

## **General Terms and Conditions for Contracts for Work and Labour** (Version 2019)

This English version of the General Terms and Conditions shall be considered solely a translation of Swissgrid's General Terms and Conditions for Contracts for Work and Labour originally drafted in German, French or Italian. In the event of any dispute relating to the interpretation of the General Terms and Conditions, the original version provided together with this translation shall prevail.

### **1. General**

- 1.1. These General Terms and Conditions («GTC») govern the conclusion, content and performance of contracts for work and labour between Swissgrid Ltd as customer (hereinafter referred to as «Swissgrid») and the supplier (hereinafter referred to as «Contracting Party»).
- 1.2. Arrangements between the Contracting Party and Swissgrid that amend or add to the contract or the GTC shall only be valid if made in writing in the contract or a supplement to the contract.

### **2. Performance of the contract**

- 2.1. The Contracting Party may call in a subcontractor where the contract for work and labour provides for this in general or for a specific work. If the contract does not provide for consultation, such consultation shall require the express permission of Swissgrid; consultation shall not require permission if it only relates to an insignificant part of the work and does not impair the execution in accordance with the contract. The Contracting Party shall remain responsible for ensuring that the performance of obligations by the contracted third parties are in conformity with the contract.
- 2.2. The Contracting Party shall only employ carefully selected and well-trained staff. In doing so, it shall observe in particular Swissgrid's interest in continuity of personnel. On first request by Swissgrid, the Contracting Party shall replace employees who, in the view of Swissgrid, (i) do not possess the required professional skills, (ii) ignore safety/security instructions or the internal rules at Swissgrid, (iii) behave improperly at

the deployment location, or (iv) compromise performance of the contract in any other way.

- 2.3. The Contracting Party agrees to comply with Swissgrid's Code of Conduct as a minimum standard (version as published at [www.swissgrid.ch](http://www.swissgrid.ch)) where the obligations specified therein not only apply to Swissgrid employees. It shall specifically avoid conflicts between its own interests and those of Swissgrid. The Contracting Party shall inform Swissgrid promptly about potential conflicts of interest.

### **3. Swissgrid's rights to monitor**

- 3.1. Swissgrid shall at all times have a comprehensive right to monitor and be given information on the progress of work and all parts of the contract. In particular, Swissgrid shall be entitled at any time to access and verify all documents of the Contracting Party which are related to the performance of the contract.
- 3.2. Swissgrid shall be entitled to inspect the quality of works at any time, either itself or through a third party. The result of such inspections shall not be deemed approval of the works in relation to the Contracting Party.
- 3.3. Upon request by Swissgrid, the Contracting Party shall at any time give account of its business conduct and shall provide all documentation, such as interim reports, calculations, etc., which it prepared in connection with the contract.

### **4. Swissgrid's right to instruct**

Swissgrid shall be entitled to issue instructions to the Contracting Party within the scope of contract performance. The

Contracting Party shall notify Swissgrid in **writing** (in terms of a strict form requirement according to Art. 16 OR) without delay of any detrimental consequences of its instructions, in particular with regard to deadlines, quality and costs, and shall advise against any inexpedient instructions and requests. Should Swissgrid maintain its instructions in **writing** (in terms of a strict form requirement according to Art. 16 OR) despite prior written warning by the Contracting Party, the Contracting Party shall not be liable for its consequences.

## 5. Remuneration

- 5.1. The remuneration stipulated in the contract shall be compensation for all services to be provided for proper performance of the contract. Remuneration shall in particular also cover the transfer of rights, all documentation and material costs as well as expenses, licence fees and public levies.
- 5.2. Any overrun of an agreed cost ceiling shall be borne by the Contracting Party unless Swissgrid has given its **written** (in terms of a strict form requirement according to Art. 16 OR) consent to a change in the order, or it can be proved that Swissgrid is itself responsible for the additional costs.
- 5.3. Swissgrid reserves the right to deduct from the fee any additional costs and/or cost overruns for which the Contracting Party is responsible. Swissgrid shall remain entitled to claim compensation for damages in all events.

## 6. Subcontractors

- 6.1. The Contracting Party shall be obliged to punctually pay the bills of its agents, subcontractors and suppliers for contractual performance of the work.
- 6.2. The Contracting Party must declare upon each invoice that it has paid its subcontractors and suppliers according to the contracts concluded with them.
- 6.3. On request, the Contracting Party shall provide Swissgrid within 20 days with a list showing whether there are any outstanding claims by suppliers, subcontractors and sub-agents.
- 6.4. The Contracting Party shall in addition indicate upon every invoice all proceedings

(criminal law, administrative law, labour law) that are pending in its case or in the case of its suppliers, subcontractors and sub-agents in connection with the work executed for Swissgrid.

- 6.5. Swissgrid shall be entitled – after prior hearing of the Contracting Party – to make payments directly to agents, subcontractors, sub-agents or suppliers of the Contracting Party with discharging effect vis-a-vis the Contracting Party to the extent of the respective payment. If the Contracting Party can prove within 14 calendar days from receipt of the notification that it has retained the payment with good reason, Swissgrid may not pay the agents, subcontractors, sub-agents or suppliers directly.
- 6.6. Swissgrid shall be entitled in the event of the provisional or definitive entry of a building contractor's lien to retain the corresponding amount at the next due payment. The Contracting Party must be informed immediately by Swissgrid of the entry of the building contractor's lien. It shall be obliged to provide an adequate surety pursuant to Art. 839 para. 3 Swiss Civil Code within 10 days since the notification to permit the entry to be deleted again in the Land Register. If a contract guarantee has been agreed, it must also ensure this obligation of the Contracting Party. The retention must be released immediately as soon as the Contracting Party has met its obligation to provide the surety.

## 7. Warranty and guarantees

- 7.1. The Contracting Party warrants that the work has the assured characteristics as agreed and warranted, as well as those characteristics that Swissgrid could expect in good faith, even without a particular agreement. The Contracting Party furthermore warrants that it shall hand over any work under this contract with all assured characteristics as agreed, warranted and in good faith to be expected characteristics for use as specified, and that the work complies with the relevant statutory provisions.
- 7.2. The assertion of warranty claims is governed by Art. 165 et seq. SIA Norm 118 (2013), in particular Art. 169 SIA Norm 118 (2013)
- 7.3. Assertion of claims for consequential damages is expressly reserved.

7.4. The Contracting Party warrants that it and third parties contracted by it possess all the rights to provide the services as specified in the contract. It is obliged in particular to grant Swissgrid the rights to the work results to the extent agreed in the contract.

7.5. The Contracting Party warrants that it shall use and copy all documentation provided by Swissgrid, including documentation in electronic format, only for the purposes of service performance. In this respect, Swissgrid warrants that use of documentation by the Contracting Party does not infringe any third-party property rights.

## **8. Acceptance procedure**

8.1. The Contracting Party shall notify Swissgrid of completion of the works by sending a written acceptance request. Any agreed interim inspections or additional acceptance procedures shall be notified in the same manner. The Contracting Party shall obtain written confirmation of the acceptance procedure and the agreed date. The acceptance procedure shall be recorded in a protocol and the protocol signed by both parties.

8.2. The contracting parties shall agree the acceptance procedure and the date of acceptance.

8.3. If no defects are apparent during the inspection, the performance shall be accepted when the protocol is signed. If only immaterial defects are apparent during the inspection which do not, or only insignificantly, impair use of the work, performance shall nonetheless be accepted when the protocol is signed. The Contracting Party shall remedy the identified defects as part of the warranty services.

8.4. Should material defects become apparent during inspection which render commissioning of the work unreasonable, acceptance shall be deferred and the parties shall agree a new acceptance date after rectification of the identified defects. If this inspection also reveals material defects and if the parties fail to agree on how to proceed, the contract shall end and all payments shall be refunded. The parties shall remain entitled to claim compensation for damages.

8.5. Upon acceptance of the work, the Contracting Party shall submit a declaration by its

subcontractors and suppliers confirming that they have been paid for their services in accordance with the concluded contracts and that they waive the right to register a building contractor's lien where this would be permissible due to the nature of the matter.

8.6. The Contracting Party must notify the completion of the entire work, even if Swissgrid makes use of it.

## **9. Interruption of work**

Any interruption of work does not entitle the Contracting Party to any additional compensation, unless it can prove that Swissgrid was at fault for the interruption. However, any deadlines or periods of grace that would otherwise give rise to default pursuant to the contract shall be extended for the duration of the interruption of work.

## **10. Social security**

10.1. If the Contracting Party is a legal entity, it shall make the necessary registrations as an independent company for itself and its employees with the social security agencies. If the Contracting Party is not a legal entity, it must prove, on submission of the quotation, that it is a member of a compensation fund as a self-employed person.

10.2. The Contracting Party is responsible for all social security contributions (in particular old-age and survivors' insurance (AHV), disability insurance (IV), unemployment insurance (ALV)) or other compensation benefits, particularly in the event of accident, illness, disability and death in connection with the agreed services; Swissgrid does not accept any responsibility in this respect.

## **11. Maintenance of confidentiality**

11.1. Confidentiality shall be observed even before contract conclusion. This obligation shall continue to apply for ten years after the ending of the contractual relationship, irrespective of the reasons for terminating the contractual relationship, and of the terminating party. Statutory obligations shall continue to apply.

11.2. If the Contracting Party wishes to use this contractual relationship for advertising purposes, or publicize it, the prior written approval of Swissgrid shall be required.

**12. Copyright and other property rights**

- 12.1. The Contracting Party transfers to Swissgrid all industrial property rights (intellectual property rights and ancillary copyrights, as well as expectancies to such rights) to work results that arise in the course of the performance of the contract. It shall waive the exercise of non-transferable personal rights.
- 12.2. The Contracting Party shall retain all pre-existing industrial property rights that do not stem from the scope of the performance of the contract.
- 12.3. Swissgrid shall be granted a transferable, non-exclusive licence, without restriction in terms of time, location and matter, in relation to pre-existing property rights to parts of agreed work results. This licence shall enable it to use and dispose of the work results.
- 12.4. The Contracting Party is obliged to hand over the work to Swissgrid at the time of acceptance free of any third-party rights, in particular third-party claims relating to the work, the materials, machines or installations used, on the basis of ownership rights or other protective rights. The Contracting Party shall support Swissgrid in the assertion of these rights in court and shall be obliged to reimburse Swissgrid for any use and legal costs.

**13. Document storage**

- 13.1. The Contracting Party shall store all documents and documentation that are related to this contractual relationship and that have not been passed to Swissgrid as originals for at least 10 years from the date on which the contract ends. The documentation shall be stored free of charge in the same condition as when it was prepared.
- 13.2. The Contracting Party must properly store (electronically or physically) all documents provided by Swissgrid for 10 years.