

General terms and conditions of Purchase of Eneco (aiv-12-01)



0 Definitions

Agreement:	A document in which the mutual rights and obligations of Eneco and a Contractor are laid down.
Assignment:	An assignment that Eneco gives to a Contractor with respect to a Delivery, a Service and/or a Work.
Contractor:	Any natural person to whom or legal entity to which Eneco gives an Assignment.
Deliveries:	The delivery of goods.
Eneco:	Eneco B.V., a private limited liability company, having its registered office in Rotterdam, the Netherlands, doing business as Eneco, and companies that form part of its group within the meaning of Article 2:24b of the Dutch Civil Code (Burgerlijk Wetboek).
General Terms and Conditions:	The General Terms and Conditions of Purchase of Eneco, including any amendments to them.
Parties:	The Principal and the Contractor.
Result:	The result of the execution of an Assignment. In the event of a Delivery: the goods delivered to Eneco; in the event of Services: the services provided; in the event of Work: the completed contracted work.
Services:	The provision of services.
Works:	The performance of the contracted work.

1 Applicability and validity

- 1.1 These Terms and Conditions govern and form part of any and all acts (including legal acts) related to the preparation, conclusion or performance of an Agreement with respect to the execution of an Assignment.
- 1.2 Eneco explicitly rejects the Contractor's general terms and conditions or other terms and conditions and they will be binding on Eneco only if and insofar as Eneco has accepted them explicitly and in writing. Insofar as any provision contained in the Contractor's general terms and conditions applies, these Terms and Conditions will otherwise apply, insofar as they do not conflict with that provision.
- 1.3 Any amendments or supplements to or derogations from any provision contained in these Terms and Conditions on which the Parties agree in the context of an Agreement will be valid only if they have been laid down in writing and signed by both Parties; in addition they will relate only to the Agreement in question, unless the Parties have explicitly agreed otherwise in writing.
- 1.4 In the event that any provision contained in these Terms and Conditions is or becomes contrary to any provision of mandatory law, these Terms and Conditions will otherwise continue to apply in full and in respect of the provisions that are null and void, have been declared null and void, or have been nullified Eneco will lay down new provisions, in consultation with the Contractor, whose purport is as close as possible to the provisions that are null and void, have been declared null and void, or have been nullified.
- 1.5 In all cases in which the term 'written' or 'in writing' is used in these Terms and Conditions, such references also include any and all messages that are sent by e-mail, fax or other electronic means, analogously or digitally, and that have reached Eneco or the Contractor.

2 Conclusion of Agreements

- 2.1 Every offer made by the Contractor is irrevocable and is not without engagement and may be accepted by Eneco at any time within a term of 30 days.
- 2.2 In the event that an offer from the Contractor is followed by a written order from Eneco, the Agreement will be deemed to have been concluded at the time at which Eneco sends the order.
- 2.3 In the event that Eneco places a written order without any prior offer from the Contractor, the Agreement will be deemed to have been concluded either if Eneco receives a signed copy of the order confirmation from the Contractor within 14 days after the order is sent or if the Assignment is executed by the Contractor and accepted by Eneco in accordance with the order within that term. In the event that an order confirmation deviates in any way from Eneco's order it will be deemed that no Agreement has been concluded.
- 2.4 An oral order from Eneco will lead to an Agreement being concluded only if Eneco subsequently confirms the order to the Contractor in writing within 14 days.
- 2.5 In the case of framework agreements the Agreement will be deemed to have been concluded in each case at the time at which Eneco sends its order for the execution of all or part of the Assignment within the context of the framework agreement.
- 2.6 Any stipulated or approved drawings, models, specifications, instructions, regulations (including inspection regulation), etc. that Eneco makes available before or at the time at which the Agreement is concluded will form part of the Agreement.

3 Prices

- 3.1 The prices indicated in the Agreement are fixed unless the Parties explicitly agree otherwise in writing. The Contractor is not entitled to change the prices at any time, even if factors that affect the prices, such as the prices of raw materials, wages, exchange rates, etc., change after the Agreement is concluded.
- 3.2 All the prices indicated in an Agreement are denominated in euros and are based on the performance conditions indicated in these Terms and Conditions, unless the Agreement explicitly indicates otherwise in writing.
- 3.3 All prices are exclusive of turnover tax but are inclusive of the costs of transport and/or shipping, packaging, insurance and any duties or taxes to be levied by the government or other charges and any other extra costs related to the performance of the Agreement, of which taxes, charges and costs will be paid by the Contractor, unless the Parties have explicitly agreed otherwise in writing. Eneco will charge the Contractor the costs, duties and taxes referred to above separately in the event that Eneco has incurred them.

4 Performance and delivery

- 4.1 The term for performance or the date of execution of the Assignment indicated in the Agreement is of the essence for the Contractor and applies as from the date on which the Agreement is concluded. The Contractor will be in default merely as a result of that term/date being exceeded.
- 4.2 If the Parties have not explicitly agreed on a term or date for the execution of the Assignment a reasonable term for execution will apply that will not exceed six weeks as from the time at which the Agreement is concluded.
- 4.3 Eneco reserves the right to determine the time at which the Assignment will be executed in more detail on an on-call basis provided that the call is made within the

agreed term for execution. However, if the call is made later than the agreed term for execution that will not entitle the Contractor to change the price or demand compensation of damage or costs.

- 4.4 The Contractor is not entitled to execute the assignment in consignments except insofar as the Parties have explicitly agreed otherwise in writing.
- 4.5 The Contractor will be obliged to notify Eneco immediately as soon as the Contractor knows or reasonably should know that the Assignment will not be executed, will not be executed within the agreed term for or on the date of execution or will not be executed properly, stating the specific reasons. Without prejudice to Eneco's other rights, the Parties will consult to determine whether, and if so in what manner, the situation that has arisen can be resolved to Eneco's satisfaction.
- 4.6 Execution of the Assignment is also taken to include delivery of any and all auxiliary materials within the meaning of Article 6 and any and all related documentation, such as drawings and quality, inspection and guarantee certificates. Execution is also taken to include partial execution.

5 Ownership and transfer of ownership

- 5.1 The ownership of the Result that the Contractor delivers to Eneco will be transferred to Eneco at the time at which it is delivered and accepted by Eneco in accordance with the provisions contained in these Terms and Conditions.
- 5.2 Eneco is entitled to request that the ownership of the Result and/or the related materials and parts be transferred at a later date, in which case – if it involves goods, materials or parts – the Contractor will mark them recognisably as the property of Eneco and indemnify Eneco against loss, damage and the exercise of rights by third Parties.

6 Auxiliary materials and delivery of materials

- 6.1 The Contractor cannot derive any rights from drawings, models, equipment, designs, specifications, instructions, materials, etc. that Eneco provides to the Contractor or that the Contractor purchases at Eneco's request. Such goods and any intellectual property rights that apply in respect of them are and will remain the property of Eneco and may not be duplicated, provided to third Parties or used other than exclusively in the context of the performance of the Agreement.
- 6.2 The Contractor is obliged to mark the auxiliary materials referred to in the preceding subsection recognisably as the property of Eneco, to keep them in good condition and to insure them at its own expense against any and all risks as long as the Contractor is the custodian of those auxiliary materials.
- 6.3 The auxiliary materials will be made available to Eneco immediately upon request by Eneco or together with the last partial execution of the Assignment to which the auxiliary materials relate.
- 6.4 Auxiliary materials that the Contractor uses while performing the Agreement will be submitted to Eneco for approval immediately upon request.
- 6.5 The auxiliary materials that Eneco makes available or approves may be changed or may be different only after Eneco has given prior written permission.

7 Changes

- 7.1 Eneco is entitled to request that the scope and/or the capacity of the Assignment be changed. Eneco is also authorised to make modifications to the drawings, models, designs, instructions, specifications, etc. with respect to the Assignment.
- 7.2 If the Contractor is of the opinion that that will have consequences for the agreed price and/or delivery term, before implementing the changes it will notify Eneco in that respect in writing as quickly as possible, but in any event within a maximum term of eight days after the notification of the desired change. If Eneco is of the opinion that those consequences for the price and/or delivery term are unreasonable in relation to the nature and the scope of the change, Eneco will be entitled to dissolve the Agreement unless that would be contrary to the principles of reasonableness and fairness in view of the circumstances. Dissolution on the ground of this Article will not give the Parties any entitlement to compensation of damage and/or costs.
- 7.3 The Contractor is not permitted to make any changes without Eneco's prior written permission.

8 Invoicing and payment

- 8.1 The Contractor's invoices must indicate the applicable purchase order number, the article number, the quantities and the prices, and if so requested they must be accompanied by supporting documentation; they must also be in compliance with the Dutch Turnover Tax Act of 1968 (Wet op de Omzetbelasting 1968). The Contractor will submit its invoices digitally in the manner indicated by Eneco, unless the Parties have explicitly agreed otherwise in writing.
- 8.2 Unless the Parties have explicitly agreed otherwise in writing payment for the Assignment that has been executed must be made within 30 days after receipt of a properly itemised invoice or after delivery and acceptance of the Result of the execution if that occurs later, in a manner to be determined by Eneco.
- 8.3 Eneco will be entitled to suspend its obligations (including its payment obligations) pursuant to any Agreement as long as the Contractor has failed to comply with its obligations towards Eneco. The suspension will apply until the time at which the Contractor has fully complied with its obligations towards Eneco.
- 8.4 Eneco will be entitled to set off amounts that it owes the Contractor against any discounts that have been stipulated and any other claims that it has against the Contractor or a company affiliated with the Contractor, regardless of whether such claims are due and payable and/or can easily be determined by law or otherwise. The Contractor is not entitled to invoke Articles 6:127 et seq. of the Dutch Civil Code.
- 8.5 Before it makes payment Eneco will be entitled to request the Contractor to furnish sufficient security in addition to or instead of transfer of ownership, for example by means of an irrevocable and unconditional bank guarantee to be issued at the Contractor's expense by a banking institution that is acceptable to Eneco, in order to secure the Contractor's compliance with its obligations.
- 8.6 Eneco will not be in default in respect of the payment of any amount owed to the Contractor until after a term of 14 days has elapsed after the Contractor has given Eneco written notice of default.
- 8.7 In the event that Eneco is in default it will owe only default interest equal to the statutory interest in accordance with Article 6:119 of the Dutch Civil Code, and with due observance of the provisions contained in Article 16. Eneco will not be liable for any costs other than the costs that have actually been incurred for judicial or extrajudicial legal representation, up to a maximum amount equal to a maximum of two points times the rate that applies in respect of the claim in accordance with

the scale of costs approved by the Cantonal Divisions of the courts and other courts in the Netherlands that applies at the time at which these Terms and Conditions are filed.

- 8.8 Payments made by Eneco will be applied first to decrease the principal amount due, subsequently the rent that is due and outstanding, and finally to decrease any costs that are due.
- 8.9 Payment by Eneco will not discharge the Contractor from any guarantee, obligation or liability on the ground of any Agreement.

9 Guarantee

- 9.1 The Contractor guarantees Eneco that all the Results delivered on the ground of an Agreement will:
- be in accordance with the Agreement in respect of matters such as the quantity, measurements, weight, description and quality;
 - be in compliance in all respects with the descriptions and specifications (including technical specification) indicated in the Agreement or provided by Eneco;
 - be in compliance in all respects with any and all requirements stipulated in national, international or supranational laws or regulations (including EU regulations);
 - be in compliance in all respects with the safety and quality standards that apply in the sector;
 - not have any manufacturing, material or design flaws or other defects, also within the meaning of Article 6:186 of the Dutch Civil Code;
 - be suitable for Eneco's intended use; and
 - their use, including any resale, will not infringe third parties' rights, including any intellectual property rights.
- 9.2 The Contractor gives the guarantee referred to in Article 9.1 as a supplement to any other guarantees or obligations that the Contractor has given or accepted or that ensue from the law and is also given for the benefit of Eneco's customers and other users of the Results.
- 9.3 The guarantee obligations that ensue from this Article will have a minimum term of at least one year after delivery. That term's expiring will not affect the rights that Eneco can derive from the Agreement or the law.
- 9.4 If during the term referred to in Article 9.3 it appears that the Results are not in compliance with the guarantee given in accordance with Article 9.1, the Contractor will be obliged, regardless of when Eneco has discovered that or reasonably should have discovered it, at Eneco's option, to replace the Results as quickly as possible, but in any event within a reasonable term, at its own expense with Results that are in accordance with the Agreement or, if possible, to repair them, without prejudice to Eneco's other rights, such as the right to dissolve the Agreement and/or claim supplementary full or replacement compensation. In urgent cases and if it must reasonably be assumed that the Contractor cannot or will not provide a replacement or make the repair or cannot or will not be able to do so properly and in a timely manner, Eneco will be entitled to have the replacement provided or repair made itself, at the Contractor's risk and expense, or to have that done by third parties, without that discharging the Contractor from its obligations under the Agreement.
- 9.5 As a supplement to the provisions contained in Article 9.4, in the event that it appears that Eneco's use within the meaning of the first subsection infringes or is threatening to infringe any rights (including intellectual property rights) of third parties, the Contractor will be obliged to:
- replace the Results with equivalent Results that do not infringe any third parties' rights, or to ensure that Eneco obtains an unconditional right of use for at least 10 years, in which context Eneco will also be entitled to agree on the right of use with the third party in question at the Contractor's expense; or
 - change the Results in consultation with Eneco, the foregoing in consultation with Eneco and on the understanding that Eneco will not owe any extra costs in excess of the agreed purchase price and the possibilities for use of the Results will not be any more limited than those of the Results that were originally to be delivered.
- 9.6 The guarantee referred to in Article 9.1 also applies in respect of any Results that are repaired or replaced in accordance with Article 9.4.
- 9.7 Eneco will also be entitled to invoke the guarantee referred to in Article 9.1 after acceptance of the Results within the meaning of Article 12.1, regardless of whether (i) Eneco has made any statement at the time of delivery to the effect that the Results were received in good condition or otherwise in accordance with the Agreement; (ii) Eneco has taken or refrained from any action within the meaning of Article 11; and/or (iii) the Results are allegedly in accordance with a sample provided by the Contractor.

10 Safety and sustainability

- 10.1 Unless the Parties have agreed otherwise, before commencing the execution of the Assignment the Contractor must appraise the circumstances at the site or in the building where the Assignment must be executed.
- 10.2 Without prejudice to the other provisions contained in these Terms and Conditions, if necessary the Contractor must ensure that in respect of its personnel and personnel of third parties, such third parties in any event comply with:
- the regulations and instructions given by Eneco;
 - applicable laws and regulations with respect to working conditions;
 - applicable laws and regulations with respect to the environment;
 - further requirements and instructions given by the competent authorities, such as the Dutch Social Affairs and Employment Inspectorate (Inspectie Sociale Zaken en Werkgelegenheid (SZW)), etc.; and
 - the applicable safety and security regulations (including fire safety regulations).
- 10.3 The Contractor is responsible for the safety of its personnel and the personnel of third parties that it engages and will take the necessary measures in that context. Among other things the Contractor will ensure that if necessary such personnel are provided with personal protective equipment such as protective, welding and safety goggles, restraining straps, safety boots, helmets and vests, hearing protection, etc.
- 10.4 The Contractor undertakes to make every effort to make continuous improvements, in a manner to be determined by Eneco, with respect to sustainability and corporate social responsibility.

11 Inspection, monitoring, assessments and tests

- 11.1 Eneco and/or persons or agencies designated by Eneco will be entitled at all times, before during and after delivery, to inspect (or re-inspect), monitor, assess and/or test the Results.
- 11.2 For that purpose the Contractor will grant access to the place where the Results are located and will cooperate with the desired inspection (or re-inspection), monitoring, assessment and/or testing and will provide the documentation and information required. If necessary the Contractor will inform Eneco in a timely manner in advance of the time at which and the place where the inspection (or re-inspection),

monitoring, assessment and/or testing can be performed.

- 11.3 The Contractor will be entitled to be present during the inspection (or re-inspection), monitoring, assessment and/or testing.
- 11.4 The costs related to compliance with this Article will be paid by the Contractor. This provision also applies in respect of any repeated inspection, monitoring, assessment and/or testing.
- 11.5 Eneco will notify the Contractor in writing within a reasonable term if the Results are rejected in whole or in part during an inspection (or re-inspection), monitoring, assessment and/or testing before, during or after the delivery.
- 11.6 In the event that the Results are rejected during or after delivery, the Contractor will be deemed to have retained the ownership of and the risk related to the Results and therefore such ownership will never have been transferred to Eneco.
- 11.7 In the event that the inspection (or re-inspection), monitoring, assessment and/or testing will be performed by an independent agency in consultation, the outcome will be binding for both Parties.
- 11.8 An inspection (or re-inspection), monitoring, assessment and/or testing within the meaning of this Article or a failure to do so cannot be deemed to be evidence of delivery, purchase, acceptance or transfer of risk and will not affect any of Eneco's rights and claims.

12 Acceptance

- 12.1 If at the time of the first general assessment the Results that have been delivered appear to be in accordance with the Agreement and Eneco takes delivery of them, they will be deemed to have been accepted by Eneco. Acceptance will not discharge the Contractor from any liability or obligation.
- 12.2 If at the time of the first general assessment after delivery it appears that the Results that have been delivered are not in accordance with the Agreement, Eneco will be entitled, at the Contractor's risk and expense, to either retain the Results until the Contractor has complied with its guarantee obligations or to return them.

13 Confidentiality

- 13.1 The Contractor undertakes to keep confidential any and all confidential business information, drawings, schedules and other business data that it obtains from Eneco or another source in the context of the Agreement and to refrain from informing third parties about such information, from making it available to third parties, from allowing third parties to inspect it or from otherwise making it accessible, except as necessary in the context of the performance of the Agreement and after receiving written permission to do so from Eneco.
- 13.2 Without receiving prior written permission to do so from Eneco the Contractor is not permitted to give any form of publicity to the conclusion or performance of the Agreement or to maintain direct or indirect contact with Eneco's principals.
- 13.3 In the event that the Contractor violates one or more of the obligations that ensue from Articles 13.1 and 13.2, the Contractor will forfeit, in favour of Eneco, a penalty that is due on call, without any further notice of default or judicial intervention being required, in the amount of EUR 100,000 for each violation and a penalty in the amount of EUR 1,000 for each day on which such a violation continues.

14 Intellectual property rights

- 14.1 The Contractor grants Eneco in advance an extensive right of use in respect of any and all intellectual or industrial property rights, of any kind whatsoever, that ensue from inventions or that otherwise arise through or as a result of the performance of the Agreement by the Contractor. In the event that the Contractor itself is not the owner of the intellectual or industrial property rights, the Contractor will ensure that Eneco is granted an extensive right of use.
- 14.2 The Contractor guarantees that the Results (and their parts) will not infringe any third parties' intellectual or industrial property rights and that they are not the subject of a dispute with respect to third parties' rights, in any country, and that the use of them also is not otherwise wrongful or unlawful towards third parties in any country. It indemnifies Eneco against any claims brought by third parties in this respect. In the event that the use of the Result is prohibited, the Contractor will consult with Eneco and will then:
- acquire a right of use for the Result;
 - change the Result so that it no longer infringes third parties' rights, provided that the functionality of the Result is not negatively affected;
 - replace the Result with an equivalent Result that does not infringe the rights of third parties; or
 - take back the Result and refund the price that was paid for it.
- 14.3 In the first instance the Contractor will attempt to effectuate the first option listed. Only if the Contractor has demonstrated to Eneco that it is not realistically possible to effectuate that option will the Contractor be entitled to effectuate the option listed below. The Contractor will compensate any and all damage that Eneco sustains.
- 14.4 If the Contractor has delivered results on the basis of designs, drawings or other instructions that have been provided by or on behalf of Eneco, Eneco guarantees that such designs, drawings or other instructions do not infringe any intellectual or industrial property rights of third parties.
- 14.5 Except if the provisions contained in the preceding subsection apply, the Contractor will be responsible for conducting the defence in any legal proceedings that are commenced against Eneco on the ground that the Result allegedly infringes the rights of one or more third parties. Eneco must notify the Contractor immediately in writing of any such action and must provide the Contractor with the necessary authorisations and assistance. The Contractor indemnifies Eneco against any and all damages and costs that Eneco is ultimately ordered to pay in such proceedings and will pay the costs of the proceedings.

15 Transfer of rights and/or obligations

- 15.1 The Contractor is not entitled to transfer its rights and/or obligations pursuant to an Agreement to any third party without obtaining prior written permission to do so from Eneco. Eneco is entitled to attach conditions to such permission.
- 15.2 Eneco is entitled at all times to transfer the rights and/or obligations pursuant to an Agreement to a third party and the Contractor hereby undertakes *nunc pro tunc* to cooperate in that respect or grant permission to do so.

16 Liability and indemnification

- 16.1 The Contractor is liable for any and all damage – with the exception of indirect damage, which is defined as loss of profit and turnover and reputation damage – on any ground or of any kind whatsoever that Eneco or a third party sustains as a result of the performance of an Agreement by the Contractor, regardless of whether the damage was caused by the Contractor, its personnel or another natural person or legal entity for whom or for which the Contractor is legally responsible. Third parties within the meaning of this subsection also include Eneco's personnel and persons who work on the instructions of Eneco.
- 16.2 The Contractor will compensate and indemnify Eneco for and against any and all claims brought by third parties in respect of damage as a result of the performance of an Agreement by the Contractor, including but not limited to claims for

compensation on the ground of product liability in accordance with Article 6:185 of the Dutch Civil Code or infringement of third parties' intellectual property rights.

- 16.3 Eneco is not liable for any damage sustained by the Contractor, its personnel or third parties that it engages in connection with the performance of the Agreement except insofar as the damage is the result of an intentional act or omission or gross negligence on the part of Eneco.
- 16.4 Parties can in an Agreement put a maximum on the liabilities referred to in Articles 16.1 and 16.2 to a sum at least twice the value of the assignment, per incident and/or per year however with a minimum of at least five million euros. Such a maximum will not apply in the event that the damage arose as a result of an intentional act or omission or gross negligence and/or in the event of bodily injury.

17 Insurance

- 17.1 Eneco is entitled to request the Contractor to take out adequate insurance to cover any liabilities that may ensue from an Agreement.
- 17.2 At Eneco's request the Contractor must provide the policies that the Contractor has taken out in accordance with the provisions contained in Article 17.1.
- 17.3 Any benefits paid to Eneco on the ground of an insurance agreement that the Contractor has concluded will not affect Eneco's claims against the Contractor for compensation insofar as such claims exceed the benefits.

18 Breach

- 18.1 Eneco is entitled to terminate the Agreement (prematurely or otherwise) within a reasonable term, without being obliged to pay any compensation. In the event that the Contractor has already incurred costs in the context of an Agreement prior to the termination by Eneco, Eneco will reimburse those costs insofar as they are reasonable and the Contractor can demonstrate, with written evidence, to Eneco's satisfaction the nature and scope of the costs and the Contractor's corresponding expenditures.
- 18.2 In the event that the Contractor fails to perform or fails to perform properly and within a term that has been stipulated or otherwise fails to comply with any obligation that ensues for it from any Agreement or these Terms and Conditions, unless the Parties have agreed otherwise the Contractor will be in default without any notice of default being required and Eneco will be entitled, without any further notice of default or judicial intervention being required, to:
- demand specific performance of the Agreement(s);
 - suspend in whole or in part the performance of the Agreement and any Agreements that are directly related to it;
 - claim a penalty from the Contractor that is due on call, exclusively in the event of a failure to deliver or a failure to deliver on time and in full, equal to 5% of the purchase price of all the Results to be delivered pursuant to the Agreement for each day on which the Results have not been delivered in a timely manner and in full, subject to a maximum equal to 5% of the total purchase price, without prejudice to the right to claim compliance or full compensation of any and all damage;
 - have the Agreement performed by third parties in whole or in part without that discharging the Contractor from its other obligations pursuant to the Agreement; and/or
 - to terminate or dissolve the Agreement(s), at its choice the foregoing without prejudice to Eneco's other rights ensuing from that or any further Agreement with the Contractor or ensuing from the law, including the right to claim supplementary, full or replacement compensation and without Eneco being obliged to pay any compensation.
- 18.3 Eneco is also entitled, without prejudice to the provisions contained in Article 18.2, to terminate or dissolve all the Agreements with the Contractor, at its choice, in the event that:
- the Contractor applies for or is granted a suspension of payments;
 - the Contractor files for bankruptcy or is declared bankrupt;
 - an executor attachment is levied on a significant part of the Contractor's moveable or immovable property or such property is sold off;
 - the Contractor terminates its business; or
 - the Contractor transfers its business in whole or in part to one or more third parties or the ownership of or control over that business comes to vest in a third party in whole or in part in some other manner.
- 18.4 In the event that an incident occurs as referred to in (i) Article 18.2 or (ii) Article 18.3, (i) all of Eneco's claims against the Contractor and (ii) all such claims on the ground of the Agreement(s) in question, respectively, will be immediately due and payable.

19 Force majeure

- 19.1 In the event of a situation involving force majeure, the Parties will be entitled to suspend compliance with their obligations pursuant to the Agreement for a maximum term of six weeks, subject to the condition that one of the Parties notifies the other within one (1) week after the circumstance that has given rise to the force majeure occurs, stating the cause of the force majeure. If after that six-week term has expired a party is unable to comply with its obligations in connection with force majeure, the other Party will be entitled to dissolve or terminate the Agreement without being obliged to pay any compensation.
- 19.2 Force majeure in any event does not include insufficient availability of sufficiently qualified personnel, illness of a Party or personnel, strikes, exclusion of workers, lack of raw materials, transport problems, any breach committed by a Party, liquidity or solvency problems on the part of a Party or a threat of a delay in the performance of the Agreement within the meaning of Article 4.5. The circumstances referred to here will be at the risk and expense of the Party that is confronted with the force majeure.
- 19.3 The Parties undertake to resolve or have resolved any cause of force majeure as quickly as possible, insofar as that can reasonably be expected of them.
- 19.4 In the event that as a result of force majeure a Party has been rendered definitively unable to comply with its obligations under the Agreement, the other Party will be entitled to dissolve the Agreement in writing, effective immediately, without being obliged to pay any compensation.

20 Applicable law; competent court

- 20.1 These Terms and Conditions and any and all Agreements that are concluded with Eneco are governed by Dutch law.
- 20.2 The Dutch text of these Terms and Conditions prevails at all times over any translation of them, regardless of whether the translation has been certified.
- 20.3 Any and all disputes that arise in connection with any Agreement between Eneco and the Contractor or these Terms and Conditions will be subject to the determination of the competent Court of Rotterdam, on the understanding that Eneco is entitled to bring claims against the Contractor before other judicial bodies, simultaneously or otherwise, that have jurisdiction to take cognisance of such claims on the ground of national or international rules of law or to have the dispute resolve by means of arbitration in accordance with the arbitration regulations of the Netherlands Arbitration Institute (Nederlands Arbitrage Instituut). The arbitral

tribunal will consist of one or three arbitrators, who will render a decision in accordance with the rule of law. The arbitration proceedings will be held in Rotterdam.
20.4 The applicability of the Vienna Sales Convention of 1980 (CISG) is excluded.