

## RWE General Terms and Conditions for Purchase of Goods and Services (Poland) – 08/2023

### 1. Contract

- 1.1 Any RWE group company (**RWE**) may be named in and raise a **written purchase order (order)**. An **order** is an offer by **RWE** to purchase the goods, services and/or deliverables as described in the **order (goods, services, goods/services)** from the contractor named in the **order (Contractor)**. **Orders for goods/services** placed by **RWE** are subject to these conditions (together the General Terms and Conditions (**GTC**) and severally a condition (**condition**)).
- 1.2 The **Contractor** accepts **RWE's** offer either by expressly giving **RWE** a notice of acceptance in writing (including returning a signed **order**) or impliedly by fulfilling the **order** (in whole or part), in each case within 14 calendar days of the date of the **order (accept, acceptance)**.
- 1.3 On and with effect from **acceptance (start date)**, a contract is made between the **Contractor** and **RWE** which is comprised of and subject to the contents of the **order** and these **GTC (contract)**.
- 1.4 Terms and conditions of the **Contractor** or any deviation from **RWE's GTC** are expressly rejected by **RWE**.
- 1.5 The **order** prevails over any of the **conditions**.

### 2. Interpretation

- 2.1 In these **GTC**:
  - (a) the use of 'including' and similar expressions does not limit the generality of any preceding words.
  - (b) unless the context otherwise requires, a reference to a statute or statutory provision includes any statute or statutory provision as enacted, re-enacted or amended either before or during the **contract term**.
  - (c) Writing (**writing**) means messages sent or received via post with a manuscript signature, a SAP order signed with electronic signature (including scanned signature) or a simple SAP order without electronic signature. This form also applies to declaration of rights such as a termination notice ("wypowiedzenie"), a rescission of contract ("odstąpienie") or a set off ("potrącenie") as well as the exercise of any other right under the contract.
- 2.2 A reference to applicable law means all law, statute or regulation in force at any time which relates to this **contract**, the **goods/services**, **RWE's** site and the **delivery place** (including those relating to health and safety, competition, anti-trust, anti-money laundering, anti-corruption/anti-bribery, foreign trade, export control and sanction laws) (**applicable law**).

### 3. Non-Exclusivity, Group Benefit

- 3.1 The purchase of **goods/ services** by **RWE** pursuant to this **contract** is on a non-exclusive basis and may be for the benefit of other companies within the **RWE** group of companies (**RWE group**).

### 4. Term

- 4.1 The **contract** begins on the **start date** and ends when all obligations under the **contract** have been fulfilled (**term**).

### 5. Contractor Obligations

- 5.1 The **Contractor**:
  - (a) supplies the quantities of **goods** and provide the **services** set out on the **order**.
  - (b) carries out all relevant risk assessments;
  - (c) ensures safe organisation and implementation of the supply of the **goods/services**; and
  - (d) supervises the supply of the **goods/services**, in each case in a competent, lawful, business-like manner and at all times acting in accordance with the **applicable law** and good industry practice.
- 5.2 The **Contractor** complies with:
  - (a) **RWE's** procurement policy (including sustainability) and other relevant policies (including health and safety and security) that **RWE** gives the **Contractor** access to or provides to the **Contractor**;
  - (b) **RWE's** reasonable directions; and
  - (c) local procedures and processes that **RWE** gives the **Contractor** access to or provides to the **Contractor** if the **Contractor** accesses **RWE's** property.
- 5.3 The **Contractor delivers** such goods as are necessary for the proper provision of the **services** and provides such services as are necessary for the proper supply of the **goods**.

### 6. Delivery

- 6.1 The **Contractor** is responsible at its sole cost and risk including the cost to insure for all transport, loading, collection, handling, storage, packing, unpacking, reception at site and delivery reasonably necessary for the supply of the **goods/services (deliver, delivery)** and obtains and pays for all import permits or licenses required for any part of the **goods** or the **Contractor's** equipment delivered duty paid (as defined in the Incoterms 2020)..
- 6.2 **Delivery** includes the delivery of all tools and documentation (e.g. user manuals, health and safety data) relevant to the **goods/services** and their use.
- 6.3 The **Contractor delivers goods/services** by the time (**delivery date**), at the place (**delivery place**) and in the quantity as set out in the **order**.
- 6.4 Any signature from **RWE** on any delivery note or other documentation presented in connection with the **delivery** of the **goods/services** is evidence only of what has been received and is not evidence that the correct quantity or quality of **goods** has been **delivered** or that **goods/services delivered** otherwise comply with the requirements of this **contract**.

### 7. Delivery Date

- 7.1 Without prejudice to **RWE's** rights, if the **Contractor** considers that it cannot **deliver** the **goods/services** on the **delivery date**, the **Contractor** must notify **RWE** of the delay as well as the circumstances causing the delay as soon as the **Contractor** can.

## 8. Instalment Delivery

- 8.1 The **Contractor** may not **deliver** the **goods/services** in instalments unless stated in the **order** or unless **RWE** otherwise agrees in **writing** in advance.
- 8.2 If any of **goods/services** are ordered or **delivered** in instalments, this **contract** for the purchase of those **goods** is treated as a single **contract** and is not severable unless **RWE** says otherwise.

## 9. Standards/Quality of Goods/ Services

- 9.1 The **Contractor** delivers good marketable title free from encumbrances on all **goods/services** delivered by the **Contractor**.
- 9.2 The **goods/services**:
- (a) comply with all relevant **applicable law**;
  - (b) adhere to the technical, functional and performance specifications, descriptions or quality standards set out in the **order** or any other document supplied to the **Contractor** by **RWE**;
  - (c) are of satisfactory quality, fit for the purpose generally ascribed to such **goods/services** and also for the purpose specified by **RWE** and free from any defects;
  - (d) are provided with all due skill and care;
  - (e) do not infringe **RWE's** intellectual property rights (including copyright) (**IPR**) or that of any third party;
  - (f) correspond to any description or previous sample supplied by the **Contractor**.
- 9.3 The **goods** are:
- (a) **delivered** in the quantity as set out in the **order**;
  - (b) of sound material and workmanship;
  - (c) new and free from any lien, charge or other encumbrance;
  - (d) fit for use in conjunction with the **services** (if applicable) and for any other purpose which is indicated in the **order** or otherwise made known to the **Contractor** (in each case either expressly or by implication)
- 9.4 The **Contractor** passes on the benefit of all manufacturers' and any other relevant third party warranties or guarantees to **RWE** in relation to the **goods/services**.

## 10. Labelling, Advice Notes and Packaging of Goods

- 10.1 The **Contractor** clearly marks the **goods** with **RWE's** name, address, **order** number and with an advice note (detailing the name or description of the **goods**, transport, per component the item number, weight, number or volume and point and date of dispatch) and any other information **RWE** notifies to the **Contractor** that **RWE** requires and makes it clear that the **Contractor** is the supplier of them and the date and place of manufacture, where relevant.
- 10.2 The **Contractor** properly labels the **goods** and supplies them with all necessary warnings, instructions and other information relevant to their storage and use including, where applicable, any onward transport and/or lifting requirements.
- 10.3 The **Contractor** notifies **RWE** about any hazards to health, safety or the environment with full details of the hazardous content or nature of the

**goods/services** and details of correct measures to be taken in the event of exposure or spillage.

- 10.4 The **Contractor** properly packs the **goods**, secures them and transports them in such a manner as to enable them to reach the **delivery place** in good and new condition.
- 10.5 **RWE** does not need to return to the **Contractor** any packaging materials used in the transportation or **delivery** or supply of **goods/services**.
- 10.6 The **Contractor** removes and disposes of any waste in compliance with relevant **applicable law**.

## 11. Inspection and Testing

- 11.1 The **Contractor** allows **RWE** to inspect and test the **goods/services** (and if necessary, re-test and re-inspect) where and when **RWE** deems it is appropriate to do so or as otherwise required by **applicable law**. **RWE** may also include testing and inspection requirements in its **order**.
- 11.2 Where **RWE** tests or inspects or attends the **Contractor's** tests or inspections, the **Contractor** co-operates with **RWE** and gives **RWE** access to all relevant places, documents and any other information. If a fault is found, **RWE** may recover any of its costs from the **Contractor** to re-inspect and/or re-test. If, to resolve a dispute or otherwise, **RWE** arranges an independent person to test, inspect, re-test or re-inspect the **goods/services**, then the **Contractor** and **RWE** are each bound by the outcome of such independent test or inspection. Any test or inspection that **RWE** attends or arranges is not an admission or an acceptance by **RWE** that the **goods/services** comply with this **contract**.

## 12. Title and Risk

- 12.1 Title and risks to **goods** pass to **RWE** upon **delivery** to the **delivery place**.
- 12.2 Where, in the provision of the **services** such as dismantling or repairing, materials (including asset components) are created or identified and the removal of them is not part of the **services** then title in them remains with **RWE** and risk in them remains with the **Contractor**. Unless the **contract** states otherwise, the **Contractor** brings these to **RWE's** attention, makes them available for **RWE's** use and keeps them safe and tidy until **RWE** removes them or asks the **Contractor** to remove them.

## 13. Price, Invoicing and Payment

- 13.1 In consideration of the successful **delivery** of the **goods/services** **RWE** pays the price in the fixed price amounts (lump sum), at the rate and/or at the frequency set out in the **order (fee)**.
- 13.2 The **fee** is exclusive of value added tax (**VAT**) but is inclusive of all other matters including freight, insurance and other **delivery** costs and out-of-pocket expenses including subsistence, accommodation, supply of equipment or tools, payment of the **Contractor's** staff (including salaries, wages, bonuses and other emoluments, statutory charges and levies, pension provisions, overtime or payments for working unsociable hours) and compliance with all obligations under this **contract**.
- 13.3 The **Contractor** takes into account all materials and activities required to supply the

**goods/services**, all its costs and expenses and all its obligations under this **contract** in setting the **fee**.

- 13.4 The **Contractor's** invoices must show date, invoice number, the **Contractor's** name and address, **VAT** breakdown, **order** number, **fees** and the **Contractor** supplies all other information or supporting documentation that **RWE** may reasonably require.
- 13.5 The **Contractor** sends its invoices in the format and to the address as required by **RWE** in the **order**.
- 13.6 **RWE** pays invoices within thirty (30) days from date of receipt. If **RWE** disputes an invoice, **RWE** may withhold payment of the disputed amount until resolution.
- 13.7 If payment is not made on undisputed amounts when due, the **Contractor** may charge interest at the rate according to the Polish **applicable law**.
- 13.8 Any sum payable under this **contract** for a taxable supply is exclusive of **VAT** payable on it and the recipient of the supply shall pay an amount equal to such **VAT** in addition to any such sum on receipt of a valid **VAT** invoice from a supplying party.
- 13.9 **RWE** may at any time set off any of the **Contractor's** liability to **RWE** against any liability that **RWE** may owe to the **Contractor** and **RWE** informs the **Contractor** if **RWE** makes any such set off.
- 13.10 Any payment does not affect any rights or obligations of either the **Contractor** or **RWE** and does not mean **RWE** accepts that the **Contractor** has fully complied with its obligations under this **contract**.

#### 14. Change and Variation

- 14.1 **RWE** may, in **writing**, request a change to these **GTC** and/or an **order** (including a **delivery date** or a **delivery place**) in each case at any time prior to the **delivery date**.
- 14.2 Where a change is requested and is not material, the change is made with no adjustment to the **fee** or **delivery date** unless **RWE** agrees. Where a change is requested and is material, the **Contractor** and **RWE** shall seek to agree the change including any change in the **fee**, the **delivery date** or the **delivery place**.
- 14.3 If the **Contractor** and **RWE** are unable to agree any change and **RWE** instructs the **Contractor** in **writing** to implement it, the **Contractor** may recover any direct loss, costs and expenses incurred in implementing the change subject to the production on request of documentary evidence of such direct loss, cost and expenses and subject always to a cap of no more than a sum equivalent to 50% of the **fee** that would have been payable had there been no change unless **RWE** agrees otherwise.
- 14.4 If the **Contractor** and **RWE** are unable to agree a change and **RWE** does not instruct the **Contractor** in **writing** to implement it, then either:
- RWE** does not proceed with the change; or
  - the **Contractor** or **RWE** can escalate the matter for resolution; and
  - if no agreement is reached via escalation, **RWE** may elect either not to implement the change or instead, to terminate the **contract** for no fault.
- 14.5 Subject to the above provisions of this **condition**, no variation of this **contract** or any part of it is valid unless it is in **writing**, expressed to be a variation to

this **contract** and signed or approved by or on behalf of each of the **Contractor** and **RWE**.

#### 15. Guarantee

- 15.1 The **Contractor** guarantees that **goods/services** are and will remain compliant with this **contract** for a minimum of twenty-four months from **delivery** or any longer period if set out in the **order (guarantee period)**.
- 15.2 Where any **goods/services** are repaired or replaced, the **guarantee period** commences again on **delivery** of any repaired or replaced **goods/services**.
- 15.3 All statutory warranty-related **RWE's** claims or rights remain unaffected.

#### 16. Default and Remedy

- 16.1 If the **Contractor** does not comply with any **applicable law** or any of these **GTC** (including if **goods/services** are not **delivered** or completed by the **delivery date**) or if during the **guarantee period**, **RWE** finds a defect in design, materials or workmanship (together or separately a **default**) then the **Contractor** is liable for the **loss**, suffered by **RWE** as a result of that **default**.
- 16.2 Where **RWE** is able to, without it causing **RWE** additional **loss**, **RWE** notifies the **Contractor** of the **default** and asks the **Contractor** to repair or rectify it if **RWE** thinks the **default** is capable of remedy.
- 16.3 **RWE** may, without prejudice to any other rights and remedies in this **contract** or at law on written notice to the **Contractor** with **RWE's** reasons:
- suspend **delivery** of **goods/services** for any period reasonable in the circumstances;
  - ask the **Contractor**, at **RWE's** discretion, to replace/rectify the **default** within a reasonable timescale required by **RWE** where possible; and/or
  - if **RWE** does not think the **Contractor** will be able to replace/rectify the **default** or if the **Contractor** has tried to do so and failed, **RWE** may itself replace/rectify the **default** or ask another person to do so, at **Contractor's** risk and cost; or
  - if **RWE** does not consider that it is possible or appropriate for the **Contractor** to replace/rectify the **default** or if **RWE** asks the **Contractor** to do so and the **Contractor** fails, reject the **goods/services** (in whole or part) and/or rescind or terminate the **contract** (in whole or part); or
  - accept** the **default** in consideration for a reduced **fee** appropriate to take account of the nature and extent of the **default**.
- 16.4 The **Contractor** pays to **RWE** the value of:
- the **goods/services** paid by **RWE** for any cancelled/rejected **goods/services** or if **RWE** terminates or rescinds the **contract**; plus
  - any direct cost incurred by **RWE** in relation to the **default** including any additional cost to **RWE** to replace or rectify the **Contractor's** delay or failure; plus
  - any payments due and payable by **RWE** to third parties because **RWE** relied on the **Contractor** to comply with the **Contractor's** obligations under this **contract**.

16.5 Where **RWE** gives the **Contractor** notice that the **Contractor** is in **default**, **RWE** may, at its discretion and if to do so mitigates **RWE's** loss and in any event without affecting **RWE's** rights, use and/or receive the benefit of any **goods/services** that the **Contractor** may already have **delivered**, whether they are in **default** or not, in the usual course of **RWE's** business until the **Contractor** replaces and/or rectifies the **default**.

16.6 Where the **Contractor's** **default** causes **loss** to any third party, then the **Contractor** indemnifies **RWE** for any **loss** incurred by or awarded against **RWE** by such third party and no maximum liability cap applies to this indemnity.

16.7 Where the **default** relates to the **Contractor's** unlawful restraint of competition or any other breach of anti-trust or anti-competitive **applicable law** in each case prior to, during the **term** or on expiry or earlier termination of this **contract** the **Contractor** shall pay to **RWE** without affecting other rights and obligations either:

- (a) the sum equivalent to 15% of the aggregate fees (which as at the start date could reasonably be expected to become due and payable on satisfactory performance of the contract); or
- (b) the actual **loss**, suffered by **RWE**, whichever is the greater.

## 17. Insurance

17.1 Without prejudice to any rights or obligations under the **contract** or at law, the **Contractor** takes out and maintains insurance in force for the term and for the period of time over which the **Contractor** has continuing liabilities under this **contract** or **applicable law**, with reputable and substantial insurers and of the nature and extent as would reasonably be expected taking into account the nature and extent of the **Contractor's** obligations under this **contract** or **applicable law** and which includes the insurance cover set out in this **condition** below and to be evidenced by certificates of insurance made available to **RWE** within seven (7) days of **RWE's** request:

- (a) employer's liability insurance in the amount of at least €5,000,000 for any one occurrence or the amount required by **applicable law**, whichever is higher;
- (b) public, product and environmental liability insurance including against liability to third parties for any death or personal injury and **loss** of or damage to any physical property including the **goods** in each case arising out of or in connection with the carrying out of the **delivery of goods/services** in the amount of at least €5,000,000 for any one occurrence;
- (c) such other insurances as **applicable law** requires.

17.2 Deductibles applying under any insurance are for the **Contractor's** account where such deductibles relate to **loss** for which the **Contractor** is responsible under the **contract**.

17.3 Where the **Contractor** receives insurance proceeds from the **Contractor's** insurers relating to an insured event under this **contract**, the **Contractor** pays to **RWE** such sums as are claimed from and/or are due and payable to **RWE** from such insurance

proceeds and/or uses them solely to replace/rectify any associated **default**.

## 18. Exclusions and Limits of Liability

18.1 Neither the **Contractor** nor **RWE** excludes or limits liability for:

- (a) fraud, willful default or deceit, gross negligence;
- (b) fraudulent or negligent misrepresentation;
- (c) death or personal injury caused by negligence;
- (d) any other liability that cannot be excluded or limited by **applicable law**.

18.2 Neither the **Contractor** nor **RWE** is liable by reason of any **default** for any indirect or consequential loss or damage in contract or breach of statutory duty, misrepresentation or otherwise arising out of or in connection with this **contract**. Indirect and consequential loss includes but is not limited to: economic loss such as loss of indirect profit, loss of contract, loss of revenue, loss of goodwill, loss of production or loss of anticipated savings.

18.3 Any liability of **RWE** to the **Contractor** or the **Contractor** to **RWE** in **contract**, tort (including negligence) or breach of statutory duty, misrepresentation or otherwise arising out of or in connection with this **contract** in each case is limited in the aggregate to a sum equal to double the sum of the **fees**. **RWE's** cap on liability to the **Contractor** excludes **RWE's** liability to pay the **Contractor** fees which are or become due and payable for **goods/services** that the **Contractor** delivers under the **contract**. The **Contractor's** cap on liability to **RWE** excludes the cost to the **Contractor** to fix a default in the **goods/services**.

18.4 Each cap on liability excludes:

- (a) any debt or liability where a separate maximum liability is stated in this **contract**; and/or
- (b) sums recoverable and/or recovered from insurers in relation to the insurance that is required to be taken out under this **contract** subject to a maximum of the value of minimum level of insurance which this **contract** requires.

18.5 The **Contractor** and **RWE** each has an obligation to take such steps as it is reasonably practicable to do so to mitigate any **loss**, costs or expense which the **Contractor** or **RWE** may suffer or incur as a result of a **default** and nothing in this **condition** limits or excludes this obligation.

## 19. Force Majeure

19.1 Neither the **Contractor** nor **RWE** is liable for any event beyond their respective reasonable control which was not reasonably foreseeable as of the **start date** and which directly causes the **Contractor** or **RWE** to be unable to comply with all or a material part of their respective obligations under the **contract** (**event of force majeure**) provided that such event does not arise from the **Contractor's** or **RWE's** act, omission or negligence.

19.2 An **event of force majeure** is not:

- (a) a strike by or lockout or other industrial dispute or trade dispute involving any of the **Contractor's** staff;
- (b) non-supply of **goods** or equipment by any of the **Contractor's** staff to the **Contractor**; or

- (c) the **Contractor's** failure to hire suitably qualified **staff**; or
  - (d) mechanical or electrical breakdown or failure of any of the **Contractor's** or the **Contractor's staff's** equipment, machinery or plant; or
  - (e) insolvency or similar financial difficulties.
- 19.3 Covid 19 pandemic is itself not deemed to be an **event of force majeure** because it is foreseeable as of the **start date**. Measures to address Covid 19 are to be included in the **contract**. If such measures materially change after the **start date** that change could constitute an **event of force majeure**.
- 19.4 Any other pandemic is an **event of force majeure**.
- 19.5 If either the **Contractor** or **RWE** is affected by an **event of force majeure**, the **Contractor** or **RWE** as the case may be:
- (a) immediately issues written notice to the other party of the nature and extent of the **event of force majeure** and details of any adverse impacts of it on the ability to perform obligations under the **contract**; and
  - (b) take such steps as are reasonably practicable in all the circumstances and in consultation with each other to prevent, mitigate and reduce to a minimum the adverse effect of any **event of force majeure**.
- 19.6 If:
- (a) a written notice in relation to an **event of force majeure** is not withdrawn within thirty (30) days or such other longer period of time as **RWE** may determine; or
  - (b) **loss** is incurred by **RWE** which exceeds in aggregate a sum equal to 50% of the **fees** which would otherwise be due and payable under the **contract** for the **term** but for any disruption or suspension by an **event of force majeure** (or any higher sum as **RWE** may determine) then **RWE** may on written notice terminate the **contract** on a no fault basis with immediate effect.
- 19.7 Unless terminated under condition 19.6, when the **event of force majeure** ceases, the **Contractor** and **RWE**, in consultation with each other, take such steps as are reasonably practicable in all the circumstances to resume normal performance of their respective obligations under the **contract**.

## 20. Termination

- 20.1 **RWE** may terminate this **contract** at will at any time by giving to the **Contractor** written notice.
- 20.2 Either the **Contractor** or **RWE** may terminate the **contract** immediately by notice if:
- (a) the other is in material breach of any of its obligations under the **contract** and the breach is not capable of remedy; or
  - (b) the other is in material breach of any of its obligations and fails to remedy the breach (if capable of remedy) within 14 days of a written notice requesting such remedy (a breach is considered capable of remedy if time is not of the essence in performance of the obligation and if the person in **default** can comply with the obligation within the 30 day period given to comply); or
  - (c) the other becomes insolvent, bankrupt, is in liquidation, administration or receivership, makes an arrangement with its creditors, is

- unable to pay its debts or suffers possession or sale by an encumbrancer of any of its assets or is subject to orders or events leading to any of the foregoing or suffers any analogous event; or
- (d) ceases or threatens to cease to trade or ceases to comply or threatens to cease to comply with its obligations under this **contract** in each case for thirty (30) consecutive days; or
- (e) demonstrably commits an unlawful restraint of competition or any other breach of anti-trust or anti-competitive **applicable law**; or
- (f) otherwise a right to terminate accrues pursuant to any **condition** of this **contract** or at law.

- 20.3 Where **RWE** may terminate the **contract**, **RWE** may instead terminate the **contract** in respect of part only of the **goods/services** and in which case, the **contract** continues in respect of the **delivery** of the remaining **goods/services**.
- 20.4 Any rights to terminate under this **contract** are without prejudice to any other rights the **Contractor** or **RWE** may have at law to terminate the **contract** or to **accept** any breach of this **contract** as having brought the **contract** to an end (including, where relevant, a right to claim repudiatory damages).
- 20.5 Where the **Contractor** is in default because the **Contractor** has demonstrably been involved in unlawful restrictions of competition at **RWE's** expense, then in addition and/or instead of the remedy available to **RWE** under condition 16 (*Default and Remedy*) **RWE** may immediately on written notice either rescind or terminate the **contract**. In the event of rescission, the relevant **applicable law** applies.

## 21. Consequences of Termination

- 21.1 Termination or expiry of the **contract** will not:
- (a) affect any rights or liabilities accrued as at the date of expiry or earlier termination;
  - (b) prejudice other rights or remedies (under these **GTC** or otherwise); or
  - (c) affect the coming into force or the continuation in force of any provisions which expressly or by implication are intended to come into force or continue in force on or after the termination or expiry.
- 21.2 On termination or expiry the **Contractor**:
- (a) immediately **delivers** to **RWE** any **goods/services** that **RWE** has paid for;
  - (b) discontinues the provision of further **goods/services**; and
  - (c) promptly returns or provides to **RWE** any and all of **RWE's** or **RWE group's** confidential information, personal data and/or property including **IPR** then in the **Contractor's** or the **Contractor's staff's** possession or control. Until they are returned, the **Contractor** is solely responsible for their safe keeping and will not use them.
- 21.3 On any termination or expiry and subject to condition 21.4, **RWE** pays the **Contractor** the **fees** due and payable pro rata for any **goods/services delivered** (and not cancelled or rejected) and not yet paid for as at the date of expiry or termination.

21.4 On any early termination **RWE** has no liability to the **Contractor** to pay the **Contractor** for any other sums including any indirect or consequential **loss** arising out of or in connection with such termination except that if **RWE** terminates at will or if the **Contractor** terminates because **RWE** is in material breach or is insolvent then **RWE** pays the **Contractor** for any cost or expense the **Contractor** is already contractually committed to and directly incurred by the **Contractor** on the reasonable expectation that the **contract** would not terminate prior to the expiry of its **term** provided that the **Contractor** provides on request documentary evidence of such cost and expense and provided further that **RWE** shall not pay the **Contractor** any sum that exceeds the sum equivalent to 90% of the **fees** for the balance of the term and which would have been due and payable had the **contract** not terminated early.

21.5 Where **RWE** terminates for the **Contractor's default**, **RWE** may recover from the **Contractor**, to the extent not already recovered, the sums set out at condition 16 (*Default and Remedy*).

## 22. Contractor's Staff

22.1 There is no **contract** between **RWE** and any of the **Contractor's** employees, directors, officers, agents, personnel, staff, contractors, sub-contractors or other workers (**staff**).

22.2 The **Contractor** makes appropriate deductions for tax and national insurance contributions from the remuneration which the **Contractor** pays to its **staff** that it employs.

22.3 The **Contractor** ensures that:

- (a) it supplies its **staff** with all vehicles and necessary safety and other tools and equipment that they need to **deliver** the **goods/services**;
- (b) all vehicles, equipment and other tools that the **Contractor** and its **staff** use to **deliver** the **goods/services** are in a good, legal and serviceable condition;
- (c) its **staff** are suitably qualified, competent, skilled and experienced and are trained and able to **deliver** the **goods/services** and drive the vehicles, handle the **goods** and all tools and equipment needed to **deliver** the **goods/services** safely and in compliance with this **contract**;
- (d) it puts procedures in place to ensure that its **staff** are able to understand and comply with oral and written instructions given by **RWE** including those which relate to health and safety; and
- (e) it puts in place suitable precautions to prevent damage to property or injury to person.

22.4 Prior to any **staff** performing the **services**, the **Contractor**, to the extent lawful, ensures that each member of the **Contractor's staff** satisfies any checks which are appropriate according to good industry practice or which are reasonably notified by **RWE** to the **Contractor**. Such vetting requirements include but are not limited to: checking identities, rights to work, references, qualifications and driving licenses. The **Contractor** keeps records of such checks and shows the records to **RWE** if **RWE** asks to see them.

22.5 The **Contractor** provides any information reasonably and lawfully requested by **RWE** in relation to the **Contractor's staff** who **deliver** the **services** within 10 business days of such request being made.

22.6 The **Contractor** ensures that its **staff**:

- (a) comply with **RWE's** local security and safety arrangements; and
- (b) carry out their duties so as to cause minimum disruption to **RWE's** business operations.

22.7 **RWE** may at any time on notice to the **Contractor** remove or request the removal from **RWE's** premises of any individual whom, in **RWE's** reasonable opinion, is not qualified or competent to be present on **RWE's** site or who at any time acts in a way that contravenes **RWE's** safety or security processes or policies, causes or may cause injury to others or damage to property or who poses any other safety or security risk. The **Contractor's** obligations continue and are not reduced or changed if **RWE** removes or requests such removal.

22.8 The **Contractor** indemnifies **RWE** and **RWE group** on a full indemnity basis against any loss, liability, damage, expense, claim, fine, demand, proceeding, charge, fine, penalty, demand or cost (including legal fees) (**loss**) suffered or incurred by **RWE** (and/or **RWE group**) as a result of any failure by the **Contractor** or its **staff** to comply with the **Contractor's** obligations under this condition.

22.9 Any breach of this condition is a material breach and **RWE** may terminate this **contract** for **Contractor default**.

## 23. RWE Materials Ownership

23.1 All information, specifications, drawings, sketches, models, prototypes, samples, tools, designs, technical information or data or other proprietary information or **IPR** (whether written, oral or otherwise and including personal data) (**RWE materials**) obtained by the **Contractor** or made available to the **Contractor** by **RWE** or on **RWE's** behalf remains **RWE's** property and/or does not become the **Contractor's** property.

23.2 The **Contractor**:

- (a) keeps **RWE materials** separate from the **Contractor's** property and property of others;
- (b) properly stores and protects them and identifies **RWE materials** as **RWE's** property; and
- (c) delivers up **RWE materials** to **RWE** on request and if the **Contractor** does not, **RWE** may enter any of the **Contractor's** premises or those of the **Contractor's** suppliers or of any other third party where **RWE** reasonably considers that **RWE materials** are stored and repossess them.

23.3 Risk in **RWE materials** passes to the **Contractor** as soon as the **Contractor** obtains them or **RWE** makes its **materials** available for the **Contractor's** use.

## 24. Intellectual Property Rights

24.1 All the **Contractor's** intellectual property rights including copyrights (**IPR**) existing on or prior to the **start date** remain vested in the **Contractor** and all

- RWE's IPR existing on or prior to the **start date** remain vested in RWE.
- 24.2 The **Contractor** hereby grants to RWE a perpetual, transferable, irrevocable, non-exclusive, royalty free, worldwide license to use any of the **Contractor's IPR** which are necessary for RWE and RWE group to derive the benefit of the **goods/services** and this **contract**.
- 24.3 The **Contractor** hereby assigns to RWE with full title guarantee all **IPR** free from encumbrances in any **goods/services** created or developed by the **Contractor** or by others on the **Contractor's** behalf in relation to this **contract** or otherwise resulting from **delivery** of the **goods/services** (including new or bespoke computer code and including any new versions (e. g. updates, upgrades, releases, patches, bugfixes). This assignment either takes effect on the **start date** or immediately on the coming into existence of any new or developed IPR during the **term**.
- 24.4 The **Contractor** agrees to obtain waivers of all moral and other rights, execute all documents and to do any other things reasonably necessary to perfect these rights.
- 24.5 Where any software is created or developed for RWE, RWE owns and the **Contractor** supplies to RWE the source code for software created or developed.
- 24.6 Any rights granted by RWE to the **Contractor** or the **Contractor's staff** to use RWE's IPR cease on expiry or earlier termination of the **term**.
- 24.7 The **Contractor** defends and indemnifies RWE and RWE group from and against any **loss** incurred by and/or awarded against RWE and/or RWE group in each case as a result of or in connection with:
- a breach by the **Contractor** or the **Contractor's staff** of RWE's IPR; and
  - any claim or action that **goods/services** (in whole or part) infringe the **IPR** or any other rights of a third party.
- 24.8 The **Contractor** and RWE each notify the other of any alleged or actual third party **IPR** claim as soon as is reasonably practicable upon becoming aware of any such claim.
- 24.9 Neither the **Contractor** nor RWE make any admission as to liability or agree to any settlement of or compromise any third party **IPR** claim without the prior written consent of the other which consent shall not be unreasonably withheld, conditioned or delayed.
- 24.10 The **Contractor** may, on written request to RWE and at the **Contractor's** cost and expense and on providing adequate financial security to RWE for any debt or liability under the indemnity, have the conduct of or settle all negotiations and litigation arising from any third party **IPR** claim and RWE shall, at the **Contractor's** request and expense, give the **Contractor** reasonable assistance in connection with those negotiations and litigation.
- 24.11 If any third party **IPR** claim is made or, in the **Contractor's** opinion, is likely to be made against the **Contractor** or RWE then without affecting any rights or obligations the **Contractor** will promptly and at its own expense either:
- procure for RWE and/or RWE group the right to continue using the **goods/services** or **IPR** (or any part of them) in accordance with this **contract**; or
  - modify or replace the infringing **goods/services** (or any part of them) so as to avoid the infringement or alleged infringement and as if they were defective and so as to comply with the condition 16 (*Default and Remedy*); or
  - pay to RWE all sums as set out at condition 16 (*Default and Remedy*) as if the **goods/services** were defective.
- 24.12 Any breach of this **condition** is a material breach and RWE may terminate this **contract** for **Contractor default**.
- ## 25. Confidentiality
- 25.1 The **order**, these **GTC**, any **RWE materials** or any other technical or commercial information of a confidential nature (either marked as such or which, by its nature, can reasonably be considered to be confidential) which the **Contractor** receives from RWE (or from a person acting on RWE's behalf) either expressly or impliedly or otherwise gleaned by the **Contractor** (including any information relating to RWE's business or financial or other affairs or those of a member of RWE group or RWE's or their customers or suppliers and including any personal data or information relating to information systems and/or networks) (**confidential information**) is strictly confidential and the **Contractor** does not use it except as is strictly necessary in the performance of the **Contractor's** obligations under this **contract** or disclose it (in whole or in part) to any other person without RWE's prior written consent.
- 25.2 The **Contractor** keeps **RWE materials** and **confidential information** safely and will maintain and apply appropriate technical and organizational measures, processes and procedures to safeguard against any unauthorized access, loss, destruction, theft, use or disclosure of personal data and all confidential information. The **Contractor** will not retain the confidential information longer than is required for the performance of the **Contractor's** obligations under this **contract** or as otherwise required or permitted by law.
- 25.3 The **Contractor** may disclose confidential information if and to the extent that:
- the **Contractor** considers it is necessary to disclose confidential information to the **Contractor's staff** or group companies for the purpose only of performing the **Contractor's** obligations under this **contract** or professional advisers, auditors and bankers, in each case provided that the **Contractor** places similar conditions of confidentiality on those persons;
  - the **Contractor** is required to do so by law or any securities exchange or regulatory or governmental body to which the **Contractor** is subject wherever situated provided that the **Contractor** gives RWE advance notice warning of this as soon as it is reasonably practicable and legally able to do so;
  - it is or comes into the public domain through no fault of the **Contractor**; or

- (d) it was previously disclosed to the **Contractor** by others without any obligation of confidence.
- 25.4 To the extent permitted by law, the **Contractor** promptly deletes, destroys or returns **materials and confidential information** and any data stored on the **Contractor's** infrastructure promptly to **RWE** (and all copies) at **RWE's** request and on request, certifies any such deletion, destruction or return.
- 25.5 The **Contractor** does not make any announcement or publicity statement relating to **RWE, RWE group, the contract** or any part of it or its subject matter without **RWE's** prior written approval (except as required by **applicable law** or by any legal or regulatory authority in which case the **Contractor** will give **RWE** as much advance warning of this as it is reasonably practicable to do so).
- 25.6 The **Contractor** defends and indemnifies **RWE and RWE group** from and against any **loss**, incurred by **RWE and/or RWE group** as a result of or in connection with a breach by the **Contractor** or the **Contractor's staff** of this **condition**.
- 25.7 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for the **Contractor's default**.
- 25.8 The obligations in this **condition** apply for a period of three (3) years after as well as during the **term**.

## 26. Data Protection

- 26.1 The **Contractor** is obliged to comply with the statutory provisions on data protection (in particular the General Data Protection Regulation (GDPR)). In case of processing of personal data on behalf of **RWE**, the **Contractor** processes personal data exclusively within the scope of the agreement reached and according to **RWE's** instructions. A separate agreement is to be made for this purpose in the event of processing by order. The **Contractor** protects the personal data received from **RWE** from access by unauthorized third parties by means of suitable technical and organizational measures in accordance with Art. 32 GDPR. The **Contractor** informs **RWE** without delay in the event of serious disruptions in the course of operations, suspected violations of data protection or other irregularities in the processing of **RWE's** data.
- 26.2 The **Contractor's** and **RWE's** respective maximum liability and/or debt to each other under this **condition** is the sum of one million Euro (€1,000,000) in aggregate.
- 26.3 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for the **Contractor's default**.

## 27. Information Security and Critical Infrastructure

- 27.1 **RWE** may ask the **Contractor** (and the **Contractor** may already have done so) from time to time to complete a self-declaration form and to provide relevant evidence relating to information security and critical infrastructure protection (such as the **RWE Prequalification Information Security IT/OT (PIO)** or the **RWE Data Protection Agreement (DPA)**). The **Contractor** warrants that its answers are and shall remain true and accurate. Any breach of this warranty or false declaration is a material breach of the **contract** and **RWE** may terminate for **Contractor default**.

- 27.2 The **Contractor** does not access and does not permit anyone to access **RWE's** computing systems without **RWE's** express written authorization.
- 27.3 Where authorized by **RWE** in advance and in writing, **RWE** may provide the **Contractor** with access to **RWE's** computing systems.
- 27.4 Where **RWE** provides such access the **Contractor** employs anti-virus procedures and complies with IT policies and procedures that align with **RWE's** security requirements.
- 27.5 The **Contractor** may use any access granted to it only to **deliver the goods/services** and any such access must be through **RWE's** agreed security gateways and/or firewalls.
- 27.6 **RWE** may terminate the **Contractor's** access to **RWE's** systems at any time without notice to the **Contractor**.
- 27.7 The **Contractor** immediately notifies **RWE** ([csirt@rwe.com](mailto:csirt@rwe.com)) of and provides assistance with any suspected, actual or threatened security incidents or security breaches, unusual or malicious activity or events and/or vulnerabilities of which **Contractor** becomes aware that may affect **RWE's** systems in any way or lead to unauthorized access to **RWE's** systems, or impacts the provision of **goods/services** to **RWE**.
- 27.8 Any breach of this **condition** is a material breach and **RWE** may terminate any **contract** with the **Contractor** for **Contractor default**.

## 28. Business Continuity

- 28.1 The **Contractor** has in place and reviews regularly a suitable business continuity plan in relation to general day-to-day service disruptions and disaster recovery affecting either the **Contractor's, RWE's** or **RWE group's** business relevant to this **contract**. The **Contractor**, on request, shares its business continuity plan with **RWE** and takes account of any comments **RWE** may have on it relating to the **Contractor's** obligations under this **contract**.
- 28.2 In the event of a business interruption or disaster, the **Contractor** implements its business continuity and/or disaster recovery plan and keeps **RWE** informed of its implementation.

## 29. Disrepute

- 29.1 The **Contractor** does not use **RWE's** information or do anything that brings **RWE's** name or **RWE group's** name into disrepute or damages or conflicts with **RWE's** or **RWE group's** reputation, goodwill or business interests.

## 30. Marketing and Advertising

- 30.1 The **Contractor** may not, without **RWE's** prior written consent use:
- (a) any information concerning this **contract**; or
  - (b) photographs of **RWE's** sites, facilities or personnel in each case for reference or marketing purposes.
- 30.2 The **Contractor** may not use **RWE's** trade names, trademarks or logos or those of **RWE group** either individually or in combination with the **Contractor's** trade names or trade names of others.

## 31. Code of Conduct

- 31.1 **RWE** and **RWE group** are committed to the **RWE Code of Conduct (RWE Code of Conduct)** set out at:



<https://www.group.rwe/en/the-group/compliance/code-of-conduct/>.

31.2 **RWE** expects the **Contractor** to accept the Principles of Conduct contained in the **RWE Code of Conduct** as a basis for cooperation between the **Contractor** and **RWE**.

31.3 **RWE** also expects the **Contractor** to commit to support and implement (and that the **Contractor** will procure that its **staff** support and implement) the principles on human rights, labour relations, environmental protection and combating of corruption which are established within the framework of the United Nations Global Compact Initiative ([www.unglobalcompact.org](http://www.unglobalcompact.org)).

## 32. Combating Corruption

32.1 The **Contractor** undertakes not to give or receive, offer or ask for, directly or indirectly, to anyone any payment or benefit that constitutes undue financial or other advantage of any kind.

32.2 The **Contractor** complies with all **applicable law** relating to anti-bribery and anti-corruption and the **Contractor** ensures that neither the **Contractor** nor the **Contractor's staff** engage in any activity, practice or conduct which constitutes an offence under such **applicable law**.

32.3 The **Contractor** indemnifies **RWE** and **RWE group** against all **loss** incurred or suffered by **RWE** and/or **RWE group** as a result of a breach by the **Contractor** or the **Contractor's staff** of this **condition**.

32.4 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for **Contractor default**.

## 33. Sanctions

33.1 "Sanctions" means any economic or financial sanctions, import or export control regimes or trade embargoes implemented, administered, or enforced by the European Union (EU), its member states, or the United Nations Security Council. Sanctions also means any economic or financial sanctions, import or export control regimes or trade embargoes implemented, administered, or enforced by the United States of America, or the United Kingdom, unless this constitutes a violation of any applicable blocking law, or compliance with such Sanctions constitutes a violation of any applicable blocking law (**sanctions**).

33.2 The **Contractor** warrants that neither the **Contractor** nor any of the **Contractor's** group companies nor, to the best of the **Contractor's** knowledge, any legal representative of the **Contractor** or any of the **Contractor's** Group companies is:

- (a) a person against whom **sanctions** have been imposed;
- (b) owned or controlled by a person against whom **sanctions** have been imposed;
- (c) located in or has been registered in or has its registered office in, a country or territory against which **sanctions** applicable to itself or its government have been imposed (currently but not limited to: Cuba, Iran, North Korea, Syria, Crimea and the so-called Donetsk and Luhansk People's Republics).

33.3 The **Contractor** complies with all **sanctions** and export control requirements applicable to it and its business activities as far as actions in connection with this **contract** are concerned.

33.4 The **Contractor** does not sell, supply or transfer items received from **RWE** to third parties if this results in the **Contractor** or **RWE** violating any applicable **sanctions** or export control regulations.

33.5 The **Contractor** does not act or omit to act so as to result in **RWE** violating any applicable **sanctions** or export control regulations.

33.6 The **Contractor** immediately informs **RWE** in **writing** if the **Contractor** becomes aware of any event or matter which may result in a violation of applicable **sanctions** or export control regulations by the **Contractor** or by **RWE** relating to the **contract**.

33.7 The **Contractor** indemnifies **RWE** and **RWE group** against all **loss** incurred or suffered by **RWE** and/or **RWE group** as a result of a breach by the **Contractor** or the **Contractor's staff** of this **condition**.

33.8 Any breach of this **condition** is a material breach and **RWE** may terminate this **contract** for **Contractor default**.

## 34. Human Rights

34.1 **RWE** explicitly refers to the attached RWE Human Rights Supplier Contract Appendix which applies within the **RWE Group** and can be consulted under <https://www.rwe.com/en/products-and-services/supplier-portal/general-conditions>. **RWE** expects the **Contractor** to, and the **Contractor** agrees thereto, explicitly accept and comply with the principles and all obligations contained therein at all times and, in particular, to commit itself to support and implement the principles on human rights, labour relations and environmental protection as stipulated therein in its own business area and towards its own supply chain.

34.2 In order to further assess and determine the risk for human rights, labour relations and environmental protection associated with the supply chain, **RWE** may submit, on a frequent or ad hoc basis, and the **Contractor** will reply to in due course, a questionnaire regarding typical risk areas and preventive and remedial actions required within the business area of the **Contractor**.

34.3 The **Contractor** is further obliged to inform **RWE** immediately of any incident, violation of or significantly increased risk to violate any human rights principle affecting **RWE** in its supply chain with the **Contractor**.

34.4 **RWE** shall be entitled to carry out audits to determine whether the **Contractor** or any sub-supplier has lived up to its obligations under the RWE Human Rights Supplier Contract Appendix by requesting information, documentary evidence or by conducting on-site inspections, as laid out in the RWE Human Rights Supplier Contract Appendix in more detail.

34.5 If the **Contractor** evidently fails to fulfil any of the principles and refuses to implement the necessary preventive or remedial measures according to the RWE Human Rights Supplier Contract Appendix, **RWE** reserves, in addition to other remedies which

may be available, the right to extraordinary terminate the **contract** with the **Contractor**.

34.6. In case **RWE** is held legally liable for a violation of applicable legal requirements under the Lieferkettensorgfaltspflichtengesetz (LkSG) which is attributable to wilful or negligent misconduct of the **Contractor**, in particular by not observing the obligations arising under the RWE Human Rights Supplier Contract Appendix, **RWE** will pass on any fine imposed on it as damage claim under this **contract**.

### 35. Responsibilities as an employer

35.1 The **Contractor** complies and procures that its **staff** comply with all **applicable law** relating to labour or employment law, including discrimination, equality, minimum wage, employee health, safety and welfare and the **Contractor** will allow to all the **Contractor's staff** all their rights at law.

35.2 The **Contractor** warrants to **RWE** that all its **staff** performing the **Contractor's** obligations under the **contract** have all necessary rights to work and/or work permits.

35.3 Without prejudice to the general obligations mentioned above or otherwise to comply with **applicable law** including data protection, in relation to the **Contractor's staff**, the **Contractor** warrants that it:

- (a) has effective procedures to verify the age of employees at the time they are recruited;
- (b) keeps adequate age documents of employees, such as ID copies and personnel records;
- (c) complies with local legal requirements in relation to the minimum age of employees;
- (d) employs employees under the age of 18 only on non-hazardous or daytime work;
- (e) allows employees to leave the place of work after working hours;
- (f) treats all employees in a humane manner, including not subjecting a worker to physical or verbal abuse;
- (g) treats all employees in an acceptable manner in relation to their personal documents, including not requiring employees to lodge deposits or original documents such as ID papers and training certificates;
- (h) treats all employees in an appropriate manner over access to and from the place of work; and
- (i) ensures that all employment is voluntary.

35.4 The **Contractor** at all times during the **term** properly enforces such policies and procedures and carries out periodic monitoring of its compliance with such policies and procedures on an annual or more frequent basis.

35.5 In the event that the **Contractor** engages any third party **staff** in relation to any activity connected with this **contract** (including, without limitation, where the **Contractor** sub-contracts to any third party), the **Contractor** ensures that provisions equivalent to this **condition** are included within the **contract** or terms of engagement under which the **Contractor** appoints that third party to carry out the relevant activity connected with this **contract**.

### 36. Code of Conduct and Employer Responsibility Infringements

36.1 If the **Contractor** become aware of or has reason to believe that it or any of its **staff** have breached or have potentially breached any of the **Contractor's** responsibilities referred to at **conditions** 27 (Information, Security and Critical Infrastructure), 31 (*Code of Conduct*), and/or 34 (*Responsibilities as an employer*) then the **Contractor** notifies **RWE** of the breach or potential breach and takes steps to rectify the breach or potential breach.

36.2 **RWE** uses appropriate means to establish the validity of such breach or potential breach including pursuant to condition 38 (*Audit*) and if validated, without prejudice to any rights or obligations under this **contract**, **RWE** may:

- (a) issue the **Contractor** with a warning to provide as soon as reasonably practicable a detailed action plan to address the potential breach or where necessary to remediate the actual breach and which, if appropriate, is implemented immediately; and/or
- (b) suspend this **contract** until the potential breach is addressed or where necessary the actual breach is remedied.

36.3 Where the **Contractor** is given adequate opportunity to address the potential breach or to remedy the actual breach and the **Contractor** has in either case, in **RWE's** opinion failed to do so, the **Contractor** is in material breach of this **contract** and **RWE** may terminate this **contract** for **Contractor default**.

36.4 The **Contractor** indemnifies **RWE** and **RWE group** against all **loss** incurred or suffered by **RWE** and/or **RWE group** as a result of a breach of the **Contractor's** responsibilities in condition 31 (*Code of Conduct*) and 34 (*Responsibilities as an Employer*) or any breach of related **applicable law**.

### 37. Warranty and Representation

37.1 The **Contractor** warrants and represents that:

- (a) it has legal capacity to enter into this **contract** and ability to **deliver the goods/services**;
- (b) the entering into and/or fulfilment of this **contract** does not breach or contravene any **applicable law** or contractual requirements or obligations that apply to the **Contractor**.
- (c) it has and will maintain all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the **contract** and in respect of the **goods/services**.

### 38. Records

38.1 The **Contractor** will, during the **term** maintain such records relating to the **goods/services** as may be necessary to trace the supply chain and to demonstrate compliance with its obligations under this **contract**, including correct invoicing, information security, obligations of confidentiality and data protection and keep them for as long as **applicable law** requires).

### 39. Audit

39.1 **RWE** and/or **RWE's** auditors may access the **Contractor's** premises and any premises of the **Contractor's staff** during normal working hours upon giving reasonable notice as appropriate in the

circumstances and audit and/or inspect all matters (including all records) at the **Contractor's** premises and/or at those of the **Contractor's staff** relating to the supply of the **goods/services to RWE** and the **Contractor's** compliance with its obligations in this **contract** including the **Contractor's** operations, facilities, working conditions, procedures and systems. The **Contractor** provides appropriately qualified **staff** to support such audits.

#### 40. Assignment

40.1 The **Contractor** does not assign, novate or otherwise transfer any of the **Contractor's** rights and/or obligations under the **contract** without **RWE's** prior **written** consent.

40.2 **RWE** may assign or sub-license any of **RWE's** rights under this **contract** within **RWE group** without the **Contractor's** prior consent.

#### 41. Subcontracting

41.1 The **Contractor** does not subcontract any of its obligations under the **contract** or change **subcontractors** without **RWE's** prior **written** consent or to the extent set out in an **order**.

41.2 Any appointment of a subcontractor does not affect the **Contractor's** obligations and liabilities.

41.3 The **Contractor** is primarily and fully liable for any act or omission of the **Contractor's staff**.

#### 42. Entire Agreement

42.1 This **contract** constitutes the whole agreement between the **Contractor** and **RWE** and supersedes all previous arrangements or agreements between the **Contractor** and **RWE** relating to the subject matter of this **contract**.

42.2 Neither the **Contractor** nor **RWE** has relied on and neither the **Contractor** nor **RWE** has any right or remedy in respect of any statement, representation, assurance or warranty other than as expressly set out in this **contract**.

#### 43. Cumulative Remedies

43.1 The rights, powers and remedies conferred on the **Contractor** or **RWE** by this **contract** and the remedies available to the **Contractor** or **RWE** are cumulative and are additional to any right, power or remedy which the **Contractor** or **RWE** may have under **applicable law** unless otherwise stated in the **contract**.

#### 44. Waiver

44.1 No failure or delay by the **Contractor** or **RWE** to exercise any right or remedy provided under this **contract** or by law constitutes a waiver of that or any other right or remedy, nor does it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy precludes or restricts the further exercise of that or any other right or remedy.

44.2 No act or omission of either the **Contractor** or **RWE** is or is deemed to be a waiver or release of a right or remedy unless expressly notified in **writing**.

#### 45. Severance

45.1 If any court or competent authority finds that any **condition** (or part of any **condition**) of these **GTC** is invalid, illegal or unenforceable, that **condition** or part-**condition**, to the extent required, is deemed to

be severable and the validity and enforceability of the other **conditions** in these **GTC** is not affected.

45.2 If any invalid, unenforceable or illegal provision of these **GTC** would be valid, enforceable and legal if some part of it were amended, the **Contractor** and **RWE** shall seek to agree the minimum modification necessary to make it legal, valid and enforceable and align with the original commercial intent of the **condition**. If no agreement is reached, **RWE** may terminate the **contract** with no liability.

#### 46. Third Party Rights

46.1 To the extent to which any **goods/services** provided pursuant to this **contract** are for the benefit of a company in **RWE group**, that company may enforce the **contract** subject to and in accordance with its terms.

46.2 Any loss that is suffered by any of **RWE group** companies as a result of a breach of the **contract** or any tort or statutory duty in relation to it is recoverable by **RWE** as a **loss** and is not and is not deemed to be an indirect or consequential **loss** merely because the **loss** is suffered by **RWE group**.

#### 47. Notices

47.1 Any notice given under this **contract** is in **writing** and in each case is delivered personally or sent by recorded delivery to the postal addresses set out in the **order** or sent via e-mail to **Contractor's** e-mail address set out in **Contractor's** notice of acceptance.

#### 48. Electronic Signature

48.1 The **Contractor** and **RWE** agree that electronic signature to the **contract** or changes to it by authorized representatives in accordance with the **contract** is as conclusive of the **Contractor's** and **RWE's** respective intentions to be bound by the **contract** or amendments to it as if signed by hand.

#### 49. Language

49.1 The language of this **contract** is English or Polish and all notices, documents, correspondence and any other information exchanged between the **Contractor** and **RWE** in relation to it is in English or Polish unless agreed otherwise by **RWE** in **writing**.

49.2 The **Contractor** and **RWE** agree that these **GTC** are written in English as a language of convenience only and the English language does not affect the application and/or interpretation of these **GTC** under Polish law. There is no recourse to English or any other law.

#### 50. Counterparts

50.1 The **order** may be executed in any number of counterparts, each of which when executed constitutes a duplicate original. All the counterparts, together with these **GTC** constitute one **contract**.

50.2 No counterpart is effective until each of the **Contractor** and **RWE** executes and delivers at least one counterpart.

#### 51. Escalation

51.1 If a dispute arises out of or in connection with the **contract**, the **Contractor** and **RWE** notify each other and seek to resolve the dispute through negotiations between the **Contractor's** and **RWE's**

respective representatives who have the authority to settle it.

## **52. Governing Law and Jurisdiction**

52.1. Polish law applies exclusively to this **contract** and the **Contractor** and **RWE** respectively each agree to irrevocably submit to the exclusive jurisdiction of the court in Warsaw (Poland) as regards any dispute, claim or matter arising under or relating to this **contract** (including its subject matter, formation and any non-contractual disputes and claims).

52.2. Application of the United Nations Convention on Contracts for the International Sale of Goods of 1980 (Vienna Sales Convention, Treaty Series 1981, 184 and 1988, 61) is excluded