

SUPPLEMENTARY CONDITIONS OF PURCHASE

(AIV-E.ON/03-00)

1. Applicability

- 1.1 These AIV-E.ON/03-00 applicable together with and inseparably from the AIV-E.ON/01-00 Where these AIV- E.ON/03-00 deviate from the AIV-E.ON/01-00 the AIV-E.ON/03-00 will prevail. The General Safety Regulations (AIV-E.ON/04-00) are also applicable to their full extent.

2. Quality and inspections

- 2.1 The plant and the plant parts must comply with the specifications of E.ON and with all regulations which have been laid down in that respect by or on behalf of the government on the date of formation of the agreement. In order to establish this, the supplier is obliged to have all inspections made which E.ON deems necessary.
- 2.3 Any part of the delivery which is subject to the check by or on behalf of the government - such as the Steam Department, the Labour Inspectorate and/or environmental departments - will only be accepted following submission of the approval concerned. Changes and improvements which are deemed necessary by the institutions concerned will be carried out by the supplier at its expense.
- 3.4 If a delivery constitutes a part of a larger entirety, the supplier is obliged to ensure that its delivery will connect up with other parts and will function well in combination with the deliveries of third parties, and to provide its full cooperation for this, without this leading to extra costs for E.ON by virtue of any reason whatsoever.
- 3.5 E.ON is entitled to attend quality checks and inspections or to have itself represented thereby by third parties. E.ON will receive a certified copy of the test reports and also of calibration certificates. E.ON may demand that partial or full use is made at inspections of apparatus, which it will make available - which will be for its account if it is found to be in the wrong. E.ON has the right to demand additional tests, which are not repeated inspections. All extra costs which arise there from, with the exclusion of the risk of damage or loss of the parts concerned, are for the account of E.ON, unless these extra tests are carried out for the account of the party judged to be in the wrong. The provisions in this article relating to inspections are applicable thereto.
- 3.6 Deliveries or parts thereof which do not comply with the requirements referred to in this article may be rejected by E.ON. E.ON will notify the supplier of this in writing, following which the supplier will obtain the opportunity to comply with these requirements after all within a reasonable term which is to be determined by E.ON, by means of replacement, repair or improvement to the satisfaction of E.ON and as E.ON chooses. If repeated inspections show that it has not succeeded in doing so, then the parts concerned will be rejected after all and it will be deemed not to have complied properly with its obligations. Rejected parts must be removed for the account of the supplier at a time which is to be determined by E.ON, on the understanding, however, that - as long as this is permitted by undisrupted operations at E.ON - they will remain at E.ON's disposal and will be built-in at the expense of the supplier until the new parts have been delivered, tested and approved.
- 3.7 All costs for repairs and improvements, for disassembly of the parts which are to be replaced, for new parts and for transport, delivery and assembly thereof, and also for a new operational set-up, are for the account of the supplier.
- 3.8 In the case of inspections, including inspections by third parties, only the costs of E.ON personnel charged with the inspection are for the account of E.ON. All other costs are for the account of the supplier. In the case of repeated inspections all costs for E.ON which arise there from are also for the account of the supplier.
- 3.9 If the fact that certain requirements have been complied with cannot be proved according to the judgment of E.ON by means of inspections or tests, the supplier must make it plausible to the

satisfaction of E.ON, by means of calculations or in another manner, that those requirements have been complied with.

3. Price

- 3.1 The price stated in the agreement (unit prices / hourly rates) contain(s) all costs which are to be incurred by the supplier for completing its delivery, including risks and profit.

4. Extra work and less work

- 4.1 Work which is carried out in excess of the agreed amount will only be paid for if this has been agreed upon in writing.
- 4.2. The settling-up of extra work will be done by means of an additional payment, and that of less work by means of withholding a part of the price.

5. The provision of drawings and other details

- 5.1. The supplier must submit drawings relating to the set-up and important parts of the delivery to E.ON at the agreed time, but in any event in such good time that any changes which are deemed necessary do not extend the delivery term. Approval of the drawings, and also the lack of comments thereon, do not effect the responsibility of the supplier for a good operation of the delivery. The supplier must also provide all drawings and other details which could be useful according to the opinion of E.ON for itself or for third parties involved in the project, or which are necessary for the technical assessment, the applications for permits or the projection of accompanying plants.
- 5.2 The supplier will provide the details relating to the delivery which E.ON deems necessary for an optimal operation and an optimal maintenance of the delivery in triplicate, or in more copies if E.ON so requests.
- 5.3 Two months before the start of the operational test all user and maintenance instructions must be in the possession of E.ON in triplicate and drawn-up in the Dutch language.

6. Subcontracting and ultimate responsibility

- 6.1 The supplier is not permitted to have the work carried out in whole or in part by third parties, except following written permission from E.ON. In this case the supplier will provide E.ON with a copy of the technical part of its application, the offer and its order. Approval by, or the lack of any reaction from, E.ON does not release the supplier from its obligations under the agreement.
- 6.2 If the supplier has had work carried out by third parties without written permission from E.ON, E.ON is entitled to accept the work which has been carried out in this manner - possibly following an inspection for the account of the supplier - or to reject the work, this according to the choice of E.ON alone.
- 6.3 In its agreement with subcontractors the supplier will include the provision that they renounce all claims on E.ON, such as are referred to in article 1650 of the Dutch Civil Code, and also that they are subject to all provisions which apply between the supplier and E.ON.
- 6.4 The supplier must take all steps, or provide its cooperation to all steps which E.ON deems necessary, to restrict the liability of E.ON within the framework of the 'Wet Ketenaansprakelijkheid' ('Act on Ultimate Responsibility') and/or the 'Verleggingsregeling BTW' ('Obligation Transfer Rules for Turnover Tax') as far as possible.

7. Delivery time

- 7.1 The supplier must submit a time schedule for the manufacture, assembly and operational set-up of important parts of the plant for approval before a time which is to be determined by E.ON, and will thereafter report regularly in writing on the progress. E.ON has the right to check the

progress with the supplier or to have this checked. If E.ON has reasons to assume that, with the available personnel and equipment, the agreed time schedule cannot be complied with, then E.ON may demand of the supplier that it expands its personnel, introduces more shifts or introduces overtime (including work on Sundays), or takes other steps. The supplier may not acquire any right to extra payment as a result of this.

- 7.2 The supplier is obliged to deliver the delivery at the agreed time, or to carry it out in accordance with the agreed time schedule, as the case may be. If it appears that the delivery time could be transgressed, the supplier will immediately notify E.ON of this, together with a statement of all relevant circumstances. Without prejudice to the provisions given in sub 1 of this article a new time of delivery may be agreed upon in writing if E.ON does not find this objectionable.
- 7.3 If, as a result of circumstances which are in the area of risk of the supplier, this results in the agreed delivery times not being complied with, or as a result of any other failure to comply with its obligations by the supplier, provisional work or replacement deliveries or other measures are necessary in the opinion of E.ON, then E.ON will be entitled to have these carried out and the costs of this will be for the account of the supplier.

8. Cooperation with third parties

- 8.1 The supplier is obliged to allow work to be carried out by a supplier or by third parties, to whom E.ON has given instructions to that end, at or in the vicinity of the place where its delivery is to be set-up. If the supplier must cooperate with third parties then the work will be coordinated by E.ON, so that as little obstruction as possible is caused for the parties concerned. The implementation of work which could obstruct third parties must be discussed in advance with E.ON. The coordination by E.ON does not release the supplier in any manner whatsoever from its responsibility for the good operation of its delivery.

9. Assembly, operational start-up and operational test

- 9.1 The assembly, operational start-up, the operational test and the guarantee, measurements of the delivery will be dealt with in mutual consultation. The supplier must have sufficient personnel at his disposal in order to start the operation of the delivery and calibrate it safely.
- 9.2 The supplier must give the necessary operational and maintenance training to E.ON personnel.

10. Assessment, shortcomings and final delivery with remaining points

- 10.1 After the operational start-up has been completed an assessment of the work will be made and a report will be drawn up which is to be signed by both parties. Any shortcomings and the date on which these will be mended - to the satisfaction of E.ON - will be stated.
- 10.2 At the end of a successful operational test and after the shortcomings laid down in the assessment report have been mended, the first delivery will take place, at which time the guarantee period will commence. This delivery will be laid down in a protocol, which will also contain any remaining points and the date, on which these will be mended - to the satisfaction of E.ON.
- 10.3 Any second delivery will be made as soon as the guarantee tests have shown that the guarantee conditions have been reached and all remaining points have been mended.

11. Liability of the supplier following delivery

- 11.1 After the delivery the supplier is - without prejudice to its guarantee obligations - only liable for shortcomings in the work if the case occurs which is provided for in article 1645 of the Dutch Civil Code, or if the work or any part thereof contains a hidden defect as a result of fault on behalf of the supplier or persons involved by the supplier in the work, and the supplier is notified of this within a reasonable term after it has been discovered.

12. Facilities for carrying out of work

- 12.1 Before work is commenced the supplier must consult on the extent to which its personnel may make use of storage spaces, workshops, bathing, washing and dressing rooms, toilets, and also of a canteen of E.ON. If the supplier must provide the necessary construction and storage sheds itself, the place where the sheds concerned are to be set-up will be determined by E.ON. The heating of these sheds is for the account of the supplier.
- 12.2 E.ON will, in consultation with the supplier, make electricity available free of charge at one or more central points, for assembly work and lighting alone.
- 12.3 If E.ON, the supplier or third parties make use of scaffolding, tools, lifting machines etc. which are not their property, this will be done under the responsibility of, and for the risk of, the user.

13. Title and risk

- 13.1 The supplier will bear the risk for the entire plant and parts thereof until the first delivery.
- 13.2 E.ON will acquire the title to all goods, which belong to the delivery at the time they arrive on the work site, without this obliging E.ON to make payment to the supplier or third parties. If a payment for the delivery has already been made by E.ON, then E.ON will acquire the title to parts, auxiliary parts and materials (jointly: the goods) which are already present with the supplier and are destined for the manufacture of the delivery as a result of this, which the supplier must mark as the property of E.ON. To the extent that this is required by law, the transfer of title will be strengthened by means of a deed made to that end, which the supplier is obliged to sign. In this case the supplier must keep, secure, preserve and insure the goods to the satisfaction of E.ON. The supplier will enable E.ON to enter its sites or buildings so that E.ON can check the compliance of supplier with its obligations and so that E.ON can remove the goods if it deems this desirable. If the goods are lost before the entire delivery has been delivered, the supplier will be obliged to deliver replacement goods.

14. Liability and insurance

- 14.1 The supplier is liable for any damages which arise for E.ON as a result of or in connection with the implementation of the work as a result of its fault or as a result of the fault of persons who are involved by it in the work - regardless of the degree of the fault. The supplier is only liable for damages due to the falling-off of production to the extent that there is a case of gross negligence, gross fault or purposeful action, and furthermore up to a maximum amount which is to be agreed upon further.
- 14.2 Except for the event of fault on the side of E.ON, the supplier will indemnify E.ON against all claims for compensation of damages of third parties, including personnel in the employ of E.ON, which have arisen as a result of or in connection with the implementation of the work. Damages are also taken to mean damages to the environment, which are the consequence of the use of environmentally dangerous substances and/or incorrect processing or removed materials.
- 14.3 The supplier must be covered by insurance against liability and risks such as are described above.
- 14.4 Unless fault on the side of E.ON or personnel of E.ON is proved, E.ON will not be liable for any damages which might arise for the supplier, its personnel or other persons involved by the supplier in the implementation of the work. This also includes damages as a result of destruction or loss of property.

15. Regulations

- 15.1 Besides the statutory provisions the supplier and its personnel are obliged to comply with the AIV-E.ON/04-00 Safety Regulations, without this leading to costs for E.ON.

- 15.2 The supplier is obliged to maintain attendance records to the satisfaction of E.ON for all persons whom it engages in the implementation of the work. These records must be submitted to E.ON upon its first request.
 - 15.3 The supplier will impose an obligation upon all the persons whom it puts to work to carry personal identification on them and to show this to E.ON personnel indicated for that purpose upon their first request.
 - 15.4 E.ON may deny access to its sites to persons in the employ of the supplier or whom the supplier involves in the work if these persons can no longer be approved by E.ON, in which event the supplier must immediately replace those persons.
- 16. Representation of the supplier**
- 16.1 From the start of the work to the delivery the supplier will appoint an expert person who is to be made known to E.ON, who will reside in the immediate vicinity of the work site and who is authorized to take receipt of all notifications and documents which are destined for the supplier and sub-suppliers, and also to make decisions on behalf of the supplier with regard to the implementation of the agreement.
 - 16.2 The original of these conditions is drawn up in Dutch. In the event of a conflict between this translation and the original, the original shall prevail.