



# General Terms and Conditions of Purchase orders (GTCP)

of Austrian Power Grid AG dated 1 February 2016

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The present General Terms and Conditions of Purchase orders (GTCP) shall apply to all contracts and orders concluded between and/or by Austrian Power Grid AG (APG) as purchaser/principal (PRIN) in each case and and/or with suppliers/contractors (CON), to the extent the GTCP are declared to be applicable in the order letter (SAP order) of the PRIN and unless otherwise agreed in writing. For the avoidance of doubt, it is noted that all other companies of the VERBUND Group shall be deemed separate entities. The present GTCP shall apply exclusively; without the express written consent of the PRIN, the terms and conditions of the CON cannot become part of the contract, even if they do not contain any conditions contrary to the GTCP. The CON must confirm the purchase order in writing with the company's legally binding signature attached. The confirmation must be received by the PRIN within 2 weeks after delivery of the order letter to the CON, otherwise the PRIN may cancel the purchase order, with any claims for compensation on the part of the CON being excluded.

2

The agreed prices shall be fixed prices. Deliveries shall be effected packed, carriage free, at the risk of the CON, that is DDP place of performance (Incoterms 2010). Unless otherwise agreed in writing, the shipping address as indicated in the order letter shall be deemed the place of performance. Unless otherwise agreed in writing, partial deliveries shall not be admissible. Cash on delivery consignments shall require the written consent of the PRIN. In case of delivery of substances subject to the *Chemikaliengesetz* [chemicals act] (including applicable ordinances), the CON shall comply with the packaging and labelling obligations and add a safety data sheet to the delivery. The CON shall be obliged to dispose of packaging material and, in case of delivery of hazardous goods under the *Gefahrstoffverordnung* [act governing the transport of hazardous goods] to clean and decontaminate transport containers. Under the *Verpackungsverordnung* (regulation on packaging), the CON shall take back any transport packaging directly after its delivery or in the course of a subsequent delivery (concurrently) free of charge. Expenses due to any violation of the GTCP or of shipping regulations shall be borne by the CON.

3

In case any delivery and/or completion deadlines agreed are exceeded, the PRIN shall be entitled – regardless of any fault on the part of the CON and of proof being provided for any loss – to charge and withhold a contractual penalty of 0.2% per calendar day that exceeds the deadline concerned, up to 10% of the overall order value, for each deadline so exceeded. The assertion of any damage exceeding the amount of the contractual penalty by the PRIN shall not be limited or excluded hereby.

4

Declarations or notifications by the CON shall exclusively be addressed to the PRIN's "Procurement" organisational unit (always indicating the purchase order number). The purchase order number shall be indicated on all documents of the CON. The deliveries/services shall be accompanied by the required documents (delivery notes, packing lists etc.). In case of missing or deficient documents (e.g. no purchase order number), the PRIN may reject the deliveries/services and/or documents.

5

If blueprints, operating regulations, spare parts inventories, other documentation, DP software or instructions are necessary or usual for the use or maintenance of deliveries/services, they shall form an essential part of the purchase order and must be handed over to the PRIN/performed upon delivery/service or completion at the latest. The delivery/service shall only be deemed to have been provided as agreed and accepted by the PRIN if it has been possible for the PRIN to inspect them at the place of use and if no complaint has emerged.

6

Invoices of the CON shall be sent to the address stated in the purchase order, indicating the purchase order number. Invoicing by third parties or the assignment of claims against the PRIN shall only be admissible upon the previous written consent of the PRIN. Invoices must be issued in auditable form, and all documents required for accounting control purposes must be enclosed. The term of payment under clause 7 shall only commence upon receipt of an invoice corresponding to the provisions in this clause 6 (including the documents required for accounting control purposes).

7

The PRIN shall pay the invoices within 30 days after receipt of the invoice, based on the assumption of proper invoicing under clause 6 and the delivery/service being free from defects. Any cash discounts agreed shall apply to each individual partial invoice; unless a partial invoice is settled within the cash discount period, the cash discount for said partial invoice shall lapse without any effect on other invoices or cash discounts. If the CON or the PRIN are in default of payment, interest on arrears in the amount of the respective applicable 1-month EURIBOR plus 100 bp p.a. shall be deemed agreed.

8

The PRIN is committed to the concept of sustainability. In this context, it consciously uses environmentally compatible products, environmentally friendly processes and a balanced attitude in social matters.

In this connection, the provisions of Appendix 1 "Sustainability: Environment, Social Matters and Anti-Corruption" shall apply.

9

If the CON is in default or fails to meet its contractual obligations – in spite of being granted a period of grace – in full or only in part, the PRIN shall be entitled, without prejudice to any claims for damages, at its discretion either to reject the (partial) deliveries/services provided so far in full or in part and to claim flawless performance or an appropriate price reduction, or to rescind the contract without further notice and effect execution by substitution at the expense and risk of the CON.

The CON warrants that its deliveries/services dispose of the characteristics usually expected and explicitly agreed in the purchase order, and that they comply with the recognised state of the art and the respective legal provisions.

In case of defective performance, the PRIN shall be entitled, at its discretion, either to reject the (partial) delivery/service and to request flawless performance or an appropriate price reduction, or to rescind the contract without further notice and to effect execution by substitution at the expense of the CON. The assumption that any defect had already existed at the time of handover shall apply throughout the entire warranty period. Additionally, the CON guarantees to eliminate any defects occurring within the guarantee period upon request, regardless of whether they are material defects, defective design, faulty workmanship etc. The CON shall waive the objection that visible defects of deliveries/services were notified too late. All costs and risks incurred in connection with the elimination of defects shall be borne by the CON. The elimination of defects shall be governed by the same warranty conditions as those applicable to the original delivery/service. For replaced parts, the warranty and guarantee period shall commence anew upon the formers' delivery. If the CON fails to meet its obligation to eliminate a defect without delay, the PRIN shall be entitled to eliminate the defect, or to have the same eliminated, at the expense and risk of the CON; without prejudice to the warranty/guarantee obligations of the CON. The warranty and guarantee period for movable and immovable goods shall be 36 months. Replaced parts shall pass into the ownership of the CON, upon approval by the PRIN.

10

The CON shall be liable for all damage caused by the CON or by third parties commissioned by the CON. Subcontractors and suppliers of the CON shall be deemed to be vicarious agents of the CON within the meaning of Section 1313a ABGB [Austrian Civil Code]. The CON shall provide for appropriate insurance cover (third-party liability, assembly, transport and guarantee insurances) regarding the deliveries/services.

11

The CON shall be subject to the following additional obligations vis-à-vis the PRIN: (i) compliance with official reporting duties (e.g. under Section 3 of the *Bauarbeiterschutzverordnung* [ordinance governing the protection of construction workers]); (ii) observance of the labour and social security law provisions applicable in Austria; (iii) to take care that the employees dispose of the qualifications and work permits (*Arbeitslaubnis* [two-year work permit] and/or *Beschäftigungsbewilligung* [one-year work permit]) required in each case; (iv) to take care that the employees observe the applicable safety regulations (the CON shall demonstrably point out to the employees said regulations and the special duty of care, confidentiality and non-disclosure under the data privacy act as well as the consequences of their violation), as well as (v) sufficient, demonstrable information of the employees about local safety provisions and hazards (e.g. Occupational Safety brochure). The CON shall be responsible for its employees and subcontractors and/or their employees meeting the obligations specified under (i) to (v), shall monitor compliance with said obligations, be liable for any damage occurring as a consequence of the non-observance of said obligations, and shall indemnify the PRIN in this respect.

12

Any layouts, drawings, samples and other documents provided to the CON shall remain the PRIN's property exclusively and must not be used by the CON except for the purpose of contractual performance. Upon request by the PRIN, such documents etc. shall be returned. The use and exploitation of proprietary rights (e.g. patent, design, trademark, utility model rights, copyrights) by the PRIN shall be compensated for by the agreed price to the extent that it is required for the free use of the items delivered or the work produced. The CON shall be liable for third-party proprietary rights not being violated and shall indemnify the PRIN in this respect.

13

The CON and the PRIN shall treat any company-related, operational and/or personal information and results they come to know about in the course of performing the contract with particular care and confidentiality according to the data privacy act. Unless otherwise agreed, the CON and the PRIN undertake to exclusively use any data, documentation, drawings and other significant information they receive for performing the contract, to neither pass them on to third parties nor make them accessible in any other form, and to take all reasonable precautions in order to avoid any third-party access to such information. Said obligations shall survive the duration of the contractual relationship. For the rest, the provision of clause 11 lit (iv) shall apply. The obligations under clause 13 shall not apply to the PRIN as regards the required passing on of data to insurance companies, experts or suppliers etc. commissioned by the PRIN who have a need for such information due to their tasks, unless they are competing with the CON, with the PRIN having to pass on the obligation to treat such data as confidential to such third parties, if possible.

14

The PRIN may terminate any contract concluded for an indefinite period subject to a period of notice of 4 weeks, the CON subject to a period of notice of 3 months. Termination by the PRIN may also be restricted to parts of the order. Termination shall be effected in writing. Any further entitlement to receive remuneration on the part of the CON shall end upon termination of the contract. Advance payments for periods after termination of the contract shall immediately be paid back (plus interest) by the CON to the PRIN. The interest rate shall be the 1-month EURIBOR plus 100 bp p.a., calculated from the date of termination of the contract.

15

Upon delivery of machines, incomplete machines, components, systems, tools, and procedures, to the extent they are subject to European regulations and/or transfer of these into national law, CE conformity (evidence of the conformity assessment procedure, CE marking) and compliance with any additional requirements of the PRIN must be established. All claims and measures to be derived therefrom shall be the CON's responsibility and shall not be remunerated separately by the PRIN.

16

The CON shall be obliged to report all accidents of its employees and of the employees of its subcontractors during assignments at sites of the PRIN to the competent project manager, construction or execution coordinator of the PRIN.

Moreover, a report shall be provided within 3 days using the accident report form of AUVA (general accident insurance company). The duty to report to the PRIN and to AUVA



explicitly exists for all accidents, also for those that are not subject to the reporting duty under Section 363 of the *Allgemeines Sozialversicherungsgesetz* [Austrian general social insurance act]. The duration of the respective employee's incapacity to work shall be reported later.

17

The language of the contract shall be German. Austrian law shall apply, to the exclusion of the conflict of law rules under private international law and of the UN Convention on Contracts for the International Sale of Goods. Contracts and contract amendments must be made in writing, it being explicitly agreed that the PRIN shall transmit SAP purchase orders and SAP purchase order amendments electronically by e-mail with legal and binding effect. No supplementary oral agreements to this contract have been made or shall be made. The exclusive place of jurisdiction shall be the court with subject matter and local jurisdiction at the place of the PRIN's registered office.

## Appendix

### 1. Sustainability: Environment, Social Matters and Anti-Corruption

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#### Appendix 1

### Sustainability: Environment, Social Matters and Anti-Corruption

The Code of Conduct of the PRIN as part of the company's mission statement, together with the applicable statutory regulations, forms an important basis for procurement (<http://www.apg.at/de/ueber-uns/strategie-leitbild/Compliance/Verhaltenskodex>).

The PRIN shall oblige its business partners to equally commit to the principles stated therein and to act accordingly. In particular, all provisions relevant under labour, competition, anti-trust and criminal law shall be observed. **This obligation shall therefore also apply to the CON, which shall also ensure that third parties (subcontractors, suppliers) used by the CON to fulfil the contract will also comply with this obligation.**

#### 1 Human rights

The CON shall act in compliance with the human rights proclaimed by the United Nations Organisation (<http://www.un.org/depts/german/menschenrechte/aemr.pdf>) and shall take care not to be involved in any acts violating human rights – either actively or tacitly.

#### 2 Equal treatment

The CON shall observe the ban on child and forced labour and shall collaborate with all persons – regardless of their sex, age, religion, culture, colour, education, social background, political conviction, sexual orientation or nationality. Equally, it is committed to fighting any kind of discrimination, bullying or sexual harassment.

#### 3 Working conditions

In the contractual relationship with employees, the CON shall observe collective bargaining agreements (minimum wage for subsistence) as well as regional working time regulations and shall provide for a safe working environment.

#### 4 Anti-corruption

The CON is committed to supporting honest, fair and transparent business practices and disapproves of any kind of corruption and bribery. It undertakes to strictly observe applicable compliance and anti-corruption provisions. Accordingly, it shall not offer or accept any inadmissible benefits of any kind whatsoever in connection with the conclusion of the contract and its performance. The CON confirms that the services and the compensation therefore as agreed in the contract are adequate, and that the contract will exclusively be performed within the scope of its business operations.

#### 5 Environmental protection

The conscientious use of natural resources is an important principle and is an important consideration in all decisions. The CON is expected to identify potential risks/opportunities throughout its entire value chain and to implement preventive measures/improvements in time. The local requirements regarding environmental protection and sparing use of resources, applicable at the respective location and made available to the CON, are part of the purchase order and must absolutely be observed by the CON.

The PRIN lays great store by the CON's employees receiving regular training with respect to relevant environmental topics; it is very important to the PRIN that a certified environmental management system, e.g. under EN ISO 14001, is implemented.

In case of violation of the obligations and principles specified in this appendix, the PRIN shall be entitled to rescind the contract with immediate effect. In that case, the CON shall not be entitled to any remuneration except for statutory rights and claims.

Upon request, the PRIN shall receive gratuitous evidence – in adequate form – of compliance with the obligations and principles specified in this appendix.