

GENERAL TERMS AND CONDITIONS OF CONSTRUCTION (GTCC) ROMANDE ENERGIE GROUP

Version of September 7, 2018

1. Scope and validity

- 1.1. These General Terms and Conditions for the execution of a work (the "General Terms and Conditions") apply to all services relating to construction, renovation, transformation, demolition & excavation work, i.e. services provided by companies on a work (hereinafter: the Work) commissioned by Romande Energie SA or another entity majority owned by the Groupe Romande Energie Holding SA (hereinafter: the "Contracting authority" or "Romande Energie") from a Company, a subContractor, a supplier (hereinafter: the Contractor).
- 1.2. The General Conditions set out and define the rules concerning the conclusion, content and Execution of contracts and define the rights, obligations and relationships between the Contracting authority and the Contractor.
- 1.3. The Work may consist either of a complete construction or of a part only.
- 1.4. Anyone who carries out, repairs, renovations, alterations, demolitions or excavations also carries out a Work.
- 1.5. The SIA standards of the Swiss Society of Engineers and Architects and in particular SIA 118 in particular shall apply in priority in all cases if no specification is mentioned in the General Conditions.

2. Obligations of the parties

- 2.1. By concluding the contract of construction (hereinafter referred to as the "Contract") or signing the order according to the amount of the services, the Employer and the Contractor undertake to perform their obligations conscientiously.

2.2. Contractor's commitments

- 2.2.1. The Contractor's liability is full and complete, without restriction or reservation, for all matters relating to the execution of the work, in accordance with good engineering practice, execution plans, documents and all contractual elements.
- 2.2.2. The Contractor is responsible for carrying out the study, requests for authorization, planning, execution, commissioning and instruction of the project for the services for which it is contractually bound with the Employer.
- 2.2.3. The Contractor undertakes to the Contracting Authority to:
 - Execute all work entrusted by the contracting authority until final and final acceptance of the work.
 - Use only quality materials, giving priority to labelled and eco-responsible products.
 - Respect the deadlines for the completion of the Work according to the intentional schedule of the works.
 - Not to exceed the cost of the Work determined and validated by the the Contracting authority.

2.3. Liability Insurance

- 2.3.1. During the entire duration of the Contract, the Contractor must have civil liability insurance covering it up to 5 million francs for any material and/or bodily damage caused to the Master and/or third parties. This insurance is taken out by the Contractor at his own expense. The Contractor must insure himself against risks involving his civil liability.

2.4. Security

- 2.4.1. The Contractor is responsible for ensuring the safety of persons, works and equipment during the execution of the Work.
- 2.4.2. He will pay attention, before any work is carried out, to control, protect, secure and signal the intervention areas and will inquire about the possible presence of techniques, admissible loads or other elements that could cause risks of accidents or damage both within the site enclosure, as well as the neighbouring structures and the roadway.
- 2.4.3. He will ensure that he scrupulously complies with SUVA and BPA directives and will carry out the work in accordance with the guidelines of the site inspectorate in terms of safety.
- 2.4.4. The "person in charge of work and safety measures" mandated by the Master may interrupt an action presenting immediate dangers; it may be continued as soon as the necessary safety measures have been taken. Any additional costs resulting from this interruption shall be borne by the Contractor.
- 2.4.5. The Contractor is solely responsible for the solidity and stability of his work, as well as for maintaining all his work in compliance with all safety standards throughout the duration of the work.
- 2.4.6. The Contractor is responsible for verifying with DT that the permissible loads of the static elements allow it to accept, store, fix and/or assemble elements of the structure. The TD shall inform the Contractor in writing of the distribution and/or securing provisions defined by the Civil Engineer of the Work in order to comply with the admissible loads. The Contractor is responsible for ensuring that his instructions are properly followed.
- 2.4.7. The works will not be undertaken until the necessary measures to protect and secure the areas have been taken.
- 2.4.8. The Contractor shall prohibit, in an appropriate manner, the access of any unauthorized person to the site. Worksites opened on or near public roads shall be marked and protected in accordance with road traffic regulations and police instructions.
- 2.4.9. No dangerous tools, machinery, materials or products should be left unattended.

2.5. Responsibility

- 2.5.1. The Contractor is responsible for all damages for which the cause is directly or indirectly attributable to him. These damages include: accidents, injuries to persons, damage to the work and/or materials supplied for the execution of the work, damage to property belonging to the Contracting Authority and/or third parties as well as to the public domain.
- 2.5.2. The Contractor is also responsible for protecting the work from acts of sabotage, negligence and/or malicious acts committed by its workers or by third parties within the site enclosure.
- 2.5.3. When damage is caused to a Work on which several Contractors work and it is not possible to establish who is the author, all Contractors present on the site at the time the damage occurs shall be liable for compensation, each in proportion to the portion corresponding to the invoice stopped for his work.
- 2.5.4. The works management is responsible for drawing up, for the rightful claimant, the distribution and invoices. Each Contractor may attempt to prove that the damage was not caused by him or his auxiliaries.

2.6.

2.7. Copyrights

- 2.7.1. All documents (e.g. bids and execution documents, plans of all kinds, drawings and calculations) received by the Contractor for the Execution of the work must be returned to the Contracting Authority at the end of the Contract and remain the intellectual property of the Contracting Authority.
- 2.7.2. It is prohibited for the person who received them to reuse them for his own purposes or to hand them over to third parties.

2.8. Duty to give notice

- 2.8.1. The Contractor shall promptly notify the work management of any circumstances that may affect the Execution of the Work in a timely and orderly manner. Anyone who neglects this duty must personally bear the consequences of it.
- 2.8.2. Notices must be given in writing; if given orally, they must be the subject of a protocol.
- 2.8.3. The Contractor who notices errors or other defects in the Execution of the work must immediately give notice in accordance with the foregoing and make the management of the work aware of the consequences that may result (formal notice).
- 2.8.4. The same duty applies to the Contractor who, during the execution of the work, notices or should notice that the instructions received from the works management are incorrect or that they impose on the Contractor responsibilities that he considers he cannot assume (for example, by endangering third parties).

2.9. Subcontractors

- 2.8.1. The Contractor undertakes to carry out the work entrusted to him himself or with his own specialized employees. He may only use other companies (subcontractors) with the written consent of the Contracting Authority.
- 2.8.2. When the Contractor wants to hire subcontractors, he must first inform the Contracting Authority of their professional skills and reputation. The Contracting Authority is given a reasonable period of time to verify these indications before granting its consent.
- 2.8.3. The engagement of subcontractors is done in the name and on behalf of the Contractor. The latter is in charge of supervising the work, coordinating and supervising the execution of the various works. He is liable for the work performed by subcontractors as well as for his own work.
- 2.8.4. In case of difficulties in payment by the Contractor, serious disagreements between the Contractor and its subcontractors/suppliers or for other important reasons, the Contracting Authority may, after hearing the interested parties, directly pay the subcontractor or supplier or deposit the amount at the Contractor's expense, in both cases with effect in discharge of the latter's liability. In all cases, the Contracting Authority shall inform the Contractor in writing.

3. Representation and direction of the work

3.1. Representation of the contracting authority

- 3.1.1. The Contracting Authority may call upon specialised agents whose functions it appoints and assigns as the Contracting Authority's representative and/or Construction Manager.
- 3.1.2. The works management is in particular responsible for verifying the accuracy and consistency of the execution details, transmitting the plans to the Contractors, supervising the execution of the works, managing and controlling the accounts, verifying and accepting the Work.
- 3.1.3. The works management is responsible for coordinating the work between all the Contractors, taking into account the preparation and execution time they require.
- 3.1.4. Their decision-making powers and competences are defined by SIA Standard 118, General Conditions for the Execution of Construction Works.

3.2. Representation of the contractor

3.2.1. Designation and powers

- 3.2.1.1. If the Contractor is not personally present on the site during working hours, he shall appoint a site supervisor to represent him on site, as well as an alternate. He or she also informs the work management of the names of the persons he or she authorizes to receive orders and to sign reports and statements.
- 3.2.1.2. The work supervisor, or his or her designated replacement, must be on site at all times during working hours. He ensures the proper execution of the work, the maintenance of order on the site and the execution of safety measures.
- 3.2.1.3. Where the Contractor is permanently represented on the site by a foreman, he has the right to sign the reports and statements. This foreman may also delegate this authority to subordinates; he must inform the works management accordingly.
- 3.2.1.4. The Contractor must inform the work management of the name of the person designated as "responsible for work and safety measures". This manager must have a perfect command of the French language.

3.2.2. Daily reports

- 3.2.2.1. At the request of the construction management, the Contractor shall provide it with a report (daily report). This indicates the number of workers employed on site, lists the machines required to perform the work and describes the work performed. For work under contract, reports (management reports) must be prepared.

4. Remuneration for the contractor's services

4.1. Unit prices

4.1.1. Principle

- 4.1.1.1. The Contractor's services shall be remunerated on the basis of unit prices agreed between the Parties. These prices are fixed and no price increase is allowed subject to the special conditions defined in article 4.4ss.
- 4.1.1.2. The Contractor shall specify in the price series the estimated quantities for each service at the time of the call for tenders.
- 4.1.1.3. The remuneration calculated from a unit price represents the amount due by the Contracting Authority for the complete performance of the service, in accordance with the Contract. It therefore also includes the normal maintenance of the Work until it is received.
- 4.1.1.4. Also included are all ancillary services such as: worksite installations with their maintenance, transport, storage, maintenance of tools, machines and other equipment.
- 4.1.1.5. Items in the price series with the mention "possible" may only be executed with the written consent of the work management.

4.1.2. Measurements

- 4.1.2.1. The dimensions, surfaces and quantities of the description or series of prices are approximate and are given only as an indication, they do not bind the Contracting Authority or its representative in any way.
- 4.1.2.2. It is therefore the Contractor's responsibility to check the plans and/or site for dimensions, areas and quantities before any order, manufacture or execution.

4.1.2.3. Increases in measurements, quantities, surface calculations and volumes are not accepted and will only be based on actual elements.

4.1.2.4. The the profusion, scrap and waste are not taken into account in the calculation of the measurements and are therefore not allowed.

4.1.2.5. All work will be measured contradictorily between the contractor and DT immediately after completion and before the elements are hidden.

4.1.2.6. Measurements that could no longer be made due to the progress of the work are made immediately. The Contractor shall notify the work management in good time.

4.2. Fixed prices

4.2.1. The parties may agree on a lump sum price for a specific service or for a part of the Work. This price, independent of quantities, is fixed; no price increase is allowed subject to the special conditions defined in the special circumstances described below.

4.3. Work under contract

4.3.1. *Contrat ou ordre de la direction des travaux*

4.3.1.1. The Contract may provide that specific works are not subject to a fixed price, but are carried out on a contract basis. In this case, the remuneration is calculated in accordance with the article on remuneration for work under contract below.

4.3.1.2. When management orders work under contract, he has the right, after contacting the work management, to assign to supervision, for the necessary time, the foremen and team leaders required for this task. When the construction management directs the work under control, the Contractor shall make foremen and team leaders available only upon express request.

4.3.1.3. If the Contractor directs the work under control, he has the right, after contacting the work management, to assign to supervision, for the necessary time, the foremen and team leaders required for this task. When the construction management directs the work under control, the Contractor shall make foremen and team leaders available only upon express request.

4.3.1.4. Companies are required to submit any control orders for validation of the Construction Management at each worksite session, but at the latest at the following session, i.e. within a maximum of 5 working days.

4.3.1.5. Governance bonds that are not submitted and validated by the Construction Management within the defined deadlines will be categorically rejected.

4.3.2. *Works under contract without order from the works management*

4.3.2.1. The work under contract, not provided for in the Contract, may only be carried out with the written consent of the work management.

4.3.2.2. The Contractor shall nevertheless have the right, without waiting for management's order, to carry out under contract the urgent work essential to prevent danger or damage. He shall immediately inform the works management. The latter has, at any time, the right to have them interrupted. The Contractor, who nevertheless follows them, is not entitled to remuneration.

4.3.3. *Reports*

4.3.3.1. The Contractor shall prepare and sign a daily report on the work under control. This report shall be submitted in duplicate to the works management for signature within one week at the latest. The report lists the number of workers hired, machine hours, working hours, materials used and describes the work performed.

4.3.3.2. The works management reserves the right to deduct, on the reports, the time lost due to the use of inappropriate tools or machines, or in poor working order. Any discrepancies will be dealt with within one month.

4.3.4. *Remuneration for works under control*

4.3.4.1. Works under contract are remunerated according to the hours and materials used in the reports signed by the work management. The prices agreed in the price series will not increase during the execution of the works.

4.3.5. *Supplements to the governance prices*

4.3.5.1. The only supplements allowed are only granted for night works, public holidays or Saturdays, provided that they have been ordered by the Work management.

4.3.6. *Invoicing*

4.3.6.1. The Contractor shall submit invoices each month to the work management for work under contract.

4.3.7. *Liability for work under contract*

4.3.7.1. The Contractor is responsible for the work performed under its direction.

4.3.7.2. On the other hand, he is not liable when the works management has not entrusted him with the direction of the works.

4.4. Special circumstances

4.4.1. *General information*

4.4.1.1. Where the performance of a lump sum service is made more difficult by special circumstances occurring or arising after the conclusion of the Contract and through no fault of the Employer, the Contractor shall nevertheless perform the promised service at the fixed price, without being entitled to any additional remuneration.

4.4.2. *Extraordinary circumstances*

4.4.2.1. The Contractor shall be entitled to additional remuneration where extraordinary circumstances, impossible to predict or excluded by the parties' forecasts, prevent or unduly hinder the performance of the Work.

4.4.2.2. The work management and the Contractor shall agree, as the case may be, on the amount of this remuneration. However, it may exceed the amount of additional expenditure that has been justified. If the parties fail to reach an agreement, it is the Contractor's responsibility to refer the matter to the judge for determination of the additional remuneration or for authorization to terminate the contract (Art. 373 para. 2 CO).

4.4.3. *Adverse weather conditions*

4.4.3.1. When adverse weather conditions (rain, wind, snow, frost or ice formation) :

- require the Contractor to take special measures to protect those parts of the Work that have already been completed but have not yet been received or to allow the work to continue ;
- result in the temporary interruption of a construction site ;
- modify the condition of the land to the point of making it more difficult to continue the work.

4.4.3.2. The Contractor may not charge additional remuneration for the resulting expenses. The contract cannot be terminated.

5. Works execution

5.1. Plans and verification

5.1.1. The Contractor has the obligation to obtain all the plans necessary for the proper execution of the work before starting the work. In the case where these documents are not available or where there is doubt about the accuracy of the information, the Contractor is required to conduct a survey.

5.1.2. It is the responsibility of the Mandataries, Contractors, Subcontractors & Suppliers to take all necessary measures to be able to submit the documents, plans, diagrams and technical notes requiring the Contracting Authority's approval sufficiently early to take into account the time required to examine the Contracting Authority's approval (minimum 10 working days) as well as the time required for implementing the requested corrections followed by further examination by the Contracting Authority (who may also require a new control period of 10 working days), and also the time needed to order, manufacture and implementation of the work.

5.1.3. During the examination of documents, plans, diagrams and technical notes, the Contracting Authority shall specify in writing the refusal or validation, with or without remarks on its part, of the elements presented to it.

5.1.4. The Mandataries, Contractors, Subcontractors & Suppliers are required to take into consideration all the remarks of the Contracting Authority and must execute the requested corrections before any order and/or execution.

5.2. Deadlines

5.2.1. *Fixing deadlines*

5.2.1.1. The Contract sets out the deadlines for the works to be carried out. The term corresponds to the expiration of the deadline.

5.2.2. *Work program*

5.2.2.1. The work programme, which the Contractor shall provide upon request of the contracting authority, shall contain information on :

- the progress of the work during the contractual deadlines.
- the number of workers envisaged for each phase of work.
- the most important machinery.

5.2.2.2. This program must inform the work management of the Contractor's work plan, it does not release the Contractor from its obligation to respect the contractual deadlines.

5.2.3. *Respect of deadlines*

5.2.3.1. The Contractor is required to take all necessary measures to meet the deadlines set by the Contract. If it appears during the construction work that the deadlines cannot be met without additional measures, the Contractor shall, after notifying the Master, take all measures that can reasonably be expected of him on time and on his own initiative. In particular, he will have to adapt the worksite facilities, increase the number of workers or hire additional teams. The Contractor shall bear the resulting costs.

5.2.4. *Penalties*

For the delay in the execution of the work

5.2.4.1. In the event of failure by the Contractor to comply with the deadlines set by the Contract which is not due to force majeure, the Master may require the Contractor to pay penalties for delay.

5.2.4.2. Penalties for late execution of the work are defined at 0.5% of the net amount excluding VAT of the final statement / statement of account per working week exceeding the contractual end date of completion of the work.

5.2.4.3. The ceiling on the penalty for late completion of the work will not exceed 10% of the net amount excluding VAT of the final statement / account closure.

5.2.4.4. In addition to late payment penalties, the Contracting Authority shall require the Contractor to bear the related costs resulting from the delays and/or damage caused by them.

5.2.4.5. The Contractor shall not be entitled to claim from the Contracting Authority any remuneration in the case of work completed before the agreed date or for costs, delays and losses caused by third parties.

5.2.4.6. The Contractor shall not be liable for penalties when entitled to an extension of time under Article 96 of SIA Standard 118 (2013).

For non-compliance with requirements & guidelines

5.2.4.7. The Contracting Authority reserves the right to require the compliance, demolition and reconstruction of part or all of a Work and to impose fines on the Contractor or to request the definitive exclusion of all persons who do not comply with the Contracting Authority's requirements regarding performance, safety, hygiene and cleanliness instructions.

5.2.4.8. The penalty cap for non-compliance with requirements & guidelines in the execution of the work will not exceed 10% of the net amount excluding VAT of the final statement / account statement.

5.2.4.9. The Contractor shall remain solely responsible for all consequences of the application of such a measure.

5.2.5. *Undeclared work*

5.2.5.1. The Contractor guarantees that it will not hire undeclared personnel and will verify that these Subcontractors and Suppliers are at the same time paying the taxes, duties, social security contributions and insurance required by the State.

5.3. Execution document

5.3.1. The work management shall give the Contractor the necessary instructions for the performance of the work; these instructions shall be given in a timely manner, taking into account the progress of the work and the time required for its preparation. If the Contractor notices that instructions have not been given, he must request them from the work management.

5.3.2. The work management shall provide the Contractor with the plans and equipment necessary for the execution of the work.

5.4. Choice of execution type

5.4.1. The final choice of the execution type as well as the selection of the materials, colours and finishes to be produced, are the responsibility of the Contracting Authority.

5.4.2. However, the Contractor may propose a variant of the type of execution with a range of materials and finishes that guarantee the overall cost of the work and scrupulously respect the basic description.

5.4.3. The Contracting Authority may make modifications to construction elements provided that the execution of the Work does not undergo any significant change on the initial project.

- 5.4.4. The Contractor shall submit to the Contracting Authority at no additional cost the selection proposals (samples, prototypes) in a range corresponding to the price presented in the offer / quotation / submission.
- 5.4.5. The Contractor is required to inform the Contracting Authority of the advantages and disadvantages of his choices and the consequences for the work programme and the cost of execution, if he omits to do so, he takes responsibility for the possible consequences.
- 5.4.6. The Contractor may not change the choice made by the Contracting Authority after its validation.
- 5.4.7. In the case where the choice of the contracting authority should be different from the Contractor's initial offer, the latter must send as soon as possible a corrected offer containing the capital gains and losses as well as the consequences in the work programme.
- 5.4.8. The Contractor shall inform his collaborators, suppliers and subcontractors of the exact conditions of use of the elements chosen by the Contracting authority.
- 5.4.9. If the Contracting Authority finds that the execution is not in conformity with the validated choices, the Contracting Authority reserves the right to require the Contractor to replace it, all own costs and third parties resulting from this requirement as well as corrective measures to absorb delays in the schedule shall be borne by the Contractor.

5.5. Materials

- 5.5.1. The Contractor guarantees that its suppliers are recognized in the Swiss market by professional associations and that the ordered and used materials for the realisation of the work are of good quality and good workmanship.
- 5.5.2. The tolerances for defects in construction materials proposed by the Contractor are defined by the AIS standard.
- 5.5.3. The Contractor shall ensure that the materials as defined in the work description are provided.
- 5.5.4. It has the possibility to offer products with aesthetic and technical qualities similar to those required in the description of the work. However, he is required to have them validated by the Contracting Authority before any order and/or implementation.
- 5.5.5. The Contractor must provide a supply of materials with the same aesthetic and technical qualities that would allow for the repair and/or replacement of a construction element.
- 5.5.6. Reserve quantities exceeding 2 m² must be validated in writing by the Contracting Authority.

5.6. Modification of the work

- 5.6.1. The Employer may at any time request the Contractor to modify, increase or decrease the services provided for the performance of the Work.
- 5.6.2. These requests must be forwarded to the Contractor in writing as soon as possible.
- 5.6.3. The Contractor shall transmit to the Contracting Authority on return within 10 working days an amendment to the Contract containing the capital gains and/or losses on the basic contractual amount as well as any changes that may be made to the initial schedule of the work.
- 5.6.4. The Contracting Authority shall return the duly validated amendment to the Contract to the Contractor within 5 working days.
- 5.6.5. As soon as the amendment to the Contract duly validated by the Contracting Authority is received, the Contractor undertakes to carry out any modifications, increase or decrease in the services provided for the realisation of the work.
- 5.6.6. The Contractor shall not be held liable for any consequences on the contract price and schedule resulting from changes required by the Contracting Authority after the signature of the amendment to the Contract.
- 5.6.7. No modifications are permitted without the express request or prior written consent of the Contracting Authority.
- 5.6.8. All modifications resulting from non-compliance with the contractual elements and which have not been requested in writing by the Contracting Authority, shall be charged to the Contractor.

5.7. Execution itself

5.7.1. Worksite sessions

- 5.7.1.1. Les séances se déroulent au chantier, chaque semaine selon la convocation de la DT définies dans le procès-verbal de la séance précédente. La présence aux séances de chantier est obligatoire pour les entreprises convoquées.
- 5.7.1.2. The mandataries or companies are therefore required to attend or be represented at the sessions, according to the convocations of the works management or at least, in the event of justified impediment, to apologize for it 24 hours in advance. Companies absent from site sessions lose all right of revendication..

5.7.2. Minutes

- 5.7.2.1. The minutes are only a written confirmation of the decisions taken. During the session, speakers are required to take note of the topics covered and not to wait for the DT to provide the minutes before acting, coordinating, planning, executing and/or transmitting instructions and information to collaborators.
- 5.7.2.2. All comments or requests to amend the minutes must be made in writing to DT within 5 working days of receipt of the minutes, but at the latest at the following session.

5.7.3. Worksite and access

- 5.7.3.1. The Contractor shall make provisions, in collaboration with the work management, to obtain the necessary authorizations for the development of the work site, roads in the work site area and storage or disposal sites. He shall bear the costs of renting and repairing it at the end of the work.

5.7.4. Order on the work sites and their accesses

- 5.7.4.1. During his work, the Contractor shall, at his own expense, ensure that order, cleanliness and hygiene are maintained on the site and its access roads. In this respect, it complies with the instructions of the authorities and the works management. If, despite a written warning, the Contractor neglects this duty, the work management shall take the necessary measures at the Contractor's expense.
- 5.7.4.2. Excavated material and waste from the work shall be disposed of in a timely manner by the Contractor or deposited on site in accordance with the instructions of the work management. The Contractor shall bear the costs thereof.
- 5.7.4.3. The Contractor has not completed his work until he has cleared the site and properly restored it.
- 5.7.4.4. If required by the work management, the Contractor shall waive the right to occupy, on site, the workers who have been the subject of founded complaints.

5.7.5. Work supervision and controls

- 5.7.5.1. The supervision of the worksite by the works management has no influence on the Contractor's responsibility for the Work; his responsibility remains full and complete.

- 5.7.5.2. The works management has the right, during the execution of the work, to carry out measurements and other controls of the work as well as audits of the application of safety rules. The result of these measurements or controls will be the subject of a protocol. The Contractor shall provide the necessary personnel and equipment free of charge.

6. Invoicing

6.1. General information

- 6.1.1. Unless otherwise agreed, the terms of payment of invoices are as follows :

- 15 days with 3% discount or
- 30 days with 2% discount or
- 60 days net.

6.2. Deposits

6.2.1. Principle

- 6.2.1.1. The Contractor is entitled to monthly payments (deposits) which he asserts by submitting a request for a deposit.

- 6.2.1.2. Each deposit request indicates the amount to be paid and the SAP order number. The Contractor shall attach to it a verifiable list (situation) of all the services he has performed from the beginning of the work to the end of the month in question. Provisional measurements, not yet justified by attachments, are retained. Measurements are established in an appropriate manner by the Contractor with the assistance of the work management. Neither the Contractor's request for a deposit nor its payment by the Contractor shall entail the definitive recognition of these measurements..

6.2.2. Amount of deposits

- 6.2.2.1. The amount of each deposit due by the Master corresponds to the services performed at the end of the month in question.

- 6.2.2.2. Works outside the contract are not included; they are invoiced separately in accordance with art. 7.3.6 ff.

6.2.3. Maturity date

- 6.2.3.1. Deposits are payable when the work management receives a regularly established request for a deposit; they are paid on their due date, according to the conditions mentioned in art. 9.1.

7. Final account

7.1. Concept and purpose

- 7.1.1. Final settlement means the Contractor's settlement based on final measurements. When the Contracting Authority has paid deposits, the final statement also indicates the corresponding balance (amount of the final statement less all previously due deposits, paid or not).

- 7.1.2. The management invoices are drawn up in the final statement of account.

- 7.1.3. The Contractor shall attach to the final statement a summary of all invoices submitted and all amounts received or still due.

7.2. Presentation and verification

- 7.2.1. The Contractor shall submit the final statement to the works management no later than one month after receipt of the Work. This final statement shall be drawn up in the usual form and submitted to the Master. Where, despite a reminder, the Contractor fails to submit the statement in the prescribed form, the works management may prepare it at the Contractor's expense.

- 7.2.2. The works management shall verify the final statement within one month and if the verification reveals no discrepancy, the final statement shall be considered as accepted by both parties. If discrepancies appear, the work management shall notify the Contractor in writing as soon as they become apparent. It also gives the motivation for it. The parties shall endeavour to settle them as soon as possible.

7.3. Payment

- 7.3.1. Unless there is a discrepancy, the balance due to the Contractor on the basis of the final statement shall be paid on the due date, in accordance with the conditions mentioned, and against the provision of a bank guarantee in accordance with the conditions mentioned, and proof of payment from subcontractors engaged by the Contractor..

7.4. Waiver of any other claims

- 7.4.1. Unless a written reservation is made in his recapitulation, the Contractor who submits it undertakes not to submit any new invoice and to waive any remuneration for services that he has not yet charged to the account.

8. Receipt of the work

8.1. Purpose and effect

- 8.1.1. Acceptance may relate to the complete Work but also to a part of the Work as a whole.

- 8.1.2. The Work (or part of the Work) that has been received shall be deemed to have been delivered. It is transferred to the custody of the Contracting Authority, who now bears the risks. It is from this moment that the warranty period and the limitation period for the Master's rights in the event of defects begin to run.

- 8.1.3. The Contractor shall communicate to the Master any instructions for the use of the objects incorporated in the Work, no later than the day on which the Work is received.

8.2. Notice of Completion, Joint Verification

- 8.2.1. The Contractor shall initiate the acceptance procedure by notifying the construction management that he has completed the Work or a part thereof. The notice must be in writing. However, the Contracting Authority, who uses the Work on its own initiative, is deemed to have received the notice of completion at that time, but this does not in itself constitute acceptance.

- 8.2.2. The works management shall, together with the Contractor, carry out the verification of the Work (or part of the Work) within one month of receipt of the notice of completion. The Contractor takes part in the audit and provides the requested information. The construction management may order measures and other controls.

- 8.2.3. The result of the audit is the subject of a protocol that is recognized by the work management and the Contractor by their signature. This protocol specifies when the audit is completed.

8.3. Receipt of a flawless work

- 8.3.1. Where the common audit does not reveal any defects, the Work (or part of the Work) shall be considered as received at the end of the audit.

8.3.2. The Contractor is liable for defects, regardless of their cause (for example: sloppy work, use of inadequate materials, deviation from plans and instructions of the works management) and regardless of fault.

8.4. Receipt of a work with minor defects

8.4.1. Where the joint audit reveals defects that appear minor in relation to the whole, the Work (or part of the Work) shall also be considered as received at the end of the joint audit. However, the Contractor shall be required to eliminate the defects found within a reasonable period of time set by the Contracting Authority.

8.5. Refusal of a structure with major defects

8.5.1. Where the joint audit reveals major defects, receipt of the Work shall be deferred.

8.5.2. The Contracting Authority shall set the Contractor a deadline for the elimination of defects.

8.5.3. The Contractor shall eliminate the defects, at its own expense, within the deadline set for it and shall notify the Owner as soon as he has finished. The parts of the Work that were found to be defective are then checked again together within one month. If this verification does not reveal any major defects, the Work (or part of the Work) shall be considered as received at the end of this new verification. In the event of a persistent major defect, the following articles are applicable.

8.6. Rights of the Master in the case of defects in the work

8.6.1. In the event of persistent defects in the Work and with the exception of the right to liquidated damages, if the Contractor does not remedy the defect within the deadline set by the Contracting Authority, the latter shall have the choice between the following solutions :

- He may persist in requiring the repair of the Work, provided that it does not involve excessive expenditure in relation to the interest of eliminating the defect. He also has the right to have this refurbishment carried out by a third party, or to carry it out himself; in both cases at the Contractor's expense.
- The Contracting Authority may deduct from the remuneration due an amount corresponding to the capital loss of the work.
- The Contracting Authority may withdraw from the Contract, provided that the removal of the Work does not cause excessive inconvenience to the Contractor and that the Contracting Authority cannot be fairly compelled to accept the Work. The Contracting Authority who resolves the Contract is released from the obligation to remunerate the Contractor and may demand the return of amounts already paid. The Work is at the disposal of the Contractor; the Contracting Authority has the right to have it removed at the Contractor's expense if the Contractor does not do so himself within a reasonable time.

8.6.2. Where the Contractor has expressly refused to remedy a defect or is manifestly unable to do so, the Contracting Authority may exercise the rights provided for above before the expiry of the period fixed for the repair.

8.7. Rehabilitation costs

8.7.1. The Contractor shall bear the costs of repairing the Work. This includes, in particular, the costs necessary to repair any damage caused to other work and any additional costs incurred by the work management.

8.7.2. The Contracting Authority shall bear the costs which would in any case have been borne by it, even if the Work had not immediately presented any defect.

8.7.3. Where the Master has contributed, through his fault, to the occurrence of a defect, the costs of repair shall be equitably shared between the Contractor and the Master.

8.8. Monetary damages

8.8.1. In the event of damage caused by the defect (e. g. due to fire or breakdown) the Master may claim, in addition to the rights listed above, damages in accordance with Art. 368 and 97 ff CO. However, it may not claim damages in accordance with Art. 97ff CO in lieu of the rights listed in Art. 7.6.

8.8.2. The Contractor is released from the obligation to repair the damage if he proves that he has not been at fault (Art. 97 CO). The Contractor is liable for the damage caused by his auxiliaries as if he had caused it himself (Art. 101 CO). The scope of the obligation to repair is determined by Art. 99 CO.

9. Guarantee period for defects

9.1. Purpose and duration

9.1.1. The guarantee period is two years. It shall begin to run from the day of receipt of the Work or part of the Work.

9.1.2. Claims arising from defects which the Contractor has intentionally concealed shall lapse after ten years from the date of receipt of the Work or part of the Work.

9.2. Scope

9.2.1. During the guarantee period, the Contracting Authority has the right, in derogation of the legal provisions (Art. 367 and 370 CO), to claim at any time defects of any nature whatsoever.

9.2.2. During this period, in the event of a defect noted by the Contracting Authority, the Contractor undertakes to carry out the guarantee work in accordance with the SIA standard within a maximum period of 20 working days from the written notification of the defects.

9.2.3. In the case where the finishing or guarantee works are not carried out, or carried out too late, the Contracting Authority reserves the right to call upon a third party company, the resulting costs shall be borne by the Contractor.

9.2.4. This right also applies to defects that must be immediately eliminated to avoid further damage. If the Contracting Authority does not report such a defect immediately after discovering it, he shall bear the additional damage himself, which could have been avoided by immediate repair.

9.3. Garanties financières

9.3.1. The mandatory financial guarantees to be provided by the Contractor are :

Guarantee for prepayment

- | | |
|------------|--|
| ▪ Security | guarantee of return of advance payments on orders and/or manufacturing |
| ▪ Form | banking or insurance at first requisition |
| ▪ Amount | amount of the deposit request or advance payment |
| ▪ Duration | Until the final receipt of the work |

Guarantee for the proper execution of the contract

- | | |
|------------|--|
| ▪ Security | restraint |
| ▪ Form | financial withholding in cash |
| ▪ Amount | according to art 150 of the SIA 118 standard |
| ▪ Duration | Until the final receipt of the work |

Garantie pour responsabilité à raison des défauts

- | | |
|------------|--|
| ▪ Security | guarantee for defects |
| ▪ Form | banking or insurance at first request |
| ▪ Amount | according to art 181 of the SIA 118 standard but at least 10%. |
| ▪ Duration | 2 years from the date of official receipt of the works carried out by the Contractor |

9.3.2. The Contractor will not be able to claim capital gains for the costs incurred by the administrative procedures of the financial guarantees required because these are part of the elements included in the prices presented to the Contracting authority.

9.4. Contractor's liability

9.4.1. The Contractor shall be liable for all defects claimed by the Contracting Authority during the guarantee period. He shall be released from liability only for defects that the Employer is supposed to have accepted with the Work (or the part of the Work).

9.4.2. The Contracting Authority shall set the Contractor a suitable period of time for the elimination of the defect reported. Art. 7.6 ff. are applicable.

9.4.3. In the case of a dispute, it is up to the Contractor to prove that an identified fact does not constitute a breach of the contract, or therefore a defect within the meaning of the specifications.

9.5. Final verification

9.5.1. If one of them so requests, the parties shall jointly carry out a final audit of the Work before the expiry of the warranty period. This audit is the subject of a protocol signed by the parties concerned.

9.6. Effect of the expiry of the guarantee period

9.6.1. At the end of the guarantee period, the Contracting Authority loses the right to invoke the defects it has discovered. On the other hand, he keeps the rights resulting from the defects he has already reported.

9.7. Liability for hidden defects

9.7.1. Are hidden defects, defects that the Master discovers only after the expiry of the guarantee period.

9.7.2. The Contractor shall be liable for hidden defects, provided that the Master notifies him immediately after their discovery but no later than 5 years after receipt. The Master shall set the Contractor a suitable period of time for their disposal.

9.7.3. However, the Contractor is not liable for hidden defects that the construction management could have detected during the joint audit, unless the Contractor intentionally concealed them.

9.7.4. In the event of a dispute, it is up to the Master to prove that an allegedly hidden fact constitutes a breach of the Contract and therefore a defect.

10. Final dispositions

10.1. Any provision modifying or derogating from these general conditions is null and void unless otherwise agreed in writing and approved by the parties.

10.2. The Contract and the General Conditions are binding both on the parties who signed it and on their legal or contractual successors.

10.3. If one or more of the provisions of the Contract or the General Terms and Conditions should prove to be incomplete or invalid, their validity shall not be affected. In this case, the parties are obliged to replace the incomplete or invalid provision by a valid regulation that corresponds or comes as close as possible to the purpose and economic result pursued by the incomplete or invalid provision.

10.4. Neither party may assign or delegate, in whole or in part, its rights or obligations under the Contract and the General Terms and Conditions without the prior written consent of the other party. Any assignment or delegation made without such agreement would be null. However, the parties are entitled to assign all or part of the rights and obligations arising from the Contract and the General Terms and Conditions to any company belonging to their respective group.

10.5. The execution and interpretation of the Contract and the General Terms and Conditions shall be governed by Swiss law, in particular by the provisions of Articles 363 et seq. of the Swiss Code of Obligations relating to the contract of enterprise.

10.6. Any dispute arising out of or relating to the Contract and the General Terms and Conditions, in particular concerning its validity, performance, non-performance or improper performance, shall be submitted exclusively to the knowledge of the ordinary courts of Lausanne.

Read and accepted, on _____

Surname & first name : _____

Role : _____

Signature :

Company stamp :

Head Office / Purchasing Department :

Romande Energie SA
Rue de Lausanne 53
1110 Morges - Suisse
Tél. +41 (0)21 802 92 60
Fax +41 (0)21 802 92 55