

## 1. General

- 1.1. These General Terms and Conditions (hereinafter "GTC") shall apply to all deliveries and services (hereinafter also "delivery item" or "scope of delivery") of Bouygues E&S Process Automation Ltd., (hereinafter "Bouygues"). The ordering of deliveries and services shall include the acknowledgement of these terms and conditions by the Client. General terms and conditions, terms and conditions of purchase and other contractual terms and conditions of the Client shall only be valid if they have been expressly accepted by Bouygues in writing.
- 1.2. Unless otherwise specified in the offer, the binding period and acceptance deadline for written offers from Bouygues shall be 30 days from issuance of the offer.
- 1.3. The agreement with the Client is concluded when, after receiving the order, Bouygues has confirmed acceptance thereof (order or agreement confirmation). If Bouygues signs a document with the Client that is termed "contract", "contract for work and services" or similar, the aforementioned confirmation shall not be applicable.
- 1.4. All agreements and legally relevant declarations by the parties shall only be valid if made in writing. This requirement shall be satisfied by letters, minutes/reports, drawings, plans, faxes and other forms of transmission that allow verification by text or image. However, in order to be valid, contractual modifications and supplements shall require handwritten, legally valid signatures by the parties.

## 2. Scope and execution of deliveries and services / place of performance

- 2.1. The Client shall provide Bouygues with all the information and documents required for the scope and execution of the deliveries and services in good time, correctly and completely. It shall, in particular, make Bouygues aware of special technical requirements and site-specific regulations and indicate the intended method by which a given result is to be achieved.
- 2.2. In principle, the confirmation referred to under Item 1.3 sets out the scope and terms of execution of the deliveries and services. In the absence of a confirmation the offer shall set out the scope and terms of execution. The deliveries and services of Bouygues are exhaustively listed in the corresponding documents, including any appendices thereto.
- 2.3. The deliveries and services of Bouygues shall correspond to the generally recognised state of the art, specifically the regulations and standards in force and applicable at the time of the quotation in Switzerland, (e.g. SEV standards, instructions from the Federal Inspectorate for Heavy Current Installations).
- 2.4. Unless a specific place of performance has been agreed by the parties, or is apparent from the nature of the activity, the place of performance shall be the registered offices of Bouygues.

## 3. Software and know-how

- 3.1. The Client shall only use know-how it has acquired and software, data, data carriers, documentation and the like with which it has been provided to the extent required for the intended and agreed use, and shall not communicate or make these accessible to third parties. All rights, e.g. copyright, thereto shall remain with Bouygues or its licensors, even if the Client modifies them retrospectively. The Client may make no more than three copies of the software for security and archiving purposes. Any additional copies or use for other purposes shall require the prior written consent of Bouygues. The Client shall affix the same proprietary notices to all modifications and copies as to the original.

## 4. Deadlines

- 4.1. Deadlines shall only be binding if expressly confirmed in writing by Bouygues. Compliance with deadlines shall be contingent upon fulfilment of the Client's obligations. The deadlines shall be reasonably extended;
  - if Bouygues does not receive, in good time, correctly and completely, information that is needed for the provision of the goods and services, or if the Client alters this information subsequently and thus causes a delay;
  - if there are obstacles that Bouygues, despite the necessary due care, cannot avert, such as significant disruptions to operations, accidents, labour conflicts, late or deficient delivery of raw materials, semi-finished or finished products, the need to scrap important workpieces, official measures or omissions, natural phenomena or events that are considered to be generally perceived as force majeure; or
  - if the Client or third parties are late with the preparatory work or deliveries to be performed by them, or in default with the performance of their contractual obligations, especially if the Client fails to observe the terms of payment.

## 5. Force majeure

- 5.1. Cases of force majeure shall entitle Bouygues to postpone the provision of its services for as long as the circumstances exist and the elimination of the direct consequences take place. Such delays shall not entitle the Client to revoke or terminate the contract and shall not entitle him to claim any damages. The term force majeure shall cover all circumstances for which neither Bouygues nor the Client is responsible and as a result of which rendering the delivery or service is made impossible or is unreasonably impeded for Bouygues, such as strikes, lockout, acts of terrorism, unrest, natural disasters, import and export bans, energy and raw material shortages, epidemics, accidents, diseases, wars, considerable operational disruptions. The above list is not exhaustive.

## 6. Benefits and risks

- 6.1. In case of benefits and risks in work and service agreements shall pass to the Client upon the loading of the item for transport, in the case of partial deliveries upon the loading of the respective part of the delivery item for transport, irrespective of which party is responsible for transport and at whose expense it is occurring.

## 7. Inspection and acceptance

- 7.1. Unless agreed otherwise, inspection and acceptance of the contractually owed deliveries and services shall take place as follows:
  - 7.2. If the relevant contractual requirements (e.g. completion of commissioning) have been met, Bouygues shall request that the Client carries out a general inspection and acceptance, subject to a reasonable notice period. A report shall be produced, which is to be signed by the Client and Bouygues. This shall state that acceptance has taken place. Any defects found

during the inspection are to be recorded in the report. Acceptance may not be postponed in case of minor defects.

- 7.3. If Bouygues fails to make the request referred to in sentence 1 of the preceding paragraph, the Client shall inspect the deliveries and services within 30 days of their delivery and inform Bouygues immediately, in writing, of any defects found during the inspection. Acceptance shall be deemed to have taken place at the time of the examination.

- 7.4. If the inspection referred to in items 7.2 or 7.3 is not carried out, acceptance shall be deemed to have taken place with the loading of the delivery item for transport. Warranty claims for defects that should have been identified by the Client, during the omitted inspection while exercising the customary level of due care, shall thus lapse.

## 8. Warranty

- 8.1. Bouygues shall warrant the faultless function of the delivery item.
- 8.2. The warranty period shall be 12 months. In the case of deliveries of materials it shall begin with delivery, for all other deliveries and services upon acceptance. Defects shall be reported within ten days of being discovered by the Client. Failing this, the rights resulting from the warranty shall be forfeited. If a repair or replacement is carried out, the warranty or guarantee period shall not be extended.
- 8.3. In response to timely written notification of defects and the setting of a reasonable deadline by the Client, Bouygues shall be required to rectify all defects that demonstrably affect the function of the delivery item by means of corrective actions of its choosing. These shall be implemented on its premises or those of the Client, as it sees fit. Disassembly and assembly, transport, packaging, travel and accommodation costs shall be borne by the Client.
- 8.4. If the corrective action proves unsuccessful, the Client shall be entitled to a reasonable reduction in the price, which may be up to 20% of the price of that part of the delivery item affected by the defect. If the defect that cannot be rectified is so serious that the part of the delivery item affected by the defect is unusable, the Client shall be entitled to refuse to accept the part in question.
- 8.5. Excluded from the warranty are defects and faults not caused by Bouygues, but which are, for example, attributable to materials ordered by the Client or construction/execution prescribed by the Client, natural wear and tear, inadequate maintenance, disregard of user documentation, improper or excessive use, improper handling, unsuitable equipment, interventions by the Client or third parties, extreme environmental conditions and the like.
- 8.6. Furthermore, a prerequisite for the warranty is that delivery items are used as set out in the contract. Moreover, the Client may only assert warranty claims if reported defects can be reproduced or demonstrated by mechanically generated copies. The Client must report defects in writing in a comprehensible manner and provide information useful for identification of the defect. The Client must assist Bouygues with the rectification of defects insofar as necessary.
- 8.7. The Client shall only have the claims referred to under Item 8, as a result of defects in the delivery item.

## 9. Liability

- 9.1. Bouygues is liable for direct damage that Bouygues has culpably caused in the fulfilment of the contract up to a maximum amount in total of CHF 1,000,000.00 (one million Swiss francs).
- 9.2. Any further liability for damage of any kind, irrespective of the legal grounds for this, is waived to the legally permissible extent, such as in particular the liability for indirect damage, consequential damage, unforeseeable damage and purely financial damage (e.g. shortfalls in turnover, loss of earnings, non-achievement of savings, recourse claims, etc.). The liability for personal injury remains unrestricted. The right of rescission is excluded in all cases.

## 10. Retention of title

- 10.1. The object of the agreement shall remain the property of Bouygues until payment has been made in full. The Client shall be required to cooperate on measures required to protect the property of Bouygues. In particular, it shall authorise Bouygues, at its own expense, to register or note the reservation of title in public registers or the like in accordance with the relevant national legal systems and to complete any necessary formalities.

## 11. Termination of agreement by Bouygues

- 11.1. Late payments and changes in the circumstances of the Client that, in the opinion of Bouygues, jeopardise the payment of deliveries and services shall entitle Bouygues to terminate the agreement at any time and retain the deliveries or demand these back from the Client or not to provide services. Claims for compensation are expressly reserved.

## 12. Prices and terms of payment

- 12.1. Unless agreed otherwise, the prices for the deliveries and services to be provided shall be in Swiss francs (CHF) excluding VAT, fees, levies, duties, transport, packaging, insurance, installation/assembly, commissioning, training, user support, etc. General price increases caused by increase of material prices shall be borne by the Client during the order.
- 12.2. A deposit of 30% of the contractual price is due when the order is placed or the contract is signed.
- 12.3. An appropriate price adjustment shall be made if there are changes to the scope of the delivery because the information and documents provided by the Client (including at the time of the offer) did not correspond to the actual circumstances or were incomplete. The relevant (additional) costs will be charged to the Client.
- 12.4. Invoices shall be due for payment within 30 days of being issued by Bouygues. Should the Client fail to observe the agreed deadlines, it shall be required to pay, without admonition, default interest of 5% p.a. from the due date.
- 12.5. Regardless of the payment method used, payment shall only be regarded as having been received when the full invoice amount is irrevocably credited to Bouygues' account.
- 12.6. The retention of payments or offsetting by the Client due to any counterclaims is excluded.

## 13. Jurisdiction/applicable law

- 13.1. The sole place of jurisdiction shall be the registered offices of Bouygues. However, Bouygues shall also be entitled to instigate proceedings against the Client at its registered offices.

- 13.2. The agreement shall be governed exclusively by Swiss material law. The applicability of the conditions of the Vienna Convention on the International Sale of Goods (CISG) as well as the conflict of law rules of the Swiss Federal Act on International Private Law are expressly excluded.

#### **14. Final provisions**

- 14.1. Rights and obligations from the contract can only be assigned to third parties by the Client with the written consent of Bouygues.
- 14.2. These GTC shall comprise the entire contractual intent of the parties concluding the agreement, together with the agreement/agreement for work and services. The agreement/agreement for work and services and GTC shall replace all previous written and oral arrangements between the parties in this regard. No ancillary agreements were reached between the parties. All addenda or supplements to these GTC or corresponding agreements must be in written form and require confirmation by the parties for their validity. This shall also apply to rescission of the written form requirement.
- 14.3. Should a provision of these GTC not be enforceable or be invalid, it shall only lapse to the extent of its non-enforceability or invalidity and must otherwise be replaced by a valid and enforceable provision, which a bona fide party would regard as an adequate economic replacement for the invalid and/or unenforceable provision. The remaining provisions of these GTC shall remain in binding force under all circumstances. This shall
- 14.4. Bouygues expressly reserves its right to amend these GTC at any time. The client shall be notified of the new terms and conditions and, if there is no written objection, they shall be deemed approved within one month.
- 14.5. The German version shall prevail over the English version in the event of discrepancies between the two versions.

Olten, 7 July 2022

Bouygues E&S Process Automation Ltd.