



**RED ELÉCTRICA**  
DE ESPAÑA

**GENERAL CONDITIONS OF CONTRACT FOR  
THE SUPPLY OF EQUIPMENT AND MATERIALS**

APPROVED: DCR - DA  
REFERENCE: G.C.C.-M.  
EDITION: 11.07.2017



## INDEX

1. SCOPE OF APPLICATION
2. PRELIMINARY RULES / DEFINITIONS
3. OBJECT OF THE CONTRACT
4. CONTRACT ASSIGNMENT AND SUBCONTRACTING
5. EXECUTION OF CONTRACT
6. INSPECTIONS, TESTS AND ANALYSES
7. DELIVERY AND ACCEPTANCE
8. PACKAGING
9. GUARANTEES
10. PRICE, DEPOSIT, INVOICING AND PAYMENT
11. PENALTIES
12. TERMINATION OF THE CONTRACT DUE TO THE VENDOR AND OTHER MEASURES AGAINST NON-FULFILMENT
13. TERMINATION OF THE CONTRACT AT RED ELÉCTRICA'S WILL
14. INDUSTRIAL AND INTELLECTUAL PROPERTY
15. CONFIDENTIALITY
16. LIABILITY
17. INSURANCE
18. FORCE MAJEURE
19. CORPORATE SOCIAL RESPONSIBILITY
20. DATA PROTECTION
21. JURISDICTION AND ARBITRATION



## **1. SCOPE OF APPLICATION**

- 1.1.** These General Conditions regulate the relationship between RED ELÉCTRICA DE ESPAÑA, S.A.U. (hereinafter referred to as 'RED ELÉCTRICA') and the VENDOR for the procurement of materials and equipment.
- 1.2.** These General Conditions shall apply to all contracts and orders established for this purpose, regardless of any other conditions that the VENDOR may have established or may invoke.

## **2. PRELIMINARY RULES / DEFINITIONS**

- 2.1.** In these General Conditions, the term VENDOR refers to the physical or legal person or persons, or grouping thereof, to whom RED ELÉCTRICA purchases equipment and materials.
- 2.2.** In these General Conditions, the term Contract shall be understood as the set of documents consisting of the order formalised by RED ELÉCTRICA and these General Conditions.
- 2.3.** Any additions and extra clauses added to a previously established contract between the parties shall be construed restrictively within their amending scope and shall not constitute a new agreement, unless expressly indicated otherwise.

## **3. OBJECT OF THE CONTRACT**

- 3.1.** All equipment and materials to be supplied by the VENDOR to RED ELÉCTRICA shall be object of the Contract, including those works or services directly associated with the supply and/or installation of the aforementioned items which the VENDOR undertakes to carry out.

The object of the Contract, defined for each case in the documents provided therein, shall implicitly be taken also to include all services established by law, practice and good faith, and in particular those provided for in these General Conditions.

- 3.2.** The equipment and materials which are the object of the Contract herein and additionally the works and services associated to them, must comply with the technical specifications established for its definition, the instructions which RED ELÉCTRICA provides to the VENDOR, the indications contained in the applicable drawings given and the rules and regulations of the administrative laws that are or may be in force until delivery of the object of the Contract by RED ELÉCTRICA, without the VENDOR being able to demand any price increase.
- 3.3.** The object of the Contract also includes, in addition to the equipment and materials along with its associated works or services, if applicable, everything necessary for its delivery, use and perfect functioning in accordance with the technical specifications established for its definition and the statutory regulations.



- 3.4.** In accordance with the previous paragraphs, the object of the Contract shall include, on the VENDOR's behalf and at the VENDOR's expense, but not limited to, the following:
- a) Processing and procurement of approvals, authorisations and licences required in the Contract or for the performance thereof, except for those legally corresponding to RED ELÉCTRICA in view of its status as proprietor. The VENDOR will provide RED ELÉCTRICA whatever is necessary to process and procure such licences and authorisations.
  - b) Stockpiling of materials and all stages of manufacturing.
  - c) Performance of routine inspections, tests and analyses, in addition to those required by RED ELÉCTRICA.
  - d) Painting, protection and packing, whether standard or special.
  - e) Transportation and necessary insurances to carry out the delivery of equipment and materials in the conditions indicated in these General Conditions.
  - f) Prepare and deliver to RED ELÉCTRICA, sufficiently in advance to enable its use, all the documentation inherent to the fulfilment of the Contract. The documentation includes drawings, programs, reports, manuals, instruction book, protocols, acceptance documents, control and test certificates, and lists of spare parts and tools.
  - g) Whatever other items specified in the bid request of RED ELÉCTRICA or which the VENDOR has offered.
- 3.5.** The VENDOR must accept any extensions, modifications or reductions in the scope of the Contract requested by RED ELÉCTRICA, at the agreed prices, provided that such changes do not represent in total an increase or decrease of more than 10 per cent in the Contract amount. The new period for delivery, if applicable, shall be established by agreement of the Parties, following a reasoned proposal by the VENDOR. Should agreement not be reached, the previous agreement will be modified in proportion to the increase or decrease in the Contract price.
- 3.6.** No modification may be made to the object of the Contract on the VENDOR's initiative without RED ELÉCTRICA's prior agreement, and any modifications made shall not entail an increase in the price or in the completion period unless such modifications have been previously specified by the VENDOR and accepted in writing by RED ELÉCTRICA.
- RED ELÉCTRICA's consent and acceptance will not imply, in any case, any change in the VENDOR's guarantee and liability with regard to the Contract.
- 3.7.** All that relative to the works or services associated with the equipment and materials supplied by the VENDOR, as well as any others that may be agreed on between the Parties, and which do not strictly constitute the supply of equipment or materials, shall be governed by the General Conditions for Contracting of Services of RED ELÉCTRICA.



#### **4. CONTRACT ASSIGNMENT AND SUBCONTRACTING**

- 4.1.** The **VENDOR** may not assign the Contract fully or partially, nor subcontract its fulfilment or execution, without the prior and express authorisation of **RED ELÉCTRICA** in writing. Any assignment or subcontracting executed without this authorisation shall be nullified for all intents and purposes. This authorisation shall be requested, in writing, from **RED ELÉCTRICA** indicating the assignee or the subcontractor and with reasonable notice so as to avoid delays, even if it were to be rejected.
- 4.2.** In the event that it be granted, the authorisation from **RED ELÉCTRICA** to subcontract does not imply the start of a contractual or binding relationship between **RED ELÉCTRICA** and the subcontractor, nor does it release the **VENDOR** from its obligations to monitor the activities of the subcontractor and those of responding for the performance of the latter and the entire fulfilment of the Contract.
- 4.3.** Without prejudice to the above, **RED ELÉCTRICA** may at any time inspect and monitor the work of the subcontractor, along with the fulfilment of its obligations. The subcontractor must provide **RED ELÉCTRICA** with all the assistance that may be required for this purpose (documentation, reports, free access to its installations or facilities, etc.).
- 4.4.** In the case of authorisation for subcontracting being granted, the **VENDOR** agrees to inform the subcontractor and its employees of the processes, studies and the Quality, Health and Safety at Work and Environmental rules laid down by **RED ELÉCTRICA**.
- 4.5.** **RED ELÉCTRICA** shall be entitled to order the **VENDOR** to substitute the subcontractor at any time, if it considers, according to its criteria, that it jeopardises the correct and timely execution of the works, pursuant to the terms and conditions for the execution of the works contained within the contractual documentation, without the entitlement to claim any type of compensation.

#### **5. EXECUTION OF THE CONTRACT**

- 5.1.** The **CONTRACTOR** is wholly responsible for the correct and timely execution of the Contract.
- 5.2.** The **VENDOR**, in the execution of the Contract, will comply with all the agreed technical specifications and they shall be implemented as established in section 3.2, in accordance with the usage and provisions of good practice.
- 5.3.** The **VENDOR** must also fulfil and comply with the conditions which **RED ELÉCTRICA** may establish as quality control means.
- 5.4.** The **VENDOR** undertakes to keep **RED ELÉCTRICA** informed at all times of the execution of the Contract and report any incidents that arise in connection therewith, providing **RED ELÉCTRICA** with any information that may be requested.



**5.5.** If RED ELÉCTRICA notices at any time that the VENDOR fails to comply with what is provided in the foregoing paragraphs, RED ELÉCTRICA may, without waiting for delivery, reject the faulty goods and require them to be replaced or repaired, at the VENDOR's sole expense, with no costs or expenses being borne by RED ELÉCTRICA as specified in section 9.3.

## **6. INSPECTIONS, TESTS AND ANALYSES**

**6.1.** RED ELÉCTRICA may inspect the Contract materials and equipment at any time during their manufacture, using its own staff or any other persons or bodies that it may designate, in the plants, workshops or warehouses of the VENDOR and also those of its subcontractors, to which end RED ELÉCTRICA inspectors shall have free access to such facilities and which must be granted to them whenever necessary.

**6.2.** Without prejudice to RED ELÉCTRICA's inspection rights, the VENDOR itself must perform, at its own expense, all the agreed tests and analyses which are required by official rules and regulations or which are usual in good practice. RED ELÉCTRICA shall be notified at least twenty days in advance of the dates on which these tests or analyses are to be performed, so that their authorised inspectors or representatives may be present. RED ELÉCTRICA shall also be notified of the results of the tests carried out, certified with the corresponding certificates or protocols, even if RED ELÉCTRICA inspectors or representatives were present thereat.

**6.3.** Notwithstanding the foregoing provisions, the tests or analyses shall be performed strictly in accordance with the VENDOR's Inspection Schedule previously approved by RED ELÉCTRICA.

**6.4.** The performance of inspections, tests or analyses, even if to RED ELÉCTRICA's satisfaction, does not mean that the object of the Contract meets all the agreed specifications nor that it will necessarily be accepted by RED ELÉCTRICA; nor does it release the VENDOR from its liabilities if it is not accepted.

Neither shall such liability be excluded or reduced, or the VENDOR be freed from its duty to perform what has been agreed, by any recommendations or remarks that RED ELÉCTRICA engineers or inspectors may have made during the performance of the Contract or during inspections, tests or analyses, unless these expressly modify the agreed specifications.

**6.5.** If the outcome of an inspection, test or analysis performed was not satisfactory, or the object of the Contract should not comply with the agreed specifications or the established quality guarantees, RED ELÉCTRICA may demand that the VENDOR proceed in accordance with section 9.3, RED ELÉCTRICA shall also have open to it the option as envisaged in section 9.5.

**6.6.** The authorised inspectors or representatives of RED ELÉCTRICA shall try to ensure that the performance of inspections, tests or analyses do not hinder the normal execution of the Contract; however, the requirement, time and conditions required for the performance of these, shall in no case be invoked as a cause or justification of delays.



## 7. DELIVERY AND ACCEPTANCE

**7.1.** Unless otherwise specified in the corresponding Particular Conditions, the delivery of equipment and/or materials shall be made at the DDP (Delivery Duty Paid) site (Incoterms 2000) at the delivery point provided in the Contract.

**7.2.** The delivery of the materials or equipment must be made on the date specified for the purpose in the Contract.

The VENDOR undertakes not only to comply with the completion date stipulated in the Contract, but also with each and every one of the partial dates established therein for determined stages of completion.

**7.3.** If the Contract does not specify a particular delivery date and indicates only a period for completion or delivery, this period shall be counted as commencing from the signing of the Contract, unless otherwise expressly agreed.

**7.4.** Any early delivery or reduction in the delivery period as defined in the Contract shall require RED ELÉCTRICA's prior consent. In the event that this is given, it shall not entitle the VENDOR to demand that the payment of all or part of the price be brought forward, in accordance with the rules laid down in the Contract and these General Conditions.

**7.5.** Delivery dates may not be delayed, nor periods for delivery extended, except for reasons attributable to and recognised by RED ELÉCTRICA or due to force majeure.

In order for the delay determined by such events or causes to be taken into account, it is an essential prerequisite that the VENDOR notify their start and end date to RED ELÉCTRICA in writing within forty-eight (48) hours after they occur.

**7.6.** The VENDOR undertakes to use all the means available to it, at its sole expense, to make up, as soon as possible, any delay in the delivery dates, even when such delay is justified.

**7.7.** The VENDOR will not proceed to package or deliver any component of the equipment without a full previous presentation thereof, or in conformance with that approved by RED ELÉCTRICA. There will be total dimensional control of each part of the equipment during said presentation and, when possible, an operational test will be made, even on partial assemblies.

Such tests, having been previously notified as agreed, shall be seen by RED ELÉCTRICA's inspectors, who shall on acceptance of these, communicate the availability of the equipment. The acceptance must be set out in the form of a written document signed by both Parties.

The omissions and deficiencies observed and that are reflected in the document must be remedied or corrected without delay by the VENDOR. Once this has been done, new tests and/or inspections will be carried out, unless RED ELÉCTRICA expressly states otherwise.

The contents of the foregoing paragraphs of this section will not be applicable to the products for which RED ELÉCTRICA and the VENDOR have signed an Agreed Quality system.





- 7.8.** The VENDOR undertakes to provide RED ELÉCTRICA's inspectors with whatever help they request during the presentation of equipment and materials object of the Contract.
- 7.9.** The VENDOR shall communicate in advance, with a minimum of 15 days' notice, the date on which the merchandise will be delivered, indicating the number of packages, as well as the weight and dimensions of each package. Said communication shall be made through an electronic mail or by any other electronic means of transmission that leaves a reliable record of the communication.
- 7.10.** RED ELÉCTRICA reserves the right to postpone any dispatch or shipping of materials and equipment up to one month from the agreed date. The VENDOR shall not charge for this postponement. Should the delay be extended any longer, the materials shall be considered as delivered after the said month, and any appropriate compensation for the subsequent storage and insurance costs shall be mutually agreed.
- 7.11.** Delivery to RED ELÉCTRICA of a shipment shall not imply acceptance of the quantity nor quality of the received materials. The acceptance will always take place after the required tests, trials or final checks.
- 7.12.** Where no test, analyses or final checks are required, the reception by RED ELÉCTRICA of the contracted equipment and materials shall be formalised simply by signing the corresponding delivery notes. Where those are required, an acceptance document shall be made out, mentioning the satisfactory results of tests or analyses and final checks.
- 7.13.** Should the completion period need to be extended due to any cause related to force majeure, for a period in excess of one-fourth part of the agreed period, or should it be reasonably foreseeable that it shall be necessary to extend it beyond this period of time, this shall entitle RED ELÉCTRICA to terminate the present Contract.
- 7.14.** After the delivery, the VENDOR authorises RED ELÉCTRICA to make any necessary use of the equipment and materials object of the Contract, even performing work, assemblies or other tasks on them or with them or incorporating them into RED ELÉCTRICA's works or facilities.

## **8. PACKAGING**

- 8.1.** All equipment and materials shall be carefully packaged and protected by the VENDOR in order to guarantee its transport and conservation to ensure it arrives in perfect condition at its site.
- 8.2.** The elements which cannot remain in the open air shall have a perfectly watertight packaging and all the protection which the VENDOR deems necessary to maintain its perfect condition. Such packaging shall carry a label clearly stating this characteristic.
- 8.3.** Fragile apparatus (measuring instruments, relays, etc.) shall have special packaging with the correct cushioning protection.
- 8.4.** Before loading, RED ELÉCTRICA reserves the right to inspect all equipment at the plant of the VENDOR or in those of the subcontractors, and may require, at the cost of the VENDOR, more appropriate repackaging for any equipment judged to be badly packaged for transportation.





- 8.5.** The VENDOR shall utilise packaging and adequate protection, using:
- Anti-corrosive and environmental protection, when necessary.
  - Anti-theft and rough handling protection.
  - Protection from high temperatures.
  - Protection as specified in the technical specifications.
- 8.6.** When the VENDOR is not responsible for the onsite assembly, it shall be supplied in the least number of parts as permitted by the physical limitations for its transport.
- 8.7.** Packaging shall be done in such a manner that its volume be reduced as much as possible. Parts, such as accessories, motors, etc., which are not rigidly joined to the main equipment, shall be packaged separately and clearly labelled to facilitate its identification.
- 8.8.** Pieces which may suffer corrosion shall be adequately protected with grease or another appropriate product before being packaged.
- 8.9.** All polished and mechanised surfaces shall be covered with an anticorrosive product. Care shall be taken when packaging instruments (measuring equipment, relays, etc.) precision tools, bearings, electric motors, etc., and shall have special protective packaging and appropriate labelling, so as to avoid possible breakdown and damage, which may be produced if a moisture-free atmosphere is not maintained.
- 8.10.** All bulky items shall be specifically packed and prepared to be lifted correctly by incorporating safe lifting points. All safe lifting points shall be clearly identified.
- All items shall also carry clear instructions of the position in which they should be stored.
- 8.11.** Fragile articles shall be protected against the risk of breakage and shall be packaged in robust wooden crates. All faces of the packing crates should clearly display the labelling 'FRAGILE – HANDLE WITH CARE'.
- 8.12.** Round pieces, bars, tubes, profiles, etc., shall be packaged in bundles of equal length. The weight of each bundle should be maintained within the limit of resistance of the steel straps or wire fastenings.
- The holes in tubes, machines etc., shall be protected with grease, bungs or plastic caps. Screw threads shall be protected against possible damage, using adequate casing or packaging.
- Merchandise sent in bundles shall be firmly secured with steel straps or wire.
- Rivets, screws, nuts and bolts shall ideally be sent in tubs or boxes.
- Moulded insulating materials shall be packaged in wooden crates.

## **9. GUARANTEES**

- 9.1.** The VENDOR guarantees RED ELÉCTRICA that:
- a) All the equipment and materials fulfil the agreed specifications and the applicable regulations and law, or the good practice regulations, are suitable for the intended use and comply with the required quality requirements and have not previously been used.



- b) The equipment and materials are free of defects in their design, materials, labour (both own and subcontracted), manufacture and operation.
- c) The equipment functions perfectly and regularly with performance, capacity and other characteristics as specified.
- d) That no essential faults are produced during their specified lifetime for which they were designed.

The VENDOR will not be liable for faults or damages which occur in the equipment or material attributable to unsuitable or improper use by RED ELÉCTRICA.

**9.2.** The VENDOR shall grant to RED ELÉCTRICA a commercial guarantee for its equipment and/or materials by means of which the VENDOR undertakes to

- a) Replace any equipment and materials that fail to comply with what has been agreed or specified, whether they are unsuitable, of deficient quality or are used.
- b) Adjust, repair or replace equipment with any defects in design, materials, labour, manufacture, operation or performance.

**9.3.** Any adjustments, repairs or replacements required in order for the guarantee commitment to be met shall be made solely at the expense of the VENDOR, with no costs or expense being borne by RED ELÉCTRICA, And the VENDOR shall moreover cover any costs incurred thereby by RED ELÉCTRICA (including the adjoining or annexed facilities) such as those of disassembly, transport, insurance and packaging for the return of the materials and the assembly and custody of their replacements, as well as taxes and other similar expenses.

**9.4.** The decision to have any faulty materials adjusted, repaired or replaced shall always rest with RED ELÉCTRICA and shall be taken based on the criteria of its experts, in accordance with the requirements and specifications contained within the contractual documentation and that empowers them to give instructions for provisional repairs to be performed, notwithstanding any final repairs or replacements that may be deemed necessary.

**9.5.** Should RED ELÉCTRICA choose the option to order a simple repair of the defect, or if the defect justifies its substitution, said option shall be subject to the acceptance of a price reduction and/or an extension to the guarantee period by the VENDOR.

**9.6.** Any adjustments, repairs or replacements must be made within the time span indicated by RED ELECTRICA, therefore being the least prejudicial or damaging and in order to prevent delays or stoppage of facilities, or if this is not possible, to keep such delays to a minimum or to minimise stoppage time in facilities.

**9.7.** If the VENDOR fails to fulfil, with the required promptness, its guarantee obligation, or fails to carry out contracted works in the agreed period, RED ELÉCTRICA can do it on its own or with third parties at the VENDOR's expense and without voiding the guarantee. The VENDOR shall be obliged, also, to compensate RED ELÉCTRICA for any damages and losses it may have caused.



- 9.8.** The VENDOR's commercial guarantee as referred to in section 9.2 shall be extended for the period stipulated in the Contract or for one year by default if not stipulated.
- 9.9.** The commercial guarantee period will be calculated from the delivery note date or acceptance document date, depending on the case.
- 9.10.** The period of the said guarantee shall be interrupted, and consequently extended for the period of time needed to repair or replace it under the guarantee coverage. The period of such guarantee shall be interrupted, and consequently extended for the period of time given over to repair and replacement work pursuant to the guarantee coverage
- 9.11.** Such repairs or replacements shall in turn be guaranteed as from its completion for a period equal to that of the commercial guarantee.
- 9.12.** If the guarantee period elapses before six months have passed since the commissioning of RED ELÉCTRICA's facility for which they are destined or that make up the materials or equipment object which they are part of, the guarantee period shall automatically be extended until those six months have elapsed.
- 9.13.** The scope of the commercial guarantee or the expiration of the said guarantee period shall not release the VENDOR from any liability for latent faults or defects nor from any other liabilities under applicable law or the stipulations of these General Conditions.
- 9.14.** Once the commercial guarantee period has expired, RED ELÉCTRICA itself, or via a third party, shall be able to modify or change at will the equipment or materials supplied under the Contract herein, even if they are protected by licences, patents or any other industrial property titles in favour of the VENDOR. The VENDOR expressly acknowledges that RED ELÉCTRICA shall be authorised to carry out whatever use and/or management of the equipment and materials object of the contract (such use and/or management include, but are not limited to, the reproduction, distribution and transformation). The VENDOR also expressly acknowledges that ownership of any intellectual or industrial property rights to which such use and/or management may give rise to, shall exclusively correspond to RED ELÉCTRICA.
- 9.15.** The VENDOR is committed to providing all spare parts which may be necessary for the equipment maintenance for a 10-year period, calculated from the date of acceptance of the material.

## **10. PRICE, DEPOSIT, INVOICING AND PAYMENT**

- 10.1.** The Contract price includes everything within the scope of the Contract, in accordance with these General Conditions, and everything the VENDOR has to supply or do for its fulfilment, with the sole exception of the items or services expressly excluded.
- 10.2.** The price includes all taxes and fees that may have an impact on the Contract, or may accrue under the Contract, with the exception of VAT.
- 10.3.** The Contract prices are invariable. There shall be no increase in the prices established in the Contract or any additions thereto, except in the event that such increase is expressly stated herein.



- 10.4.** Equipment, materials, works or services not included in the Contract will not be paid for unless their execution had been previously submitted in writing by the VENDOR, clearly stating the price, and accepted, also in writing, by a duly authorised RED ELÉCTRICA representative.
- 10.5.** RED ELÉCTRICA can demand that the VENDOR put up a deposit (performance bank guarantee), in order to guarantee the fulfilment of all the obligations derived from the Contract and/or of those that may arise from future contracts between the Parties, including, but not limited to: payment of penalties that may be attributable to it, repairs or replacements carried out at the VENDOR's expense pursuant to the warranty obligation, compensation for damages that any breach of Contract or delay in its fulfilment may be caused to RED ELÉCTRICA, and compensation for any damages that, in the execution of the Contract, may be caused to third parties and may be filed or claimed against RED ELÉCTRICA by such parties, and the fulfilment of the terms and conditions of the deposit as set out in the document 'Policy for Performance Bank Guarantees in favour of Red Eléctrica de España, S.A.U.'.
- 10.6.** The requirement for and type of deposit to be formalised shall be in accordance to that set out in the document 'Policy for Performance Bank Guarantees in favour of Red Eléctrica de España, S.A.U.', referenced in section 10.5, in force at the time of acceptance of the purchase order; said document is attached as an annex to these General Conditions and are an integral part thereof.
- 10.7.** The payment of a deposit does not imply that the VENDOR's liabilities are confined to the amount or duration thereof, it is merely a means to facilitate the meeting of such liabilities.
- 10.8.** The VENDOR's deposit shall be forfeit in the events of termination of the Contract provided below in section 12
- 10.9.** In general, invoicing shall be made in full (100 per cent) after provision of all equipment and materials object of the Contract.
- 10.10.** In particular cases where partial invoices are accepted, the invoicing periods shall be linked to the milestones of works and/or deliveries actually carried out, and that shall be determined by both Parties and in agreement with the established programme.
- 10.11.** All payments, corresponding to partial invoices, made to the VENDOR before reception of equipment and materials, shall be considered payments on account of the Contract price.
- 10.12.** In order for the price to be paid, the VENDOR shall submit RED ELÉCTRICA an invoice for the total amount of the Contract or for each of the partial periods established in the Contract, stating both the purchase order number as well as the certification number generated by the IT system of RED ELÉCTRICA.
- 10.13.** Payments shall be made respecting the maximum payment periods established by the current legislation.
- 10.14.** At all stages of the procurement, the invoice payment shall be conditioned by the VENDOR's fulfilment with the established regulations on equipment and materials quality control.



- 10.15.** Payment of the Contract price does not mean that RED ELÉCTRICA deems that the VENDOR has properly performed or fulfilled the Contract or that it waives any of the rights and actions to which it may be entitled in respect of the VENDOR. Such rights are expressly reserved, notwithstanding the payment made.

## **11 PENALTIES**

- 11.1** Without prejudice to that established in section 12.1, paragraph f) regarding the termination of the Contract for reasons attributable to the VENDOR, any default on the date for delivery or the partial milestones shall be sanctioned with the imposition of a penalty.

In the case where no penalty has been established, the penalty shall be 1 per cent of the Contract amount per calendar week of delay. If the delay persists for more than four weeks, from the fourth week onwards this shall be increased to 5 per cent.

- 11.2** Penalties for delay shall be automatically applied as and when applicable, without the need for prior notification. Should penalties reach 10 per cent at any point, RED ELÉCTRICA shall be able to terminate the Contract.
- 11.3** If within the guarantee period RED ELÉCTRICA is unable to make use of the equipment or any of the contracted materials, due to defects or breakdowns produced in the execution thereof or in the works necessary to correct such faults pursuant to such guarantee, the VENDOR shall be sanctioned with the penalty as stated in the Contract, or if not specified, with 0.1 per cent of the total price of the Contract per day the equipment or materials are unavailable.
- 11.4** The VENDOR must compensate for other possible damages caused by the delay, when the breach of its obligations amounts to fraud or negligence or otherwise contravenes them.
- 11.5** RED ELÉCTRICA will collect the penalties payable from VENDOR either by deducting the amount thereof from the first payments due under any concept (even for another contract) or by enforcing any guarantees that have been put up, or by both means, or by any other legal means at RED ELÉCTRICA's discretion.

## **12 TERMINATION OF THE CONTRACT OWING TO CAUSES ATTRIBUTABLE TO VENDOR AND OTHER MEASURES AGAINST BREACH OF CONTRACT**

- 12.1** RED ELÉCTRICA may terminate the contract in the events provided for by law or in any of following cases:
- a) Mutual agreement between the Parties, with the effects as stipulated in the Contract.
  - b) The filing of bankruptcy proceedings of either contracting Party, without prejudice to the rights and actions that each may be entitled to, provided that it is established that the bankruptcy situation precludes the proper performance of the contract subject to the terms and conditions established in the contractual documentation.
  - c) Extinction of either contracting Party's legal personality.





- d) Decease of the VENDOR or change in their capacity to act, or physical or mental health conditions that might impair or prevent the execution of the contract, when the VENDOR is an actual physical person; or in the case of RED ELÉCTRICA liquidation, transformation, capital reduction or major changes in the structure of its capital stock, if the VENDOR is a corporate person.
- e) Relinquishment, interruption or suspension by the VENDOR in the execution of the Contract.
- f) Delay in the delivery of contracted equipment or materials by more than half of an interim period of delivery; or for a period longer than one third of the total period; or default on delivery dates essential for the satisfactory conclusion of the Contract or for having incurred delay penalties reaching 10 per cent of the total Contract price, as established in section 11.2.
- g) Any other non-compliance by the VENDOR that might prevent or affect the satisfactory conclusion of the Contract, or that is expressly stipulated as the cause of termination in the Contract.

**12.2** If any of the aforementioned circumstances occur, the Contract will be deemed terminated and void as of the date RED ELÉCTRICA communicates its decision to the VENDOR or his assignees.

**12.3** Should the above decision be based on paragraph d) of section 12.1, the VENDOR or his assignees may avoid such resolution if, within five days of notification, they provide enough guarantees, in RED ELÉCTRICA's sole opinion, regarding the normal Contract execution.

**12.4** Should RED ELÉCTRICA's decision be based on paragraphs e), f) or g) of the same section, the VENDOR accepts as valid all the causes put forward by RED ELÉCTRICA and gives its consent if, within five days of notification, it does not formulate in writing any justified and duly documented claim.

**12.5** In the event of termination of the Contract, the VENDOR must immediately return to RED ELÉCTRICA the total amounts charged in advance on account. Should RED ELÉCTRICA proceed execute its right as reserved in the following paragraph, the obligation to return shall be limited to the excess that such amount represents in regard to what RED ELÉCTRICA has to pay the VENDOR, in accordance with same paragraph.

**12.6** In the event of termination of the Contract, RED ELÉCTRICA shall be entitled, but not obliged, to purchase all or any of the materials that the VENDOR has stockpiled, partially manufactured or delivered, paying the prices provided for the purpose in the Contract, or if these are not provided, setting the prices for such purchase by common consent, or if this is not feasible, by independent expert appraisal.

When RED ELÉCTRICA exercise the right to acquire ownership of the materials for the sole purpose of Contract termination, from that moment on, the materials shall be of free disposition, including to remove them from the factories, workshops or warehouses of the VENDOR, subcontractors or suppliers, even if the price of acquisition has not yet been fixed.



- 12.7** Except when paragraph d) of section 12.1 applies, the Contract termination will also imply loss of the deposit (economic guarantee) the VENDOR may have put up, which will go entirely to RED ELÉCTRICA as compensation for damages, whatever their cost.
- 12.8** Without prejudice to the above, RED ELÉCTRICA expressly reserves the right to demand the applicable compensation, if the amount for the caused damages is higher than the deposit or if the deposit has not been requested, RED ELÉCTRICA is entitled to obtain the compensation through deducting it from outstanding payments to the VENDOR (even those related to another contract).
- 12.9** Even when any cause for termination of the Contract applies, RED ELÉCTRICA may also choose to demand the fulfilment of said Contract, meaning the VENDOR is obliged to comply with the Contract until RED ELÉCTRICA notifies its termination.
- 12.10** In the cases where the termination of the Contract is applicable, RED ELÉCTRICA may choose, along with the decision to terminate the Contract, or alternatively to ensure Contract fulfilment, to take all or some of the following measures against the VENDOR:
- a) Suspend outstanding payments (even related to another contract).
  - b) Execute the deposits, bank guarantees or any guarantees the VENDOR may have (even for another contract).
  - c) Retain the VENDOR's stockpiled materials and machinery and items that may be in the possession of RED ELÉCTRICA.

### **13 TERMINATION OF THE CONTRACT AT RED ELÉCTRICA'S WILL**

- 13.1** RED ELÉCTRICA may at any time, solely and unilaterally, suspend the execution of the Contract or terminate it, totally or partially, simply by properly notifying the VENDOR. Should this be the case, it shall undertake to compensate the VENDOR for direct damages that the suspension or termination may originate.
- 13.2** Direct damages shall be understood as the cancellation costs of current orders that must be adequately accredited by the VENDOR in a documented form and supplied to RED ELÉCTRICA. In no case shall the compensation exceed in 10 per cent of the part of the Contract whose execution was suspended or was pending when the termination took place.
- Indirect damages and lost profits are expressly excluded from said compensation.

### **14 INDUSTRIAL AND INTELLECTUAL PROPERTY**

- 14.1** The VENDOR guarantees to RED ELÉCTRICA, and must provide document proof if so required, that it has the patents, licenses and other necessary industrial property documents required to carry out the object of the Contract.





**14.2** In compliance with the previous guarantee, the VENDOR releases RED ELÉCTRICA from all liability for infringements of industrial property that it (the VENDOR) may commit, and undertakes to do all that is necessary to protect RED ELÉCTRICA and release it from any claims or demands to which such infringements may give rise, and to procure at its sole expense any patents, licences or rights that may be required, and to indemnify RED ELÉCTRICA for any damages that it sustains, directly or indirectly, as a result of such claims or demands.

## **15 CONFIDENTIALITY**

**15.1** The VENDOR shall treat any kind of verbal or written information in relation to the Contract as confidential, and undertake to keep it as such and not to disclose it or supply it to third parties or use it for purposes other than those of the Contract without the prior written consent of RED ELÉCTRICA. Such requirement of confidentiality shall apply both to the Contract itself and to any technical documents, drawings, information, procedures, patents and licences related to the execution of the Contract.

## **16 LIABILITY**

**16.1** The VENDOR is responsible for the thorough compliance of its legal and contractual obligations with its vendors and sub-vendors and, particularly, for the full ownership, non-restricted use, availability and free from any charges and encumbrances in favour of third parties for the materials delivered under the Contract.

**16.2** The VENDOR also undertakes to fully observe and fulfil, in a timely manner, all obligations related to administration, taxation or labour applicable under the Contract.

**16.3** The VENDOR must justify, by providing documented proof to RED ELÉCTRICA as often as deemed necessary by RED ELÉCTRICA, that there is full compliance with the contents in the aforementioned paragraphs. Failure to submit the justifying documentation or not submitting enough documentation constitutes a serious contractual non-compliance.

**16.4** The VENDOR will release RED ELÉCTRICA from any liability for non-compliance with the above obligations, as well as for actions or omissions on its part or by its personnel under the Contract; and, consequently, is obliged to carry out whatever necessary to protect RED ELÉCTRICA from any claims and lawsuits that might be brought against it for that reason, and to compensate RED ELÉCTRICA for all damages which may be filed against it, directly or indirectly, due to said claims or lawsuits.

**16.5** When the VENDOR is constituted by two persons or more, or a grouping thereof, each and every one of them are jointly liable for the Contract compliance and also jointly answerable for the obligations established in the Contract and in these General Conditions.



## 17 INSURANCE

**17.1** The VENDOR shall subscribe to and maintain for the duration of this Contract, and at its expense, the following insurance policies:

1. Work Accidents and social insurances under current legislation for all workers.
2. Civil Liability against third parties through mandatory and voluntary insurances for own vehicles or vehicles contracted to third parties involved in the execution of the Contract.
3. The VENDOR must insure the material damages to the goods object of the Contract, as well as the Civil Liability derived from the transport.
4. Civil Liability guaranteeing payment of compensations which the VENDOR, its sub-vendors or vendors or RED ELÉCTRICA should be obliged to pay against third parties and also deriving from civil liability for accidental damages caused to the said third parties and/or to RED ELÉCTRICA, in their persons or properties, by action or omission, being such liability either directly or subsidiarily as a consequence of the execution of the Contract.

**17.2** The Civil Liability insurance shall expressly include the guarantees of Employer's Civil Liability, Crossed Civil Liability, Civil Liability for products, the policy shall envisage a limit per victim of 200,000 €.

Additionally, this Civil Liability insurance shall expressly include the Civil Liability guarantee covering pollution or environmental damages the supply of goods which may entail environmental hazards.

**17.3** Any other insurance required by current law that is applicable to the works and services carried out by the VENDOR under the Contract.

**17.4** All the aforementioned insurance policies shall be contracted with insurance entities of recognised solvency, without the possibility of modifying or annulling its terms and conditions during the period of coverage without the express consent of RED ELÉCTRICA.

**17.5** The VENDOR shall accredit the fulfilment of the Spanish regulation regarding industrial accident insurances by providing a certificate of insurance or similar document as proof of the said coverage.

**17.6** The VENDOR shall submit when required by RED ELÉCTRICA the policies and payment receipts (original receipts) proving the policies are in force.

## 18 FORCE MAJEURE

**18.1** Only the causes listed below shall be considered as force majeure, of sufficient significance to prevent the parties from complying with the obligations derived from the Contract:

- a) Earthquakes, seaquakes, fires of catastrophic character or floods officially declared to be catastrophic.
- b) Damage caused by terrorist acts or produced during wartime or by insurrection or disturbances.



- c) Legal strikes that exceed the sphere of the VENDOR's company and the ending of which does not depend on the decision of the latter.
- d) Whatever others of analogue magnitude that were unforeseeable, or that being foreseeable were beyond the control of the parties or were not avoidable and that impede complying with the obligations of the Contract.

**18.2** On the assumption that an event considered to be of force majeure should occur, the affected party shall inform the other party in writing as soon as possible, or in any case within forty-eight (48) hours after it has been detected, providing details of the causes, as well as the possible duration and the repercussion on the supply of equipment or materials contracted, and providing, where applicable, those documents that duly accredit it.

The other party shall likewise be informed of the moment in which the force majeure event has ceased, complying with the aforementioned period of time.

**18.3** In the event of a delay resulting from one of these causes, the periods stipulated in the Contract, shall be extended by a period equal to that for which the VENDOR was prevented from performing, continuing in effect the compliance of the remaining obligations that are not affected by the circumstance which occurred.

**18.4** The VENDOR shall not be entitled to claim compensation whatsoever as a result of the eventual application of whatever cause of force majeure and the delay caused, where applicable, shall not represent any additional cost for RED ELÉCTRICA.

## **19 CORPORATE SOCIAL RESPONSIBILITY**

**19.1** By means of these General Conditions of Contract the VENDOR acknowledges, accepts and agrees to comply with that set out in Red Eléctrica Group "Supplier Code of Conduct"- of which RED ELÉCTRICA is an integral part- in force at the time of acceptance of the contract on his part.

Evidence of non-compliance with the provisions of the aforementioned document may constitute grounds for cancellation of the Contract.

## **20 PROTECTION OF DATA**

**20.1 EXECUTION OF SERVICE WITHOUT ACCESS TO PERSONAL DATA:** Access to any personal data for which RED ELÉCTRICA is responsible, is strictly prohibited. However, should, as a result of the contractual relationship established with RED ELÉCTRICA, the VENDOR unintentionally have access to any data of a personal nature, the VENDOR shall undertake to guarantee the security and protection of said data.

**20.2 EXECUTION OF SERVICE WITH ACCESS TO PERSONAL DATA:** Under other circumstances, the VENDOR may have access to personal data for which RED ELÉCTRICA is responsible, as a result of the execution of the present Contract. This data shall be used for the sole purpose of carrying out the obligations and services being the object of the Contract and may not be used for any other purpose unless expressly authorised



in writing by RED ELÉCTRICA.

Access by the VENDOR to such data does not constitute a transfer of data in accordance with the concept established by article 12 of Spanish Organic Law 15/1999 of 13 December regarding Personal Data Protection ('LOPD'), but access to personal data on behalf of a third party subject to the provisions of article 12 of the LOPD.

The data to which the VENDOR accesses by virtue of this clause may only be managed by the VENDOR, as the entity given the right to its handling and protection, in accordance with the instructions given by RED ELÉCTRICA, in its capacity as the company responsible for the handling and protection of such data.

The VENDOR undertakes neither to disclose nor manipulate the aforementioned data, which shall be deemed confidential information. Additionally, the VENDOR undertakes neither to publish, assign, transfer, nor disseminate the data in any way whatsoever, be it directly or indirectly by means of third parties or companies, nor make the data available to third parties in any way or for any reason.

The VENDOR expressly assumes the obligation to implement all the security measures regarding personal data pursuant to the provisions set out in art. 9 of the Spanish Organic Law 15/1999 of 13 December regarding Personal Data Protection and its development regulations.

Similarly, the VENDOR undertakes to destroy or return the personal data following the termination of the present Contract.

On the other hand, the VENDOR shall be obliged to inform RED ELÉCTRICA of the need to subcontract the agreed Services or any part thereof.

- 20.3** In the event of non-compliance by the VENDOR regarding the regulations on personal data protection, RED ELÉCTRICA shall not be held liable or accountable for any administrative or civil liabilities that may be derived from its non-compliance.

## **21 JURISDICTION AND ARBITRATION**

- 21.1** The Contract and any disputes that may arise between the Parties in relation thereto shall be governed exclusively by Spanish law, to which the VENDOR and RED ELÉCTRICA expressly submit themselves.
- 21.2** Waiving any other jurisdiction to which they may be entitled, the parties expressly submit themselves to the jurisdiction and competence of the courts and tribunals which correspond to the registered office address of RED ELÉCTRICA for the settlement of any disputes, issues, incidents or litigation that may arise out of the interpretation, performance and fulfilment of the Contract.
- 21.3** If the Contract specifies an arbitration clause, it shall be pursuant to what is provided in it. The execution and fulfilment of the Contract shall not be interrupted during the processing of the arbitration proceedings.