

**GENERAL TERMS AND CONDITIONS OF PURCHASE VINCI ENERGIES (2021)**

**I GENERAL SECTION**

These Terms and Conditions consist of a general section and additional provisions. In the event of any conflict between the general section and the additional provisions, the additional provisions take precedence.

**ARTICLE 1 DEFINITIONS**

In these Terms and Conditions, the capitalised terms are defined as described below. Unless shown otherwise by the context, references to the singular form in these Terms and Conditions also refer to the plural form, and vice versa.

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| Request for Offer (RFO) | A request from VINCI Energies to a potential Contractor to make an Offer.   |
| Acceptance              | The Written approval and acceptance by VINCI Energies of (parts of) the Goods, Services and/or Works, by means of an acceptance procedure or otherwise.   |
| Acceptance Procedure    | The test procedure or other procedure recorded in the Agreement, with which VINCI Energies can assess whether the Goods, Services and/or Works comply with the agreed Specifications and contain no Shortcomings, in order to determine whether Acceptance can take place.  |
| Worker                  | An employee of the Contractor who is made available to VINCI Energies to perform work under the management and supervision of VINCI Energies.   |
| Source code             | The set of software instructions in their original programming language intended for execution by a computer, in a form such that a programmer with knowledge and experience of the programming method and technology used can change the software with this.   |
| Cloud Service           | Collective name for services offered by the Contractor to VINCI Energies 'As a Service', via an internet or data network connection, including e.g. SaaS, IaaS and PaaS.  |
| Services                | The activities and/or work to be performed by the Contractor, including the drafting or delivery of Documents, such as software development, consultancy, (technical) installation, implementation, commissioning, support, Cloud Services, training, secondment, Maintenance and/or Support, not being the supply of Goods or Works. |
| Documents               | The description of the Goods, Services and/or Works and the characteristics of these, intended specifically or otherwise for the installation, implementation, use, management and/or Maintenance thereof.  |
| Escrow                  | The placement of (a copy of) the Source Code in safekeeping with an independent third party, so that VINCI Energies, if one or more of the conditions in an escrow agreement is met, can (arrange to) use the Source Code independently to restore errors and maintain and manage the Standard Software in other respects.            |

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| Shortcomings                  | The failure to comply with the functional and/or technical specifications agreed between VINCI Energies and the Contractor, the failure to do so in full or the failure to comply otherwise, or to comply satisfactorily with the Agreement.  |
| Goods                         | Products and proprietary rights, including Licences and Software, gas, water and electricity, as well as all accompanying Documents and other serviceable tools for these.  |
| Purchase Order                | Every Written order of VINCI Energies to the Contractor for the supply of the Goods, Services and/or Works to which these Terms and Conditions apply. A Purchase Order can be placed under a Framework Agreement or an independent Purchase Order can be placed, including orders, to which these Terms and Conditions apply. |
| Terms and Conditions          | These General Terms and Conditions of Purchase VINCI Energies (Version 2021).   |
| Client                        | The principal of VINCI Energies.  |
| Licence                       | The right pursuant to which VINCI Energies is entitled to install and/or use Standard Software in accordance with the required use, including all reasonably necessary reproductions and disclosures, temporary or otherwise.   |
| Custom Software               | Software developed specifically for VINCI Energies, or modifications of Standard Software specifically for VINCI Energies, owned by VINCI Energies.   |
| Offer                         | The Written offer of the Contractor to supply Goods, Services and/or Works to VINCI Energies for a particular price.  |
| Maintenance                   | The performance of work by the Contractor aimed at maintaining, restoring and/or improving the Goods, Services and/or Works.  |
| Contractor                    | Every natural person or legal entity with whom/which VINCI Energies has concluded an Agreement for the supply of Goods, Services and/or Works.  |
| Offer for Acceptance          | The offer of (parts of) the Goods, Services and/or Works for Acceptance.  |
| Agreement                     | The Written agreements made between VINCI Energies and the Contractor, such as an agreement, Framework Agreement and/or a Purchase Order to which these Terms and Conditions apply.   |
| Party / Parties               | VINCI Energies and the Contractor, each referred to individually and/or jointly.  |
| Personnel                     | The employees deployed by the Contractor for the execution of the Agreement, including employees of subcontractors and Workers.   |
| Framework Agreement           | The master agreement of VINCI Energies with the Contractor, recording the agreements for the supply of Goods, Services and/or Works, on the basis of which Orders are placed.   |
| Service Level Agreement (SLA) | The agreement recording specific and/or technical requirements concerning Maintenance and other agreed forms of Services.   |
| Written/In Writing            | Communication by letter, e-mail or fax, provided that the identity of the sender and the integrity of the contents are adequately established. 'Written/In Writing' explicitly does not refer to messaging, such as via social media, SMS and WhatsApp.   |

## ARTICLE 2 GENERAL PROVISIONS

- 2.1 Deviations from these Terms and Conditions are possible only if these have been accepted In Writing by an authorized representative of VINCI Energies.
- 2.2 If one or more provisions of these Terms and Conditions are partially or fully null and void, nullified or declared non-binding, the other provisions of these Terms and Conditions remain in force in full. VINCI Energies and the Contractor undertake to replace the null and void, nullified or non-binding provisions with provisions that are binding and that, in view of the objective and purpose of the Agreement, differ as little as possible from the null and void, nullified or non-binding provisions.
- 2.3 In the event of a conflict between the provisions of the Terms and Conditions and the provisions of the Agreement, the provisions of the Agreement take precedence over the provisions of the Terms and Conditions.
- 2.4 If these Terms and Conditions are drawn up in both Dutch and English, the Dutch text is binding in the event of any dispute concerning the contents and/or purpose of these Terms and Conditions.

## ARTICLE 3 VINCI ENERGIES CODES AND GUIDELINES

The VINCI Suppliers Global Performance Commitment, as well as the VINCI Ethical Code and Code of Conduct and the VINCI Anti-Corruption Code of Conduct apply to all RFOs and/or Agreements. These documents can be viewed at the VINCI Energies website (<https://www.vinci-energies.de/unsere-engagement/ethik/>). In responding to an RFO, accepting or executing a Purchase Order and/or the concluding of an Agreement, the Contractor declares its consent to the application and contents of the codes and guidelines referred to above.

## ARTICLE 4 OFFER AND ACCEPTANCE

- 4.1 VINCI Energies is not bound by an RFO or other invitation to make an offer. This is only an invitation to submit an Offer.
- 4.2 The RFO contains the conditions for making an Offer. In the absence of these conditions, the Contractor will make an Offer stating that the Goods, Services and/or Works will be supplied for a fixed total price, a fixed settlement price or a variant of these, within the term set for the delivery. The Offer is irrevocable and remains valid for at least ninety (90) calendar days. Any costs associated with submitting an Offer are borne by the Contractor.
- 4.3 In the event of incompleteness of, apparent errors in or conflicts between parts of the RFO, the Contractor must immediately notify VINCI Energies of this In Writing, before submitting an Offer. In the event of incompleteness of, apparent errors or conflicts in the Agreement, the Contractor must immediately notify VINCI Energies of this In Writing, before proceeding to execute the Agreement. If the Contractor does not comply with one of the abovementioned duties of care and/or warning obligations, the Contractor is liable for all resulting damages and costs.
- 4.4 VINCI Energies is not required to issue a Purchase Order. VINCI Energies may discontinue negotiations at any time, without stating the reasons and without any liability to pay compensation for damages and costs. In addition, VINCI Energies is not required to provide information on the reason for issuing a Purchase Order or otherwise. The Contractor must erase all information provided to it by VINCI Energies if no Agreement is concluded.
- 4.5 If the Contractor starts the execution of the Agreement without a Purchase Order, it does so at its own risk and expense.
- 4.6 VINCI Energies is entitled to make changes and/or additions to the RFO. In that case, the Agreement between the Parties is concluded at the time at which VINCI Energies sends a Purchase Order to the Contractor.
- 4.7 If the Contractor sends VINCI Energies an order confirmation that differs from the Purchase Order, VINCI Energies is bound by this only to the extent that the authorised representative of VINCI Energies has consented to the relevant difference(s) In Writing.
- 4.8 Until the Contractor has started the execution of the Agreement, VINCI Energies is entitled to cancel the Agreement without costs at any time.
- 4.9 If the Contractor consists of multiple natural persons and/or legal entities, or if the Agreement is concluded with two or more

Contractors, each of them is jointly and severally liable to VINCI Energies for compliance with the Agreement.

- 4.10 If VINCI Energies procures Goods, Services and/or Works from the Contractor with a view to a contract with its Client, the Agreement with the Contractor will be concluded subject to the condition precedent that the contract between VINCI Energies and the Client is concluded, that VINCI Energies receives permission from the Client to engage the Contractor for the supply of Goods, Services and/or Works and that the contract with the Client is actually executed.
- 4.11 If VINCI Energies procures Goods, Services and/or Works from the Contractor with a view to a contract with its Client, at the first request of VINCI Energies, the Contractor will declare itself willing to accept deviations regarded as necessary by VINCI Energies, so that the nature and content of the terms and conditions (of purchase) then agreed with the Contractor are consistent with the contract that VINCI Energies concludes with the Client.
- 4.12 The Contractor is deemed to have accepted these Terms and Conditions in full at the time that the Agreement is executed.

## ARTICLE 5 CHANGES, CONTRACT VARIATIONS

- 5.1 VINCI Energies is entitled at any time to require changes to the scope and/or the capacity of the Goods, Services and/or Works to be supplied.
- 5.2 Contract variations (additional or reduced work) are possible only in as far as VINCI Energies has issued a Purchase Order for this in advance. In the event of reduced work, the price for the Goods, Services and/or Works to be supplied will be reduced on a proportional basis.
- 5.3 The Contractor has an obligation to report necessary changes, improvements and/or innovations to VINCI Energies In Writing before they are implemented.
- 5.4 If, in the view of the Contractor, a change has consequences for the agreed price and/or the term for the Offer for Acceptance or the delivery, before making the change the Contractor is required to notify VINCI Energies of this In Writing at the earliest opportunity, and at least within five (5) calendar days after being notified of the required change, in the absence of which the Contractor must comply with the Agreement without a change in the price and/or the delivery term and/or the Offer for Acceptance term.
- 5.5 If, in the view of VINCI Energies, these consequences for the price and/or the delivery term and/or the Offer for Acceptance term are unreasonable, VINCI Energies is entitled to require unchanged Goods, Services and/or Works or changed Goods, Services and/or Works that are acceptable to it, or to (arrange to) dissolve the Agreement with immediate effect. Dissolution on the grounds of this clause does not give the Contractor any right to compensation for any damages and/or costs.
- 5.6 For changes in the Agreement, the Contractor will use the same unit prices and surcharges as those already recorded in the Agreement, unless the Parties agree or have agreed lower unit prices and surcharges for additional or reduced work.
- 5.7 In the event of a change, the other, unchanged provisions of the Agreement remain in force in full.
- 5.8 Contractor may apply or make changes to the scope, composition and/or capacity of Goods, Services and/or Works to be delivered, the ancillaries and the relevant packaging only with the prior Written approval of VINCI Energies. In granting approval, VINCI Energies accepts no liability and/or risk whatsoever concerning the technical, structural and/or functional soundness of the Goods, Services and/or Works to be delivered.
- 5.9 In no case can VINCI Energies be charged for Goods, Services and/or Works that could have or should have been foreseen by the Contractor prior to the conclusion of the Agreement, or that are the result of a shortcoming on the part of the Contractor, as additional work.
- 5.10 In as far as possible, the additional work performed will be charged in full in the next invoice. If VINCI Energies procures Goods, Services and/or Works from the Contractor with a view to a contract with its Client and additional work is required, the agreements recorded in VINCI Energies' contract with its Client apply.

## ARTICLE 6 PRICE

- 6.1 Agreed prices and/or rates are fixed and binding for the term of the Agreement and are therefore not subject to change.

- 6.2 The agreed prices and/or rates are denominated in euros and are exclusive of turnover tax (VAT), but inclusive of any other levies imposed or to be imposed by the government.
- 6.3 The prices and/or rates cover all costs relating to compliance with the Contractor's obligations under the Agreement, including costs such as transport, insurance, packaging, packaging returns and import and export costs.

#### ARTICLE 7 PLANNING OF GOODS, SERVICES AND/OR WORKS

- 7.1 Within five (5) Working Days of receipt of the Purchase Order from VINCI Energies or the concluding of the Agreement, the Contractor must submit detailed plans for the execution of the Goods, Services and/or Works to be delivered to VINCI Energies.
- 7.2 VINCI Energies will assess the plans on receipt. Following their approval by VINCI Energies, the plans will form part of the Agreement. The approval of the plans is without prejudice to the Contractor's responsibility for the accuracy and/or feasibility of the plans.

#### ARTICLE 8 DELIVERY AND EXECUTION OF GOODS, SERVICES AND/OR WORKS

- 8.1 The Contractor guarantees that the Goods, Services and/or Works to be delivered will be prepared, planned, executed and reported in accordance with the instructions issued by VINCI Energies and in accordance with the general requirements of professionalism and expertise.
- 8.2 Delivery, including unloading, takes place in accordance with the Delivery Duty Paid (DDP) delivery condition, in compliance with the Incoterms applying at that time, to the location designated by VINCI Energies, at the agreed delivery time or within the agreed delivery term.
- 8.3 The Goods must be properly packaged and marked in accordance with European and national regulations and any additional rules of VINCI Energies.
- 8.4 In as far as possible, the Contractor will demonstrably use sustainable packaging methods and will provide for their demonstrably environmentally friendly removal.
- 8.5 During the execution of the Goods, Services and/or Works to be delivered, the Contractor must provide Written progress reports in accordance with the period recorded in the Agreement, and if no period is agreed in this, in any event monthly. The Contractor must continually keep VINCI Energies informed In Writing of its compliance or otherwise with the terms set in the planned schedule.
- 8.6 If the Contractor knows or foresees that the execution of the Goods, Services and/or Works to be delivered will not proceed in accordance with the schedule, the Contractor is required to notify VINCI Energies of any possible late delivery adequately, In Writing and in a timely manner. The Contractor must submit proposals to VINCI Energies on its own initiative for preventing or limiting such late delivery as far as possible. This is without prejudice to any claims of VINCI Energies as a result of such late delivery pursuant to these Terms and Conditions, the Agreement and/or statutory provisions. If VINCI Energies suspects that the Contractor cannot execute the Goods, Services and/or Works to be delivered, or cannot do so properly, or within the planned term, or in urgent cases, VINCI Energies may exercise its right to outsource part or all of the execution of the Agreement to a third party at the risk and expense of the Contractor (*step-in right*). The foregoing does not relieve the Contractor of its obligations under the Agreement, including its obligation to compensate VINCI Energies for damages suffered and to be suffered.
- 8.7 The agreed terms relating to (parts of) the Goods, Services and/or Works to be delivered by the Contractor are fixed and final. On failure to meet any of these terms, the Contractor is in default with no notice of default being required.
- 8.8 For each calendar day that the agreed delivery date is exceeded, VINCI Energies is entitled to impose an immediately due and payable penalty of 1% of the total price shown in the Agreement, with a minimum amount per late delivery of €1,000. A maximum total penalty applies here of 10% of the total price shown in the Agreement. VINCI Energies reserves all rights, including the right to compensation for the damages that it has suffered or will suffer.
- 8.9 VINCI Energies is entitled to postpone the delivery of Goods. On delivery of Goods, the Contractor will store, secure and insure these, properly packaged and identifiably intended for VINCI Energies, and

will take all reasonable measures to prevent deterioration in the quality of the Goods.

- 8.10 VINCI Energies is entitled to postpone delivery of Services and/or Works for a period of at least sixty (60) calendar days without any liability for damages to the Contractor.
- 8.11 The Contractor is not entitled to make part deliveries or partial Offers for Acceptance unless part deliveries or partial Offers for Acceptance have been explicitly agreed between the Parties In Writing.
- 8.12 If VINCI Energies so wishes, the Contractor is required to present a Written production or execution plan and/or to assist in a progress check.
- 8.13 The Offer for Acceptance or delivery first qualifies as complete when the Agreement is delivered or offered for Acceptance in full, in accordance with the requirements recorded in the Agreement, to the location designated by VINCI Energies in a timely manner, and has been accepted by VINCI Energies In Writing.

#### ARTICLE 9 OFFER FOR ACCEPTANCE / DELIVERY AND ACCEPTANCE

- 9.1 The Contractor executes the Goods, Services and/or Works on the basis of a result commitment.
- 9.2 Within a reasonable term following the Offer for Acceptance or delivery of the Goods, Services and/or Works, VINCI Energies will notify the Contractor of whether these have been accepted (Acceptance) or rejected.
- 9.3 If no Acceptance Procedure is laid down in the Agreement, the following applies:
- after each Offer for Acceptance or delivery, the Goods, Services and/or Works will be checked for Shortcomings on the basis of an acceptance procedure to be established. After completion of this acceptance procedure, VINCI Energies will notify the Contractor In Writing of whether the Goods, Services and/or Works have been accepted.
  - if VINCI Energies withholds its Acceptance due to observed and reported Shortcomings, the Contractor will rectify these Shortcomings as soon as possible, and in any event within five (5) Working Days.
  - after the end of the term referred to in b, the Contractor will resubmit the adjusted Goods, Services and/or Works for Acceptance and/or delivery or Offer for Acceptance to VINCI Energies (second acceptance procedure). VINCI Energies will then perform the second acceptance procedure.
- 9.4 The terms referred to in Article 9.3 must fit within the schedule for the Agreement and may not lead to delays.
- 9.5 If VINCI Energies again detects Shortcomings during the second acceptance procedure and reports these to the Contractor, VINCI Energies is entitled:
- to dissolve the Agreement, partially or in full, extrajudicial with no further notice of default. In that case, the Contractor is liable for the damages suffered and to be suffered by VINCI Energies; or
  - to rectify the Shortcomings at the Contractor's expense, by deploying third parties or otherwise; or
  - to conditionally accept the Goods, Services and/or Works, subject to conditions to be agreed. If the Contractor fails to meet the conditions set with the conditional acceptance, the provisions of Article 9.5(a) apply.
- 9.6 In the event of Shortcomings that cannot be rectified within the agreed schedule, the Parties may decide by agreement that the Contractor will realise an acceptable temporary work-around and/or finds an acceptable solution for this at a later stage.
- 9.7 No Acceptance takes place if VINCI Energies has paid any invoice from the Contractor, has commissioned the Goods, Services and/or Work, has taken these into production or implemented these.
- 9.8 Minor Shortcomings or remaining points that do not prevent the operation or use of the Goods, Services and/or Works for productive purposes will not constitute grounds for non-Acceptance, without prejudice to the Contractor's obligation to rectify such Shortcomings at the earliest opportunity and in any event within fifteen (15) calendar days.
- 9.9 The date on which VINCI Energies has accepted the Goods, Services and/or Works qualifies as the Acceptance date.
- 9.10 Acceptance by VINCI Energies does not relieve the Contractor of its obligations under the Agreement.

## ARTICLE 10 TITLE AND RISK

- 10.1 Title of the Goods, Services and/or Works, as well as of parts of the Goods, Services and/or Works, transfers to VINCI ENERGIES at the time of actual delivery or as much earlier as the date of the legal delivery.
- 10.2 The Contractor guarantees that full and unencumbered title of the Goods, Services and/or Works is transferred and that these are free of garnishments.
- 10.3 In the event of a delay in the delivery of the Goods, Services and/or Works to be delivered pursuant to Article 8.9 or 8.10, title of the Goods, Services and/or Works transfers to VINCI ENERGIES at the time when the Goods, Services and/or Works are stored at or on behalf of the Contractor. The Contractor is required to keep the Goods, Services and/or Works for VINCI ENERGIES free of charges and rights, to insure these adequately, to store them separately and identifiably for VINCI ENERGIES and to indemnify them against loss, damages and the exercise of rights by third parties.
- 10.4 If VINCI ENERGIES makes a partial or full advance payment for the Goods, Services and/or Works, VINCI ENERGIES acquires title of all materials, raw materials and semi-manufactured products that the Contractor uses for the execution of the Agreement or that are intended for that purpose, up to the value of the pre-paid amount. The Contractor is required to keep the aforementioned materials, raw materials and/or semi-manufactured products for VINCI ENERGIES free of charges and rights, to insure these adequately, to store them separately and identifiably for VINCI ENERGIES and to indemnify them against loss, damages and the exercise of rights by third parties.
- 10.5 The risk (including loss, theft, embezzlement and/or damages) of Goods, Services, Works, Documents, tools, database sets, data (codes, passwords, user names, etc.), etc. delivered, produced or used by the Contractor in relation to the execution of the Agreement transfers to VINCI ENERGIES after their Acceptance by VINCI ENERGIES.
- 10.6 If VINCI ENERGIES gives the Goods, Services and/or Works to the Contractor for repair, processing or treatment, the risk of these Goods, Services and/or Works is borne by the Contractor. Title of these Goods, Services and/or Works is vested in VINCI ENERGIES. The Contractor will keep these Goods, Services and/or Works separately from objects belonging to itself or to third parties. The Contractor shall mark these Goods, Services and/or Works as property of VINCI ENERGIES. The Contractor waives its right of retention to these Goods, Services and/or Works in favour of VINCI ENERGIES.
- 10.7 At the time when Goods of VINCI ENERGIES have been processed in Goods of the Contractor, a new Good arises, which is owned by VINCI ENERGIES.
- 10.8 If VINCI ENERGIES exchanges or returns Goods and/or Services, with or without ancillaries, the risk of these Goods and/or Services transfers to the Contractor at the time when the Goods and/or Services are placed in the position of the Contractor (or a shipper of the Contractor).
- 10.9 Title and risk of the Goods, Services and/or Works rejected pursuant to Article 9 (Offer for Acceptance, delivery and Acceptance) are deemed to have remained with the Contractor and to have never been transferred to VINCI ENERGIES.

## ARTICLE 11 DOCUMENTS PROVIDED BY VINCI ENERGIES

- 11.1 The Contractor must check the completeness and accuracy of specifications, drawings and other documents that it has received from VINCI ENERGIES for the execution of the Agreement.
- 11.2 The Contractor must notify VINCI ENERGIES In Writing of any inaccuracies or incompleteness in these specifications, drawings and other documents within fifteen (15) calendar days of their receipt, in the absence of which it can no longer invoke inaccuracies and/or incompleteness at a later date.

## ARTICLE 12 INVOICING AND PAYMENT

- 12.1 The Contractor shall submit an invoice to VINCI ENERGIES only after the Goods, Services and/or Works have been delivered to VINCI ENERGIES and accepted by VINCI ENERGIES. Invoices must be accompanied by verificatory documents.
- 12.2 Every delivery of the Goods, Services and/or Works must be invoiced, and the return of these must be credited separately by the Contractor.
- 12.3 At the discretion of VINCI ENERGIES, invoices may be submitted by the Contractor in writing or digitally.
- 12.4 After full and correct execution of the Agreement, VINCI ENERGIES will settle the invoice within sixty (60) days of its receipt and approval, provided that Acceptance has taken place. Payment of invoices by

VINCI ENERGIES before Acceptance has taken place is subject to the condition precedent of Acceptance.

- 12.5 In as far as it applies or relates to the Goods, Services and/or Works, the invoice must state the following information, in addition to the statutory requirements:
- the Contractor's name according to its Articles of Association or the name of the natural person, its Chamber of Commerce registration number, residential or business address, place of residence or business and its bank account number;
  - the name, business address and place of business of VINCI ENERGIES according to its Articles of Association;
  - the issue date of the invoice;
  - a sequential number, with one or more series, with which the invoice can be unequivocally identified;
  - the VAT identification number under which the Contractor provided the Goods, Services and/or Works;
  - the VAT identification number of VINCI ENERGIES if the Goods, Services and/or Works have been supplied with the application of a zero rate for inter-community supplies or if the levy of VAT relating to the deliveries has been transferred to VINCI ENERGIES;
  - the volume or scope and nature of the Goods, Services and/or Works delivered;
  - the date on which the Goods, Services and/or Works were delivered or offered for Acceptance or completed or the date on which the prepayment was made, in as far as that date is fixed and differs from the issue date of the invoice;
  - the fee for each rate or each exemption, the unit price, not including tax, as well as any prepayment discounts, price reductions and rebates if these are not included in the unit price;
  - the rate of the tax applied;
  - the amount of tax payable, unless a special regulation applies for which that statement is excluded. This must be stated in the invoice;
  - in the case of inter-community delivery of Goods, the invoice must state this;
  - if the tax is paid by a fiscal representative: their name, address and VAT identification number;
  - the Purchase Order number and optionally, the Agreement number or project number of VINCI ENERGIES.
- 12.6 The Contractor is required to provide all the information required for the administration of VINCI ENERGIES and/or its Client in relation to the invoices received free of charge. In the case of Services and/or Works, every invoice must be accompanied by a man-hours register with a specification of hours worked, stating the name and Citizen Service Number (BSN) of the relevant employees, and in the case of an employee from outside the European Economic Area (EEA), stating the name and number of that employee's valid identity document.
- 12.7 Payment of an invoice by VINCI ENERGIES in no way involves Acceptance of the delivered Goods, Services and/or Works and does not relieve the Contractor of any obligation, such as a guarantee and/or liability to VINCI ENERGIES and does not entail the waiver of any rights by VINCI ENERGIES.
- 12.8 VINCI ENERGIES is entitled to suspend payment of an invoice if the invoice does not comply with the requirements referred to in Article 12.5, and/or the data that the Contractor must supply to VINCI ENERGIES for the execution of the Agreement, regularly or otherwise, is missing, and/or the Contractor has not provided the agreed payment security, or has not done so in the correct form, and/or VINCI ENERGIES detects a shortcoming in the Goods, Services and/or Works.
- 12.9 VINCI ENERGIES is entitled to settle amounts that it is owed on any grounds by the Contractor and/or companies affiliated to the Contractor, due or otherwise, with amounts that it owes the Contractor and/or companies affiliated to the Contractor.
- 12.10 Invoices that VINCI ENERGIES receives more than ninety (90) calendar days after delivery of the Goods, Services and/or Works and Acceptance of these will not be accepted. The Contractor's right to payment for the delivered Goods, Services and/or Works lapses on the expiration of the aforementioned period.
- 12.11 VINCI ENERGIES is entitled at all times to require that the Contractor provides for the issue of an unconditional and irrevocable bank guarantee (including the amount of VAT owed) at its own expense by a well-known European banking institution acceptable to VINCI ENERGIES in order to secure compliance with its obligations.
- 12.12 If VINCI ENERGIES exceeds an agreed payment term, the Contractor must issue VINCI ENERGIES with notice of default by registered mail,

granting VINCI Energies a reasonable term for payment. If VINCI Energies has not paid the outstanding amount on the expiration of the reasonable term referred to above, the Contractor may claim interest on the outstanding amount.

- 12.13 Any interest owed by VINCI Energies is the interest at the statutory rate, as referred to in Article 6:119 of the Dutch Civil Code. VINCI Energies will not owe any interest costs, collection costs or other costs for invoices if the Contractor has submitted an inaccurate, incomplete or otherwise incorrect invoice or in the event of a failure of the Contractor to comply with its obligations.
- 12.14 If VINCI Energies exceeds a payment term or fails to pay an invoice, the Contractor does not have the right to suspend or discontinue the execution of the Agreement or to invoke the right of retention or right of recovery.

#### ARTICLE 13 QUALITY AND GUARANTEE

- 13.1 The Contractor guarantees VINCI Energies that the Goods, Services and/or Works to be delivered:
- comply with the highest statutory requirements and regulations of the Dutch government and the EU, such as European laws and regulations and regulations of lower government authorities, as well as with the highest requirements of the safety and environment requirements or standards, quality standards, technical standards, certifications, health requirements, working conditions, professional and expertise standards etc. used within the sector, as applying at the time of the delivery of the Goods, Services and/or Works;
  - conform to what is described in the RFO and/or the Agreement as regards matters including volume, dimensions, weight, the description and quality and all accompanying regulations and documents, as well as conform to directions and instructions of VINCI Energies, so that the Goods, Services and/or Works lead to the envisaged result recorded in the Agreement;
  - have the characteristics promised by the Contractor and/or that VINCI Energies could reasonably expect;
  - are sound, in good condition and new;
  - are fully complete and ready for use;
  - are free of defects and/or design, construction, material and/or manufacturing errors;
  - comply with the agreed functionality, including any installation/assembly, set-up, commissioning, etc.;
  - conform to the agreed descriptions, (technical) specifications and the Documents provided;
  - are suitable for the purposes for which the Goods, Services and/or Works are intended and for the use envisaged by VINCI Energies;
  - contain no security measures that have not been agreed, and also contain no foreign elements;
  - will be delivered or made available in a timely manner;
  - or their use, including any resale, does not violate any third-party rights, including intellectual property rights.
- 13.2 The Contractor guarantees that all parts, auxiliary materials, accessories, tools, spare parts, instructions for use, instruction booklets etc. that are required for proper operation and are necessary for the realisation of the purpose notified by VINCI Energies are delivered, including tools that have not been named or ordered. In the execution, tools and equipment used must comply with the highest requirements and if necessary, must be certified by the institution authorised to that end.
- 13.3 The Contractor must comply with the schedule and/or execution plan issued and approved by VINCI Energies.
- 13.4 The Contractor guarantees that the persons it will deploy are suitable for their tasks and have mastery of Dutch and/or English.
- 13.5 The Contractor guarantees that the delivered Goods, Services and/or Works include all applications for permits necessary for the execution of the Agreement.
- 13.6 The Contractor guarantees that the drawing and other preparatory work to be performed for the execution of the Agreement and/or development work are included.
- 13.7 The Contractor must have a sound and certified management system which assures the matters of health, safety, information security, environment and quality.
- 13.8 A guarantee term applies for the Contractor of at least twenty-four (24) months after Acceptance of the delivered Goods, Services and/or Works, or as much longer as the Contractor can demand on the basis

of contracts with its subcontractors and/or suppliers. If the Goods, Services and/or Works are intended for processing by VINCI Energies in installations or systems, the abovementioned guarantee term commences on the date of the offer for acceptance of those installations and/or systems of which they form part by VINCI Energies to the Client.

- 13.9 The Contractor guarantees that Shortcomings in the Goods, Services and/or Works delivered will be rectified immediately during the guarantee term, at the Contractor's expense.
- 13.10 If, in the view of VINCI Energies, the Goods, Services and/or Works delivered by the Contractor contain Shortcomings during the guarantee term, VINCI Energies will notify the Contractor of this within a reasonable term. The Contractor will rectify the Shortcomings in full as soon as possible after receipt of the aforementioned notification.
- 13.11 The Contractor guarantees that during the guarantee term, it will keep the materials, knowledge and capacity available that are necessary for adequate settlement of guarantee issues.
- 13.12 The guarantee referred to in this Article 13 is given by the Contractor in addition to any other guarantees or obligations given or undertaken by the Contractor or arising from the law, and is also given for Clients of VINCI Energies.
- 13.13 The Contractor is required to stipulate that guarantee certificates and guarantees arising from these that are transferred by any third parties for parts that they are to deliver, will also be transferred directly to VINCI Energies. Failure to (arrange to) provide such guarantee certificates does not relieve either the Contractor or the third parties that it deploys of the relevant obligations. In the event of discrepancies between different guarantee texts concerning the same part, the guarantee text most favourable for VINCI Energies applies.
- 13.14 The Contractor is aware that continuity of the supply of Goods and/or Services and/or Work is of great importance for VINCI Energies.

#### ARTICLE 14 INFORMATION OBLIGATION AND AUDIT

- 14.1 The Contractor has informed itself adequately of the objectives of VINCI Energies in relation to the Agreement, the organisation of VINCI Energies, the circumstances and the environment in which the Goods, Services and/or Works will be used or processed. The Contractor acknowledges that it has received sufficient information from VINCI Energies and consequently has been able to form a good picture or a good impression of the feasibility of the delivery of the Goods, Services and/or Works within the preconditions set by VINCI Energies and the agreed plans.
- 14.2 The Contractor is required to notify VINCI Energies In Writing immediately of all circumstances that could impact on or hamper compliance with the Agreement. In that case, VINCI Energies is entitled to take the necessary and reasonable measures at the Contractor's expense, and/or to require changes to the Agreement. VINCI Energies may also (arrange to) dissolve the Agreement in that case (extrajudicially). VINCI Energies also has the aforementioned rights if it suspects such circumstance that the Contractor has not yet reported to VINCI Energies.
- 14.3 VINCI Energies is entitled to (arrange to) audit the method of execution of the Agreement and/or the Contractor's compliance with its statutory obligations, but is not obliged to do so. VINCI Energies is entitled to take the measures that it considers to be reasonable.
- 14.4 VINCI Energies will receive monthly progress reports from the Contractor, inspect the locations where the Goods, Services and/or Works will be delivered, partially or in full (accompanied by experts or otherwise) and/or (arrange to) perform an (accounting) audit of the Contractor's book-keeping. The Contractor shall provide full assistance for such requests or audits free of charge and will grant the third party designated by VINCI Energies an opportunity to perform the requested audit.
- 14.5 If the audit shows that the Contractor has failed to comply with its statutory and/or contractual obligations, or has failed to do so in full or adequately, VINCI Energies is entitled to suspend payment of invoices until the Contractor has shown satisfactorily that it has since complied with its statutory and/or contractual obligations. In the latter case, the costs of the audit are borne by the Contractor.
- 14.6 VINCI Energies is entitled, if there are grounds to do so, and also at least once a year to conduct an audit or have an audit conducted by an auditor selected by VINCI Energies to check correct compliance with the Agreement by the Contractor, as well as to ensure that payment of wages takes place correctly, that the quality procedures are in order and that the Contractor complies with corporate social responsibility (CSR) agreements and legislation. The Contractor is

required to provide its assistance for such an audit. The Parties shall reach agreements on the content and scope etc. of the audit. If the Parties fail to reach agreement, VINCI Energies will determine the content and scope etc. of the audit. The costs of the audit are borne by VINCI Energies, unless the audit reveals irregularities, in which case the costs of the audit are borne by the Contractor.

#### ARTICLE 15 DOCUMENTS, PARTS AND TOOLS FOR COMMISSIONING/USE

- 15.1 The Contractor shall provide VINCI Energies with sufficient and clear Documents on the characteristics, technical integration and use possibilities of the Goods, Services and/or Works. The Documents for end-users are drawn up in Dutch. Other Documents may also be drawn up in English.
- 15.2 The Contractor must provide for all official documents and approvals by the government and other institutions and the stamping of Goods and materials with all stamps required by the government or other institutions for their use, commissioning and possession.
- 15.3 The Contractor is required to make all agreed Documents and all documents required by law available to VINCI Energies prior to or at the same time as the delivery of the Goods, Services and/or Works to be delivered.
- 15.4 The Documents must be drawn up in such a manner that VINCI Energies and/or third parties can use, manage and maintain the Goods, Services and/or Works correctly with the aid of these.
- 15.5 VINCI Energies may reproduce, change and disclose the Documents for use within its organisation without owing further fees for this. Any designated copyrights attached to these will be maintained.

#### ARTICLE 16 PERMITS

- 16.1 If a permit is required for the execution of the Agreement, the Contractor is responsible for obtaining and maintaining such a permit.
- 16.2 If the Contractor observes a conflict with the permit in any way whatsoever, it will notify VINCI Energies of this immediately.

#### ARTICLE 17 CONTRACTOR'S PERSONNEL

- 17.1 The Contractor guarantees that it will deploy only Personnel with the skills and qualifications agreed or necessary for the delivery of Goods, Services and/or Works, taking account of the nature of the Goods, Services and/or Works to be delivered.
- 17.2 The Contractor guarantees that the Personnel that it deploys comply with the requirements that may be imposed in that regard on a similar contractor as a reasonably skilled colleague acting reasonably.
- 17.3 If the Agreement shows that compliance with the requirements for the Safety, Health and Environment Checklist Contractors (VCA) is required, the Contractor must comply with the VCA requirements and the Personnel must hold a Basic Safety VCA (B-VCA) certificate or a VCA for Operational Managers (VOL-VCA) certificate, depending on the nature of the Services and/or Works and the requirements of VINCI Energies and/or its Client.
- 17.4 The Contractor guarantees that it will not make Personnel who are also working for third parties available to or deploy them at VINCI Energies if this could create a conflict of interest for such Personnel.
- 17.5 On the deployment of Personnel by the Contractor, VINCI Energies is entitled to require the Contractor to submit a list of the persons deployed at VINCI Energies.
- 17.6 VINCI Energies is entitled to require the Contractor to submit a Certificate of Good Conduct (VOG) for the Personnel to be deployed. The VOG may not be older than two months. The Contractor will keep possession of the VOG during the execution of the Agreement.
- 17.7 The Personnel must be able to provide proof of identity during the execution of the Agreement.
- 17.8 The Contractor must instruct its Personnel to comply with the working times, rules of conduct and codes applying at VINCI Energies, as referred to in Article 3 (VINCI Energies Codes and Guidelines).
- 17.9 If the delivery of the Goods, Services and/or Works takes place at the location designated by VINCI Energies, the Contractor will also instruct its Personnel to observe the security rules and house rules applying at that location.
- 17.10 On violation of the provisions of Article 17.7, 17.8 or 17.9, VINCI Energies is entitled to deny the relevant Personnel access to the location with immediate effect.
- 17.11 If, in the view of VINCI Energies, the quality of the Personnel or their conduct is unsatisfactory, the Contractor will replace the Personnel at VINCI Energies' first request, without costs for VINCI Energies.

- 17.12 The Contractor replaces Personnel only with the prior consent of VINCI Energies. VINCI Energies will not refuse its consent on unreasonable grounds and may attach further conditions to such consent.
- 17.13 In the event of the temporary or permanent absence of Personnel deployed by the Contractor, the Contractor must make replacement Personnel with at least equivalent expertise, equivalent standards of education and equivalent experience as the Personnel originally deployed available as soon as possible. Rates will not be adjusted.
- 17.14 The Contractor is and will remain responsible and liable for the Personnel that it deploys at VINCI Energies.
- 17.15 The Contractor must comply with all obligations pursuant to 1) the law, including the Wet Arbeid Vreemdelingen (WAV) (Foreign Nationals Employment Act), the Wet minimumloon en minimumvakantiebijslag (WML) (Minimum Wage and Minimum Holiday Allowance Act), the Wet dereguleren beoordeling arbeidsrelaties (Wet DBA) (Deregulation of Assessment of Employment Relationships and the Wet Aanpak Schijnconstructies (WAS) (Labour Market Fraud (Bogus Schemes) Act) and other laws and regulations applicable in relation to the WAS, and 2) any applicable collectieve arbeidsovereenkomst (cao) (collective labour agreement).
- 17.16 Pursuant to the WAS, the Contractor is, among other things, required to:
- record all agreements regarding employment conditions for the realisation of the Services and/or Works in a transparent and accessible manner;
  - grant authorised institutions access to these employment conditions agreements and to cooperate in checks, audits or wage validations;
  - grant VINCI Energies access to these employment conditions agreements if it regards this as necessary in connection with the prevention or handling of a wage claim concerning work performed for the Services and/or Works.
- 17.17 The Contractor will require each of the contractors and subcontractors that it deploys, which in turn must require the contractors and subcontractors that they deploy, and so forth, to also comply with all the aforementioned obligations arising from Article 17.15. The Contractor must ensure that the provisions to that effect are included in the relevant contracts with the contractors and subcontractors deployed and must provide evidence of compliance with these provisions at VINCI Energies' first request.
- 17.18 The Contractor shall indemnify VINCI Energies and/or its Client against claims relating to non-compliance with the obligations referred to in Article 17 (Contractor's Personnel), including but not limited to the payment of costs and penalties. The Contractor will also pay VINCI Energies compensation for all related damages and costs at VINCI Energies' first request.
- 17.19 If the Contractor deploys Self-Employed Professionals, the Contractor acts in compliance with the Wet DBA. The Contractor assesses the labour relationship with the Self-Employed Professional and if necessary, contracts a model agreement with the Self-Employed Professional in accordance with the model agreement approved by the Tax and Customs Administration (Belastingdienst). The Contractor guarantees that the work will be performed in accordance with the agreements in the aforementioned approved model agreement. VINCI Energies also reserves the right to deposit part of the fee into the Contractor's G account (G-rekening) (blocked bank account for payment of payroll taxes to the Tax and Customs Administration) in cases in which the Contractor deploys Self-Employed Professionals. At the request of VINCI Energies, the Contractor will submit the aforementioned approved model agreement contracted between the Contractor and/or the contractor or subcontractor deployed and the Self-Employed Professional.

#### ARTICLE 18 SUBCONTRACTING

- 18.1 The Contractor is allowed to make use of the services of third parties in the execution of the Agreement only with the prior Written consent of VINCI Energies. VINCI Energies may attach further conditions to such consent.
- 18.2 The consent of VINCI Energies is without prejudice to the Contractor's own responsibility and liability for compliance with its obligations under the Agreement and its obligations as an employer pursuant to the tax, health insurance and social insurance legislation.
- 18.3 The Contractor is and will remain fully responsible and liable for the actions and omission of third parties that it deploys. The Contractor will

ensure that the third parties that it deploys also comply with the provisions of these Terms and Conditions and with all other applicable regulations and provisions of the Agreement. The Contractor guarantees that VINCI Energies can also exercise its powers on those grounds in respect of third parties that it deploys.

#### ARTICLE 19 WORK ON LOCATION

- 19.1 If the Services and/or Works must be performed at a location designated by VINCI Energies, the Contractor and its Personnel must inform themselves of the following before the execution of the Agreement begins:
- a. the circumstances at the site and in the buildings at and in which the Services and/or Works must be performed;
  - b. the contents of the rules and regulations applying at the site and in the buildings of VINCI Energies or its Client, including those concerning health, safety and the environment, and conduct themselves accordingly.
- 19.2 The Contractor bears the risks and expense of delays in the execution of the Agreement due to circumstances such as referred to in Article 19.1.
- 19.3 VINCI Energies will provide the Contractor with a copy of the above rules and regulations on request.
- 19.4 The Contractor will ensure that its presence, the presence of its Personnel and/or the presence of third parties that it deploys at the site and/or in the buildings of VINCI Energies does/do not form an obstruction for the uninterrupted progress of the work of VINCI Energies and third parties.

#### ARTICLE 20 CONTACT PERSONS

- 20.1 On concluding the Agreement, the Parties will notify each other of among other things the persons authorised to represent the Parties.
- 20.2 Without prejudice to the provisions of Article 37 (Applicable Law and Jurisdiction), the Parties will draw up an escalation procedure.

#### ARTICLE 21 ORDER, SAFETY AND ENVIRONMENT

- 21.1 The Contractor, its Personnel and third parties that it deploys are required to observe the statutory health, safety and environmental regulations.
- 21.2 The Contractor, its Personnel and third parties that it deploys must follow the VINCI Energies company rules and regulations relating to health, safety and the environment. A copy of these rules and regulations is available on request.
- 21.3 On delivery of machines, devices and processes for which raw materials and/or ancillaries that are harmful to the environment are necessary, the Contractor will hand over and/or make available (digitally or otherwise) the customary safety information sheets or chemical cards (safety data sheets).
- 21.4 At the first request of VINCI Energies, the Contractor is required to present a Scope 1 and Scope 2 CO<sub>2</sub>-emission inventory of its organisation, in accordance with ISO 14064-1. The inventory must be accompanied by a verification statement from a certifying institution.

#### ARTICLE 22 MAINTENANCE AND SUPPORT

- 22.1 If VINCI Energies requires Maintenance and/or Support, the Contractor will perform Maintenance and/or Support for the Goods, Services and/or Works at the price shown in the Agreement.
- 22.2 If agreed, the Maintenance commences on the latest of the expiration of the Guarantee or the time of Acceptance of the Goods, Services and/or Works, or the time of the offer for acceptance to the Client by VINCI Energies.
- 22.3 During the term of the Agreement, the Contractor is required to rectify Shortcomings reported by VINCI Energies to the Contractor within the term set in the Agreement or the SLA.
- 22.4 The Contractor ensures that its expertise concerning the Goods, Services and/or Works remains up to date. The Contractor shall register and record the data relevant for the Maintenance concerning the maintenance work performed for the Goods, Services and/or Works in its administration. The Contractor shall provide VINCI Energies with access to the recorded CO<sub>2</sub> data at VINCI Energies' first request.
- 22.5 If Support is agreed, this commences at the time of Acceptance of the Goods, Services and/or Works.

#### ARTICLE 23 CONFIDENTIALITY AND PUBLICATION

- 23.1 The Contractor shall protect the confidentiality of the existence and contents of the RFO, Offer and/or Agreement, as well as all information that it receives in relation to the (execution of the) Agreement which the Contractor knows or can be suspected to assume that this is confidential and will not disclose these to third parties without the prior Written consent of VINCI Energies, unless the disclosure takes place on the grounds of mandatory statutory provisions and/or a ruling of a court or of an arbitrator. However, disclosure will not take place until the Contractor has notified VINCI Energies of such an obligation in a timely manner, by means of prior Written notification, so that VINCI Energies has an opportunity to take any precautionary measures.
- 23.2 The Contractor is obliged to VINCI Energies to also impose the aforementioned confidentiality obligations on its Personnel and on third parties that it deploys for the execution of the Agreement. The Contractor guarantees that its Personnel and the third parties that it deploys will comply with these obligations. If VINCI Energies considers this necessary, the Contractor must provide for the Personnel concerned as well as the third parties that it deploys, who are responsible for the execution of the Agreement, to sign a confidentiality declaration to be drawn up by VINCI Energies. The Contractor is and will remain fully responsible and liable in that regard.
- 23.3 The Contractor must save confidential information provided by VINCI Energies in an appropriate manner and protect it against, *inter alia*, unlawful processing, disclosure and loss. VINCI Energies is entitled to exercise supervision of the saving and use of confidential information at the Contractor.
- 23.4 The Contractor must immediately return all information that it receives in relation to the (execution of the) Agreement, including copies of this, to VINCI Energies free of charge, at its first request.
- 23.5 Without the prior Written consent of VINCI Energies, the Contractor is not permitted to publicise the contents and/or execution of the Agreement, the name of VINCI Energies, its Client and/or the names of the employees of VINCI Energies and/or its Client in any form, either directly or indirectly.
- 23.6 In case of breach of one or more of the provisions of Article 23, the Contractor forfeits to VINCI Energies an immediately due and payable penalty of €50,000 (fifty thousand euros) per breach, as well as a penalty of €1,000 (one thousand euros) per day the violation continues, without prejudice to the other rights of VINCI Energies, including the right to claim full compensation for damages and/or compliance.

#### ARTICLE 24 INTELLECTUAL AND/OR INDUSTRIAL PROPERTY RIGHTS

- 24.1 All intellectual and/or industrial property rights to Goods, Services and/or Works developed or produced for VINCI Energies or related results (including the Source Code), as well as to Goods, Services and/or Works that have been or are designed and/or realised under the management or supervision of VINCI Energies or on the basis of its instructions and/or designs, are vested in VINCI Energies. In as far as such rights are vested in the Contractor, the Contractor transfers these to VINCI Energies by signing the Agreement, which transfer is accepted by VINCI Energies after these rights arise. In as far as the transfer of such rights requires a further deed or compliance with other formalities, the Contractor irrevocably authorises VINCI Energies to (arrange to) draw up such a deed and sign it on behalf of the Contractor, to (arrange to) register this in the relevant registers and to comply with these formalities also on behalf of the Contractor, without prejudice to the Contractor's obligation to cooperate in the transfer of such rights at VINCI Energies' first request, without being able to impose conditions for this.
- 24.2 In as far as permitted by law, the Contractor waives any personality rights accruing to it in respect of VINCI Energies. The Contractor guarantees that its Personnel and third parties that it deploys waive any personality rights accruing to them in respect of the Contractor, in as far as this is permitted by law.
- 24.3 If intellectual and/or industrial property rights to Goods, Services and/or Works delivered to VINCI Energies are vested in the Contractor or third parties and transfer of these rights is not possible, the Contractor is required to automatically (arrange to) grant VINCI Energies a global, non-exclusive, permanent and irrevocable (sub)Licence in relation to those rights, including the right of resale of the Goods, Services and/or Works delivered to it and/or everything related to this to third parties, as well as the right to (arrange to)

develop these further for its own use. The fee for this (sub-)Licence is included in the price of the Goods, Services and/or Works delivered and/or in everything relating to these.

- 24.4 The Contractor guarantees that the Goods, Services and/or Works that it delivers do not breach third-party intellectual and/or industrial property rights. The Contractor ensures the free and uninterrupted use of the Goods, Services and/or Works by VINCI Energies. The Contractor indemnifies VINCI Energies against all third-party claims based on any (alleged) breach of such rights and fully indemnifies VINCI Energies against all costs and damages arising from any such (alleged) breach.
- 24.5 The Contractor shall notify VINCI Energies immediately of any (alleged) breach of third-party intellectual and/or industrial property rights. In the event of any (alleged) breach of third-party intellectual and/or industrial property rights, the Contractor shall, at its own expense, take all measures to prevent stagnation of the business operations of VINCI Energies, and to limit the costs to be incurred and/or damages to be suffered by VINCI Energies as a result.
- 24.6 If a third party involves VINCI Energies in litigation relating to any (alleged) breach of intellectual and/or industrial property rights of that third party, VINCI Energies, without prejudice to the provisions of Articles 24.4 and 24.5, may dissolve the Agreement partially or in full, extrajudicially and without prejudice to the other rights of VINCI Energies, including its right to compensation for damages.
- 24.7 All industrial and intellectual property rights made available to the Contractor by VINCI Energies for the execution of the Agreement are vested in VINCI Energies and/or its licensors. The Contractor cannot derive any rights from this.

#### ARTICLE 25 PERSONAL DATA AND SECURITY

- 25.1 If and as soon as the Contractor receives personal data from or via VINCI Energies, the Contractor must demonstrably comply with the laws and regulations concerning the processing of personal data, including the laws and regulations consisting of or arising from European legislation and other existing or future national laws and regulations.
- 25.2 The Contractor acknowledges that VINCI Energies is entitled at all times to check whether the Contractor complies with its obligation pursuant to Article 25.1 and the Contractor shall provide full cooperation for such checks free of charge.
- 25.3 If the Contractor processes personal data for VINCI Energies in relation to the execution of the Agreement, VINCI Energies qualifies as the controller and the Contractor as the processor, within the meaning of the law. In that case, the Contractor guarantees the application of appropriate technical and organisational measures to ensure that the processing complies with the statutory requirements and the protection of the data subjects is safeguarded. The Contractor shall process personal data solely on assignment for and based on Written instructions of VINCI Energies, subject to differing mandatory legal regulations.
- 25.4 The Contractor shall indemnify VINCI Energies against all third-party claims and/or penalties by whatever name and for whatever reason that may be imposed on VINCI Energies for violation of current laws and/or regulations and/or statutory retention periods, as well as for non-compliance by the Contractor with what has been agreed with VINCI Energies. The Contractor must also contract and maintain adequate insurance against this risk.
- 25.5 The Parties shall regulate the processing of personal data by the Contractor for VINCI Energies in an agreement conforming to the model used by VINCI Energies.
- 25.6 VINCI Energies is and remains the holder of the rights to its personal data and to its other data files at all times.
- 25.7 If the Contractor supplies Goods, Services and/or Works to VINCI Energies and/or its Client, the Contractor must take cognizance of the current security procedures and house rules of VINCI Energies and/or its Client and observe these as such. The existence and content of the security procedures and house rules of VINCI Energies and/or its Client are regarded as confidential information to which Article 23 (Confidentiality and Publication) applies.
- 25.8 The Contractor must provide for a form of security of information that meets the specifications agreed In Writing between the Contractor and VINCI Energies. If no such agreement exists between the Contractor and VINCI Energies, the Contractor shall provide for a form of security of information complying with a level that is reasonable and customary in the relevant market in view of the state of the art, the sensitivity of the data and the costs involved in taking the security measures.

- 25.9 Access and/or identification codes and/or certificates provided to the Contractor by VINCI Energies and/or its Client are regarded as confidential information to which Article 23 (Confidentiality and Publication) applies. Such data will be stored securely in an appropriate manner and shall under no circumstances be shared with third parties.

#### ARTICLE 26 BRIBERY AND/OR CONFLICT OF INTEREST

- 26.1 The Contractor, its Personnel, its managers, its representatives and/or third parties that it deploys are not permitted to offer or provide any gifts, remuneration, compensation or (other) benefits of any kind whatsoever to persons forming part of VINCI Energies or any of its subordinate or representatives in order to motivate them to facilitate the conclusion of an Agreement. On the detection of such actions, in addition to its other rights, VINCI Energies is entitled to dissolve the Agreement(s) concluded in such a way with immediate effect, extrajudicially, without liability for any compensation for damages.
- 26.2 The Contractor declares and guarantees that in relation to the Agreement, neither the Contractor itself, nor its managers, representatives, Personnel or third parties that it deploys, or companies affiliated to the Contractor and their managers, representatives, Personnel or third parties that they deploy, are or have been involved in consultations or agreements with other companies concerning pricing and/or the method of submitting offers and/or the allocation of orders in such a manner that could lead to conflicts with the provisions of the Competition Act (Mededingingswet) and/or European competition rules.
- 26.3 In case of breach of one or more of the provisions of Article 26, the Contractor forfeits to VINCI Energies an immediately due and payable penalty of €50,000 (fifty thousand euros) per breach. The foregoing is without prejudice to VINCI Energies' other rights, including the right to claim full compensation for damages.

#### ARTICLE 27 FORCE MAJEURE

- 27.1 If one of the Parties is unable to comply with its obligations to the other Party due to *force majeure*, these obligations will be suspended for the duration of the *force majeure* situation. *Force majeure* on the part of the Contractor in any event does not refer to shortages of Personnel, strikes, illness of Personnel, government measures, automation and/or software problems, late deliveries or unsuitability of Goods, any shortcomings of third parties deployed by the Contractor and/or liquidity or solvency problems on the part of the Contractor and/or third parties deployed by the Contractor.
- 27.2 The Contractor must notify VINCI Energies In Writing immediately regarding the cause of the *force majeure* situation, submitting documentary evidence, and of the period for which the *force majeure* situation is expected to last.
- 27.3 In the event of *force majeure*, VINCI Energies is entitled to suspend its payment obligation during the period of *force majeure*.
- 27.4 If the *force majeure* situation lasts for more than fifteen (15) calendar days, VINCI Energies is entitled to dissolve the Agreement partially or in full, with no obligation to pay the Contractor compensation for damages.

#### ARTICLE 28 NON-COMPLIANCE WITH THE AGREEMENT

- 28.1 As soon as the Contractor is aware, or should be aware that it will fail to comply with the Agreement, it must notify VINCI Energies of this immediately (by telephone), stating the reasons, and must confirm this In Writing within (24) hours.
- 28.2 If the Contractor fails to comply with its obligations under the Agreement, the Contractor is in default by virtue of law. VINCI Energies then is entitled to:
- dissolve the Agreement, partially or in full, without notice of default or the intervention of a court, by means of notification of the Contractor by registered mail; and/or
  - suspend its payment obligations; and/or
  - assign the execution of the Agreement to third parties, partially or in full; and/or
  - invoke its other rights, such as the right of VINCI Energies to full compensation for damages.
- VINCI Energies holds these rights with no liability to pay the Contractor compensation for damages.
- 28.3 If VINCI Energies considers it necessary to exercise its rights arising from the Agreement, all resulting costs, such as interest at the



statutory commercial rate, legal costs and out-of-court costs are borne by the Contractor.

#### ARTICLE 29 SUSPENSION

VINCI Energies is entitled at all times to suspend its obligations relating to the Agreement, partially or in full, if and in as far as the Contractor fails (in part) to comply with (part of) its obligations.

#### ARTICLE 30 LIABILITY AND INDEMNIFICATION

- 30.1 The Contractor is liable for all damages suffered by VINCI Energies and/or third parties as a result of or in connection with a shortcoming in compliance with the Agreement by the Contractor, its Personnel and/or third parties that it deploys. The Contractor is also liable for all damages suffered by VINCI Energies and/or third parties as a result of an unlawful act committed by the Contractor, its Personnel or third parties that it deploys.
- 30.2 The Contractor indemnifies VINCI Energies against all possible third-party claims for damages, in the broadest sense, arising as a result of or in connection with the Agreement and/or the Goods, Services and/or Works delivered. The Contractor will reimburse VINCI Energies for all damages and/or costs relating to such third-party claims.
- 30.3 For the purposes of the application of Article 30.2, third parties also refers to Personnel, (personnel of) third parties deployed by the Contractor, Clients of VINCI Energies, personnel of VINCI Energies and personnel of third parties deployed by VINCI Energies.
- 30.4 The Contractor must notify VINCI Energies immediately of the existence of any damages, and must confirm this to VINCI Energies In Writing within twenty-four (24) hours thereof.
- 30.5 VINCI Energies is not liable for any damages by whatever name and for whatever reason suffered by the Contractor or third parties, unless and in as far as the damages is demonstrably the result of intent or gross negligence on the part of VINCI Energies.
- 30.6 All obligations, including those pursuant to tax, health insurance and social insurance legislation relating to the Contractor's Personnel are borne by the Contractor. The Contractor indemnifies VINCI Energies against all liability in relation to this.
- 30.7 Claims against VINCI Energies for compensation for damages on the grounds of the Agreement concluded between VINCI Energies and the Contractor or on the grounds of an unlawful act become void by prescription one (1) year from the time at which the Contractor becomes aware of the legal fact underlying the claim.

#### ARTICLE 31 INSURANCE

- 31.1 The Contractor is required to insure itself sufficiently and adequately, at its own expense, against its liability for damages, in the broadest sense, suffered by VINCI Energies and third parties. This insurance obligation includes business liability, professional liability, product liability and third-party (risk) liability.
- 31.2 The Contractor must provide VINCI Energies with an insurance certificate and evidence of payment of the premiums due. VINCI Energies has no investigation obligation in that regard. The Contractor shall notify VINCI Energies on its own initiative, immediately, of the cancellation of or changes to the (cover of the) insurance.
- 31.3 VINCI Energies is entitled to require that VINCI Energies is named as a co-insured, client and beneficiary in the insurance policy or policies, with the simultaneous waiver by the insurers of the right of recourse, and that the insurers have the right to directly indemnify VINCI Energies and/or third parties that it designates.

#### ARTICLE 32 CANCELLATION AND DISSOLUTION OF THE AGREEMENT

- 32.1 VINCI Energies is entitled at all times to cancel the Agreement prematurely and with immediate effect.
- 32.2 Without prejudice to all other statutory and contractual rights to dissolve the Agreement, VINCI Energies is entitled to dissolve the Agreement with immediate effect and extrajudicially, without any liability of VINCI Energies to pay the Contractor compensation for damages, in the event of:
- (an application for) the mandatory winding up of the Contractor or the granting of a moratorium on payments for the Contractor, or
  - stoppages, liquidation, strikes or any similar situation in the business of the Contractor, or
  - the transfer, full or partial takeover, merger, or any similar situation in the business of the Contractor, leading to a

- (significant) change in the control over the business, or
- partial or full garnishment of asset elements of the Contractor that are important for the execution of the Agreement, or
- temporary or permanent inability of the Contractor to comply with its obligations under the Agreement, or
- the Contractor's failure to comply with its obligations under the Agreement, or failure to do so properly or in a timely manner, or
- bribery or conflict of interest, as referred to in Article 26 (Bribery and/or Conflict of Interest);
- a situation of *force majeure* on the part of the Contractor lasting longer than fifteen (15) calendar days, or
- early termination by the Client of the contract concluded with VINCI Energies.

- 32.3 Extrajudicial dissolution takes place by means of a registered letter to the Contractor.
- 32.4 Dissolution, as referred to in Article 32, is without prejudice to any other rights accruing to VINCI Energies, including the right of VINCI Energies to full compensation for damages.
- 32.5 All claims that VINCI Energies has or may have or acquire against the Contractor in the cases referred to in Article 32 are immediately due and payable in full.
- 32.6 In the event of termination through dissolution or cancellation of the Framework Agreement by VINCI Energies, the provisions of the Framework Agreement remain applicable to the Purchase Orders issued under the Framework Agreement until they expire.
- 32.7 In the event of termination through dissolution or cancellation of a Purchase Order issued under the Framework Agreement, VINCI Energies has the option to also cancel or dissolve the Framework Agreement.
- 32.8 In the event of the termination of the Framework Agreement through expiration or mutual agreement, the Parties shall discuss the consequences for the Purchase Orders issued under the Framework Agreement.
- 32.9 Rights and obligations that, by their nature, are intended to continue also after the termination of the Agreement (through dissolution, cancellation, expiration or mutual agreement) remain in existence after the termination of the Agreement. These rights and obligations include indemnification from breaches of intellectual (property) rights, liability and indemnification, confidentiality, non-compete and non-solicitation clauses, applicable law and jurisdiction.

#### ARTICLE 33 NON-COMPETE AND NON-SOLICITATION CLAUSES

- 33.1 The Contractor may not issue any (direct) offers or price quotations to the Client of VINCI Energies during the term of the RFO, the term of the Agreement or for a period of one year after the end of the Agreement.
- 33.2 The Contractor shall refrain from employing one or more employees of VINCI Energies or allowing them to perform work for the Contractor's business on a different basis during the term of the Agreement or for a period of one year after the expiry of the Agreement. The Contractor guarantees that companies affiliated to it shall refrain from the same conduct.
- 33.3 In case of breach of the prohibition of Article 33, the Contractor forfeits VINCI Energies an immediately due and payable penalty of €50,000 (fifty thousand euros) per breach, as well as a penalty of €1,000 (one thousand euros) per day or part of a day for which the violation continues. VINCI Energies reserves all rights, including the right to compensation for the damages that it has suffered or will suffer.

#### ARTICLE 34 WAIVER OF RIGHTS

If a Party waits with enforcing or fails to enforce any obligation of or relating to the Agreement, this does not mean that the Party concerned waives its rights in that regard or that it forfeits those rights.

#### ARTICLE 35 TRANSFER OF RIGHTS AND OBLIGATIONS

Without the prior Written consent of VINCI Energies, the Contractor may not transfer or pledge the Agreement or the rights and obligations arising from the Agreement, or encumber these with restricted rights, or outsource them to third parties, either partially or in full. VINCI Energies is entitled to attach conditions to the permission. The permission of VINCI Energies does not relieve the Contractor of its obligations under the Agreement.

## ARTICLE 36 HIRERS AND SUPPLY CHAIN LIABILITY

- 36.1 The Contractor is fully responsible and liable for, and indemnifies VINCI Energies against hirers and supply chain liability (inleners- en ketenaansprakelijkheid) for the VAT and payroll taxes (consisting of wage taxes, social insurance premiums, employees' insurance contributions and income-dependent contributions for the Health Insurance Act (Zorgverzekeringswet)) owed currently or in the future by the Contractor or third parties deployed by the Contractor in connection with the execution of the Agreement.
- 36.2 At the first request of VINCI Energies, the Contractor must cooperate in limiting the risk of VINCI Energies for all payroll taxes, social insurance premiums and VAT owed in connection with the Agreement by the Contractor, its subcontractors and/or its providers of Personnel.
- 36.3 VINCI Energies is entitled to pay the VAT and payroll taxes that the Contractor must pay in connection with the execution of the Agreement into a so-called G account of the Contractor. If the Contractor has no G account, the Contractor will open such an account at VINCI Energies' first request, so that this account can be used by VINCI Energies.
- 36.4 The Contractor will require each of the contractors and subcontractors that it deploys, which in turn must also require this from the contractors and subcontractors that they deploy, and so forth, to also comply with all the aforementioned obligations arising from Article 36 (Hirers and Supply Chain Liability). The Contractor must ensure that the provisions to that effect are included in the relevant contracts with the contractors and subcontractors deployed and must provide evidence of compliance with these provisions at VINCI Energies' first request.

## ARTICLE 37 APPLICABLE LAW AND JURISDICTION

- 37.1 The Agreement, of which these Terms and Conditions form part, and its execution are governed solely by Dutch law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (CISG).
- 37.2 Disputes relating to the Agreement, including disputes concerning the interpretation of these Terms and Conditions in that regard, shall be settled exclusively by the competent court in Den Bosch, unless VINCI Energies decides to apply to the court designated by law.

## II ADDITIONAL SOFTWARE PROVISIONS

### ARTICLE 38 APPLICABILITY

The additional provisions II always apply together with the general section if the Contractor grants VINCI Energies a Licence for Standard Software and/or develops Custom Software for VINCI Energies and/or VINCI Energies provides for the Contractor to maintain Software.

### ARTICLE 39 STANDARD SOFTWARE

- 39.1 The Contractor shall grant VINCI Energies a non-exclusive, perpetual, global and irrevocable Licence for the Standard Software and for any Upgrades.
- 39.2 VINCI Energies is entitled to issue (sub-)Licences to legal entities forming part of VINCI Energies.
- 39.3 VINCI Energies is entitled to:
- use all functionalities of the Standard Software accessible for VINCI Energies, including if these are not mentioned in the Documents;
  - produce copies of the Standard Software, save these, test these regularly and to keep them on 'hot standby' in case of an emergency;
  - use the Standard Software for testing and development purposes;
  - use the Standard Software with no restrictions or limitations concerning location, devices, duration or in other respects, including its use, maintenance and/or management by third parties for VINCI Energies.
- 39.4 The Contractor shall pursue a consistent version policy and provide for the timely availability of Upgrades and Updates of the Standard Software provided. In that regard, the Contractor shall regularly investigate the need to issue Upgrades and Updates and will notify VINCI Energies of the outcomes of such investigations at the first opportunity. The Contractor shall provide VINCI Energies with a copy of the Upgrades for testing and evaluation purposes, on request.

However, VINCI Energies is in no case obliged to commission Upgrades.

- 39.5 The intellectual property rights to the Standard Software are vested in the Contractor or its licensors.

### ARTICLE 40 CUSTOM SOFTWARE

- 40.1 At the request of VINCI Energies, the Contractor will develop or modify Custom Software in accordance with the Specifications.
- 40.2 The Contractor declares that the Custom Software is suitable for the agreed purpose, both separately and in combination with infrastructures present at VINCI Energies and/or one of its Clients. The Contractor is responsible for the proper functioning of the Custom Software in the aforementioned environment or in combination with the aforementioned infrastructure.
- 40.3 The Contractor shall test the Custom Software that it develops itself in order to determine that the Custom Software complies fully with the Specifications and contains no Shortcomings.
- 40.4 Thereafter, the Contractor will make the Custom Software available to VINCI Energies and, if required, will install and implement it on the instructions of VINCI Energies, after which VINCI Energies will itself subject the Custom Software to an acceptance procedure. The provisions of Article 9 (Offer for Acceptance, delivery and Acceptance) apply *mutatis mutandis*.
- 40.5 The Contractor is required to deliver the Source Code for the Custom Software to VINCI Energies on request at all times, and in any event following the completion of the Custom Software. The Source Code must be complete and documented. The Contractor shall not subject the Source Code to any measures, such as encryption, that could obstruct the agreed use and/or adjustment thereof by VINCI Energies in any way.
- 40.6 VINCI Energies is entitled to maintain the Custom Software itself or to arrange for a third party to maintain it. The Contractor shall support VINCI Energies with this on request, for a fee at commercial rates. The Contractor shall also provide VINCI Energies with the necessary (additional) information for this purpose on request.

### ARTICLE 41 SOFTWARE GUARANTEE

- 41.1 Further to the provisions of Article 13 (Quality and Guarantee), the Contractor guarantees that:
- the Software functions entirely in conformity with the Specifications;
  - the Software has been written in an efficient, sound and integrated manner;
  - the Software complies with national and (international) technical standards;
  - the Software contains no security measures that have not been agreed and that the Software contains no foreign elements (such as viruses, worms, etc.);
  - the Standard Software contains no technical provisions, functions or other foreign elements that (could) obstruct the use required by VINCI Energies at any time, temporarily or otherwise;
  - the response times shown in the Agreement and/or Specifications are met;
  - all the functionalities built into the hardware are described in the Documents;
  - the Software complies with current laws and regulations, including but not limited to the protection of personal data;
  - the Software complies with relevant security standards such as ISO 27001, which will be submitted by the Contractor in a timely manner on request;
  - if the Contractor does not own the intellectual property rights to the Standard Software, it is authorised by the owner of the intellectual property rights to the Standard Software to issue Licences to VINCI Energies on behalf of the owner;
  - the Software contains no so-called open source software (elements), unless VINCI Energies has granted its Written consent for this in advance.
- Consent granted by VINCI Energies is without prejudice to the Contractor's obligation to indemnify VINCI Energies against all damages and costs in the event that the use of the open source software gives rise to third-party claims and furthermore, does not otherwise adversely impact on Licences, guarantees and indemnifications provided by the Contractor. The guarantee

includes rectification of Shortcomings free of charge, in accordance with the provisions of these Terms and Conditions.

#### ARTICLE 42 ASSURANCE OF CONTINUITY AND ESCROW

- 42.1 If the Contractor is declared insolvent and the administrator terminates the existing Agreement between the Parties, the Parties hereby agree in advance that VINCI Energies will then have the right to continue to use the Software and the Documents pursuant to Article 45(j) of the Copyright Act. The Parties hereby agree in advance that the envisaged use of the Software in any event comprises:
- a. the right to install the Software on an unlimited number of computers;
  - b. the right to (arrange to) use the Software for an unlimited period at an unlimited number of locations and by an unlimited number of users of VINCI Energies;
  - c. the right to (arrange to) maintain the Software by VINCI Energies and/or by a third party;
  - d. to continue to perform the actions relating to the Software that VINCI Energies already performed before the Contractor was declared insolvent.
- 42.2 If a company or a legal entity of VINCI Energies is transferred to a third party (partially or in full), the Contractor will tolerate the continued use of the Software and the Documents by that acquiring party, provided that this party has confirmed to the Contractor on request that it will comply with the licensing and other conditions.
- 42.3 VINCI Energies is entitled at all times to transfer the use of the Software and the Documents to an affiliated legal entity.
- 42.4 At the first request of VINCI Energies, the Contractor will deposit a copy of the Source Code for the Software and a copy of the Documents in Escrow with an independent third party, which third party must be approved by VINCI Energies in advance and whereby VINCI Energies acquires the right to unlimited use of the Source Code for the Software.
- 42.5 Escrow includes all undisclosed information that VINCI Energies reasonably needs for rectification of errors, maintenance and management of the Software, so that VINCI Energies can continue to make the required use of it. Escrow complies with what is customary in the Dutch market in that regard at the time of its contracting.

#### ARTICLE 43 SOFTWARE MAINTENANCE AND/OR SUPPORT

- 43.1 At the request of VINCI Energies, the Contractor will perform Maintenance and/or Support for the Software. The Contractor shall perform the Maintenance and/or Support in accordance with the Agreement and the methods described in it, using a consistent version policy for the Software.
- 43.2 Maintenance at least includes corrective maintenance, consisting of the detection and rectification by the Contractor of Shortcomings that have been reported to it by VINCI Energies or of which the Contractor has become aware in other ways, in accordance with the following maintenance provisions and what the Parties have agreed in the Agreement.
- 43.3 Maintenance commences immediately after the end of the guarantee period.
- 43.4 Maintenance may also comprise:
- a. preventive maintenance, consisting of the Contractor taking measures to prevent Shortcomings and other technical problems;
  - b. innovative maintenance, consisting of the provision of Upgrades to VINCI Energies by the Contractor;
  - c. Support.
- 43.5 The Contractor shall perform the Maintenance with the greatest possible care and will ensure that its expertise concerning the Software remains up to date.
- 43.6 The Contractor shall register and record the data relevant for the Maintenance concerning the work performed on the Software in its administration. The Contractor shall provide VINCI Energies with access to the recorded data at VINCI Energies' first request.
- 43.7 The Contractor performs Maintenance at or from its own location. If this is reasonably necessary, the Contractor will perform Maintenance at a location designated by VINCI Energies.
- 43.8 The Parties will determine the times at which Maintenance will be performed by agreement. Maintenance must be performed in such a way that this does not disrupt the business processes of VINCI Energies. If the Contractor knows or could reasonably have been expected to know that Maintenance is or could be disruptive, the

Contractor will notify VINCI Energies of this in a timely manner in advance.

- 43.9 The Contractor will report to VINCI Energies on the progress of the maintenance work.
- 43.10 At the first request of VINCI Energies, the Contractor will conclude a SLA in which concrete service levels relating to the agreed Maintenance are recorded and in which measures are recorded for if the Contractor does not attain one or more service levels.
- 43.11 During the term of the Agreement, the Contractor is required to rectify Shortcomings reported by VINCI Energies to the Contractor within the term set in the Agreement or the SLA.
- 43.12 The Contractor bears the risk of loss, theft of or damage to the Software and/or the Documents during the period in which the Contractor has these in its possession for the performance of the Maintenance. It is up to the Contractor to contract adequate insurance for this risk.
- 43.13 Before the Contractor performs the Maintenance, it shall provide for the necessary reserve copies (Back-ups).
- 43.14 With the prior Written consent of VINCI Energies, the Contractor is entitled to install temporary solutions or work-arounds or problem-avoidance restrictions in the Software. In the absence of explicit agreements in that regard, the Contractor will install, set up, set parameters for and tune the corrected Software or the new version of the Software made available, and if necessary, will adjust the software already used for this and the user environment.

### III ADDITIONAL PROVISIONS FOR CLOUD SERVICES

#### ARTICLE 44 APPLICABILITY

- 44.1 The additional provisions III always apply together with the general section if the Software and/or hardware is made available to VINCI Energies or is issued to VINCI Energies for use in the form of a Cloud Service.
- 44.2 The time at which the Contractor enables VINCI Energies to actually use the Software and/or hardware on the agreed delivery date is equated with delivery.

#### ARTICLE 45 CERTIFICATION

- 45.1 The Contractor's Cloud Service will at least comply with the certification standards set by VINCI Energies on the conclusion of the Agreement. The Contractor shall hand VINCI Energies a copy of the existing certificates without being requested to do so and will itself regularly update these certificates and hand the updated certificates to VINCI Energies again.

#### ARTICLE 46 DATA FILES

- 46.1 VINCI Energies is and remains the holder of the rights to all data files that VINCI Energies makes available to the Contractor with the Cloud Service at all times. The Contractor will treat these data files of VINCI Energies as confidential information, within the meaning of Article 23.
- 46.2 For the term of the Agreement, VINCI Energies will grant the Contractor the right to use VINCI's data files solely in as far as this is necessary in order to provide the Cloud Service. All other use of the data files by the Contractor is explicitly prohibited. In case of breach of the aforementioned prohibition, the Contractor forfeits to VINCI Energies an immediately due and payable penalty of €50,000 (fifty thousand euros) per breach, as well as a penalty of €1,000 (one thousand euros) per day or part of a day for which the violation continues. VINCI Energies reserves all rights, including the right to compensation for the damages that it has suffered or will suffer.
- 46.3 The Contractor will make the data files available to VINCI Energies at its first request.
- 46.4 On termination or expiry of the Cloud Service, the Contractor will make all data files of VINCI Energies present in the systems of the Contractor or of a third party that it deploys available to VINCI Energies in the data format required by VINCI Energies, without delay, free of charge and within seven (7) calendar days. The data files are documented in such a manner that VINCI Energies is able to access the data files. After the aforementioned provision of all data files to VINCI Energies on the expiry or termination of the Agreement and after confirmation of receipt of all data files by VINCI Energies, the Contractor will erase all data files still present in its system. The Contractor will document the erasure actions, hand a copy of these documents to VINCI Energies without being requested to do so and will keep these documents available for VINCI Energies for five (5) years following the expiry of the Agreement.
- 46.5 In addition to the provisions of Article 42.1, the Contractor will also ensure that the data files do not form part of the assets in the event of the insolvency of the Contractor.
- 46.6 The Contractor requires the prior Written consent of VINCI Energies in order to save the data files of VINCI Energies outside the Netherlands. The Contractor is responsible for compliance with the laws and regulations applying in that country in relation to matters including processing of personal data. The Contractor indemnifies VINCI Energies against all claims and damages in that regard.
- 46.7 Unless explicitly agreed otherwise, the Contractor will provide for backups of data files of VINCI Energies in observance of the agreed periods, in the absence of which the Contractor will make a full backup of the VINCI Energies data files once a day. Prior to the signature of the Agreement, the Contractor shall notify VINCI Energies of the server location at which the VINCI Energies data files will be saved. In the case of a public and/or private cloud server, the Contractor shall notify VINCI Energies of the applicable security measures (personnel, key regime etc.) prior to the conclusion of the Agreement. The Contractor shall enable VINCI Energies to comply with its (saving) obligations pursuant to the applicable laws and regulations.

#### ARTICLE 47 EXIT PROCEDURE

- 47.1 At VINCI Energies' first request, the Parties shall draw up an exit plan recording the agreements on any exit, such as the time schedule and the tasks and responsibilities of both Parties. The exit plan forms part of the Agreement.
- 47.2 In the interests of the continuity of the business operations of VINCI Energies, in the event of the termination of the Agreement for any reason whatsoever, the Parties shall immediately discuss the continuation of the Service by a third party or by VINCI Energies.
- 47.3 At the first request of VINCI Energies, the Contractor shall do what is reasonably necessary to ensure that a third party or VINCI Energies can provide a similar Service for VINCI Energies without restrictions.
- 47.4 The reasonable measures referred to in the preceding paragraph in relation to a transfer to a third party and/or other system in any event refer to (at the discretion of VINCI Energies):
- the supply of the data files stored in the Cloud Service to the third party or to VINCI Energies in accordance with the standard for data portability;
  - the provision of the specific settings/configuration of the Cloud Service to the third party or VINCI Energies (including company rules, macros, etc.);
  - the provision of Licences to the Standard Software or similar software that enables VINCI Energies to (continue to) view the data files saved with the Software;
  - the erasure of data files at the request of VINCI Energies, on presentation of evidence of erasure;
  - the technical disconnection and dismantling of (part of) the Cloud Service.
- 47.5 The Contractor will make available to VINCI Energies all information, data and documents necessary for the provision of the Service which the Contractor had already developed for VINCI Energies or owned on the basis of the Agreement, as well as Licences relating to data for which the Contractor holds the intellectual property rights, as well as, if possible, Licences relating to data for which its supplier holds the intellectual property rights, if this is permitted.
- 47.6 The Contractor shall follow the reasonable instructions of VINCI Energies for an orderly transfer of the Service to VINCI Energies or a third party.
- 47.7 The Contractor will perform the work referred to in Article 47 subject to the rates and conditions set out in the Agreement. In deviation of the preceding sentence, the aforementioned services will be provided free of charge in the event of attributable shortcomings on the part of the Contractor.
- 47.8 The Contractor also declares itself willing, if required, to extend support for VINCI Energies in the use of the Cloud Service for a reasonable period after the termination date, if the work is not completed in a timely manner in accordance with the exit plan. The Contractor may charge a fee for this, in proportion to the latest applicable use fees, unless the late completion of the exit work is attributable to the Contractor, in which case, the Contractor continues to bear the risk and expense of these costs. During the aforementioned extension, the Agreement(s) remain(s) in force in full.

### IV ADDITIONAL PROVISIONS FOR WORKS

#### ARTICLE 48 APPLICABILITY

The additional provisions IV always apply together with the general section if the Contractor performs Works for VINCI Energies.

#### ARTICLE 49 SEQUENCE OF WORKS

VINCI Energies is entitled to change the sequence of the Works to be performed in connection with the progress of the construction, with no liability for damages in respect of the Contractor.

#### ARTICLE 50 INVOICING FOR WORKS

- 50.1 In addition to the requirements referred to in Article 12.5, the invoice must also state the following:
- the G account number;
  - the amount invoiced previously, including the amount of this invoice;
  - the amount still to be invoiced;
  - in the event of subcontracting and/or hiring of Workers within the meaning of the Wages and Salaries Tax and Social Security

Contributions (Liability of Subcontractors) Act (Wet Ketenaansprakelijkheid), the scope of the wage costs element included in the invoiced amount;

- e. the Contractor's payroll tax number.
- 50.2 Every invoice must be accompanied by a man-hours register with a specification of hours worked, stating the name and BSN of the relevant employees, and in the case of an employee from outside the EEA, stating the name and number of that employee's valid identity document.
- 50.3 VINCI Energies is entitled to deposit a sum of 32% of the wage costs element in the Contractor's G account.

#### ARTICLE 51 MAINTENANCE TERM

- 51.1 During the maintenance term, the Contractor must rectify all Shortcomings at its own expense at VINCI Energies' first request.
- 51.2 Unless otherwise agrees, the following applies after offer for acceptance or delivery by VINCI Energies to the Client:
- a. a structural maintenance term of six (6) months for the Contractor;
  - b. a maintenance term for technical installations of at least twelve (12) months, including a full heating season from 15-09 up to and including 15-05.

### V ADDITIONAL PROVISIONS FOR HIRING OF WORKERS

#### ARTICLE 52 APPLICABILITY

The additional provisions V always apply together with the general section if VINCI Energies hires Workers from the Contractor on a temporary employment and/or secondment basis for the performance of Services and/or Works.

#### ARTICLE 53 WORKERS

- 53.1 The Worker will perform his or her work under the management and supervision of VINCI Energies or its Client.
- 53.2 The Contractor will not replace the Worker with another Worker without prior consultation with and the consent of VINCI Energies.
- 53.3 In addition to the provisions of Article 17 (Contractor's personnel), the Contractor guarantees that it will always be able to provide enough Workers for VINCI Energies for the proper execution of the Agreement.

#### ARTICLE 54 OBLIGATIONS OF THE CONTRACTOR

- 54.1 The Contractor must ensure that before signing the Agreement, VINCI Energies has been provided with:
- a. a recent, certified extract from the Commercial Register of the Chamber of Commerce (no more than one (1) month old), showing that the commercial provision of Workers forms part of the Contractor's business activities;
  - b. the SBI code assigned by the Chamber of Commerce following registration in the Commercial Register, in accordance with the registration obligation under the Placement of Personnel by Intermediaries Act (Waadi);
  - c. in as far as this is required by law, a permit of the Contractor for posting workers and also compliance with the statutory registration obligations;
  - d. During the term of the Agreement, the Contractor must comply with the provisions of the NEN4400-1 or NEN 4400-2 standard and be recorded in the Certified Businesses register of the Labour Standards Foundation (Stichting Normering Arbeid (SNA));
  - e. proof of the existence of the G account and the accompanying (bank) account number;
  - f. a declaration of payment conduct for compliance with fiscal obligations;
  - g. a declaration of payment conduct for supply chain and hirers liability;
  - h. other documents and/or declarations that are necessary or that logically arise from laws and regulations.
- 54.2 If one or more changes of any kind whatsoever arise in the data listed above, the Contractor must provide VINCI Energies with these altered documents on its own initiative and always if this is required by VINCI Energies.

- 54.3 No later than the commencement of the Agreement, and if changes arise in these, the Contractor will provide VINCI Energies with:
- a. the details of the Worker, consisting of the name and address details, the date of birth, BSN, nationality, type of identity document, with the number and term of validity, the presence of an A1/E101 declaration if applicable, residence permit, work permit and notification;
  - b. for Workers who are not eligible for free movement of employees, a copy of the passport, the residence permit and the work permit must be provided;
  - c. evidence of the knowledge and experience of the Worker made available in the form of copies of diplomas and certificates;
  - d. an employer's declaration showing that the Worker is employed by the Contractor or other documentary evidence showing that there is no question of hiring on of third parties, such as SelfEmployed Professionals.
- 54.4 If laws and/or regulations relating to the above data and documents change, the Parties will implement these changes and act accordingly.
- 54.5 The Contractor will comply with the statutory obligations concerning the deduction and payment of payroll taxes, social insurance premiums, employee insurance contributions, the payment of VAT and all other applicable statutory obligations in relation to every Worker.
- 54.6 The Contractor shall indemnify VINCI Energies and/or its Client against claims relating to non-compliance with the obligations referred to in Article 54.5, including but not limited to claims for the payment of costs and penalties. The Contractor will also pay VINCI Energies compensation for all related damages and costs at VINCI Energies' first request.
- 54.7 VINCI Energies is entitled to deposit a sum of 25% of the wage costs element in the Contractor's G account.
- 54.8 VINCI Energies is entitled to deduct a sum of 40% of the invoice amount charged to VINCI Energies by the Contractor, exclusive of VAT, to cover its risks concerning compliance with the obligations of the obligations referred to in Article 54.5 with regard to the Workers provided by the Contractor during the period in which the Contractor does not have a G account.
- 54.9 At all times, violation of the obligations described in the preceding paragraphs gives VINCI Energies the right to terminate the Agreement with immediate effect, without VINCI Energies being liable for payment of any compensation for damages.
- 54.10 If the Agreement shows that compliance with the requirements for the VCU requirements is required, the Contractor must comply with the VCU requirements and the Personnel must hold a Safety for Intermediaries and Supervisors VCU certificate (VIL-VCU). The Worker must hold a Basic Safety VCA (B-VCA) certificate or a VCA for Operational Managers (VOL-VCA) certificate, depending on the nature of the Services and/or Works and the requirement of VINCI Energies and/or its Client.
- 54.11 In accordance with Article 24 (Intellectual and/or Industrial Property Rights), all intellectual and/or industrial property rights relating to the results arising during a hiring period accrue to VINCI Energies.

#### ARTICLE 55 RATE, TIME REGISTRATION AND INVOICING

- 55.1 The hourly rates agreed between VINCI Energies and the Contractor are inclusive of the commuting costs. Commuting time is not reimbursed separately by VINCI Energies. Other costs, including overtime, that are not agreed In Writing in advance, are not reimbursed by VINCI Energies.
- 55.2 Employees must enter their hours worked in the VINCI Energies digital time registration system each week.
- 55.3 The Contractor will send an invoice with the hours actually worked by the Employee for VINCI Energies.
- 55.4 In addition to the requirements referred to in Article 12.5, the invoice must also state the following:
- a. the period in which the Services were provided;
  - b. the G account number;
  - c. in the case of hiring of Workers, the scope of the wage costs element included in the invoiced amount;
  - d. the Contractor's payroll tax number.
- 55.5 Every invoice must be accompanied by a man-hours register with a specification of hours worked, stating the names and BSNs of the relevant employees, and in the case of an employee from outside the EEA, stating the name and number of that employee's valid identity document.

## **VI ADDITIONAL PROVISIONS FOR HIRING OF SELF-EMPLOYED PROFESSIONAL**

### **ARTICLE 56 APPLICABILITY**

The additional provisions VI always apply together with the general section if VINCI Energies hires a Self-Employed Professional.

### **ARTICLE 57 MODEL AGREEMENT**

In the event of hiring of a Self-Employed Professional, the Parties will make use of the model agreement template of VINCI Energies.

## **VII ADDITIONAL PROVISIONS CONCERNING EDUCATION OR TRAINING COURSES**

### **ARTICLE 58 APPLICABILITY**

The additional provisions VII always apply together with the general section if the Contractor will provide training courses for VINCI Energies.

### **ARTICLE 59 EDUCATION, TRAINING OR COURSE**

- 59.1 The Contractor shall only deploy qualified Personnel for the education, training or course.
- 59.2 VINCI Energies may cancel the relevant education, training or course free of charge, In Writing, up to fourteen (14) calendar days before the start.
- 59.3 If the number of registrations reasonably provides ground for this, the Contractor, only with the prior Written consent of VINCI Energies, may cancel the education, training or course or combine the education, training or course with one or more other education, training or courses or hold the education, training or course on another date or at another time, with compensation, however, for the damages suffered by VINCI Energies. In the event of cancellation, the Contractor will refund the costs already paid by VINCI Energies for the education, training or course.
- 59.4 Following notification of the Contractor, VINCI Energies always is entitled to send a different participant from the participant originally registered to the education, training or course.
- 59.5 VINCI Energies is entirely free to make use of (education, training and/or course) material (including Software) or other data used and/or provided by the Contractor within its organisation.

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Filed with the District Court of Oost-Brabant in 's-Hertogenbosch under filing number 8/2021