

## General Terms and Conditions

ECW Energy

*Please note that the Dutch version of these General Terms and Conditions prevail in case of differences.*

## 1 Definitions

In these General Terms and Conditions, the following definitions apply:

Additional work:	Additional work may be regarded as an extension of an Agreement.
Agreement:	All that has been agreed in writing between the Parties with regard to the supply of Goods and Services, including all Attachments, including the agreement established by a Purchase Order.
Attachment(s):	Attachment(s) to an Agreement.
Defect:	Any failure or other defect or deficiency as a result of which the Services and/or Goods are not suitable for the agreed and/or intended use as well as deviations from Services and/or Goods to the detriment of ECW Energy.
Documentation:	All documents, such as, among others, drawings, quality, inspection and warranty certificates, work orders, waybills, transfer documents, maintenance and instruction documentation with manuals, licences, permits, information, instructions required for the safe and proper transport, use, handling, processing and storage of Goods, and specifications, required to properly execute an Agreement, in the Dutch or English language, and as regards technical drawings and documentation (drawings etc.) in original language/format, which is readable and editable.
ECW Energy:	ECW Netwerk B.V., and its affiliated company(ies), being the present and future legal entities and companies associated with ECW Netwerk B.V. in a group ( <i>in een groep zijn verbonden</i> ), including in any case: ECW Elektra B.V., ECW Warmte B.V. and ECW Gas B.V.
Force majeure:	A failure in the performance of an Agreement which is not due to any fault of a Party and which is not for its account by virtue of any law, legal act or opinion prevailing in the generally accepted legal practice ( <i>in het maatschappelijk rechtsverkeer</i> ) shall constitute force majeure, provided that a Party was not already in default with respect to those obligations which are delayed, impeded or prevented. In this context, force majeure shall in any event not include: (i) lack of Personnel; (ii) strikes; (iii) disputes with Supplier's supplier(s), (iv) late delivery or unsuitability of goods required for the performance of the Services and/or Goods (to Supplier or its suppliers), (v) liquidity or solvency problems and (vi) defectiveness of Goods and/or Services, third-party materials, or (public) networks, the use of which has been prescribed or advised by Supplier.
Goods:	Goods and property rights ( <i>zaken en vermogensrechten</i> ).
Intellectual property:	Rights of intellectual or industrial property including but not limited to patent rights, related ( <i>naburige</i> ) rights, database rights, trademark rights, design rights, portrait rights and copyrights.
Parties:	ECW Energy and Supplier.
Party:	ECW Energy or Supplier.
Personnel:	Every person who performs or will perform work under the full control and authority of instruction of an employer. This also includes employees hired by Supplier (and/or third parties engaged by it), third parties and self-employed persons.
Purchase order:	An order issued by ECW Energy including Attachments.
Safety Manual:	The Safety and Conduct Manual used by ECW in respect of works at its sites, the ever-valid version of which is published on the ECW Energy website ( <a href="https://www.ecwenergy.nl/ecw-en-veiligheid/">https://www.ecwenergy.nl/ecw-en-veiligheid/</a> ) and is deemed to form part of these General Terms and Conditions.
Service(s):	The work to be provided by the Supplier, results thereof, including all necessary Goods and Resources for the proper performance thereof, all as specified in a

Purchase Order from and/or an Agreement with ECW Energy, including, but not limited to, contracting work (*aanneming van werk*), purchase, hire and services.

Supplier: The legal entity and/or natural person who is the counterparty of ECW Energy.

Resource(s): Any instrument, tool, device or apparatus, substance or software or other article used either alone or in combination, including the software necessary for its proper operation, to properly perform an Agreement.

## 2 Applicability and validity

- 2.1 These General Terms and Conditions apply to all requests, quotations, offers, orders, Purchase Orders, order confirmations, Agreements and other legal acts relating to the supply of Goods, performance of Services, execution of orders and performance of other work by Supplier to ECW Energy.
- 2.2 The general terms and conditions or provisions of Supplier or third parties to be engaged by Supplier, nor terms and conditions of industry organisation(s) (however named) shall apply, even if declared applicable in documents (later), and are hereby expressly rejected.  
Conditions other than those stated in an order or in these General Terms and Conditions shall only form part of the relevant agreement if and insofar as the Parties have expressly agreed so in writing.
- 2.3 Written means a document signed by all Parties or a communication by registered letter or by e-mail confirmed by the receiving Party.
- 2.4 Article headings have no meaning for the interpretation of these General Terms and Conditions.

## 3 Offer and conclusion of agreements

- 3.1 Supplier is obliged prior to accepting a Purchase Order/entering into an Agreement, and on the basis of the information timely provided by ECW Energy, to adequately investigate the nature and content of the Goods and/or Services to be supplied under a Purchase Order/Agreement. Supplier cannot claim that it has not been given sufficient opportunity to ascertain the nature and content of a Purchase Order/Agreement.
- 3.2 ECW Energy is not obliged to award to the lowest bidder if bids have been made in competition.
- 3.3 A request from ECW Energy is followed by an irrevocable offer from Supplier. A Supplier's offer shall be valid for at least 90 calendar days from its receipt by ECW Energy, unless otherwise agreed in writing. ECW Energy shall not be obliged to reimburse Supplier for the costs associated with making an offer.
- 3.4 If ECW Energy issues a Purchase Order in writing that is in accordance with the Supplier's offer, an Agreement is entered into at the time ECW sends it to the Supplier.
- 3.5 If a written Purchase Order is issued by ECW Energy without a prior offer from Supplier or contains one or more deviations therefrom, an Agreement is concluded if and when:
  - a. an order confirmation from Supplier without (legal) modifications is received by ECW Energy within 7 calendar days from the date of a Purchase Order; or
  - b. within 7 calendar days, the Services and/or Goods are delivered or commenced in accordance with a Purchase Order.
- 3.6 Execution of a verbal Purchase Order can only take place after ECW Energy has confirmed a Purchase Order in writing and ECW Energy has provided Supplier with a Purchase Order number.
- 3.7 The execution of part of a Purchase Order by the Supplier shall be deemed to be unconditional acceptance of the entire Agreement. The parties are authorised to amend an Agreement at any time after consultation if agreed in writing.
- 3.8 Any unforeseen additional costs or Additional Work may only be charged if agreed in advance in writing with ECW Energy and where possible based on quotations received in advance.
- 3.9 If Supplier commences Services and/or deliveries of Goods without a Purchase Order number, it shall do so at its own expense and risk. ECW Energy shall not be liable for any compensation in this regard and shall be entitled to demand that ECW Energy's systems and/or other items be restored to their original condition.
- 3.10 The Supplier cannot derive exclusive rights - implicitly or explicitly - from an Agreement, with regard to the performance of Services and the delivery of Goods.
- 3.11 Drawings, models, specifications, instructions, (inspection) regulations and the like, provided or approved by ECW Energy before or at the time of entering into an Agreement form part of the Agreement.

## 4 Commercial terms

- 4.1 The Supplier shall perform an Agreement at the prices set out in the Agreement. Unless expressly agreed otherwise, the prices are (i) in Euro, (ii) fixed, (iii) exclusive of any turnover tax but (iv) inclusive of all other taxes, rights, levies, fees (including licence fees) amounts and inclusive of all other costs in connection with the performance of Supplier's obligations.

- 4.2 The Supplier is not entitled to suspend obligations under an Agreement.
- 4.3 ECW is entitled to set off amounts owed to Supplier against amounts owed to ECW Energy by Supplier, with organisations affiliated in its group within the meaning of Article 2:24b of the Civil Code, or its legal successor or legal predecessor.
- 4.4 Supplier shall not be entitled to exercise any lien (*retentierecht*) on items owned by ECW Energy or ECW is otherwise entitled to.
- 4.5 Supplier shall not be permitted to set off amounts due against amounts owed by ECW Energy to Supplier.
- 4.6 To the extent that Services are performed for a fee for hours worked and costs incurred, Supplier shall keep a record, with at least date, quantity and price, of all costs, expenses and hours worked and shall report to ECW Energy thereon on a weekly basis, provided no other arrangements have been made between the parties.
- 4.7 If an option to change prices has been agreed, this will not be invoked for Purchase Orders already issued.
- 4.8 Invoices may only be submitted after the Supplier's agreed (partial) performance has been accepted by ECW Energy and under the condition that deliveries and any work have been carried out in accordance with the Agreement.
- 4.9 The term of payment is 30 days after receipt of an invoice that meets ECW Energy's billing requirements and complies with the provisions of this article. Payment by ECW Energy in no way implies approval of the work or waiver of rights. The billing requirements are set out in Annex 1.
- 4.10 An invoice shall be provided no later than 90 days after full performance. ECW Energy is entitled, if the invoice is provided later, to deduct from (or offset against) the outstanding amount of the invoice the damages and costs (such as negative interest) incurred by it.

## 5 Execution

- 5.1 Supplier guarantees to deliver the Goods and/or Services completely, free of defects and faults, without delay and interruption. Supplier shall immediately notify ECW Energy of any foreseen delay. In case of late delivery of Goods, Supplier shall be in default (*verzuim*) without further notice. Performance shall be in accordance with the requirements specified in the Agreement and in general with care.
  - a. Any failure by the Supplier to comply with the deliverables shall entitle ECW Energy, at its option:
    - oblige the Supplier to undo and redo all or part of the performance;
    - claim from the Supplier that ECW Energy undo the performance delivered at the Supplier's expense and risk and have it performed by a third party, either in whole or in part;
    - rescind the Agreement without further notice of default or judicial intervention.These rights exist regardless of the seriousness of the failure/default and without prejudice to ECW Energy's other rights in connection with the failure/default under the law and/or Agreement, including these terms and conditions, such as the right to (additional) damages.
- 5.2 Without prejudice to the provisions elsewhere in these General Terms and Conditions, if the agreed delivery date is exceeded in case of contracting work (*aanneming van werk*), the Supplier will owe a penalty in the amount of five (5) per cent of the contract price per week, without prejudice to ECW Energy's right to claim performance and damages.
- 5.3 ECW Energy has the right on reasonable grounds to delay delivery of Goods and/or Services. In this case, the Supplier shall take care of the Goods and/or Services at its expense and risk. This includes in any case but not exclusively storage costs.
- 5.4 Supplier guarantees to act in compliance with all applicable (inter)national laws and regulations, standards and norms, guidelines and codes in connection with the performance of the Agreement, including all applicable laws and regulations regarding international trade and resulting embargoes, import and export restrictions and sanction lists.
- 5.5 Supplier complies with, acts in accordance with, and declares to be familiar with all applicable safety, health and environmental regulations, including the Safety Manual which will be handed over upon request before commencement of the Services, is published on the website and physically present at ECW Energy's offices. Supplier shall ensure that no pollution of soil and groundwater occurs, limit air and noise pollution at the location where the Services are performed and/or the Goods are delivered and comply with the (network) security regulations applicable at the location.
- 5.6 The Supplier shall ensure that in the performance of the Agreement the business operations of ECW Energy are disrupted as little as possible and no damage is caused to locations/materials of ECW Energy or third parties. The Supplier (and its Personnel deployed) are obliged to follow reasonable instructions from ECW Energy aimed at limiting nuisance and disruptions to business operations. The Supplier (and its Personnel) is entitled to enter the premises and buildings of ECW Energy only after prior consent by ECW Energy.
- 5.7 Supplier warrants that it holds the rights to the Goods, Services or parts thereof necessary for the performance of the Agreement. Supplier shall indemnify ECW Energy against all third party claims

arising from or related to the rights to the Goods, Services or parts thereof. Supplier is fully authorised to make use of and dispose of the Goods, is in possession of all licences, permits, safety and inspection certification, product sheets, certificates of origin, end-user declarations and any other documents required to fulfil its obligations and will promptly inform ECW Energy of any (legal) restrictions, without affecting ECW Energy's rights therewith.

- 5.8 Supplier warrants that the supply of the Goods and/or the Services, the sale or application thereof by ECW Energy will not infringe or misuse any Intellectual property of a third party or otherwise be unlawful towards third parties.
- 5.9 Supplier shall provide (i) good and safe transport, (ii) good and safe equipment and Resources, (iii) trained and qualified Personnel, (iv) Personnel who speak Dutch or English - or, if expressly permitted by ECW Energy, a supervisor/responsible person present during the performance of the Agreement who speaks Dutch or English - and (v) performance of the Agreement in a safe, healthy and environmentally responsible manner. Supplier shall immediately report any irregularities with regard to safety, health and environment and security to ECW Energy and, if required by law or regulations or otherwise (such as a permit), to the competent authority (*het bevoegd gezag*).
- 5.10 In case of an incident, the Supplier shall, under the supervision of ECW Energy and/or a third party to be appointed by ECW Energy, immediately take all measures necessary to remedy the situation that has arisen. In the case of released substances, this includes clearing and isolating them, as well as preventing (further) contamination as a result of such an incident.
- 5.11 ECW Energy shall be entitled to require removal, and as soon as reasonably practicable replacement, of Personnel who, in ECW Energy's reasonable opinion, do not meet the requirements set out in the Agreement (and in particular: the obligation to act in accordance with the Safety Manual), or any other part of these General Terms and Conditions.
- 5.12 Unless otherwise agreed, before commencing performance of an Agreement, the Supplier shall acquaint itself with the conditions at the site or building where an Agreement is to be performed.

## 6 Delivery, acceptance and warranty Goods

- 6.1 Unless expressly agreed otherwise, Goods shall be delivered in accordance with Incoterms 2020 Delivered Duty Paid (DDP) at the place of delivery specified by ECW Energy, at the agreed time or within the agreed period and in the agreed scope and quality. Deliveries shall be notified to ECW Energy at least 1 working day in advance.
- 6.2 Delivery takes place in proper packaging. Valuable and reusable packaging will be taken back by Supplier. Supplier shall provide ECW Energy with timely possession of (copies of) all Documentation.
- 6.3 Supplier warrants that the Goods comply with the specifications and requirements of the Agreement and statutory requirements, function properly, are unused, are manufactured with good and durable materials and good workmanship, are free from all Defects, are not encumbered in any way and are free from pledge, retention of title and liens (*pandrecht, eigendoms-voorbehouden en retentierechten*), and are suitable for their intended use.
- 6.4 If Goods or parts thereof within the manufacturer's or supplier's warranty do not function properly or become defective in ECW Energy's opinion, Supplier shall promptly repair or replace them at its expense. The warranty shall be for at least a period of 2 years unless the nature of the Goods calls for a longer period. The guarantee period shall commence on the date of acceptance (delivery) or, if later, the date of commissioning. To the extent possible, Supplier shall leave the Goods to be replaced at ECW Energy's disposal for use until ECW Energy has received replacement Goods. The warranty period shall be extended by the period(s) during which the Goods have been out of service. The expiry of the aforementioned period does not affect ECW Energy's rights under the law and the Agreement. In the event of a warranty claim by ECW Energy, the Supplier shall, free of charge, as applicable, promptly provide and install a replacement product or part or otherwise remedy the malfunction. If the Supplier can prove after examination of the defective product or part that the damage was caused by ECW Energy, and ECW Energy accepts this, the Supplier may charge for the products or parts made available or installed and for labour in accordance with previously agreed or notified prices.
- 6.5 ECW Energy is entitled to refuse any Goods that:
  - a. not at the agreed time;
  - b. not in the agreed volumes and/or quantities;
  - c. in faulty or damaged packaging; and/or
  - d. are delivered with one or more Defects.

Return of the Goods is at Supplier's risk and expense, without prejudice to ECW Energy's right to compensation for the damage and costs suffered as a result of Supplier's failure to comply with its obligations.

## 7 Execution and acceptance of Services

- 7.1 Supplier guarantees the quality and results of the Services and that they are suitable for the use or purpose intended by ECW Energy. Supplier shall perform the Services in accordance with the requirements and specifications of the Agreement. Supplier shall perform the Services as a competent Supplier and in accordance with the requirements of good workmanship using appropriate materials, Goods and Resources and employing sufficient and qualified Personnel.
- 7.2 If no duration of the Services is agreed then it is indefinite with a notice period for ECW Energy of 1 month. In case of contracting of work (*aanneming van werk*), this provision does not apply.
- 7.3 Supplier is obliged to replace the results of the Services as soon as possible at its own expense and risk with results that do comply with the Agreement or to repair them if the results turn out not to comply with the guarantee provided in clause 7.1 (irrespective of when ECW Energy discovered or reasonably should have discovered this). This is without prejudice to ECW's other rights under the Agreement and the law. In urgent cases and if it is reasonable to assume that the Supplier cannot or will not provide replacement or repair in time or properly, ECW Energy shall be entitled, at the expense and risk of the Supplier, to arrange for replacement or repair itself or to have this done by third parties without releasing the Supplier from its obligations under the Agreement.
- 7.4 ECW Energy shall also be entitled to invoke the warranty under clause 7.1 after acceptance of the results, irrespective of whether ECW Energy has made any statement at the time of delivery or transfer to the effect that the results would have been received in good condition or otherwise conform to the Agreement.
- 7.5 ECW Energy has also entered into agreements with other suppliers for the provision of Services and supplies of Goods and will continue to enter into agreements with other suppliers that may be connected/associated with the Services and supplies of Goods to be provided by Supplier. Supplier shall cooperate with these suppliers and ensure that the Services and deliveries of Goods to be performed by it are compatible to the extent that can reasonably be expected of Supplier.

## 8 Transfer

- 8.1 Unless otherwise provided in writing, ECW Energy shall become the owner of the Goods and of the results of Services and materials forming part of the Services upon delivery. If an Agreement provides for prepayment and/or payment in instalments, ownership shall pass to ECW Energy after a 1st payment and Supplier shall mark raw materials, materials and semi-finished goods intended for the production/manufacturing of the Goods and finished Goods as the property of ECW Energy and store them identifiably. The risk of Goods shall remain with Supplier until the moment of delivery. Delivery of Goods shall be made by acceptance by ECW Energy of the Goods and the results of Services and materials forming part of Services.
- 8.2 In case of rejection by ECW Energy, the ownership of Goods shall revert to the Supplier upon receipt of the notification of rejection by the Supplier, except (i) to the extent otherwise notified by ECW Energy, or (ii) to the extent one or more payments have already been made in respect thereof, which have not yet been received back. The risk in respect of the Goods shall not have passed to ECW Energy.
- 8.3 In case of rejection, ECW Energy is entitled to return or retain Goods at the Supplier's expense until the Supplier has given ECW Energy further instructions on how to deal with the rejected goods. All reasonable costs incurred by ECW Energy shall be reimbursed by the supplier. Goods will be stored at the Supplier's expense and risk.
- 8.4 All Documentation and Intellectual property rights arising from an Agreement, including those arising from analyses, data, reports, offers, drawings, sketches, moulds, templates, prototypes, computer software in the form of source code, object code and/or print-outs, and all associated documentation, tools and preparatory materials, belong to ECW Energy and will become the property of ECW Energy immediately after their production. To the extent that such a right can be obtained only by filing or registration, ECW Energy shall be exclusively entitled thereto. To the extent applicable and not already done upon delivery, the Supplier shall promptly transfer all documents and Documentation free of charge upon ECW Energy's first request and cooperate in the registration of rights in ECW Energy's name.
- 8.5 Unless the Parties agree otherwise in writing, Intellectual property rights not developed under the Agreement shall vest in Supplier and Supplier grants ECW Energy a non-exclusive, transferable, irrevocable, perpetual and royalty-free licence that is not limited to specific equipment or locations. If Supplier does not own the Intellectual property rights itself, Supplier shall ensure that ECW Energy is granted the foregoing right of use.
- 8.6 If an action is brought against ECW Energy to enforce or recognize a right with which the Good should not have been encumbered, the Supplier shall be liable for the resulting damage and shall be obliged to enter the proceedings to defend the interests of ECW Energy.

- 8.7 ECW Energy shall be entitled to suspend performance of the agreed performance immediately upon notification by a third party that a right to which it is entitled is being infringed. This is without prejudice to ECW Energy's (other) rights under these General Terms and Conditions and the law.
- 8.8 Ownership and risk of the Goods made available under a rental agreement remain with the Supplier.

## 9 Duty to inform, amendments, monitoring and inspection

- 9.1 Supplier is obliged to inform ECW Energy immediately, in writing, of any circumstance that may adversely affect or prevent performance of the Agreement.
- 9.2 ECW Energy shall be entitled, if it suspects on the basis of this information or on other reasonable grounds that a circumstance exists which may adversely affect or prevent performance of the Agreement, to take all appropriate measures, and/or to require amendment of the Agreement, without the Supplier being entitled to any right to compensation or payment for work and deliveries yet to be performed.
- 9.3 Supplier shall always promptly (i) report (safety) incidents or "near incidents" in writing or by e-mail to ECW Energy, and (ii) cooperate in an evaluation on the occasion of termination or completion of the Agreement.
- 9.4 The making of changes to (parts of) the Goods and/or changes in the (performance of the) Services, including (business) processes, (raw) materials and/or any other changes that could affect the specifications of the Goods and/or the Services requires ECW Energy's prior written consent. Supplier shall inform ECW Energy of such changes well in advance and allow ECW Energy to inspect and test the Goods.  
Supplier shall ensure that ECW Energy or its representative has the opportunity to inspect the Goods or the manufacturing process of the Goods and/or a place where the Services or part thereof are performed. Such inspection shall neither imply delivery nor acceptance of the Goods.
- 9.5 Supplier shall carefully control and monitor the quality of the Goods and Services and the progress of manufacture and delivery. Supplier shall ensure that ECW Energy or its representative has the opportunity to attend inspections of the Goods and/or inspect the Goods itself.
- 9.6 If inspection leads to rejection of delivered Goods and/or Services, Supplier shall take care of repair or replacement of the Goods and/or Services at its own expense within 5 working days or as many days as is reasonable in view of the nature of the Goods and/or Services to be delivered. If Supplier does not comply with the above-mentioned obligation in time, ECW Energy is entitled to purchase the Goods and/or Services from a third party or to take measures itself or have measures taken by a third party at Supplier's expense and risk.
- 9.7 Outcomes of inspections and/or tests as well as the performance or non-performance thereof shall not release Supplier from any warranty, obligation or liability.

## 10 Liability and compensation

- 10.1 Supplier shall be liable to ECW Energy, indemnify and hold ECW Energy harmless for all damages attributable to Supplier, suffered, incurred or imposed and arising out of or in connection with the Agreement which shall include the performance thereof and the use and/or sale of the Goods and/or use of the Services by ECW Energy and third parties engaged by ECW Energy.
- 10.2 Supplier shall be fully liable for correct and timely payment of all taxes and levies due in connection with the performance of the Agreement and shall indemnify ECW Energy against all claims and fees relating to obligations in respect of taxes, levies, contributions and any claims of third parties, including authorities.
- 10.3 ECW Energy shall not be liable for any damages based on or arising out of the Agreement unless they result from ECW Energy's willful misconduct or gross negligence (*opzet of grove schuld*).
- 10.4 Neither party shall be liable to the other party for failure to perform the Agreement if and to the extent caused by Force Majeure. If a Force Majeure situation continues for more than 30 days, ECW Energy shall be entitled to terminate the Agreement in whole or in part. In case of Force Majeure of the Supplier, ECW Energy shall be entitled to suspend its obligations to the Supplier and, if desired, to procure from a third party. In the latter case, the specific obligation of the Supplier under the Agreement to which the supply of the third party relates shall lapse, without ECW Energy being liable to pay any damages or other compensation to the Supplier.

## 11 Insurance

- 11.1 The Supplier is obliged to take out adequate insurance against liability and risks. The Supplier shall take out and maintain such insurance as is adequate to cover the risks of the Agreement and its performance.
- 11.2 With regard to liability, Supplier maintains insurance to an insured amount of at least € 2,500,000 per event with a maximum deductible excess (*eigen risico*) of € 5,000 per event.

- 11.3 In case of contracting work (*aanneming van werk*), the Supplier shall take out and maintain a proper construction all risk (CAR) insurance policy with adequate cover in view of the nature and scope of the work with a maximum deductible excess (*eigen risico*) of € 5,000 per event.
- 11.4 Upon ECW Energy's request, Supplier shall provide the insurance certificates and proof of payment of the premium and inform ECW Energy of any changes.

## 12 Confidentiality and privacy

- 12.1 Supplier undertakes to keep confidential all confidential business information, drawings, diagrams and other business data, which they obtain from ECW Energy or from any other source under the Agreement and not to disclose, make available, make available for inspection or otherwise make accessible such information to any third party other than as necessary in connection with the performance of the Agreement, imposing on such third party an equal obligation of confidentiality, and only after written consent from ECW Energy.
- 12.2 Supplier is not allowed to give any form of publicity to the content, creation or performance of an Agreement without ECW Energy's prior written consent.
- 12.3 Supplier shall comply with all requirements set by law and regulations relating to (personal) sensitive information, such as, for example, the General Data Protection Regulation (hereinafter "AVG"). If the Supplier is a processor (*verwerker*) within the meaning of the AVG, the Parties shall enter into a processor's agreement to that effect. Supplier guarantees that it has concluded processor agreements with third parties it engages that are (sub)processors of personal data.
- 12.4 ECW Energy reserves the right to use the knowledge gained through the performance of the activities for other purposes, provided that no confidential information is disclosed to third parties in the process.
- 12.5 The obligations under this Article shall continue even after the completion of the obligations under the Agreement/termination of the Agreement.

## 13 Suspension and termination

- 13.1 ECW Energy is entitled to suspend the performance of its obligations in whole or in part or to terminate an Agreement with immediate effect, without prejudice to its right to compensation and without any obligation to compensate the Supplier, without further notice of default and without judicial intervention:
- in the event that the Supplier has ceased to pay its debts, is in a state of suspension of payments or has applied for it, is declared bankrupt, any other insolvency procedure becomes applicable to it, has terminated or suspended all or a substantial part of its activities, or is in a similar situation;
  - in case of non-compliance with regulations on import/export, restriction of use of chemicals or the provisions on safety, health, environment, laws and regulations relating to the services performed;
  - in case of unapproved changes in accordance with clause 9 in which case ECW Energy may return Goods and/or Services received in whole or in part at Supplier's expense and against refund and transfer of ownership to Supplier;
  - in case the Supplier must otherwise reasonably be deemed unable to fulfil its obligations or fails to fulfil material obligations under the Agreement;
  - in the event Supplier fails to take the measures it is obliged to take under Article 13.5.
- 13.2 If the Agreement is terminated pursuant to clause 13.1, the Supplier shall immediately repay to ECW Energy the payments already made to it for which no performance has yet been delivered, plus statutory interest on the amount paid as from the day on which such amount was paid and make available to ECW Energy the Documentation available under the Agreement. If an Agreement or a Purchase Order is partially terminated, the repayment obligation exists only to the extent that the payments relate to the terminated part.
- 13.3 If the Agreement is suspended or terminated, ECW Energy and the Supplier shall not be relieved of any according to her nature (*naar haar aard*) continuing obligations or liabilities under the Agreement or by law.
- 13.4 If the Agreement terminates for any reason (prematurely), the Supplier shall at ECW Energy's first request do what is reasonably necessary - at a reasonable charge - to ensure that a new Supplier or ECW Energy itself can take over the performance of the Agreement without impediment and/or perform similar Services and/or Goods for the benefit of ECW Energy. The Supplier shall also immediately return to ECW all Documentation, including the documents, books, records and other goods (including data and data carriers) provided to it by ECW Energy.
- 13.5 In the event that in all reasonableness - for example by determination by a rating agency - any doubt arises about the solvency and/or creditworthiness of Supplier, Supplier shall be obliged to cooperate in taking adequate measures to provide ECW Energy with security, including by one or more of the following measures:

- a. provision of an unconditional and irrevocable bank guarantee for an indefinite period in the amount to be determined by ECW Energy issued by a reputable financial institution in the Netherlands, which financial institution is supervised by De Nederlandsche Bank, and which financial institution has an 'A' rating, or higher, according to a rating agency;
  - b. provide an unconditional surety (borgtocht) for an indefinite period of time for an amount to be determined by ECW Energy issued by a reputable financial institution in the Netherlands, which financial institution is supervised by De Nederlandsche Bank, and which financial institution has an 'A' rating, or higher, according to a rating agency;
  - c. provide a liability declaration by the parent company of Supplier, provided that such parent company is sufficiently creditworthy in the opinion of ECW Energy;
  - d. depositing a deposit into an account to be determined by ECW Energy.
- The costs of said measures will be borne by Supplier and no interest will be paid to Supplier on the amounts.

#### 14 Hirers and chain liability

- 14.1 Without prejudice to the provisions below, the Supplier shall provide ECW Energy with a list of persons involved in the work in good time. Personnel must be able to identify themselves at all times. ECW Energy may impose further regulations in this respect.
- 14.2 If and to the extent that Personnel are made available to ECW Energy and/or there is contracting (*aanneming*) within the meaning of the Collection of State Taxes Act 1990 and/or the Social Insurance Coordination Act (*Invorderingswet 1990 and/or Coördinatiewet Sociale Verzekering*) and/or corresponding respective comparable legislation, the following applies:
  - a. the Supplier is obliged to have and always provide for inspection or provide a copy, at ECW Energy's first request, of
    - A valid certificate of registration with a Business Association;
    - the licence of establishment (*vestigingsvergunning*), to the extent required;
    - the payroll records;
    - a recent clean declaration on fulfilment of obligations as provided by the Industrial Association and/or the Receiver as referred to in the Social Insurance Coordination Act and the Tax Collection Act, respectively.
  - b. to be made available to ECW Energy upon first request:
    - a complete list of names and addresses and BSN numbers of any employees or other persons engaged by the Supplier in the performance of the work;
    - weekly reports according to a template to be established by ECW Energy.
- 14.3 The Supplier shall ensure that all Personnel concerned have an appropriate work permit and can properly identify themselves at any time.
- 14.4 The Supplier shall strictly fulfil its obligations to remit social insurance contributions and payroll tax/wage tax and comply with the applicable collective labour agreement.
- 14.5 ECW Energy is entitled to pay the social security contributions and wage tax by the Supplier into a blocked account (G account) of the Supplier. The Supplier is obliged to have opened a G account, to comply with the regulations applicable in this regard and to provide ECW Energy with a copy upon first request.
- 14.6 All invoices of the Supplier shall comply with the requirements laid down by or pursuant to the law; ECW Energy and the Supplier shall jointly determine what portion of the invoiced amount is to be paid into the G account or, at the discretion of ECW Energy, directly to the recipient (*de ontvanger*). If nothing is provided for this purpose when the Agreement is entered into, the percentage to be deposited for social security contributions and wage tax in the G account or directly with the recipient (*de ontvanger*) respectively shall be 40%.
- 14.7 ECW Energy is hereby fully indemnified by Supplier against third-party claims for breach of obligations under this clause. Should ECW Energy be sued under the *Wet Ketenaansprakelijkheid*, ECW Energy shall be entitled to recover such claims from Supplier and ECW Energy shall be entitled to set off amounts paid by ECW Energy against any claims Supplier may have against ECW Energy, on any basis whatsoever.
- 14.8 Without prejudice to what is provided elsewhere in these General Terms and Conditions, ECW Energy shall be entitled to suspend payments at any time in the event that Supplier fails to fulfil its obligations under this Article, or fails to do so on time or in full.
- 14.9 Supplier will state on the invoice:
  - a. the G account number at the banking institution or the deposit account number (*ontvanger*) into which the relevant part of the invoice amount is to be deposited,
  - b. a description of the work, as well as the amount of wage pursuant to the Payroll Tax Act (*Wet op de loonbelasting*).

14.10 At ECW's request, Supplier shall submit invoices accompanied by or referring to the registration showing which persons were deployed on which days and for how many hours per day for the provision of Services.

## 15 Measures to prevent scheme arrangements regarding employment contracts

- 15.1 In executing the Agreement, the Supplier shall comply with applicable laws and regulations and any applicable collective labour agreement and shall record all employment conditions agreements for the purposes of executing the Agreement in a clear and accessible manner. Upon request, the Supplier shall provide competent authorities with access to these employment conditions and cooperate in checks, audits or wage validation.
- 15.2 Upon request, Supplier shall provide ECW Energy with access to the employment terms and conditions if ECW Energy considers it necessary in connection with the prevention or handling of a wage claim regarding work performed for the purposes of an Agreement.
- 15.3 The Supplier is obliged to impose the obligations of article 15.1 and 15.2 in full on all parties with which it enters into contracts for the performance of the Agreement. The Supplier is hereby also obliged to stipulate that these parties subsequently include the obligations set out in this article 15 in full in contracts they enter into with others for the purposes of performance of the Agreement, or the resulting and/or related agreements.

## 16 General

- 16.1 If any provision of these General Terms and Conditions or an Agreement should be or become invalid, the other provisions shall remain in full force and effect. The parties shall replace the invalid provision(s) by a provision that comes as close as possible to the intention of the original provision and is legally valid.
- 16.2 In case of conflict between provisions of these General Terms and Conditions, the Purchase Order, the Agreement or Incoterms, the following order of precedence shall apply whereby the earlier document shall prevail over the later:
1. Agreement
  2. General Terms and Conditions
  3. Attachments to 1 or 2
  4. Incoterms
- 16.3 Supplier may transfer an obligation under (or its contractual position under) the Agreement to a third party only with ECW Energy's prior written consent. Reasonable conditions may be attached to such consent.
- 16.4 The Supplier is not permitted to subcontract or outsource the Agreement or parts of the Agreement to subcontractors, or other third parties, without ECW Energy's prior consent. A consent does not release the Supplier from any obligation or liability under the Agreement and does not create a contract between ECW Energy and that subcontractor/third party.
- 16.5 Supplier warrants that it will transfer material and warranty obligations in these General Terms and Conditions and the Agreement to its possible legal successors or to an affiliated company in case of termination, merger or acquisition of the company. Supplier or legal successor shall, in case of intended changes, inform ECW Energy immediately and proactively.
- 16.6 Neither failure to exercise a right nor any delay or failure by ECW Energy to demand strict compliance with contractual and extra-contractual obligations shall prejudice the possibility of ECW Energy still exercising its rights, except if and to the extent ECW Energy has expressly waived its right in writing.
- 16.7 ECW Energy is free to transfer rights and obligations under the Agreement to a third party without Supplier's consent.
- 16.8 Obligations which by their nature are intended to continue even after termination of the Agreement shall survive termination or dissolution of the Agreement. These obligations include Article 5, 6, 7, 8, 10, 11, 12, 14 and 15 of these General Terms and Conditions.
- 16.9 Nothing in any Agreement shall be deemed to create an agency, partnership, joint venture or employment relationship between the parties.
- 16.10 These General Conditions and any Agreement shall be governed by Dutch law.
- 16.11 The applicability of the Vienna Sales Convention is expressly excluded.
- 16.12 Any dispute shall in the first instance be subject to the decision of the competent of the District Court of Noord Holland/Alkmaar. Pending a dispute, neither party shall be released from its obligations under the Agreement, except for those obligations directly related to the dispute.

ECW Energy

January 2024

## Annex: Invoice requirements ECW Energy companies

### Statutory invoice requirements:

- a. Legal name and address of Supplier;
- b. Legal name and business address of the ECW Energy entity  
Please note that "ECW Energy" is not a legal entity that can be invoiced to!
- c. VAT number of Supplier if supply is subject to VAT  
(for the Netherlands, the VAT number is 14 positions long);
- d. Chamber of Commerce/Trade Register number;
- e. Billing date;
- f. Unique invoice number;
- g. Clear description of the Goods or Services provided;
- h. Date on which delivery of Goods or Services took place if this date can be determined and differs from invoice date;
- i. Split of amounts relating to reimbursement different VAT rates;
- j. Unit price excluding VAT and any discounts (if applicable);
- k. The VAT rate applied and the amount of VAT payable;
- l. The VAT amount should be expressed in the currency of the Member State where the supply of Goods or Services are made;
- m. If there is an exemption, reverse charge or intra-Community supply (ICD), this must be stated on the invoice.

The legal invoice requirements apply to both Dutch invoices and invoices from EU countries. If any of the above requirements are missing or incorrectly stated on the invoice, it will not be processed by ECW Energy and the invoice will be returned.

### Additional ECW Energy billing requirements:

- n. Reference to a Purchase Order number is mandatory;
- o. Credit invoices to be credited all at once, i.e. the amount on the credit note should be exactly the same as the invoice to be credited unless otherwise agreed. Always state the invoice number to which the credit invoice relates on the credit invoice;
- p. The contact person or budget holder (if known);
- q. In case of delivery/invoicing in instalments: state which instalment is concerned;
- r. If the invoiced amount exceeds the Purchase Order, please contact your contact person first (in accordance with purchase conditions, additional work can only be invoiced if agreed);
- s. If payment shall be done with the use of a G-account or a deposit with the recipient ("ontvanger") (as referred to in Article 14 of these General Terms and Conditions), the amount to be paid in such bank account, as well as the bank account number or the deposit account number ("ontvanger") shall be specified on the invoice;
- t. Indicate the bank account to which payment is to be made and the currency in which payment is to be made.

If the invoice does not meet the statutory invoice requirements, the invoice will be returned. If the other additional invoice requirements are not met, ECW Energy cannot guarantee that the invoice will be paid within the specified period.

Invoices should be sent to the following e-mail address: [facturen@ecwenergy.nl](mailto:facturen@ecwenergy.nl)