changes to prices is agreed on, it shall not be possible to make use of that facility for orders already completed.
- 4.6 If the Supplier exercises an authority agreed on or vested in it pursuant to any statutory provision to increase prices, RWE shall be entitled to terminate the Agreement without notification of default and without being obliged to pay compensation.

Artikel 5 Delivery

- 5.1 Delivery shall be made in accordance with the applicable European and Dutch laws and legislation and, unless otherwise agreed in writing, Delivered Duty Paid (DDP) to the agreed place of delivery, punctually at the agreed time or within the agreed period of time.
- 5.2 The latest version of the Incoterms (including the most recent addenda) published by the International Chamber of Commerce in Paris shall apply to the interpretation of delivery conditions, unless otherwise agreed in writing in the Agreement. If (parts of) the Incoterms and these Purchasing Conditions are inconsistent, the Purchasing Conditions will prevail.
- 5.3 Delivery shall not be completed until the Goods and all associated aids and documentation that are required in order to be able to use and maintain them properly as well as any inspection, test, check, examination and warranty certificates and in particular the declaration of conformity, the user manual (in Dutch) and the technical construction dossier belonging to the CE marking in accordance with EC directives, have been received by or on behalf of RWE and the Delivery has been signed for approval by RWE. The last signature referred to does not affect the fact that the goods supplied may be rejected based on Artikel 6 and Artikel 18. In addition, the Supplier cannot derive any rights from the signature referred to in the first sentence in this paragraph and consequently that signature shall not prevent RWE from (by way of example) exercising its rights (inter alia) pursuant to a shortcoming on the part of the Supplier.
- 5.4 The (delivery) times specified in the offer or Agreement are strict deadlines. The Supplier shall be in breach simply by exceeding the above-mentioned times without further notification of default.
- 5.5 If a period of time or date of performance is not expressly agreed, a reasonable period of time that is no longer than four (4) weeks from the time of conclusion of the Agreement shall apply to performance.
- 5.6 RWE reserves the right to specify the time of Delivery further as by means of call-off, provided that call-off takes place within the agreed delivery time. If call-off comes at a time which is after the agreed delivery time, the Supplier shall not be entitled to claim a price change or compensation for damages or costs.
- 5.7 If RWE asks the Supplier to postpone Delivery, then the Supplier shall store, secure and insure the Goods which shall be properly packed and recognisably marked as being intended for RWE and take all reasonable measures in order to prevent any deterioration in the quality of the Goods, for a reasonable fee that is to be agreed on in writing later on. In such a case, RWE shall not be in breach.
- 5.8 As soon as the Supplier knows or ought to know that it will not be possible to carry out the Delivery on time, properly or

at all, it shall notify RWE of this immediately in writing, providing details of the circumstances behind the failure. This shall also apply if the cause thereof lies with RWE. Without prejudice to RWE's right to terminate the Agreement in accordance with the provisions in Artikel 27, the Parties shall discuss whether, and if so how, the situation can be resolved to the satisfaction of RWE. In any case, RWE shall then be entitled to carry out the repair or replacement itself or to have it carried out by third parties. The related costs will be paid by the Supplier.

- 5.9 The Supplier shall keep spare parts in stock for a period of time that can be considered reasonable for the Good in question based on the generally prevailing opinion and shall supply them on market terms, even if the production of that Good is terminated in the meantime. The Supplier shall notify RWE in good time regarding the date of termination of production in order to enable RWE to order spare parts before that date.
- 5.10 The provisions relating to hazardous substances according to Artikel 29 apply to the Delivery of Goods in respect of the handling of hazardous substances and auxiliary materials at RWE sites or in RWE buildings or in the work area.
- 5.11 The Supplier is not entitled to suspend its delivery obligation in the event that RWE has failed to comply with (one of) its obligations.
- 5.12 The Supplier is not entitled to carry out partial deliveries, unless otherwise agreed in writing in the Agreement, in which case for the application of the Purchasing Conditions, the term "Delivery" will also be understood to refer to a partial delivery. In that case, the Supplier must notify RWE in writing regarding partial deliveries, specifying the correct dates for the partial deliveries.
- 5.13 The Supplier must provide the Goods to be supplied with the prescribed transport documents and a clearly visible packing list and/or copy invoice which shall state the following: name and address of the Supplier, (purchase) order number, order, date of dispatch, number of quantities sent and the designation of the Goods.

Artikel 6 Acceptance

- 6.1 If and insofar it is agreed in writing and when all the relevant conditions stipulated in the Agreement have been met, the Supplier shall contact RWE in writing with the request to proceed to grant Acceptance of the Services and/or Goods supplied.
- 6.2 Acceptance shall take place when RWE is of the opinion that all the relevant conditions stipulated in the Agreement have been met.
- 6.3 Acceptance shall be preceded by a joint inspection and possible testing ex Artikel 18 of the Services or Goods that shall be carried out as soon as possible after the request as referred to in paragraph 1 of this article.
- 6.4 The parties to the Agreement shall draw up a protocol for this inspection and any testing. In any case, that protocol will specify whether the Service or Good has been approved by RWE and the Work that still has to be carried out by the Supplier within a reasonable period of time. The day on which RWE accepted the Services and/or Goods supplied and indicated as such in writing shall be regarded as the day of Acceptance.

Artikel 7 Packaging

- 7.1 The Supplier shall pack the Goods at its own expense, while taking account of the requirements laid down by or pursuant to the law and in an appropriate manner for the Goods, so that they reach their destination in a good state of repair and undamaged using normal transport and can be unloaded and stored using standard means of transport. The Supplier will be liable for damage caused due to insufficient or inadequate or defective packaging.
- 7.2 The Supplier shall enclose a packing list for each Delivery which is as complete as possible and shall in any case specify the following: the full RWE order number and for each part, the

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item number, quantity and description and, if applicable, transport and lifting instructions.

- 7.3 RWE shall be entitled to return packaging materials to the Supplier at any time. The return of packaging materials shall be for the account and risk of the Supplier.
- 7.4 If loaned packaging is used and if packaging is charged for, this is to be shown separately in the offer and waybill. Loaned packaging must be clearly marked as such by the Supplier. The return of loaned packaging shall be for the account and risk of the Supplier.

Artikel 8 Checks on documentation

- 8.1 The Supplier must check the completeness and correctness of specifications, drawings and other documentation received from RWE for the purpose of executing the Agreement.
- 8.2 The Supplier must notify RWE in writing as soon as possible regarding possible errors or gaps in the above documentation. The Supplier shall propose improvements and make adjustments at the first request of RWE.
- 8.3 If the Supplier has not made its objections to the above documentation known to RWE in writing prior to the conclusion of the Agreement, it shall be deemed to accept the documentation and shall no longer be able to contest the incorrectness or incompleteness thereof later on.

Artikel 9 Execution of the Work

- 9.1 The Supplier must carry out the Work accurately and completely in accordance with the Agreement and ensure adequate supervision and management.
- 9.2 The Supplier shall carry out the Work using people who are professionally competent experts. The Supplier shall be obliged to use as many of the same people that have already been used for RWE work for this Work, particularly for similar Work.
- 9.3 Besides the statutory health and safety regulations, the Supplier shall be obliged to comply with the corresponding RWE regulations and to make sure that the persons tasked with the execution of the Work and the supervision thereof by the Supplier do the same, without RWE incurring any additional costs as a result. Those regulations are available from RWE. A general description can be found in the safety, health and environmental provisions in accordance with Artikel 28.
- 9.4 Unless otherwise agreed, the Supplier shall take care of the application for, receipt of and compliance with permits, exemptions and other official documents that are required for the execution of the Agreement at its own expense.
- 9.5 Prior to the commencement of the Work, the Supplier shall make sure that the people it has tasked with the execution and supervision of the Work attend a so-called working conditions/HSE instruction session which is a condition for gaining access to the sites and/or buildings of RWE or the work area.
- 9.6 The Supplier shall be obliged to comply with the regulations that apply to the relevant work site(s) and to make sure that the persons tasked with the execution of the Work and the supervision thereof by the Supplier do the same.
- 9.7 If requested by RWE, the Supplier must provide RWE with a written record containing the personal details (and the changes therein) which are important for the execution of the Work of the persons who are carrying out or going to be carrying out the Work for RWE.
- 9.8 If required, the Supplier shall make use of a timesheet or other means of checking to determine the hours worked by the people referred to in paragraphs 2 and 7 of this Artikel 9, at the discretion of RWE.
- 9.9 Unless otherwise agreed in writing, the Supplier undertakes to set the working hours of the people referred to in paragraphs 2 and 7 of this Artikel 9 as between 07.00 and 20.00 hours on Working Days, taking account of an unpaid 30-minute lunch break. Separate approval must be obtained

from RWE for work outside these working hours, or more than eight (8) working hours per day.

- 9.10 For the purpose of gaining access to or remaining on the sites and/or in the buildings of RWE or in the work area, the Supplier shall ensure that people are able to prove their identity by means of a legally valid identity card, at the request of the security service of RWE, at any time.
- 9.11 The Supplier undertakes to ensure that people who are given a temporary access pass by RWE for the purpose of carrying out the Work only use the access pass for their own strictly personal use and return the pass to RWE on completion of the Work.
- 9.12 At least one (1) week before the commencement of the Work, those people who have been tasked by the Supplier with the execution or supervision of the Work at one of the sites of RWE shall be registered in accordance with the relevant current procedure.
- 9.13 The Supplier is aware of the fact and accepts that RWE may deny personnel of the Supplier access to its sites and/or buildings or the work area or that RWE may require the Supplier to remove personnel immediately from those sites or buildings if they:
- in the opinion of RWE are clearly not suited to their task;
 - misbehave to such an extent that in the opinion of RWE, they can clearly not be allowed to remain at the sites or in the buildings;
 - in the opinion of RWE cannot be allowed to enter or remain on the sites or in the buildings for safety reasons (security);
 - otherwise clearly contravene an obligation incumbent on the Supplier and its personnel in the Agreement.
- 9.14 In particular, the Supplier is aware of the fact and accepts that the possession and/or use of alcohol, drugs and/or substances that may affect your ability to react in any way is/are prohibited at the sites of RWE. It is also prohibited to remain on an RWE site while under the influence of alcohol and/or drugs.

Any costs (to be) incurred by the Supplier in connection with the cases referred to in this paragraph are entirely for the account and risk of the Supplier. At the first request of RWE, the Supplier must immediately provide replacements for the persons as referred to in Article 9.13.

- 9.15 The Supplier shall be obliged to cooperate as much as is necessary in order to enable incoming and outgoing goods and passenger vehicles to be checked by the RWE security service. In particular, incoming and outgoing vehicles must carry an inventory list for this purpose.

Artikel 10 Hindrance and interruption of the Work

- 10.1 The Supplier shall be obliged to allow RWE or third parties commissioned by RWE to carry out work at or in the vicinity of the work area. The Work of the Supplier shall be coordinated with the work of RWE or third parties by or on behalf of RWE so that as little hindrance as possible is caused for those involved.
- 10.2 The Supplier or its suppliers shall undertake and ensure that if it/they has/have to cooperate with third parties, they shall endeavour to guarantee proper cooperation. The Supplier must discuss the execution of Work which may reasonably be expected to cause hindrance to RWE or third parties with RWE beforehand.
- 10.3 When operating conditions require, the Supplier shall be obliged to interrupt its Work or have it interrupted at the first request of RWE. Further consultation shall take place regarding the financial consequences insofar as the cause is not attributable to the Supplier. To this end, the Supplier must require a written statement from RWE regarding the nature, the duration and the extent of the interruption.

Artikel 11 Storage of goods and waste

- 11.1 The storage of goods by or on behalf of the Supplier at the sites or in the buildings of RWE may only take place with express consent from RWE whereby these must also have been

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indicated as a place for storage. The Supplier shall ensure that storage space is provided at its own expense. The same applies to the placement of site huts, sanitary huts and suchlike. Unless otherwise agreed in writing, all the provisions for huts as well as the costs for the use thereof (energy, water, telephone and suchlike) shall be paid for by the Supplier.

- 11.2 Any waste flows and waste materials released during the performance of the Work, with the exception of radiologically contaminated materials, shall be separated as much as possible and then collected, stored and removed from the RWE sites in accordance with the applicable statutory provisions by and for the account of the Supplier.

Artikel 12 (Transfer of) ownership and risk

- 12.1 The ownership of and the risk associated with the Goods shall be transferred from the Supplier to RWE when the Goods are actually delivered and are unequivocally accepted by RWE in accordance with these Purchasing Conditions and/or the Agreement, unless the Parties to the Agreement expressly agree otherwise or the Goods are rejected by RWE after Delivery based on Artikel 6 or Artikel 18.
- 12.2 If RWE is obliged to make an advance payment for the Goods to be supplied according to the Agreement, the ownership of those Goods shall be transferred from the Supplier to RWE at the time of the first payment. Until the Delivery to and acceptance of the Goods by RWE, the risk associated with the Goods will remain with the Supplier who will qualify as the holder of those Goods for RWE.
- 12.3 In addition to the provisions in this article, the ownership and risk of rights shall also be transferred from the Supplier to RWE at the time of signing of the relevant Agreement by the Supplier and RWE.
- 12.4 In the case of full or partial rejection of the Goods based on Artikel 18, risk and ownership will never be deemed to have been transferred to RWE. RWE is entitled to store the Goods for the account and risk of the Supplier.
- 12.5 All the Goods and documents made available to the Supplier by RWE within the framework of the agreement will remain the property of RWE. The Supplier shall return those Goods and documents to RWE immediately after the completion of the contract, or even earlier if reasonably possible.
- 12.6 All Goods developed and/or produced by the Supplier within the framework of the Agreement, including but not limited to drawings, sketches, moulds, dies, prototypes, computer software in the form of source code, object code and/or print-outs and the associated documentation and other tools will become the property of RWE immediately after production.
- 12.7 In the case of postponement of the Delivery of the Goods, the ownership of the Goods in question will be transferred from the Supplier to RWE when the Goods are identifiably stored as property of RWE by or on behalf of the Supplier.
- 12.8 The Supplier warrants that unencumbered title to the Goods will be acquired by RWE. The Supplier hereby waives all rights and powers relating to the Goods to which it is entitled pursuant to a right of retention or right to complain.

Artikel 13 Equipment

- 13.1 Unless otherwise agreed in writing, the Supplier itself shall take care of all the equipment required for the Work to be carried out such as personal safety items and items of equipment, safety tools, hand tools, work clothing, welding equipment, measuring and test equipment, ladders, scaffolding and suchlike; they must be of sound quality, at least comply with statutory requirements and be accompanied by the certificates required.
- 13.2 If the Supplier uses equipment belonging to RWE with permission from RWE, that use is at the Supplier's risk and the Supplier shall be fully liable for any damage that may arise as a result of that use. As soon as it has finished using it, the Supplier shall return the equipment to RWE in the condition in which it received it. Defects – including any

caused by the Supplier itself – shall be reported immediately by the Supplier. In case of loss, the Supplier shall owe the replacement value to RWE.

- 13.3 All measuring and test equipment to be used by the Supplier must demonstrably comply with the manufacturer's specifications in respect of accuracy and traceability. At the request of RWE, the Supplier must demonstrate this by providing the associated calibration and test reports which shall be no more than twelve (12) months old.

Artikel 14 Auxiliary materials

- 14.1 The materials, drawings, models, templates, stamps, instructions, specifications, software, tools and other resources made available by RWE to the Supplier or purchased or produced for the account of RWE by the Supplier, and that have any kind of supporting function for the Goods to be delivered, shall remain or become the property of RWE at the moment of purchase or production, unless RWE expressly relinquishes or has relinquished this right.
- 14.2 The Supplier shall be obliged to mark the auxiliary materials referred to in the first paragraph as the recognisable property of RWE, to keep them in a good state of repair and to insure them at the Supplier's expense against all risks as long as the Supplier acts as the holder for RWE in respect of those auxiliary materials.
- 14.3 The Supplier shall not be permitted to remove or modify any indication on the auxiliary materials relating to the proprietary rights of RWE.
- 14.4 The auxiliary materials shall be made available to RWE at first request but at the latest at the time of Delivery of the Goods which the auxiliary materials relate to, unless RWE expressly waives or has waived this requirement or has requested the Supplier to store these auxiliary materials on its behalf.
- 14.5 Auxiliary materials that are used by the Supplier for the execution of the Agreement shall be submitted to RWE for approval at RWE's first request.
- 14.6 Changes to or deviation from the auxiliary materials made available or approved by RWE shall only be permitted after prior written approval by RWE.
- 14.7 The Supplier shall not use the auxiliary materials or have them used for or in connection with any other purpose than the Delivery to RWE, unless RWE grants its consent regarding this in writing.
- 14.8 At RWE's first request, the Supplier shall inform RWE by means of a status overview of the number and the quality of the auxiliary materials that the Supplier is holding for RWE.
- 14.9 RWE is entitled to let the Supplier sign declarations of ownership relating to the auxiliary materials. The Supplier shall cooperate in this regard.
- 14.10 The way in which the auxiliary materials are used shall be entirely at the Supplier's risk.

Artikel 15 Changes; contract variations

- 15.1 RWE shall be entitled to request the Supplier to make changes to the nature and scope of the Goods and/or Services to be supplied. The nature of the changes may not be such that it can reasonably be assumed that the Supplier would not have concluded the Agreement if it had been informed of the changes beforehand. RWE shall specify the changes required in writing.
- 15.2 The Supplier shall inform RWE of the consequences of the changes for the price and delivery time within fourteen (14) calendar days of the date of dispatch of the written specification as referred to in the previous paragraph from this Artikel 15. RWE shall be entitled to terminate the Agreement if the price and delivery time determined by the Supplier are not acceptable to RWE. RWE shall not use the right to terminate the Agreement on unreasonable grounds.
- 15.3 The Supplier is obliged to request express written approval from RWE for all its desired changes. Sending drawings without a written explanation is not sufficient for this purpose. Changes

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in respect of which the drawings or the design have already been approved by RWE shall nevertheless still require written approval from RWE. Any costs that may result from non-compliance with this provision shall be borne by the Supplier.

- 15.4 If improvements can be made during the design, production or execution of the Work, the Supplier shall inform RWE of this in writing and make those improvements at the request of RWE, if this does not entail additional costs or extension of the delivery time for the Delivery of Services and/or Goods. However if it does, the Supplier shall submit an offer in respect of the changes in question, stating the consequences for the delivery time and/or the price. RWE shall then decide whether or not to accept the offer.
- 15.5 RWE is only obliged to pay for additional work that it has approved in writing beforehand. Unless otherwise agreed in writing, the settlement of contract reductions will be determined in joint consultation.

Artikel 16 Invoicing, payment and auditing rights

- 16.1 The submission of the invoice takes place (monthly) in arrears to the billing address specified by RWE and upon presentation of documents in which the costs are specified on the basis of the categories further outlined in the agreement.
- 16.2 Payment of the Goods and/or Services supplied takes place within thirty (30) calendar days of the receipt of a properly specified invoice or, if Delivery and acceptance of the Goods and/or Services takes place after receipt of the invoice, within thirty (30) days of the Delivery and acceptance of the Goods and/or Services in accordance with the Agreement. Payment will only be made if the Goods and/or Services supplied were approved and after receipt of all associated documentation and auxiliary materials, including the correctly addressed and complete invoice.
- 16.3 The invoice must comply with the statutory invoice requirements and at least be provided with the order number, company name, billing and business address of RWE, as specified on the order for the relevant Goods and/or Services. Invoices that do not comply with the requirements will not be processed and will be returned to the Supplier.
- 16.4 If RWE disputes an invoice from the Supplier, the Supplier must further substantiate the invoice in question properly and if it fails to do this, RWE will not be obliged to pay the disputed invoice.
- 16.5 At its sole discretion and by way of security for compliance by the Supplier with its obligations based on the agreement, RWE is entitled to require the Supplier to provide an unconditional and irrevocable bank guarantee issued by a bank institution acceptable to RWE. The costs of the bank guarantee will be paid for by the Supplier.
- 16.6 If, for the execution of the Agreement, RWE makes a payment for Services and/or Goods that have not been supplied yet, then prior to said payment the Supplier is obliged at RWE's first request to provide RWE with a bank guarantee "on call" for the value of the amount paid. RWE is not required to pay any of the costs of the guarantee. The bank guarantee "on call" will be issued by a bank institution acceptable to RWE. If, on account of any failure on the part of the Supplier, the Services and/or Goods are not accepted within the agreed period, the Supplier will be liable to pay the statutory interest on the advance for as long as the failure persists.
- 16.7 If the Supplier does not (fully) comply with any obligation based on the Agreement or the Purchasing Conditions, RWE is entitled to suspend the payment to the Supplier. The suspension will apply until the Supplier has fulfilled all its obligations towards RWE.
- 16.8 Payment by RWE does not in any way imply a waiver of rights and does not release the Supplier from any warranty, obligation or liability based on any agreement.
- 16.9 RWE is entitled to offset claims made by the Supplier on RWE against claims that RWE has against the Supplier for whatever reason at any time, regardless of whether those

claims are due and/or can easily be established (in court). Reliance by the Supplier on Article 6:136 of the Dutch Civil Code is excluded.

- 16.10 RWE shall only be in default in respect of the payment of any amount owed to the Supplier on expiry of a period of fourteen (14) calendar days after the Supplier sent RWE a written notice of default in connection with that payment.
- 16.11 RWE will not pay any wages and/or other remuneration for persons tasked with the performance of the Work and the supervision thereof by the Supplier or by a third party to whom the Supplier has assigned or outsourced the Work, or the costs of the equipment referred to in Artikel 13, during the period those persons do not work due to a strike or the goods referred to are not used due to a strike.
- 16.12 If RWE is in default, RWE shall only be liable for interest due to delay equal to the statutory interest and, taking account of the provisions in Article 22.7, RWE shall not be liable for other associated costs.
- 16.13 Payments by RWE will be deducted from the main sum owed first of all, then from accrued interest and finally from any costs owed.
- 16.14 RWE is entitled to have the content of invoices sent by the Supplier checked for correctness by an auditor to be appointed by RWE at any time. The Supplier shall grant the auditor in question access to records and documents when first requested to do so and provide any data and information requested by the auditor. The audit shall be confidential and shall not extend further than is necessary for the purpose of verifying the invoices. The auditor will make his report available to both parties as soon as possible.
- 16.15 The costs of the audit will be paid for by RWE, unless the audit shows that the invoice was incorrect on certain points, in which case all those costs will be paid for by the Supplier.
- 16.16 RWE is entitled to suspend the payment of an invoice during the period of the audit. RWE shall only make use of this entitlement if RWE has reasonable doubt regarding the correctness of the invoice in question and only for the disputed part of the invoice.
- 16.17 If RWE fails to meet a deadline for payment or fails to pay an invoice due to the suspected incorrectness of the content of the invoice or defects in the performances invoiced, the Supplier will not be entitled to suspend or terminate its performances.

Artikel 17 Quality and warranty

- 17.1 The Supplier warrants that the Delivery of Services shall be executed as agreed and that therefore inter alia the Goods supplied are new, are free from defects and third-party rights, are suitable for their intended purpose, have the agreed characteristics and comply with the relevant statutory requirements and government regulations as well as with the requirements from the health, safety, environmental and quality standards applied in the field.
- 17.2 If, irrespective of the results of any inspection, the Goods are found not to comply with the provisions in paragraph 1 of this Artikel 17, the Supplier shall repair or replace the Goods – at the discretion of and when first notified of this in writing by RWE – at its own expense, unless RWE prefers to terminate the Agreement, in accordance with the provisions in Artikel 27, paragraphs 1 and 2.
- 17.3 The Supplier shall apply a minimum warranty period of two (2) years to the Goods supplied from the moment of Delivery or – if Acceptance is stipulated as a condition for valid Delivery – from the moment of Acceptance. The expiry of the warranty period shall not affect the rights that RWE may derive from the law and the Agreement. In any case, the agreed warranty shall stipulate that the Supplier will have to repair any defect reported to the Supplier by RWE in writing within the warranty period that falls under the scope of the warranty as soon as possible and free of charge.
- 17.4 If, based on this obligation, the Supplier has carried out Works and/or has changed, repaired or replaced Goods or parts thereof, the full warranty period shall become effective again in respect of those Works, Goods or parts thereof from the

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moment of approved acceptance of the work carried out under warranty.

- 17.5 Unless explicitly specified otherwise in the documents belonging with the Agreement, the relevant European standards and specifications shall apply to the Services and Goods to be supplied. In the absence of European standards and specifications, the relevant Dutch standards shall apply to the Services and Goods to be supplied.

Artikel 18 Checks, inspections, examinations and tests

- 18.1 Checks, inspections, examinations and/or tests by or on behalf of RWE can be carried out both prior to Delivery or Acceptance and during or after Delivery or Acceptance.
- 18.2 To this end, the Supplier shall grant access to the places where the Goods are produced or stored and shall cooperate with the checks, inspections, examinations and/or tests required by RWE. That cooperation shall also include provision of the documentation and information required at its own expense.
- 18.3 The Supplier shall notify RWE in good time at its request regarding the time when checks, inspections, examinations and/or tests can be carried out, without RWE being obliged to actually have them carried out at those times.
- 18.4 The Supplier is entitled to be present during the checks, inspections, examinations and/or tests carried out by or on behalf of RWE.
- 18.5 Unless expressly agreed otherwise, the costs of checks, inspections, examinations and/or tests are to be paid by the Supplier with the exception of the costs of the personnel of RWE tasked with checking and/or its authorised representative.
- The costs of re-checking, re-inspections, re-examinations and/or retests are always for the account and risk of the Supplier, in which case the costs of the personnel of RWE tasked with checking and/or its authorised representative shall also be for the account of the Supplier.
- 18.6 If and as often as it is found during checks, inspections, examinations and/or tests prior to Delivery or Acceptance that the supplies do not meet the requirements specified, the Supplier shall make the necessary improvements immediately or ensure that they are replaced and after replacement, checking shall be carried out again. Rejection shall not constitute grounds for extending the agreed delivery time.
- 18.7 If, during checks, inspections, examinations and/or tests during or after Delivery or Acceptance, all or part of the Work carried out and/or all or some of the Goods supplied are rejected, RWE shall notify the Supplier in writing (or have them notified) of this. That notification shall be regarded as notification of default. RWE shall also give the Supplier the opportunity to still deliver in accordance with the Agreement within a reasonable period of time. If the Supplier does not avail itself of that opportunity or fails to deliver properly, RWE shall be entitled to terminate all or part of the Agreement without further notification of default. RWE shall also be entitled to do this if the Delivery is no longer possible or expedient due to its nature or destination.
- 18.8 If all or some of the Goods are rejected during or after the Delivery or Acceptance thereof, the ownership and the risk will be deemed to have remained with the Supplier and therefore never to have been transferred to RWE.
- 18.9 If checks, inspections, examinations and/or tests are carried out by means of consultation with an approved, independent and expert body, the results thereof shall be binding for the Supplier and RWE. This shall apply accordingly to re-checks, re-inspections, re-examinations and/or retests.
- 18.10 The Supplier shall be obliged to do its utmost to enable RWE or third parties acting on behalf of RWE to carry out checks on the Supplier's subcontractor(s) (or to have them carried out), all if and insofar as this relates to the Agreement.
- 18.11 If, regardless of the results of any check, inspection, examination and/or test, the result of the Delivery is found

not to comply with the provisions in Artikel 17, RWE reserves all the rights that the law and the Agreement attach to that shortcoming.

- 18.12 If, after consultation with the Supplier, it may be reasonably assumed that the Supplier cannot ensure repair or replacement in good time, properly or at all, RWE shall be entitled to repair or replace the Goods supplied itself or to arrange for this to be done, at the expense of the Supplier. This shall not release the Supplier from its obligations from the Agreement. RWE may abandon consultation if business operations or other urgent circumstances compel RWE to do so.
- 18.13 Checks, inspections, examinations and/or tests in accordance with the provisions in this article shall not release the Supplier from its obligations from the Agreement and Delivery shall not imply acceptance or transfer of risk.
- 18.14 The Supplier shall be obliged to expressly mark Goods checked or inspected as intended for RWE.

Artikel 19 Confidentiality

- 19.1 The Supplier undertakes to observe absolute confidentiality with regard to all information and data from or about RWE that the Supplier becomes aware of, directly or indirectly, and that are of a confidential nature or the confidentiality of which should reasonably be appreciated by the Supplier. Such confidential information and data shall in no way be used by the Supplier for its own use and/or shared with, made available or shown to or otherwise made accessible to third parties other than is strictly necessary within the framework of the execution of the Agreement and with prior written consent from RWE.
- 19.2 With regard to the information referred to in Article 19.1, the Supplier shall guarantee confidentiality for the term of the agreement and for three years after the termination thereof and undertakes:
- to observe all reasonable measures for the safe storage of the information;
 - to limit access to the information to persons within the Supplier's organisation insofar as that information is required for (the execution of) the agreement;
 - not to retain the information for longer than is reasonably necessary in order to execute the agreement and to make those data, including copies made, available to RWE again immediately after the complete fulfilment of the agreement or, with consent, to destroy them in which case proof of destruction will have to be provided to RWE.
- 19.3 The Supplier shall ensure that personnel it deploys are aware of the confidentiality obligations referred to in Article 19.1 and also make it obligatory for third parties it engages for the execution of the Agreement to undertake to observe the same confidentiality in writing or make those third parties sign the confidentiality agreements submitted by RWE.
- 19.4 If the Agreement is terminated, possibly early, the Supplier shall ensure that all information originating from RWE, including materials, files, documents, documentation and other data carriers containing data and/or information are made available to RWE immediately.
- 19.5 The Supplier is not permitted to publicise the conclusion and execution of the Agreement in any way or to maintain direct or indirect contact with customers of RWE without prior written consent from RWE. In addition, if the Supplier is aware of publicity in respect of RWE or should reasonably have been aware of it, it shall always refrain from actions, including after this Agreement has come to an end, that could reasonably damage the good name of RWE and/or its products and/or services.
- 19.6 Without prejudice to the right to compensation and the other statutory rights, in the case of a breach of the provisions in this Artikel 19 by the Supplier, RWE shall be entitled to collect a penalty which is immediately payable and not open for mitigation of € 5,000.00 (in words: five thousand euros) per breach and the same amount for each day that the breach continues, with a maximum of € 50,000.00 (in words: fifty thousand euros). The amount will be paid directly by the Supplier after the establishment of the breach by RWE.

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Artikel 20 Intellectual and industrial property rights and indemnification

- 20.1** All intellectual and industrial property rights, in any form whatsoever, in respect of Goods made available to the Supplier by RWE for the execution of the Agreement, including software and systems of RWE supplied by third parties, are vested exclusively in RWE, unless expressly specified otherwise.
- 20.2** All intellectual and industrial property rights, in any form whatsoever, which arise due to or as a result of the execution of the agreement by the Supplier are vested in or belong to RWE. Data carriers which the above-mentioned rights relate to belong to RWE. On behalf of itself and its personnel and insofar as it is necessary, the Supplier hereby relinquishes any so-called personality rights which may be vested in it as referred to in Article 25 paragraph 1 under (a) to (c) of the Copyright Act, to the extent to which that legislation allows for such relinquishing. The Supplier guarantees the entitlement of RWE to also carry out that relinquishing on behalf of its Personnel.
- 20.3** Insofar as applicable, the rights referred to in Article 20.2 will be transferred to RWE by the Supplier based on these Purchasing Conditions and that transfer will be accepted by RWE immediately after these rights come into existence. Insofar as a further deed is required for the transfer of such rights, the Supplier shall cooperate with the transfer of such rights to RWE at the first request of RWE, without being able to attach any conditions in connection with this.
- 20.4** The Supplier is obliged to use the material provided by RWE in such a way that there is no question of violation of any intellectual property right in respect of that material. The Supplier is obliged to mark the above-mentioned material as the recognisable property of RWE.
- 20.5** The Supplier guarantees that the use, including resale, of (parts of) the Goods it supplies and the services it carries out, or of the tools it purchases or produces for RWE, shall not infringe any intellectual or industrial property right of third parties and that the use thereof is not otherwise unlawful in respect of third parties either, in any country.
- 20.6** If the use by RWE as referred to in Article 20.5 infringes or threatens to infringe an intellectual or industrial property right of third parties, or any other right of third parties, the Supplier shall:
- acquire a right to use the relevant goods and/or tools;
 - change the relevant goods and/or tools in such a way that the infringement is eliminated;
 - replace the relevant goods and/or tools with equivalent goods that do not infringe the rights of third parties;
 - take back the relevant goods and/or tools upon repayment of the price paid for them,
- all by means of consultation with RWE, without any additional costs for RWE apart from the agreed purchase price and without the possibilities for use being more limited than those of the original goods and/or tools to be supplied.
- 20.7** In the first instance, the Supplier shall try to realise the highest ranked option in Article 20.6. If the Supplier has demonstrated that the realisation thereof is not reasonably possible, the Supplier is entitled to implement the next highest ranked option. The Supplier shall also immediately take any other measures required and notify RWE as soon as possible.
- 20.8** The Supplier shall indemnify RWE against any possible justified or unjustified claim regarding an (alleged) infringement of an intellectual or industrial property right of the Supplier or a third party, insofar as the (alleged) infringement is in connection with, arises from or is in any way related to the execution of the Agreement or the involvement of the Supplier, regardless of whether the said infringement is attributable to RWE. In the case of such a claim, the Supplier undertakes to take any measures that may contribute to the prevention of the infringement, the prevention of stagnation at RWE and limitation of the additional costs and/or damages incurred by RWE at its own expense.

- 20.9** Unless RWE expressly requests otherwise, the Supplier shall provide for the defence in any proceedings that may be instituted against RWE on account of an alleged infringement of the rights of third parties. RWE shall notify the Supplier immediately in writing of any such action and provide the Supplier with the reasonably necessary authorisations and assistance. The Supplier shall indemnify RWE against all damages and costs, including but not limited to costs that are related to proceedings or a cost award in such proceedings, and shall pay the costs of the proceedings.
- 20.10** Without prejudice to the above provisions in this Artikel 20, RWE is entitled to cancel all or part of the agreement in writing out of court, without being liable for compensating the Supplier, if third parties hold RWE liable for an infringement of intellectual and/or industrial property rights.
- 20.11** Insofar as there are costs related to the establishment of any intellectual or industrial property right, those costs shall be paid by RWE. The Supplier hereby irrevocably authorises RWE to have the intellectual property rights and/or the transfer of those rights to RWE entered in the relevant registers.
- 20.12** The Supplier shall not use trade names, trademarks or logos belonging to RWE either individually or in any kind of combination with trade names belonging to the Supplier or third parties without prior written consent.

Artikel 21 Transfer

- 21.1** The Supplier may not transfer the rights and obligations of the Supplier arising from the Agreement either as a whole or in part to third parties without the prior written consent of RWE.
- 21.2** The Supplier may not outsource the performance of the obligations of the Supplier from the Agreement either as a whole or in part to third parties without the prior written consent of RWE. The prior approval of RWE shall also be obtained for the deployment of hired personnel. RWE shall be entitled to attach conditions to the consent. Any consent shall not release the Supplier from its obligations based on the Agreement.
- 21.3** The Supplier hereby grants RWE advance consent in order to allow RWE to transfer its rights and obligations from the Agreement to a third party insofar as that third party is directly or indirectly connected to RWE in the sense of Article 2:24b of the Dutch Civil Code and has its registered office in the Netherlands.
- 21.4** If, with consent from RWE, the Supplier engages one or more third parties for the execution of the Work, the Supplier shall apply the provisions from the Agreement to the extent applicable in its agreement with that third party/those third parties, as well as the obligation for that third party/those third parties to do the same in respect of any third parties that it/they may engage with written consent from RWE.
- 21.5** Consent given by RWE under this provision shall not affect the Supplier's liability for the conduct of any third parties engaged.

Artikel 22 Liability

- 22.1** The Supplier shall be obliged to compensate any losses suffered by RWE due to or in connection with the execution of the Agreement as well as due to the actions or omissions, including unlawful actions, of the Supplier itself, its personnel or (personnel of) third parties it engages, including but not limited to (sub)contractors and other auxiliary persons.
- 22.2** The obligation of the Supplier to pay compensation based on Article 22.1 for damage to goods which are owned by and for the risk of RWE shall be limited to a maximum of:
- € 2,500,000.00 per case of damage for Agreements with a total price equal to or less than € 250,000.00, or
 - € 5,000,000.00 per case of damage for Agreements with a total price exceeding € 250,000.00.
- 22.3** In respect of the liability referred to in Article 22.1 for damage other than that referred to in Article 22.2, the Supplier's obligation to pay compensation is limited to a maximum of four times the amount of the payments made or to be made to the

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Supplier in a year per event, whereby connected events will be regarded as a single event.

- 22.1 Unless expressly specified otherwise, the Supplier and RWE shall not be liable to each other for consequential damage suffered by them in connection with the execution of the Agreement. The term 'consequential damage' is understood to exclusively refer to: loss of profit, loss of production, loss of income or supply of replacement energy.
- 22.5 The above-mentioned limitations of liability expressly do not apply in the case of (i) intent, negligence or wilful recklessness, (ii) breach of intellectual (property) rights of RWE as referred to in Artikel 20, (iii) violation of any statutory provision and (iv) for payments which can be claimed or which are made, based on any applicable insurance.
- 22.6 The Supplier shall indemnify RWE against any claims made by third parties for the compensation of losses due to or in connection with the execution of the Agreement. In this paragraph, the term 'third parties' is also understood to refer to personnel of RWE and people who are working on the instructions of RWE.
- 22.7 Unless RWE or the personnel of RWE is/are proven to be to blame, RWE cannot be held liable for any damage that may arise for the Supplier, its personnel or other persons involved by the Supplier in the execution of the Agreement, also including destruction and loss of property.
- 22.8 If RWE includes a penalty clause in an Agreement, this shall not affect RWE's right to claim fulfilment and/or compensation for losses.

Artikel 23 Non-attributable failure ("Force Majeure")

- 23.1 A failure in the performance of the Agreement which may not be attributed to the Supplier or RWE nor may be for the account of the parties to the Agreement by virtue of the law, any legal act or generally accepted practice, results in a non-attributable failure ("Force Majeure").
- 23.2 In case of Force Majeure on the part of one of the parties to the Agreement, performance of the Agreement will be fully or partially suspended for the duration of the force majeure period, without either of the parties being obliged to pay any compensation.
- 23.3 Under penalty of forfeiture of the Supplier's right to invoke Force Majeure, the Supplier must notify RWE in writing immediately, but at the latest within three (3) calendar days of the emergence of that force majeure situation.
- 23.4 If the force majeure situation for a party lasts more than thirty (30) calendar days, the other party will have the right to terminate the Agreement by a registered notice with immediate effect and without judicial intervention, without being obliged to pay any compensation. Force Majeure on the part of the Supplier in any case does not mean: lack of personnel, strikes, breach of contract by suppliers or other third parties engaged by the Supplier, failure of or defective auxiliary materials or liquidation or solvency problems for the Other Party.

Artikel 24 Insurance

- 24.1 The Supplier is obliged to take out and maintain adequate insurance to cover any liabilities and risks that arise from enquiries from, offers made to and Agreements with RWE. For Work with a value which exceeds €500,000.00, the Supplier shall consult with RWE as early as during the tender phase in order to decide who will be responsible for taking out *construction-all-risk* (CAR) insurance. Valid Compulsory Third-Party Motor Insurance must be taken out for all means of transport of the Supplier or its supplier(s) that will be used at RWE sites.
- 24.2 At the first request of RWE, the Supplier shall immediately provide (a certified copy of) the policies for which the Supplier is obliged to take out insurance based on Article 24.1, as well as proof of the payment of premiums in connection with that insurance or a statement from the insurer confirming the existence of that insurance.

- 24.3 If, in respect of any liability towards RWE, the Supplier is entitled to claim payment under an insurance contract, then the Supplier must ensure that the payment is made directly to RWE.
- 24.4 Insurance by the Supplier shall not result in any limitation of its liability or in the joint liability of RWE.

Artikel 25 Recipients' and vicarious tax liability

- 25.1 If and insofar as the recipients' and/or vicarious tax liability based on Article 34 and 35 of the Collection of State Taxes Act 1990 may apply to the Agreement, the Supplier must comply with all the obligations arising from this act.
- 25.2 The Supplier is obliged to cooperate in:
- the creation of guarantees for the contribution of taxes and national insurance contributions connected with the work, and
 - the indemnification against the wage and turnover tax and/or social security contributions of RWE in connection therewith by means of the use of a so-called G account with a bank institution or a deposit account with the Dutch Tax and Customs Administration.
- 25.3 The Supplier shall guarantee that its invoice complies with the invoice requirements pursuant to the laws and legislation (in particular the decree of 6 December 2014, no. BLKB 2014-704M) and the Supplier shall keep a register of the persons who were hired or performed work for RWE on a (sub-)contracting basis and the days on which the persons carried out for RWE as well as the hours worked. That register will also contain the name, date of birth and, if required by law, the Citizen Service Number (BSN) of the persons concerned. Should RWE deem it desirable for more information to be recorded and/or provided, then the Supplier shall record or provide that information immediately at the first request of RWE. The Supplier shall guarantee that the persons in question cooperate with this. The Supplier must also declare to RWE that the persons in question were in the paid employ of the Supplier at the time of performance of the services.
- 25.4 If and insofar as the circumstances as referred to in Article 25.1 apply, the Supplier shall also specify the following on the invoice:
- the G account number with the bank institution that part of the invoice amount must be paid to;
 - a description of or reference for the work to be paid for, as well as the wage amount pursuant to Article 10 of the Wage Tax Act 1964;
 - the number of or reference for the agreement based on which the Supplier provided personnel, and
 - the period during which that/those performance(s) was/were carried out.
- 25.5 The percentage of the invoice amount that must be paid to the G account for national insurance and wage tax and, if applicable, turnover tax will be at least 25% depending on the type of SNA (Labour Standards Foundation) quality mark or in the absence of the SNA quality mark, 40%.
- 25.6 The provisions in Article 25.4 and 25.5 shall not apply if the Supplier has an SNA register and a so-called exculpation statement from the Tax and Customs Administration which shows that the Supplier has provided the Tax and Customs Administration with security for the payment of wage tax and turnover tax. The Supplier must provide RWE with this exculpation statement on an annual basis.
- 25.7 At the request of RWE, the Supplier is to ensure that invoices are accompanied by or refer to the register which shows the days on which persons were deployed in order to perform services and for how many hours per day.

Artikel 26 Compliance with the Labour Market Fraud (Bogus Schemes) Act

- 26.1 The Supplier shall comply with the applicable laws and legislation relating to conditions of employment and the CLA that applies to its employees when providing the Services and shall lay down all the agreements on employment conditions

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for providing the Services in a transparent and accessible manner.

- 25.2** If requested to do so, the Supplier will immediately provide competent authorities with access to the agreements in relation to the terms and conditions of employment referred to in Article 26.1 and will cooperate on any checks, audits or wage validations required.
- 25.3** If requested to do so, the Supplier will immediately provide RWE with access to the agreements in relation to the terms and conditions of employment referred to in Article 26.1 while taking account of the applicable privacy laws and legislation should RWE deem this necessary in connection with the prevention or processing of a claim for wages in respect of work connected with the performance of the Services.
- 25.4** The Supplier is obliged to impose all the obligations arising from this article on all the parties with whom it concludes agreements for the performance of Services and also to stipulate that those parties in turn impose all those obligations on all the parties with whom they conclude agreements for the performance of the Services.

Artikel 27 Termination of the Agreement

- 27.1** RWE is entitled to terminate or suspend all or part of the Agreement at any time with immediate effect without giving reasons, unless otherwise agreed in writing.
- 27.2** Without prejudice to the other provisions in the Purchasing Conditions, RWE is entitled to suspend, terminate or cancel the Agreement at its discretion, without further notification of default and without judicial intervention, if:
- the Supplier applies for or is granted the suspension of payment;
 - the Supplier files for bankruptcy or is declared bankrupt;
 - the Supplier loses the power to dispose of all or some of its assets due to seizure, placement in receivership or otherwise and does not regain that power within four (4) weeks;
 - the Supplier ceases trading;
 - the Supplier's (direct or indirect) control over the activities of its business or part of its business is transferred to a third party whereby the Parties also refer to a merger as referred to in Article 1 sub d of the SER Resolution concerning the Merger Code 2000;
 - the Supplier has incurred a penalty as specified in Article 19.6 on more than two occasions;
 - the Supplier no longer holds the permits required for the performance of the Agreement;
 - the Supplier must otherwise reasonably be deemed no longer able to fulfil its obligations towards RWE.
- 27.3** All claims that RWE has on the Supplier shall be payable in full immediately in the cases mentioned in Article 27.1.
- 27.4** In the event of early termination of the Agreement as referred to in Article 27.1 and 27.2, the Supplier shall only be entitled to payment of the following:
- payment for the Goods and/or Services supplied in accordance with the Agreement;
 - demonstrable additional costs approved by RWE that the Supplier has incurred or shall reasonably have to incur on account of termination of the Agreement, other than any compensation for loss of production, loss of profit and financial loss suffered.
- 27.5** In the event of early termination due to an attributable failure, the Supplier shall only be entitled to payment for the Goods and/or Services supplied in accordance with the Agreement. RWE is entitled to offset any costs and compensation against this amount. Any overpayment by RWE shall be payable immediately.
- 27.5** In the event of termination for whatever reason, the Supplier shall immediately:

- stop the execution of the Agreement in a safe and responsible way;
 - enable RWE to take over execution of the Agreement and all materials and/or goods;
 - remove equipment and any other property belonging to the Supplier and/or personnel of the Supplier from the RWE site, unless otherwise agreed;
 - at the request of RWE, transfer all rights and obligations that the Supplier has entered into with its suppliers with regard to the execution of the Agreement to RWE in writing.
- 27.7** Failure by RWE to demand compliance shall not affect any of its (other) relevant statutory rights.

Artikel 28 Safety, health and the environment

- 28.1** The safety, health and environmental (SHE) regulations and policy statement of RWE form part of the Agreement. Further regulations and/or instructions as included in the Agreement may apply to specific Services or Goods.
- 28.2** The Agreement shall only apply within the framework of the agreed work and the applicable general and specific rules. The risks and control measures that are important in this respect must be recorded in writing in an SHE plan prior to the commencement of the Work, based on an RI&E and/or TRA.
- 28.3** Any delay during Delivery which is due to compliance with the SHE or further specific regulations which the Supplier may reasonably be expected to be aware of shall not be regarded as force majeure. Therefore RWE may suspend the execution of the Delivery and/or Services, without being liable for any form of compensation as a result.
- 28.4** At the time of carrying out the work, the Supplier must hold a valid VCA */** or OHSAS 18001:2007 certificate or have an equivalent safety management system. Any equivalence must be demonstrated by means of an audit carried out by an independent safety certification body and a certificate issued in that respect. All requirements that are stipulated based on the certificate shall apply in full to all the Work. If the Supplier is a natural person practising a profession or running a business, he must hold a VOL-VCA diploma and a VCA certificate issued by an independent safety certification body based on the VCA items determined by RWE.
- 28.5** If (part of) the Work is carried out by subcontractors, the SHE conditions from the Agreement shall apply to the Work in full. Subcontracting must be reported in writing and must be approved by RWE.
- 28.6** Before the commencement of the Work, the Supplier must submit a schedule which shall include:
- weekly safety rounds at the work site where the findings must be recorded in writing and control measures must be taken if deviations are found;
 - toolbox meetings whereby it must be taken into account that items for discussion may be presented by RWE depending on their topicality;
 - determination of the project-related risks, including the preparation and performance of task-related risk analyses and consultations held and/or instructions issued in response to those.
- 28.7** The Supplier shall be obliged to comply with all the requirements from the Working Conditions Act, the Working Conditions Decree and other statutory requirements that apply in respect of its organisation.
- 28.8** The Supplier shall ensure and undertake to make sure that it and any suppliers it engages shall observe the SHE conditions stipulated in these Purchasing Conditions and any additional regulations from the relevant RWE site.
- 28.9** The Supplier must keep a record of SHE statistics, based on the LTIF (Lost Time Injury Frequency). The LTIF is determined by multiplying the number of lost time incidents by 1,000,000 and then dividing this by the number of hours worked. The SHE targets will be determined annually for each project and must be included in the SHE plan for the implementation phase.

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- 28.10** All operational personnel deployed by the Supplier, including operational managers, must have a Personal Safety Logbook (PSL) and present it for inspection when requested to do so by a designated RWE employee.
- 28.11** All the Supplier's operational personnel must hold a valid B-VCA diploma or equivalent (equivalence shall be determined in accordance with the VCA attainment levels):
- All operational managers must hold a valid VOL-VCA diploma or equivalent (equivalence shall be determined in accordance with the VCA attainment levels).
 - All employees who are involved with the work permit system and the internal procedures of RWE must have received instruction in these procedures and the details must be recorded in their Personal Safety Logbook (PSL).
 - All employees who carry out work as specified in the Directory of Training in High-Risk Work must hold a corresponding valid diploma for such work.
- 28.12** Before the commencement of the Work, the persons tasked with the performance of the Work by the Supplier must follow the procedures and access instructions of RWE. Those instructions have a limited period of validity and must be recorded in the Personal Safety Logbook (PSL).
- 28.13** At the request of RWE, the Supplier and its employees must attend all company-specific information and instruction meetings to be held by RWE.
- 28.14** The Supplier shall ensure that details of the communication and consultation structure are included in the SHE plan for the implementation phase based on use of the Dutch language, unless otherwise specified in the Agreement.
- 28.15** The Supplier must ensure that all safety documentation and communication made available by RWE is available in a language spoken by its employees.
- 28.16** Before execution of the Work is started at the RWE site, consent must be granted by the authorised representative of the site in question.
- 28.17** All materials and resources, including personal protective equipment, must comply with all laws and legislation and related requirements.
- 28.18** The Supplier must familiarise itself with the company emergency plan and the evacuation instructions of the RWE site where the Work will be carried out. At the work site, the Supplier must at least ensure that the number of employees with first aid and/or in-house emergency training complies with the number stipulated by RWE.
- 28.19** The Supplier must monitor the details from Article 27.6 and 28.9 and evaluate it on a regular basis and adjust the action plan if necessary. The method of reporting, frequency and content-related aspects shall be established by RWE.
- 28.20** The Supplier must report all accidents and incidents and carry out an investigation by applying a method of investigation such as Tripod, fact tree analysis or equivalent. The results of the investigation and control measures must be reported to RWE. RWE reserves the right to carry out its own investigation independently or in conjunction with the Supplier.
- 28.21** The Supplier must draw up an audit schedule for the term of the Agreement. The Supplier must follow the audit schedule and the audits must focus on the project-specific risks. Reports and improvement actions must be reported to RWE.
- 28.22** The conditions specified in this Artikel 28 and any other safety regulations and instructions applied by RWE may be changed and/or supplemented by RWE at any time insofar as it is reasonably necessary to do so as part of the execution of the Agreement on account of the amended safety, health and environmental requirements. The Supplier shall be bound to comply unconditionally with the above-mentioned changes/additions.

Artikel 29 Hazardous substances

- 29.1** The term 'hazardous substances' is understood to refer inter alia to:
- general chemicals;
 - cleaning agents and thinners;
 - substances intended for use in laboratories and research;
 - mounting tools;
 - adhesives and covering agents;
 - insulating material;
 - industrial chemicals;
 - sealants;
 - lubricants;
 - industrial gases.
- 29.2** In the case of all hazardous substances which are used at RWE sites, the Supplier shall ensure the presence of a safety data sheet which complies with the requirements stipulated in the REACH regulation and the Environmental Management Act. The operational personnel must be aware of how to find the information required.
- 29.3** The Supplier is and shall remain responsible for ensuring that the hazardous (waste) substances it uses are stored, packed, disposed of, processed and treated correctly, unless otherwise agreed in writing.
- 29.4** The Supplier must provide a workplace hygiene programme for operational personnel who are exposed to hazardous substances at RWE sites.

Artikel 30 Social responsibility

- 30.1** The Supplier shall act in accordance with the applicable national and international laws and legislation relating to human rights, the environment, working conditions and employee welfare and safety at all times.
- 30.2** The RWE Code of Conduct (hereinafter: the "CoC") forms part of these Purchasing Conditions. The CoC applies to RWE and its affiliated parties, subsidiaries or the German RWE SE concern and provides clarity and guidance in matters relating to own responsibility. The CoC defines how employees should act on behalf of their company. RWE considers it important to convey these principles to its affiliated parties and requires them to comply with the CoC. The CoC is published at: <http://www.rwe.com/web/cms/nl/3085368/rwe-generation-se/contractor/procurement/duurzaam-inkopen/>.
- 30.3** By accepting these Purchasing Conditions, the Supplier declares that it has received the CoC and accepts the content thereof.
- 30.4** RWE requires the Supplier, its personnel or (personnel of) the third parties it engages, including but not limited to (sub)contractors and other auxiliary persons, to endorse and comply with the Global Compact of the United Nations (hereinafter: the "GC"). Therefore the GC forms an integral part of the Agreement between RWE and the Supplier. The Supplier hereby declares that it is familiar with the principles thereof, as published at: <https://www.unglobalcompact.org/what-is-gc/mission/principles>.
- 30.5** The Supplier shall act in accordance with the CoC and the GC when executing the Agreement.
- 30.6** RWE shall consult the Supplier in order to see to it that the CoC and the GC are complied with. If RWE deems it appropriate, an audit may be carried out by a third party to be appointed by RWE. The Supplier shall give its full unconditional cooperation with this and acknowledges that possible findings may have a detrimental effect on its relationship with RWE.

Artikel 31 Applicable law and the settlement of disputes

- 31.1** The legal relationship between the Parties, the Agreement, the offer and these Purchasing Conditions shall be governed exclusively by Dutch law.

GENERAL TECHNICAL PURCHASING CONDITIONS



- 31.2 The applicability of the provisions from the United Nations Convention on Contracts for the International Sale of Goods 1980 (Vienna Sales Convention, TS 1981, 184 and 1988, 61) is excluded.
- 31.3 Any disputes between the Parties, including disputes relating to the content or the explanation of these Purchasing Conditions or the conclusion, content or execution of an Agreement, shall be settled by the competent court in the district of East Brabant in 's-Hertogenbosch or by the competent court in the district where the legal entity belonging to or affiliated to RWE has its registered office.

Artikel 32 Translation

- 32.1 These Purchasing Conditions were originally drawn up in Dutch. The Dutch text of these Purchasing Conditions will always prevail over the translations thereof which may or may not have been sworn.