

### 1 Scope of the TCC, order confirmation, loss of claim

**1.1** These Terms and Conditions for Consulting (TCC) shall apply to all contracts (hereinafter "Orders") between VERBUND AG and/or its subsidiaries [excluding Austrian Power Grid AG (APG) and Gas Connect Austria GmbH (GCA)], hereinafter "PRIN", and the Contractor, hereinafter "CON", insofar as the applicability of the TCC is stated in the PRIN's Order (SAP Purchase Order) and the Order does not state otherwise. These TCC shall apply exclusively; the CON's terms and conditions, even if they do not contain any terms and conditions contrary to the TCC, will not form part of the contract, unless the PRIN expressly agrees to this. These TCC also apply to all future business relationships, even if they are not expressly agreed upon again.

**1.2** The CON must confirm the order in writing. The confirmation must be received by the PRIN within 14 calendar days of receipt of the purchase order by the CON, otherwise the PRIN may cancel the Order, with the CON having no claims for compensation on this account. If the CON begins, after receipt of the Order, with provision of the service but without confirming the Order in writing CON, the CON will accept the Order, along with all stated underlying contractual documents (incl. these TCC).

### 2 Scope of services, transfer of services, takeover

**2.1** The specific scope of services can be found in the Order. The PRIN is entitled to change (increase or reduce) the scope of services. The CON can only reject a change of services in writing for objective reasons only, so far as it provides proof that this change of services is unreasonable. The CON must exercise this right of rejection without delay, otherwise the right will lapse.

**2.2** Changes to the scope of services specified by the PRIN in writing are binding PRIN as Order changes or as additional Orders.

**2.3** If the changes to the service result in a lower scope of services, the contracted price will be reduced accordingly. If the changes to the service involve additional services for the CON, an additional remuneration shall only be entitled if it points this fact out prior to execution of the services, submits a written offer, and the PRIN accepts this offer. Upon request, the PRIN shall be allowed to inspect the documents needed for evaluating the offered prices. The documents shall be provided in verifiable form.

**2.4** A partial or complete transfer of the service to third parties (subcontractors), as well as a change of the specified subcontractors, is only permitted with the PRIN's written consent. By law, subcontractors and suppliers are considered vicarious agents of the CON. This does not give rise to any kind of contractual relationship between the third party and the PRIN. Before starting to provide the services, the CON shall promptly appoint a responsible individual (e.g., a project manager), as well as a deputy. This responsible individual must play a decisive role in the execution of the service. The CON undertakes to regularly report to the PRIN on the progress of its work.

**2.5** If the provision of documents is agreed in the contract, and/or drawings, regulations, lists, other documentation, computer software or instructions are required or customary for making use of the services, these comprise an essential part of the order and must be handed over/provided to the PRIN at the latest when the services are concluded. The service shall only be deemed to have been provided in accordance with the agreement and accepted by the PRIN if it was able to be checked by the PRIN at the place of use or place of performance and no complaint was made.

### 3 Prices, place of performance

**3.1** The agreed prices (fee, flat rate, unit prices, hourly/daily rates, etc.) are fixed prices excl. VAT and include all travel expenses, expenses, triggering and other ancillary costs.

**3.2** Unless otherwise agreed in writing, the place of performance is the location of the PRIN's registered office.

### 4 Contractual penalties

If a penalty date specified in the purchase order is not met, the PRIN is entitled – irrespective of any fault on the part of the CON and proof of damage – to offset and retain a contractual penalty of 0.2 % per calendar day of delay, up to 10 % of the total order value for each date missed. The amount of the damage and the reparability of the damage have no influence on the amount of any contractual penalty. This does not limit or restrict the PRIN's assertion of damages that exceed the amount of the contractual penalty.

### 5 Correspondence, documents

Declarations or notifications from the CON (always stating the Order reference) shall be sent only to the "Procurement" organisational unit. All of the CON's documents shall reference the Order reference. In the event of missing or incorrect documents (e.g., missing Order reference), the PRIN may reject services and/or documents.

### 6 Invoicing, assignment

**6.1** The CON's invoices shall be sent to the address specified in the order, stating the Order reference. Invoicing by third parties or the assignment of claims against the PRIN are only permitted with the PRIN's prior written consent. Invoices must be issued to be verifiable and must comply with the VAT requirements; all documents required for invoice verification must be attached.

**6.2** The payment deadline under section 7.1 shall only commence upon receipt of an invoice (including documents required for invoice verification) that corresponds to the provisions of this section 6.1.

## 7 Payment modalities, interest on arrears

**7.1** The PRIN shall pay the invoices within 30 calendar days of receipt of the invoice, proper invoicing in accordance with section 6, and if the service is free of defects. The payment term begins with the submission of the new/corrected invoice. Payments by the PRIN shall be made once a week by bank transfer, whereby the remittance will include payments due on the three days before the date of the remittance and the payments due three days after the date of the remittance. The timeliness of the payment depends on issuance of the remittance order to the PRIN's financial institution. The PRIN shall only be considered in arrears with payment if prior warning has been given by the CON.

**7.2** If the CON or the PRIN is in arrears with payments, interest on arrears in the amount of the currently valid 1-month Euribor rate plus 400 basis points per annum is agreed.

## 8 Contractor falling in arrears, Warranty

**8.1** If the CON is in arrears or fails to fulfil its contractual obligations in whole or in part, the PRIN is entitled, without prejudice to any claims for damages, to either reject all or some of the (partial) services provided so far and demand proper fulfilment or an appropriate price reduction. Alternatively, the PRIN may cancel the Order without further delay and have replacement services carried out at the expense and risk of the CON.

**8.2** The CON warrants that the services have the agreed and customarily required characteristics and comply with the recognised rules of technology and the respective statutory provisions. Any defects found during the entire warranty period are presumed to have existed at the time of handover. The CON waives the defence that recognisable defects in services were reported too late. All costs and risks arising in connection with the rectification of defects shall be borne by the CON. The same warranty conditions apply to the defect remediation performed as for the original service. For rework, the warranty period begins anew. If the CON does not immediately comply with its obligation to remedy the defect, the PRIN is entitled to remedy the defect at the expense and risk of the CON or to have it remedied, without prejudice to the warranty obligations of the CON.

**8.3** The warranty period is 24 months.

**8.4** The CON undertakes to also bind subcontractors or suppliers commissioned by it to the aforementioned obligations.

## 9 Liability, insurance

**9.1** The CON shall be liable for the defect-free performance of the services in accordance with the order, as well as the relevant regulations, standards, etc. The CON shall be liable under the statutory provisions for all personal injury, property damage and other disadvantages it has caused for the PRIN, personnel employed by it or by third parties commissioned by it. If there has been no gross negligence and/or intent, no claims shall be made for compensation for damages incurred by the PRIN due to the failure of the energy supply (whether involving generation or transmission). Any damage incurred by the PRIN (lack of generation and/or lack of transmission) shall be calculated in such a way that the energy that could have been generated and/or transmitted during the failure under optimal operating conditions is valued at market prices. Only cases of force majeure shall be considered as grounds for discharge from obligations. Only the following shall be deemed instances of force majeure: natural catastrophes, mobilization, war and civil unrest.

**9.2** The CON is obliged, at its own expense, to take out adequate liability insurance for the order, at least for the duration of the entire contractual relationship. The liability insurance must cover all liability risks arising from the statutory provisions and the contractual relationship. The liability of its personnel, its subcontractors or its other vicarious agents, whom the CON makes use of in the performance of the contractual relationship, must also be included in the insurance coverage.

## 10 Industrial property rights

**10.1** Documents and information provided to the CON (analyses, reports, expert opinions, organizational plans, service descriptions, etc.) remain the exclusive property of the PRIN and may only be used by the CON for the performance of the contract. At the request of the PRIN, such documents and information must be returned. Upon full payment, the PRIN acquires the exclusive and unlimited rights of use, processing and exploitation of all works and services produced by the CON within the framework of this contract.

**10.2** The CON shall be liable for ensuring that third-party industrial property rights are not infringed upon and shall indemnify and hold the PRIN harmless for any infringement of these. The use of content of the results/services/works provided by the CON for advertising or reference purposes is not permitted without the prior consent of the PRIN.

## 11 Confidentiality and data protection

**11.1** The CON undertakes to treat as confidential and to keep secret all information and data, notifications, documents, business and trade secrets, know-how, etc. ("Confidential Information"), that is disclosed, transferred or provided in the course of the performance of the contract, whether in writing, orally or by way of electronic data processing, or obtained by any other means.

**11.2** The CON undertakes to use this "Confidential Information" exclusively for the performance of the contract, and to neither to pass it on to third parties in whole or in part, nor to make it accessible to third parties in any other form, nor to process it in any

other way, and in particular not to use and exploit it for its own purposes or otherwise. Publications about the project, including photos of any kind, as well as advertising on the construction site, are only permitted with the PRIN's agreement.

**11.3** The CON must take all reasonable precautions to prevent unauthorised use of "Confidential Information" and/or to avoid access by third parties to this "Confidential Information".

**11.4** The CON must demonstrably bind all persons who may gain access to this "Confidential Information" under this contract to also comply with all duties of confidentiality imposed upon the CON, even after these persons are no longer working for the CON's company or after the end of the contractual relationship between the PRIN and the CON.

**11.5** Insofar as vicarious agents are commissioned by the CON for the fulfilment of the contract, the written consent of the PRIN is required in advance and the vicarious agent must verifiably be contractually bound to confidentiality obligations.

**11.6** If the CON fails to bind those working on its behalf to the duty of confidentiality, it is liable for all damages that may arise.

**11.7** At any time, even after termination of the contract, the CON is obliged, at the request of the PRIN, to immediately return the "Confidential Information" to the PRIN, including copies in paper form as well as in electronic form, and all documents in which reference is made to the "Confidential Information", to destroy it or to delete it in such a way that it cannot be recovered. At the request of the PRIN, the deletion or destruction must be confirmed in writing by the CON at any time in each individual case and must be documented by informing the PRIN.

**11.8** If the duty of confidentiality is breached, the PRIN has the right to terminate the contract immediately and/or to immediately cancel the contract without notice.

**11.9** The duty of confidentiality does not apply to the PRIN with regard to the necessary disclosure of "Confidential Information" to insurance companies, experts or suppliers commissioned by the PRIN, etc., who need this information to accomplish their tasks, provided that they are not the CON's competition, whereby the PRIN, as much as possible, will pass onto them the duty to treat the information as confidential.

**11.10** The CON declares that it is aware of the relevant applicable data protection regulations, in particular the EU General Data Protection Regulation (GDPR), and that it complies with them. If the CON becomes aware of the PRIN's personal data in the course of the contract, the CON guarantees the security and therefore the confidentiality, integrity and availability of data in accordance with Art 28 and Art 32 GDPR.

**11.11** In particular, the CON is obliged, in the course of data processing, to maintain the confidentiality of any data of which it becomes aware, in addition to special legal confidentiality obligations under the contract. The CON must also oblige all persons who may become aware of the data to maintain confidentiality before commencing activities under this contract. The duty of confidentiality shall continue even after termination of the activities of these persons and after they leave the CON's employ.

**11.12** The CON shall be liable to the PRIN for all property damage, financial loss and personal injury caused by it or by acts and omissions of its employees or vicarious agents, or the persons otherwise commissioned and engaged by it. In particular, the CON is liable for all disadvantages suffered by the PRIN due to violation of one of the provisions of this contract or the applicable data protection regulations.

**11.13** These data protection obligations shall continue to apply even after termination of the contractual relationship. If the data protection obligations are breached, the PRIN has the right to terminate the contract immediately, or to immediately cancel the contract without notice.

**11.14** If the PRIN commissions the CON with the processing of personal data as a processor within the meaning of Art. 4 Z 8 GDPR, the CON undertakes to conclude the data processing agreement specified by the PRIN within the meaning of Art. 28 GDPR with the PRIN prior to the conclusion of the contract. In addition, other additional declarations must be made and documents and evidence must be provided in accordance with Art. 28 GDPR, also directly to the controllers under data protection law (e.g., if the PRIN itself acts as a CON).

## 12 Cancellation

**12.1** The PRIN may cancel the Order at any time in writing with immediate effect, without giving a reason. In this case, the CON is entitled to the agreed-upon price as remuneration. However, the CON must allow itself to be credited for those costs which it has been spared by the cancellation, or for that which it has acquired or would be able to acquire by making other use of its workforce or resources.

**12.2** The right to extraordinary cancellation for good cause by the PRIN remains unaffected. The PRIN can cancel the order for good cause with immediate effect. Good cause exists in particular if

**12.3** a deterioration or endangerment of the financial situation of the CON occurs and the fulfilment of liabilities to the PRIN is thereby jeopardised,

**12.4** the initiation of insolvency proceedings against the assets of the CON has been rejected for lack of sufficient assets, or such insolvency proceedings have been cancelled for lack of sufficient assets,

**12.5** insolvency proceedings have been initiated against the assets of the CON, and the statutory provisions do not prohibit cancellation of the contract,

**12.6** the CON provides incorrect information about its material circumstances

**12.7** or the CON fails to or cannot fulfil obligations arising from the order.

**12.8** The CON's services are to be settled at the time of cancellation; any further claim for remuneration by the CON is excluded if the PRIN cancels without notice. The CON must return any overpayments to the PRIN immediately after the final invoice. Partial cancellation is permitted.

**12.9** The CON may only cancel the order only for good cause, namely the following:

**12.10** Without giving a grace period, if the initiation of insolvency proceedings against the assets of the PRIN has been rejected for lack of sufficient assets or if such insolvency proceedings have been cancelled for lack of sufficient assets, or if insolvency proceedings have been initiated against the assets of the PRIN and cancellation of the order is not prohibited by law.

**12.11** The granting of two grace periods of at least 30 calendar days each, wherein the statement of cancellation must already be cited in both letters granting a grace period, if, despite having been properly invoiced, the PRIN significantly and permanently impedes the proper performance of the services or if the PRIN does not pay essential payment claims of the CON that are undisputed in reason and amount and have already been commissioned in writing.

**12.12** In any case, the extension of the deadline and the cancellation must be in writing. In that case, the CON shall be entitled to remuneration for the deliveries already made/services already rendered.

## **13 Duty to report accidents**

**13.1** The CON has a duty to immediately report all accidents. This involves its subcontractors as well as its subcontractors' employees. Reporting shall be made to the PRIN's responsible project manager, construction site coordinator or execution coordinator when deployed at VERBUND sites. The report must also be made within three calendar days using a standardised accident report form from a recognised accident insurance company (in Austria, for example, the accident report form from AUVA).

**13.2** The duty to report to the PRIN and to the accident insurance company explicitly applies to all accidents, including those in which reporting is not mandatory under national social insurance law (or an equivalent law). The duration of the incapacity for work must be reported subsequently.

## **14 General provisions**

**14.1** Contractual language shall be English, unless otherwise is opted by the PRIN in writing.

**14.2** The contract and any supply of services stipulated thereunder shall be governed by the laws applicable in the country in which the PRIN has its registered office. The UNCITRAL Convention on Contracts for the International Sale of Goods and conflict-of-laws rules shall not apply.

**14.3** The place of jurisdiction shall be the court with substantive and local jurisdiction in the country in which the PRIN has its registered office.

**14.4** Contracts and contract amendments must be made in writing, whereby it is expressly agreed that the PRIN shall transmit Orders (SAP documents) and Order amendment (SAP amendment documents) electronically (e.g. by email) with legal and binding effect. This written form requirement can only be waived in writing. No verbal side agreements exist nor will any be made.