

## 1. Definitions

"HPP" means Hydro Power Plant SAS, located at 22-24 avenue de Saint Ouen 75018 Paris

"Contract" means the Contract concluded between HPP and the Client which is composed of the following documents:

- 1 - The Proposal of HPP and its appendices
- 2 - The present General Terms and Conditions

In case of discrepancy or difference between the documents constituting the Contract, the priority of documents shall be in accordance with the above list.

"Contract Price" means the price which HPP is entitled to receive by the Client for the supply of the Equipment and which is indicated in the Proposal.

"Equipment" means the supply and associated services provided by HPP to the Client pursuant to the Contract as detailed in the Proposal.

"Party" or "Parties" means HPP or the Client as the case may be or collectively HPP and the Client.

"Proposal" means the technical and financial proposal submitted in writing by HPP to the Client.

## 2. General provisions

These General Terms and Conditions apply to the supply of equipment with or without installation, or the provision of services of all types as defined in the Contract. The Client is a professional person/entity and he is an expert of the same specialization. Acts and failures to act of the Client's employees, agents, assigns, representatives, and auxiliary persons, shall be deemed as acts or failures to act of the Client.

Unless any other contrary written agreement between the Parties exists, the content of this document shall prevail over all purchase terms and conditions. When signing the Proposal of HPP, the Client shall be deemed to accept these General Terms and Conditions. All modifications of the Contract terms or additional requests have to be agreed in writing by both Parties. Unless contrary mentioned in the Proposal, it shall be valid for a period of THIRTY (30) days from the date of issue.

The Client shall clearly and sufficiently define the characteristics of the Equipment he orders (in particular their expected performances and functionalities). However, such definition shall only be binding on HPP as far as HPP agrees. Furthermore, the Client must supply, at the time of placing the order, any proof of administrative authorization that may be reasonably required. During HPP'S performance of the scope of supply and services, the Client may only alter such scope with HPP'S written consent.

## 3. Execution terms

### 3.1. Obligations of HPP

HPP shall provide the Equipment in accordance with the Contract and shall use its ability, care, and diligence in accordance with the relevant "Règles de l'Art". HPP may sub-contract the performance of part of the Services.

### 3.2 Obligations of Client

The Client agrees to assist and cooperate actively and regularly for the execution of the Contract.

- a) The Client shall supply HPP, all documents and information necessary, free of charge and without undue delay.
- b) The Client provide all necessary assistance (including but not limited to access to the site, visas, repatriation, customs clearance...).
- c) If applicable, the Client shall provide HPP, the material resources (facilities, desks, telephone, tools...) necessary, free of charge and without undue delay. HPP shall not be held responsible for normal wear and/or any damage resulting from a professional use of such material.
- d) The Client shall pay the Contract Price.

## 4. Delivery Date

4.1. The Delivery Date is defined in the Proposal. The commitments relating to the Delivery Date can only be satisfied if the Client complies with its own obligations (including providing and validation of documents and down payment). Any delay in performance of Client's obligation shall lead to the corresponding postponement of the Delivery Date. Moreover, the Client shall also bear any expenses relating to the delay of the Contract execution (i.e. including but not limited to the idle time and any renting of handling equipment).

4.2. The Delivery Date shall be automatically extended in the event of delay not exclusively attributable to HPP or in case of Force Majeure.

4.3. Unless stated elsewhere, any delay due to HPP shall

not give the Client the right to terminate the Contract. The Client agrees that the Delivery Date is not determinant of his consent to the Contract.

## 5. Transportation

Once the Equipment is ready for dispatch, the Client has a period of 15 days to collect them. After that, the Client will be charged for storage at a rate equal to 1% of the price of the Equipment for each month started.

The delivery and transfer of risk shall take place according to the EXW, workshop address, ICC INCOTERMS 2020. It is the responsibility of the Client to check that the supply is in good condition at the moment of delivery. The Equipment are loaded and unloaded by the Client under his entire responsibility and loading and unloading must be done properly and promptly, immediately after arrival. Any waiting time will be for the Client's account, even in the event that transportation is part of HPP's scope.

If it is impossible to unload the Equipment for reasons not attributable to HPP, the Client shall find under his own responsibility and at his own risk a place where the good can be temporarily stored and shall bear all the costs incurred by HPP for such reason.

In any case, it is the Client's responsibility to notify the carrier and to make the necessary reservations to the carrier, if the goods delivered are found to be damaged, if any items are missing or the wrong references have been applied. Any product which has not been the subject of such reservations set forth in a registered letter with acknowledgment of receipt sent to the carrier within 3 days of its receipt, with a copy being sent to HPP at the same time, will be considered as accepted by the Client. Marking the documents with "subject to confirmation" or "pending inspection" has no legal value and cannot be considered as an official reservation made to the carrier. If the Client expressly makes a reservation, he must keep the respective Equipment in the best possible conditions, until they can be expertly examined by carrier's insurers, if requested.

The Client may not take any action for nonconformity more than ten days after his receiving of the Equipment and in case the Client does not detect a defect within such period, the 10 days shall start running when a reasonable Client would detect the defect. It is expressly agreed that after such period of ten days, the Client may not invoke the nonconformity nor make use of it in a counterclaim to defend itself in the event of legal proceedings to recover outstanding debts taken by HPP. Defects and damage to the Equipment delivered caused by abnormal conditions of storage and/or conservation on the Client's premises, in particular in the event of any accident of any nature whatsoever, shall not be HPP's responsibility.

## 6. Transfer of ownership

Ownership of the Equipment from HPP to the Client shall only be transferred after complete payment of the Contract Price by the latter. Any clause to the contrary, contained in particular in the Client's general terms of purchase, is deemed unwritten.

## 7. Contract Price

7.1. The Contract Price shall be in Euros, and not including taxes.

7.2. The timing of the request for payments shall be issued as stipulated in the Proposal. Unless stipulated otherwise in HPP's proposal the Contract Price is payable as follows:

- "Order": 30% payment on HPP accepting the order,
- "Intermediate invoicing": 30% payment 8 weeks after beginning of the Contract performance,
- "Purchase order of the main equipment": 30% payment after invoicing,
- "Readiness for Dispatch": 10% payment before transportation

The Contract Price corresponds exclusively to the supply and services specified in the Proposal of HPP. Under no circumstances shall the performance of the services be subject to a fixed price.

The prices are set out on the basis of the economic conditions at the time of issuing the Proposal and are subject to adjustment according to the variations in the price of raw materials and the impact of economic and social events.

Furthermore, any delay in payment will automatically and without any further notice lead to the application of delay interest equal to 10% of the due amount per annum, without prejudice to any other action that HPP

may be entitled to take in this respect against the Client. The Client shall then reimburse to HPP all the costs incurred by the latter to recover the owed amounts, including court and lawyers' fees. In the absence of payment of only one of the invoices upon due date all invoices not yet paid shall be deemed to be paid immediately, and HPP may suspend temporarily the execution of the Contract until all the invoices have been paid.

HPP reserves the right to ask the Client, at any time during the performance of the Contract, to provide a payment security in form of a bank guarantee issued by a European bank acceptable by HPP. In case the Client does not provide such bank guarantee within 14 days from receipt of the respective request, HPP shall have the right to suspend performance of its obligations, without the Client being entitled to claim any kind of damages for such suspension.

Except as otherwise stipulated, payments shall be made 30 days after the date of issue of the invoice by bank transfer.

Any complaint or claim made by the Client will not delay or suspend payments.

## 8. Installation services

If the parties agree that installation of the supply shall be part of HPP'S obligations, it is the responsibility of the Client to check and ensure the appropriate conservation and custody of the Equipment until the HPP teams start with the installation service.

Unless stipulated otherwise in the Proposal, the HPP teams shall not be obliged to carry out the installation work outside of normal working hours and days (from 8 am to 6 pm, from Monday to Friday). If HPP cannot complete installation works within the agreed time frame without carrying out the work outside of such normal working hours and days, the agreed time frame shall be postponed accordingly unless the Parties agree on supplementary working hours and the corresponding supplementary remuneration to HPP. It is the Client's responsibility that all the necessary interfaces (e.g. building, other machines parts, cables, piping, etc.) are in the condition defined in the technical specification, and that the necessary electricity connections are available. The cost of all modifications necessary for the performance of the installation works and notified by HPP to the Client will be borne exclusively by the Client. Unless special arrangements have been agreed between the Parties, it is also the responsibility of the Client to provide, at his own expense all the lifting and handling equipment, any scaffolding that may be necessary, and any complementary masonry work or electricity supply.

The Client shall pay to HPP for any unforeseen accessories found to be needed, any extra installation costs inherent in particular circumstances (such as non-compliance with the initial drawings) an extra charge to be determined by HPP according to its current price sheets.

If any factor under the responsibility or control of the Client, such as (but not limited to) the state of the jobsite prevents or hinders HPP from performing its obligations, HPP shall be entitled to suspend performance of its obligations. The cost for finishing the works shall be borne by the Client and the Client shall pay to HPP any extra travelling costs to the site along with any other expenses that may arise from such circumstances. In order to end the suspension and restart the installation, the Client shall prove to HPP that the circumstances that gave rise to the suspension do not exist anymore. Unless special arrangements have been agreed by the Parties, the installation services shall be deemed accepted when the final invoice is issued or as soon as an intermediate invoice is issued in the event of work carried out in stages, however in no case later than commercial operation of the power plant.

## 9. Duration

The Contract shall be deemed to be effective on the date of its signature by the Client, to have a commencement date on first payment and to terminate on the end of Warranty period.

## 10. Acceptance

The Equipment shall be subject to a written acceptance by the Client. In any case, the Acceptance of the Works will be deemed to take place on the date any one of the following events occurs whichever occurs first:

- Completion of commissioning
- Commercial operation by the Client or its client

- In the event that project execution is delayed for reasons outside HPP's control, not later than six (6) months from the date of readiness for dispatch of the Equipment

### **11. Warranty Period**

Warranty Period shall be of 12 months from Acceptance, but no longer than 18 months from the date of readiness for shipment of the Equipment in case of delay not attributable to the HPP.

During this Warranty Period, in case the of defects of the Equipment, the Client shall notify HPP by written. Thereof HPP shall be responsible for making good the defective piece or part of the Equipment in a reasonable time. For such purpose, HPP shall have the right to repair, modify or replace at his own decision. Warranty and liability for defects is strictly limited to the repair or replacement of the equipment affected by a defect, and any other compensation of any kind whatsoever shall be excluded. Any remedied defects will extend the Warranty Period for the modified or replaced equipment by a duration equal to the duration powerplant non-operation for repair, if any, within the limit of 24 months after first readiness for dispatch of the Equipment.

HPP's Warranty Period shall be limited to title, defects in design, workmanship, and materials. Contractor's Warranty shall expressly exclude availability, erosion and corrosion, wear and tear, lake of replacement of consumables, lubricants, improper operation and/or maintenance, third party repairs or modifications, lightning, network faults, out of specification use (included but not limited to an improper use out of the operating range, especially in term of head and discharge), Force majeure or any other event out of control, and flooding.

### **12. Liquidated Damages**

The right to request liquidated damages for performance and/or delay shall constitute the Client's sole and exclusive remedy for each and all damages incurred or to be incurred due to the failure to achieve the respective obligation that entitled the Client to request such liquidated damages except for the right of termination of the Contract in case the Client's damages for reasons of the HPP's delay and/or performance exceed the maximum liquidated damages cap.

**12.1** In case of delay on the Delivery Date, and only if HPP's delay shall have proven negative impact on the commercial operation of the power plant, Client shall be entitled to request from HPP the payment of liquidated damages for delay as a compensation upon the following basis:

- 0.3 % of the Contract Price per each full week of delay
- Maximum liquidated damage for delay shall be limited to 5% of the Contract Price

In the case where several groups are supplied under the Equipment, liquidated damages are applied only to the single group(s) in delay in proportion to the Contract Price.

**12.2** In case of failure to meet the nominal power output defined in the Proposal (at nominal discharge and nominal net head), HPP shall have the right to correct the cause for such failure by the means he deems appropriate. If HPP fails to correct the defect within a reasonable time, the Client shall be entitled to request from HPP the payment of liquidated damages for performance as a compensation upon the following basis:

- 0.05 % of Contract Price for each 0.1% of lack of power output,
- Maximum liquidated damages for performance shall be limited to 5% of the Contract Price

In the case where several groups are supplied under the Equipment, liquidated damages are applied only to the single group(s) in default in proportion to the Contract Price.

It is reminded that the establishment and definition of the nominal net head and nominal discharge is the liability of the Client. HPP shall not be liable for these parameters. Any change in either or both parameters can alter the characteristics and performance of the Equipment.

**12.3** HPP's liability for liquidated damages is related only to delay and performance. Accumulated liquidated damages are limited to a maximum of 7,5% of the Contract Price. In the event of partial termination of the Contract, the 7,5% total cap above shall be applied to that part of the Contract Price, which has not been terminated.

### **13. Confidentiality**

Each Party shall keep confidential all information relating to the Contract, whether in written, oral, pictorial, or electronic form provided by the other Parties, in connection with the performance of the Contract. Each Party shall not release or disclose any information in whole or in part, in any form whatsoever, to any third party, without the other Party's prior written consent. The above confidentiality obligation shall survive the termination of the Contract for a period of FIVE (5) years. Each Party shall agree not to use the information provided by the other Party for any purpose other than the execution of the Contract. The Parties agree to enforce the same obligation to their employees and subcontractors involved in the performance of the Contract.

### **14. Intellectual Property**

**14.1.** Each Party remains the owners of the prior information and prior knowledge, as well as those independently generated during and after the execution of the Contract.

**14.2.** The knowledge generated or obtained by HPP during the execution of the Contract is the exclusive property of HPP. If the execution of the Contract leads to the development of knowledge by HPP, that may be protected by intellectual property rights, the demand for protection is exclusively carried out on behalf and at the expense of HPP.

**14.3.** HPP shall grant to the Client a non-exclusive right to use all the Equipment that he supplied according to the Contract including any patent or intellectual property rights for the operation, maintenance, and repair. The Client acknowledges that the Information is exclusively protected in favor of HPP and that title and right of use remains with HPP. The Client may copy, modify, or translate Information, or transform the software from the object code into the source code only within the legal limits and as far as such intervention is absolutely necessary for the operation, maintenance and repair of the Equipment supplied. The source code is not part of the transfer. The Client shall strictly refrain from removing any Information of HPP or of the manufacturer. Particularly he shall not remove any copyright Information or modify such Information without the prior written consent of HPP. All further rights concerning the Information and the documentation including any copies shall remain with HPP. The Client shall not be entitled to grant any sub-license.

### **15. Liability**

**15.1.** HPP shall not be liable to the Client for loss of profit, loss of business, loss of production, loss of revenues, cost of capital, increase in operating costs, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract (whether in contract, indemnity and/or tort and whether in law or otherwise).

**15.2.** HPP shall not be liable for any damage which results from actions, negligence, failures, errors, incomplete documents, information, and data provided or omissions from the Client, its agents, employees, sub-contractors or from a third party other than HPP and its employees.

**15.3.** The Parties agree that HPP's overall liability for damages under this Contract, for any cause whatsoever, whether in tort or in contract, shall not exceed the Contract Price; or the part of the remuneration actually received by HPP under this Contract, whichever the lesser.

**15.4.** HPP's liability for omissions, errors, ambiguities, inconsistencies, inadequacies or other defects shall be restricted to re-performance of the Equipment, as applicable, at its sole cost and expense, as it is necessary to remedy all such omissions, errors, ambiguities, inconsistencies, inadequacies or other defect unless it can prove that its liability is not in question.

**15.5.** In any event, the liability of HPP can't be sought by the Client if the claim isn't formally addressed within a period of TWELVE (12) months from the date of the Acceptance.

**15.6.** The Client, and his insurer, waive all rights of appeal and shall indemnify and hold harmless HPP against any claims brought by any third party, beyond the limits of liability mentioned herein above.

### **16. Force Majeure**

Events beyond the control of HPP, which it could not reasonably be expected to foresee, and which it could not reasonably avoid or overcome, shall be considered as

cases of force majeure. In such cases the execution of HPP's further contractual obligations shall be deemed impossible, and HPP shall be released from its further contractual obligations to the extent described in the two last paragraphs of this Article.

Irrespective of what is laid down in the preceding paragraph: strikes involving all or a part of HPP's workforce or that of its usual carriers, fire, floods, war, production stops due to fortuitous breakdowns, impossibility of procuring raw materials, epidemics, road closures due to thawing, roadblocks, strikes or disruption of the electricity or gas supply, or shortages of supplies not attributable to HPP, as well as any other shortages of supplies attributable to our suppliers shall be considered as cases of force majeure.

In such circumstances, HPP shall inform the Client within 5 working days of the occurrence of the event. The Contract shall then be suspended automatically and without compensation, as of the date of occurrence of the event.

If the event lasts more than 30 days from the date of its occurrence, HPP shall be entitled to terminate the agreement retroactively at the date when the event of force majeure occurred. Such termination shall not entitle the Client to claim any damages or any other compensation. Any portion of the Equipment (Supply or Services) already performed before the suspension must be paid to HPP by the Client.

### **17. Change during execution**

During the execution of the Contract, any changes in the scope or in the time schedule, shall be subject to prior written agreement of the Parties regarding the description and the financial consequences and regarding the modalities of execution of the Contract.

### **18. Suspension**

**18.1.** HPP may suspend the execution of the Contract in case of defect by the Client in the performance of its obligations by sending a registered letter with acknowledgement of receipt. The suspension will be effective from the date of issue of the letter until the correction of the Client defect. The suspension of the execution of the Contract by HPP may not be regarded as grounds for termination and shall not give right to any compensation to the Client.

**18.2.** The Client is entitled to suspend the Contract execution. This suspension should not be unreasonably demanded, and, in any case, the Client shall be liable to HPP for financial consequences of the suspension. If the suspension last more than THREE (3) months, HPP may terminate the Contract. Any supply or services that have already been executed before the suspension must be paid to HPP by the Client.

**18.3.** The Delivery Date is automatically extended for all periods of suspension and any consequences that this suspension may have caused.

### **19. Termination**

In the event of a failure by one of the Parties to perform any of its obligations, the other Party may terminate the Contract without compensation by sending a registered letter with acknowledgement of receipt THIRTY (30) days after notification to remedy such failure remain without effect. The termination shall be automatically acquired FIFTEEN (15) days after the date of issue of the registered letter referred to above. The part of the Contract already performed will be due.

### **20. Applicable law – Disputes**

**20.1.** The present General Conditions shall be governed by the Laws of France.

**20.2.** Unless contrary agreement between the Parties exists, all disputes arising out of or in connection with the interpretation, existence, or execution of the Contract, which can't be settled amicably, will be settled Tribunal de Commerce of Nancy.

### **22. Language**

This Agreement is written in English, which is the authentic language on all matters relating to the meaning or interpretation of the Contract.

### **23. Entire agreement**

The Contract constitutes the whole and only agreement between the Parties and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties, and arrangements of any nature whatsoever.