

FLUXYS BELGIUM
GENERAL TERMS AND CONDITIONS OF PURCHASE

Version 07 – 25/03/2019

1. INTRODUCTORY PROVISIONS

1.1 Scope of application

- 1.1.1 The Parties agree that these General Terms and Conditions of Purchase apply to purchases of Services and/or Material by FLUXYS BELGIUM. They do not apply to orders relating solely to the performance of Works.
- 1.1.2 Deviations from the provisions of these General Terms and Conditions of Purchase only apply to the Agreement if they are expressly mentioned in the Particular Commercial Conditions.
- 1.1.3 The Parties declare full acceptance of the conditions outlined in this document and undertake to comply exclusively with them.
- 1.1.4 The Parties waive definitively and irrevocably the additional and/or modificatory application of other general terms and conditions to the Agreement. Accordingly, any references to the CONTRACTOR's terms and conditions on invoices, delivery notes, performance sheets and the like shall not apply, even if these documents have been signed by FLUXYS BELGIUM.
- 1.1.5 FLUXYS BELGIUM issues its Agreements in writing. Oral agreements are not valid.

1.2 Definitions

Particular Commercial Conditions means the contractual document drawn up by FLUXYS BELGIUM and signed by FLUXYS BELGIUM and the CONTRACTOR, in which the details of the Agreement and any deviations from these General Terms and Conditions of Purchase are set out.

CONTRACTOR means the natural person or legal entity with which FLUXYS BELGIUM has concluded an agreement.

Site means the place where the CONTRACTOR shall perform the Works and/or Services, in accordance with the Agreement.

Date Of Conclusion Of The Agreement means the date on which the Particular Commercial Conditions are signed by the CONTRACTOR.

Days - Weeks - Months means the number of calendar days, weeks or months.

Services means the services covered by the Agreement, referred to in Annex 2 of the law of 24 December 1993 on public procurement and certain public works, supplies and service contracts in the water, energy, transport and telecommunications sectors.

FLUXYS BELGIUM means the company that signed the Agreement, i.e. either FLUXYS BELGIUM or FLUXYS LNG or FLUXYS, as specified in the Particular Commercial Conditions, or any person authorised by that company.

Intellectual Property Rights means:

- (i) copyrights, patent rights, design rights, trademark rights, sui generis rights, know-how and all other possible intellectual property rights over the Intellectual Material; or,
- (ii) all related rights, including but not limited to royalty and registration rights; or,
- (iii) any other form of comparable protection, anywhere in the world.

Intellectual Material means any information, document, work, image, service, creation, computer program, code, study, research, construction, design, process, method, instrument or invention, in whatever form or medium, which can be protected by an Intellectual Property Right and which is held in whatever form or manner by the CONTRACTOR, including all future changes and improvements made thereto.

Material means the goods covered by the Agreement, referred to in the law of 24 December 1993 on public procurement and certain public works, supplies and service contracts in the water, energy, transport and telecommunications sectors.

Agreement means the agreement between FLUXYS BELGIUM and the CONTRACTOR, through which the latter undertakes to provide FLUXYS BELGIUM with the agreed Works, Material and/or Services, the constituent parts of which are set out in Article 1.4.1.

Force Majeure means any unforeseeable event or circumstance beyond the control of (one of) the Parties, acting reasonably and cautiously, according to applicable standards, which causes or leads to the inability of (one of) the Parties to meet one or more of the obligations set out in this Agreement.

Party(ies) means FLUXYS BELGIUM and/or the CONTRACTOR, depending on the case in question.

Warranty Period means the period of which the start date and duration are specified by Article 12.3.

Works means the works covered by the Agreement, aiming to perform or prepare for the performance of works relating to one of the activities referred to in Annex 1 of the Law of 24 December 1993 on public procurement and certain public works, supplies and service contracts in the water, energy, transport and telecommunications sectors or of work meeting the requirements set by the Client. The work is the result of a range of building activities and, as such, is intended to have an economic or technical function.

1.3 Parties to the Agreement

1.3.1 Joint and several liability

If the Agreement has been concluded with a trade association, the partners are jointly and severally liable to FLUXYS BELGIUM for all contractual obligations that the Agreement imposes on the CONTRACTOR. The partners must nominate one of them to represent them with full power of attorney and ensure the coordination of the execution of the Agreement.

1.3.2 Subcontractors

If the CONTRACTOR wishes to subcontract part of the Agreement, it must request prior written permission from FLUXYS BELGIUM. Without such permission, FLUXYS BELGIUM has the right to reject subcontracted parts upon delivery without owing any compensation to the CONTRACTOR.

In no case shall there be or arise any legal bond between FLUXYS BELGIUM and the CONTRACTOR's subcontractors, even if these subcontractors are approved by FLUXYS BELGIUM. The CONTRACTOR remains wholly and personally liable for any parts of the Agreement that have been subcontracted.

1.4 Constituent parts of the Agreement

1.4.1 The Agreement shall at the very least be composed of the contractual documents summarised in the Particular Commercial Conditions and are in the possession of the CONTRACTOR.

If there are interpretation difficulties or contradictions between the constituent parts of the Agreement, the order of precedence of the various documents shall be as specified in the Particular Commercial Conditions.

Documents exchanged between FLUXYS BELGIUM and the CONTRACTOR before the Date Of Conclusion Of The Agreement shall never be given priority over the provisions of the Agreement.

1.4.2 The CONTRACTOR must return the acknowledgement of the order (i.e. the duplicate of the Agreement) to the Procurement Department at the FLUXYS BELGIUM head office, duly and unreservedly signed for agreement, within the deadline specified in the Particular Commercial Conditions.

1.4.3 Changes to the Agreement shall always be set down in a written agreement between FLUXYS BELGIUM and the CONTRACTOR.

2. OBJECT OF THE AGREEMENT

The CONTRACTOR shall deliver the Services and/or Material as described in the Particular Commercial Conditions, which also indicates the final deadline for execution of the Agreement.

3. DURATION OF THE AGREEMENT

3.1 The Agreement is concluded for the duration stipulated in the Particular Commercial Conditions. It shall end ipso iure on the date indicated in the Particular Commercial Conditions or, in the absence thereof, upon (final) complete and satisfactory delivery of the Material and/or Services.

3.2 The Agreement shall enter into force on the date indicated in the Particular Commercial Conditions or, in the absence thereof, on the Date Of Conclusion Of The Agreement.

3.3 The Agreement cannot be renewed by tacit extension, unless otherwise indicated in the Particular Commercial Conditions.

4. PRICE

4.1 Nature of the prices

4.1.1 Prices are indicated in the Particular Commercial Conditions.

- 4.1.2 Prices are fixed and cannot be changed on the basis of e.g. economic or social fluctuations, except those specified in the Agreement.
- 4.1.3 If the Agreement explicitly states that such a change is possible, this shall not apply if the change would alter the total value of the Agreement by less than one percent (1%).
- 4.1.4 If the rates applied to FLUXYS BELGIUM in general and/or in the framework of the Agreement are cut or reduced, such reduction shall also apply to the additional and/or supplementary services mentioned above.

4.2 Price revision

- 4.2.1 If explicitly specified in the Particular Commercial Conditions, the CONTRACTOR's prices can be subject to annual revision, using one of the following formulas:

(i) Services: $P = P_o (0.20 + 0.80 S/S_o)$

(ii) Material and Services: $P = P_o (0.20 + (0.3 I/I_o + 0.5 S/S_o))$

where:

- P = price
- I = material cost
- S = labour cost

The CONTRACTOR shall specify in its offer the correct reference (e.g. professional organisation) and the reference date for S_o and I_o , which will be included in the Particular Commercial Conditions.

- 4.2.2 No later than two (2) Months before the end date, the CONTRACTOR shall inform FLUXYS BELGIUM's Procurement Department in writing of its revised new prices. These shall remain applicable for another twelve (12) Month period.

4.3 Incoterms

The price shall include the transport and delivery of the material and/or equipment duly packed 'Delivery Duty Paid' (customs formalities, if any, and 'All Risks' transport insurance included) to the address mentioned in the Particular Commercial Conditions, in accordance with the version of Incoterms applicable at the Date Of Conclusion Of The Agreement.

5. EXECUTION OF THE AGREEMENT - SCHEDULE

5.1 General obligations of the CONTRACTOR

The CONTRACTOR shall implement the Agreement in accordance with the best practices applicable to its trade and the provisions contained in the Agreement. When implementing the Agreement, the CONTRACTOR shall respect all applicable laws, decisions, decrees and regulations in force in Belgium at the time the Agreement is being implemented, in particular the rules on prohibition of illegal labour, forced labour and child labour.

5.2 Schedule of execution of the Agreement

- 5.2.1 FLUXYS BELGIUM or the CONTRACTOR shall organise meetings whenever this is required to implement the Agreement properly. For each meeting, the CONTRACTOR's representatives shall draw up a summary report within five (5) working days and send it to FLUXYS BELGIUM for approval.
- 5.2.2 If the Agreement is implemented at the CONTRACTOR's premises, FLUXYS BELGIUM is entitled to enter the CONTRACTOR's premises at any time to inspect the CONTRACTOR's activities and staff in the context of the tasks it has delegated to the CONTRACTOR.
- 5.2.3 The Agreement sets out the cases in which work schedules are necessary, in which case the CONTRACTOR must provide FLUXYS BELGIUM with the contractually required schedules within the agreed period. If there are no further clarifications in the Agreement, the CONTRACTOR must provide FLUXYS BELGIUM with an appropriate schedule covering the key stages in the implementation of the CONTRACTOR's obligations, mentioning at the very least:
- (i) the dates by which the CONTRACTOR must provide the information and documents required by the Agreement;
 - (ii) the dates of the main orders, as well as the planned delivery dates;
 - (iii) how the Works, Materials and/or Services will be delivered in order to guarantee that contractual deadlines will be met; and,
 - (iv) the latest dates by which the CONTRACTOR must have at its disposal any information, works and equipment that it will not be supplying itself.

The CONTRACTOR shall keep these schedules up-to-date and shall revise them at FLUXYS BELGIUM' request whenever circumstances have a significant impact on the inputs used to compile them. However, such circumstances shall not relieve the CONTRACTOR of its obligation to meet the deadlines or of its liability.

- 5.2.4 The CONTRACTOR shall regularly inform FLUXYS BELGIUM of progress on implementing the Agreement and shall make available all required documents in relation to this.

6. INVOICING AND PAYMENT TERMS

6.1 Invoicing

- 6.1.1 Dispatch notes and invoices must be made out to FLUXYS BELGIUM and must clearly state the number and title of the Agreement as well as the CONTRACTOR's VAT number. Invoices shall be drawn up in one (1) original and sent to FLUXYS BELGIUM, Supplier Accounting Department, 31 avenue des Arts, B-1040 Brussels.
- 6.1.2 The CONTRACTOR's invoices shall be accepted on these terms, provided the contractual terms are fulfilled and FLUXYS BELGIUM has the documents specified in the '*Documents to be provided*' section of the Particular Commercial Conditions.
- 6.1.3 If the Agreement includes delivery of Material on demand or performance of services on demand, invoices shall be paid after complete and satisfactory execution of the delivery of the quantities mentioned in the '*Performance Form according to Contract*' and on the basis of the corresponding dispatch notes or performance sheets, both duly signed by the authorised officials of the CONTRACTOR and of FLUXYS BELGIUM. Invoices shall be limited to one (1) per Month. The '*Performance Form according to Contract*' and the dispatch notes or performance sheets shall be enclosed with the CONTRACTOR's invoice and shall mention the number of the Agreement.

All documents required for material deliveries, as stated in the Agreement, must be delivered along with the Material (certificates, impact strength report, test certificates, EEX certificates, manuals, etc.). FLUXYS BELGIUM will not pay the invoice for this Material until it is in possession of all of the required documents.

If prior authorisation has been given for subcontracting, FLUXYS BELGIUM shall reimburse the CONTRACTOR, in accordance with the cost prices stated on the price lists.

In the event that one of the necessary statutory or aforementioned references is not on the invoice, the invoice shall be declared null and void and FLUXYS BELGIUM reserves the right to send the invoice back to the CONTRACTOR. Returning the invoice shall be considered a valid means of rejecting the invoice, without any other action being required of FLUXYS BELGIUM.

6.2 Payment terms

- 6.2.1 The CONTRACTOR's invoices shall be paid in full after complete and satisfactory execution of the services and/or deliveries on the basis of the corresponding performance sheets or delivery documents, duly signed by the relevant FLUXYS BELGIUM official.
- 6.2.2 Payment shall be made via a bank or post office within thirty (30) Days of receiving the invoice, providing all other conditions contained in the Agreement have been satisfied. No payment may be demanded if payments requested for an earlier payment deadline become non-payable following a shortcoming or misconduct on the part of the CONTRACTOR.
- 6.2.3 Under no circumstances shall FLUXYS BELGIUM accept bills of exchange.
- 6.2.4 If FLUXYS BELGIUM' order concerns a range of different Materials, FLUXYS BELGIUM shall consider the order undelivered if any of the items have not been delivered. The aforementioned payment period shall only begin once all of the items in the order have been delivered and invoiced.
- 6.2.5 FLUXYS BELGIUM shall not accept any clauses in the CONTRACTOR's documents stating that interest, penalties or any other form of compensation must be paid if payment is not made on the due date, even after formal written notice by the CONTRACTOR.
- 6.2.6 Under no circumstances shall full or partial payment by FLUXYS BELGIUM be considered equivalent to approval and/or acceptance of the Works, Materials and/or Services.

6.3 Compensation and interaction

If there are claims and debts between the Parties, regardless of their origin, FLUXYS BELGIUM reserves the exclusive right to set off its debts against its own claims against the CONTRACTOR, to obtain a lien or plead non-fulfilment of contractual obligations, as if all claims and debts are considered to be the result of a single contractual agreement.

6.4 VAT

Belgian VAT legislation applies to the Agreement.

7. END OF THE AGREEMENT

7.1 Termination or dissolution of the Agreement

7.1.1 Without prejudice to the right to claim compensation, FLUXYS BELGIUM has the right, without being obliged to pay the CONTRACTOR any compensation, to terminate the Agreement, by means of registered letter, with immediate effect, in each of the following cases:

- (i) death, suspension of payment, bankruptcy or liquidation of the CONTRACTOR, or a situation where the Law on the Continuity of Enterprises applies to the CONTRACTOR, or if the CONTRACTOR renounces all or a significant proportion of its assets; or,
- (ii) in the event of wilfull misconduct, serious misconduct (Dutch: *'zware fout'*; French: *'faute grave'*), gross negligence or repeated minor incidents equivalent to serious misconduct on the part of the CONTRACTOR, its representative(s) or its agent(s).

7.1.2 If FLUXYS BELGIUM establishes that the CONTRACTOR fails to meet its obligations under Article 16, FLUXYS BELGIUM shall be entitled to:

- (i) terminate the Agreement and demand compensation from the CONTRACTOR; or
- (ii) demand that the CONTRACTOR pay a penalty of two hundred and fifty euro (EUR 250) per Day lost, in the event CONTRACTOR fails to remedy its failure after being formally notified.

7.1.3 If the agreement is dissolved pursuant to Article 7.1.1 or 7.1.2(i), FLUXYS BELGIUM shall not owe the CONTRACTOR any compensation, amount or reimbursement of expenses.

7.2 Cancellation of the Agreement

7.2.1 FLUXYS BELGIUM may cancel the Agreement at any time, without giving a reason, by notification to the CONTRACTOR by registered letter, with a notice period of seven (7) Days. If it exercises this right, FLUXYS BELGIUM shall not owe the CONTRACTOR any compensation. The notice period begins on the Day after the Day on which the registered letter is delivered at the post office.

7.2.2 The CONTRACTOR must return any work clothing, documents, information, source codes, and so on to FLUXYS BELGIUM by the final Day in the notice period at the very latest. These items and data are and shall remain the exclusive property of FLUXYS BELGIUM.

7.2.3 In the cases of cancellation of the Agreement as per Articles 7.2.1 and 10.2, FLUXYS BELGIUM shall reimburse the CONTRACTOR for the Services and/or Material provided up to the date of cancellation or suspension (only the earlier of these two dates shall be taken into account). FLUXYS BELGIUM shall not owe the CONTRACTOR any further compensation.

8. FORCE MAJEURE

8.1 Definition

8.1.1 For the purposes of the Agreement, Force Majeure includes, but is not limited to: natural disasters, strikes, lock-outs, decisions by the government or any other authorised body or its representatives (whether legally valid or not), wars, uprisings, rebellions, landslides, fires, floods, earthquakes and explosions, subject to such event being unforeseeable and not caused by misconduct or negligence by either Party.

For the purposes of Article 14, Force Majeure shall also be understood to include long-term illness or death of the agent.

8.1.2 The following shall also be considered to constitute Force Majeure in relation to FLUXYS BELGIUM: any case in which a law, decree or order, decision, recommendation or suggestion from a regulatory authority governing all or part of FLUXYS BELGIUM' activities or from another authority orders or imposes the dissolution and/or amendment of the Agreement.

8.2 Consequences of Force Majeure

8.2.1 A Party who invokes Force Majeure must:

- (i) immediately inform the other Party of the event or circumstances leading to Force Majeure, provide in good faith all available information on the cause of the event and estimate how much time will be required for the Force Majeure situation to be lifted; and,
- (ii) immediately take all measures possible (within reason) to put right the situation preventing it from meeting its obligations as soon as the circumstances arise and minimise the damage caused by the situation.

8.2.2 If one of the Parties is completely or partially unable to meet its obligations under the Agreement because of Force Majeure, then that Party's obligations shall be suspended until such time as and to the extent the Force Majeure situation (no longer) influences its ability to meet its obligations.

8.2.3 Either of the Parties may terminate the Agreement by registered letter, without being required to pay any form of compensation to the Party affected by Force Majeure, if:

- (i) it has become completely impossible to execute the Agreement; or,
- (ii) the suspension of activities due to the Force Majeure situation lasts uninterruptedly for longer than three (3) Months; or,
- (iii) at the time when the Force Majeure situation first arises, it can reasonably be expected that the situation will make it completely impossible to execute the Agreement or that the suspension of activities due to the situation will last at least three (3) Months.

9. CONTRACTUAL DEADLINES

9.1 Compliance with deadlines

9.1.1 The CONTRACTOR shall perform the services and/or supply the goods, subject of the Agreement, within the deadlines set out in the Agreement.

9.1.2 FLUXYS BELGIUM reserves the right to request that all necessary measures be taken to ensure that the CONTRACTOR meets its obligations quickly.

9.1.3 The period for completion begins on the day the Agreement enters into force and the deadlines are binding. If the last Day of the deadline is a Belgian statutory public holiday, the deadline shall be extended to the end of the next working Day after the public holiday.

9.1.4 Unless there are any provisions expressly stating otherwise, when contractual deadlines are exceeded the CONTRACTOR shall be deemed to have been ordered to meet the deadlines and may not use the absence of a written order from FLUXYS BELGIUM as an excuse for having failed to meet the deadlines set out in the Agreement.

9.1.5 The CONTRACTOR shall do all in its power to meet deadlines (which may have been extended) and catch up any delays and shall comply with FLUXYS BELGIUM' instructions in this respect.

9.2 Postponement of deadlines

9.2.1 Postponement of contractual deadlines is only authorised if this is justified by an event of Force Majeure or if prior written agreement has been given by FLUXYS BELGIUM. FLUXYS BELGIUM is not liable to pay any compensation in such cases.

9.2.2 For supply of materials and services requiring the intervention of an authorised inspection organisation and services requiring the intervention of an expediting company, the involvement of these parties shall not be accepted as a reason for delay.

9.3 Failure to meet deadlines - Compensation

9.3.1 If the contractual deadlines are not met and an order issued to the CONTRACTOR giving a final possible deadline has no effect, FLUXYS BELGIUM is entitled to terminate the Agreement for the non-performed part and either execute the Agreement itself or have a third party replace the CONTRACTOR, at the cost and expense of the CONTRACTOR, without any judicial intervention. FLUXYS BELGIUM shall not owe the CONTRACTOR any compensation in such cases.

9.3.2 Each delay to the supply or the performance, not justified by a duly established case of Force Majeure, shall automatically render the CONTRACTOR liable to pay the following compensation to FLUXYS BELGIUM:

- (i) 2.5%/Week for the first and second Weeks of delay; and,
- (ii) 1.5%/Week for the third and fourth Weeks of delay; and,
- (iii) 1%/Week for the fifth, sixth and any subsequent Weeks of delay.

Calculations are based on the total value of the delayed Material, Works or Services and compensation is limited to a maximum of 10% of the total value of the Agreement, without prejudice to any additional costs (such as for inspection or expediting, where applicable).

10. INTELLECTUAL PROPERTY

10.1 Transfer

10.1.1 The CONTRACTOR exclusively, irrevocably and unconditionally transfers to FLUXYS BELGIUM all Intellectual Property Rights created during execution of the Agreement and within the scope of the Agreement, from the time at which they arise, in a comprehensive manner, i.e. covering all methods and forms of exploitation to be developed and applying worldwide for the whole duration of the right concerned. Without prejudice to the other provisions of this Article, the CONTRACTOR therefore unconditionally and irrevocably waives all current and future claims against FLUXYS BELGIUM or any other third party, in relation to any such Intellectual Property Right.

10.2 Compensation

10.2.1 The CONTRACTOR recognises that compensation for the transfer of Intellectual Property Rights is included in the price agreed between the Parties in accordance with Article 4.

10.2.2 Without prejudice to the CONTRACTOR's right to oppose any distortion or mutilation of its work and any infringement of the Intellectual Material which could damage its honour or reputation, FLUXYS BELGIUM is entitled to either indicate or withhold the name of the CONTRACTOR and to modify the work to the degree that FLUXYS BELGIUM deems necessary for the Intellectual Material to be used.

10.3 Duty to provide support

10.3.1 Without prejudice to the other provisions of this Article, the CONTRACTOR shall give FLUXYS BELGIUM unconditionally and irrevocably all of the authorisations and assistance that may be useful in exercising FLUXYS BELGIUM' rights (including all legal titles) and interests as set forth in this Article.

10.3.2 In the event of the suspension or termination of the Agreement, the CONTRACTOR shall immediately provide to FLUXYS BELGIUM the Intellectual Material in its possession, regardless of the manner of the suspension or termination. The CONTRACTOR shall not retain possession of any copy or other recording or sample of the Intellectual Material, unless otherwise agreed in advance in writing.

10.4 Indemnification

10.4.1 The CONTRACTOR represents and warrants that all of the Intellectual Material it creates is legal and legitimate and does not infringe the intellectual rights or any other rights of any third party, and that the CONTRACTOR has acquired the necessary authorisations for the transfer of rights as indicated in Article 10.

10.5 Other provisions

10.5.1 This Article shall outlast the other provisions of the Agreement and will therefore remain in force after termination of the Agreement, regardless of the manner of termination.

10.5.2 FLUXYS BELGIUM may transfer, assign or outsource its rights and interests under Article 10 to a third party, at any time and in any way.

11. TRANSFER OF OWNERSHIP AND RISKS

11.1 Material

11.1.1 Without prejudice to the rights and obligations of the Parties to the Agreement, the transfer of ownership of the Material (or part of it) to FLUXYS BELGIUM will take place at the time of delivery or upon payment by FLUXYS BELGIUM (if that takes place earlier) of the total amount or of a deposit. Notwithstanding the foregoing, the risk, including the risk of wear and tear and loss of the Material caused by transportation, storage and/or unloading and stacking, which is done under the CONTRACTOR's responsibility, shall not be transferred to FLUXYS BELGIUM until the Material has been delivered in accordance with the Agreement.

11.1.2 If ownership of the Material is transferred to FLUXYS BELGIUM before delivery has occurred, the Material will be clearly identified by the CONTRACTOR and marked as '*Property of FLUXYS BELGIUM*' or in any other way requested by FLUXYS BELGIUM.

11.1.3 The provisions of Articles 11.1.1 and 11.1.2 do not apply to software or hardware for which FLUXYS BELGIUM is granted a licence.

11.2 Services

11.2.1 Transfer of ownership and risks for Services shall take place as soon as said Services have been provided or, if applicable, upon payment of a deposit.

12. GUARANTEE PROVISIONS

12.1 Guarantee for services provided

12.1.1 Where execution of the Agreement relates to or includes the provision of Services, the CONTRACTOR guarantees that it shall provide the Services according to the rules of its trade and the applicable legislation.

12.1.2 If the Services are not in order, are defective or have not been performed in accordance with the applicable legislation or the rules of the trade, the CONTRACTOR shall, at its own expense and as quickly as possible, and depending on the option chosen by FLUXYS BELGIUM, make any changes or improvements necessary and/or perform all or some of the Services again, without prejudice to other measures set down in the Agreement, including the right to demand payment of the penalties provided for in Article 9.3 and repair of any damage resulting from the situation.

12.1.3 In the cases described in Article 12.1.2 or if the CONTRACTOR has not respected the contractually agreed deadlines (per part of the assignment), FLUXYS BELGIUM is entitled to terminate the Agreement without paying the CONTRACTOR any further compensation. Compensation shall only be paid for such Services which have been performed and approved by FLUXYS BELGIUM at the time of the termination. The termination of the Agreement shall be effective one (1) working Day after the CONTRACTOR receives notification by registered letter from FLUXYS BELGIUM.

12.2 Warranty for Material supplied

12.2.1 Where execution of the Agreement relates to or includes the supply of Material, the CONTRACTOR warrants that it has perfect knowledge of the delivered Material and its purpose, and warrants that the Material will have no faults or hidden defects in its design, basic materials, operation, construction or assembly and that its performance will be satisfactory.

12.2.2 FLUXYS BELGIUM reserves the right to refuse to accept any delivery that is not compliant or that has the slightest defect.

12.2.3 If the Material is unsatisfactory or defective or is not compliant with the contractual specifications, the CONTRACTOR shall, at its own expense and as quickly as possible, take back the delivery and, depending on the option chosen by FLUXYS BELGIUM, immediately make any changes, repairs or improvements and/or provide FLUXYS BELGIUM with an equivalent delivery and/or perform all or part of the delivery again, so that FLUXYS BELGIUM has Material that meets the specifications outlined in the contract, without prejudice to any other measure set out in the Agreement, including the right to demand payment of the penalties provided for in Article 9.3 and repair of any damage resulting from the situation.

The costs arising from any such intervention shall be borne exclusively by the CONTRACTOR, including (but not limited to) the cost of the repair and/or the supply of the new replacement Material, in compliance with the contractual specifications, the analyses carried out to ascertain the defects, and transportation of the defective or non-compliant Material and of the new replacement Material supplied.

12.2.4 If operating conditions permit and if necessary, FLUXYS BELGIUM will allow the CONTRACTOR to access the site and the defective or non-compliant Material and will give the CONTRACTOR all the information in its possession which FLUXYS BELGIUM considers to be useful.

If the defect was caused by a design flaw, the CONTRACTOR must replace or modify all parts of the same type from that delivery, even if they have not resulted in an incident or damage.

12.2.5 If the CONTRACTOR refuses or fails to meet its warranty obligations or if urgency requires, FLUXYS BELGIUM may, after issuing a written order that has not yielded a satisfactory result after ten (10) working Days, replace the CONTRACTOR either by itself or by a third party. This shall be at the expense and risk of the CONTRACTOR and judicial intervention. Furthermore, FLUXYS BELGIUM may at any time demand full compensation from the CONTRACTOR for damages that FLUXYS BELGIUM has suffered because of defective deliveries or deliveries that are not suitable for FLUXYS BELGIUM' requirements if the defect was not evident at the time of delivery.

12.3 Warranty Period

12.3.1 The Warranty Period shall extend to the first of the following dates:

- (i) twelve (12) Months after the Material has been successfully started up (in the case of Material subject to inspection, this shall be stated in a specific acceptance report); or,
- (ii) twenty-four (24) Months after satisfactory delivery or, in the case of multiple deliveries, after the last delivery date;

in accordance with the contractual conditions and insofar as the deadlines are not exceeded owing to the CONTRACTOR.

12.3.2 If, during the Warranty Period, all or some of the Materials and/or Services are unavailable, the Warranty Period for the entire order shall be extended by the combined length of all the periods of unavailability.

12.3.3 If, during the Warranty Period, it is necessary to replace a component of the Materials and/or Services, the Warranty Period for the component in question shall only begin when risks for the replacement parts are transferred. This shall be at the sole expense of the CONTRACTOR and shall include transport costs and costs for the manpower provided by FLUXYS BELGIUM.

13. LIABILITY AND INSURANCE

13.1 Liability

13.1.1 The CONTRACTOR shall be liable towards FLUXYS BELGIUM and third parties for any direct bodily injury or material or immaterial damage which is caused while performing the Agreement and which can be attributed to the CONTRACTOR.

13.1.2 The CONTRACTOR undertakes to indemnify FLUXYS BELGIUM against any claim and/or related costs or expenses invoked by third parties as a result of damage caused by the CONTRACTOR while performing the Agreement.

13.1.3 Except in the event of serious or wilful misconduct, both Parties waive any recourse against one another for bodily damage to themselves, their representative(s) or their agent(s). Each Party undertakes to indemnify the other from any recourse or complaints by a third party in relation to such damage. Furthermore, the Parties undertake to have this waiver of recourse approved by their respective insurers and to have it entered into their insurance policies.

13.1.4 Without prejudice to any term to the contrary in the Agreement, the Parties are not liable to each other for consequential damage, except in cases of wilful misconduct, serious misconduct (Dutch: *'zware fout'*; French: *'faute grave'*) or gross negligence. For the purposes of this Article, 'consequential damage' is defined as loss of contracts, loss of profit, loss of operating income, loss of production or loss of use and business interruptions incurred by the other Party.

13.2 Insurance

13.2.1 In the light of its professional knowledge and taking account of risks linked to its activities, the CONTRACTOR shall ensure that its contractual, extra-contractual and professional liability are all sufficiently insured. The CONTRACTOR's activities when performing services and delivering Materials, as well as after the delivery, must be covered by an insurance policy with a first class insurer.

13.2.2 The CONTRACTOR shall produce, no later than the acknowledgement of receipt of the Agreement, certification from its insurer stating that the insurance it holds covers its liabilities during the execution of services and/or delivery of the Materials as a minimum, as well as risks after the delivery of the Materials (including product liability). This certification shall also state the minimum amounts for which the CONTRACTOR must be covered (all damage combined), which are listed in the Particular Commercial Conditions. These amounts shall not limit the CONTRACTOR's liabilities, nor shall FLUXYS BELGIUM indemnify the CONTRACTOR against recourse by third parties for amounts exceeding the amount insured, nor for risks not covered by its insurance policy.

13.2.3 If the CONTRACTOR employs staff in Belgium for the performance of the Agreement, it must, in accordance with the Belgian law of 10 April 1971, take out an insurance policy covering these staff in the event of work-related accidents or accidents occurring on the journey to or from work. In this respect, FLUXYS BELGIUM may at any time demand to see the relevant certificate from the CONTRACTOR's statutory insurer declaring that the statutory insurer waives all recourse against FLUXYS BELGIUM, its authorised representatives and its agents.

13.2.4 FLUXYS BELGIUM draws the attention of the CONTRACTOR to the fact that performance of the services may not begin until FLUXYS BELGIUM has the insurance certification required, the presentation of which is also one of the prior conditions for payment of the CONTRACTOR's invoices.

14. THE CONTRACTOR'S STAFF

14.1 General provisions

- 14.1.1 This Article applies to the CONTRACTOR and any employees or subcontractors the CONTRACTOR may have.
- 14.1.2 The CONTRACTOR shall use experienced and qualified staff in the execution of the services.
- 14.1.3 The CONTRACTOR shall comply with the working schedule applicable to the delivery address or the site where services are to be performed. The CONTRACTOR shall ask its contact person at FLUXYS BELGIUM about the working schedule before making the delivery or performing the services.
- 14.1.4 The CONTRACTOR shall only employ employees who are covered by a social security system, shall refer to the relevant legislation and shall supply FLUXYS BELGIUM with proof of this upon request. Non-compliance with this obligation will be viewed as serious misconduct.
- 14.1.5 CONTRACTORS based outside Belgium (whether inside or outside the EU) shall comply with the provisions of:
- (i) Regulation (EEC) 1408/71 and provide FLUXYS BELGIUM with E101 forms covering employment abroad for its employees prior to performance of the Agreement; and,
 - (ii) the Royal Decree of 20 March 2007 on prior declaration of posted workers and self-employed people (Limosa declaration) and shall provide FLUXYS BELGIUM with proof of receipt of the completed declarations prior to performance of the Agreement.
- 14.1.6 The CONTRACTOR and its staff shall remain completely independent of FLUXYS BELGIUM under all circumstances and may never be considered as being employed by FLUXYS BELGIUM. The CONTRACTOR shall retain full control over its own staff and shall be responsible for them: it shall pay salaries, bonuses, taxes and charges relating to its staff.
- 14.1.7 The CONTRACTOR's staff and any other person for whom the CONTRACTOR is responsible in the framework of its Agreement with FLUXYS BELGIUM must be able to provide proof of good character. They should therefore be able to produce a certificate of good conduct if requested to do so by FLUXYS BELGIUM.
- 14.1.8 For the duration of the Agreement, the CONTRACTOR shall be represented by an official with experience and training corresponding to the Agreement and who is able to speak at least the language of the place where the Agreement is being executed.

14.2 Training

FLUXYS BELGIUM reserves the right to request a certificate showing the training received by the CONTRACTOR's staff and those of its subcontractors as of the Date Of Conclusion Of The Agreement, as well as for new employees of the CONTRACTOR and/or of its subcontractors assisting in the performance of the Agreement. The CONTRACTOR shall ensure that training is updated regularly and that staff are familiar with new technology in their trade.

14.3 Recruitment and dismissal

- 14.3.1 The CONTRACTOR shall not make any active attempts to recruit staff of FLUXYS BELGIUM or of its representative(s) from the time that the staff member or representative starts work until one (1) year after the last Day of their work. Each breach of this obligation shall be sanctioned by a payment by the CONTRACTOR to FLUXYS BELGIUM of a one-off compensation in the amount of twelve (12) times the gross monthly salary of the relevant staff member at the time of the infringement. Non-compliance with this requirement shall be considered as serious misconduct (Dutch: 'zware fout'; French: 'faute grave'), which may result in the application of Article 7.1.1.
- 14.3.2 Once the Agreement has expired, FLUXYS BELGIUM may, if applicable, conclude a new agreement directly with the CONTRACTOR's agent(s), provided that prior notification is given to the CONTRACTOR. The CONTRACTOR shall not include or apply any limitations in its agents' contracts which would render compliance with this clause difficult or impossible. An agreement of this type may only be concluded if FLUXYS BELGIUM pays the CONTRACTOR a one-off lump sum amounting to two (2) Months' work in the framework of the Agreement or if it waits for a period equivalent to six (6) Months, starting on the date the Agreement comes to an end.

14.4 Services performed by staff of the CONTRACTOR ('Secondment')

14.4.1 Description of the secondment assignment

The Particular Commercial Conditions of the Agreement describe the temporary intellectual service to be provided by one or more of the CONTRACTOR's agents, as well as the start and end dates for the secondment.

14.4.2 Place of performance

- 1) In principle, the secondment shall be performed on the CONTRACTOR's premises, unless agreed otherwise.
- 2) If the CONTRACTOR's agents are working at FLUXYS BELGIUM' offices, facilities or sites, they shall work completely independently and shall be free to determine their own work schedule. For organisational reasons, due to safety requirements and because of the need for access to the relevant FLUXYS BELGIUM site(s), the Parties nonetheless agree that the CONTRACTOR's agents shall work from Monday to Friday, between 7.30 a.m. (9.00 a.m. at the latest) and 7.30 p.m., with a minimum working Week of thirty-eight (38) hours. Travel time between the place of residence and the workplace shall not count as working time.
- 3) For organisational reasons, the CONTRACTOR shall inform FLUXYS BELGIUM of any planned absences of its agent(s) before this absence starts. Absences of less than one (1) Week shall be declared at least one (1) Week in advance. Absences of more than one (1) Week shall be declared at least one (1) Month in advance.
In the event of a planned absence lasting twenty (20) working Days or more, FLUXYS BELGIUM is entitled to ask for a replacement with the required profile for the duration of the absence. Should FLUXYS BELGIUM request a replacement, the CONTRACTOR shall suggest the replacement at least fourteen (14) Days before the planned absence, at no additional cost to FLUXYS BELGIUM.

14.4.3 Obligations of the Parties

- 1) FLUXYS BELGIUM undertakes to provide the CONTRACTOR with the necessary equipment that is specific to FLUXYS BELGIUM, along with safety goggles and a hard hat, with a view to ensuring that the Agreement is properly performed.

FLUXYS BELGIUM shall not be responsible for (costs relating to) mobile phones, business cards, external training courses or the use of a parking space, unless otherwise specified in the Agreement.

If the services provided are part of an IT assignment, the CONTRACTOR shall complete an '*Equipment Return Procedure*' document and return it to FLUXYS BELGIUM by the Day the assignment begins at the latest.

By the Day on which the Agreement ends pursuant to Article 7, and on the final Day in the notice period at the very latest, the CONTRACTOR must return any work clothing, documents, information, source codes and any other material to FLUXYS BELGIUM in good condition, since these items and data are the exclusive property of FLUXYS BELGIUM.

- 2) No later than the start of the assignment, FLUXYS BELGIUM shall provide the CONTRACTOR with all safety guidelines, IT procedures and other relevant FLUXYS BELGIUM policies applying to the assignment.

The CONTRACTOR undertakes to have its agent(s) sign a declaration guaranteeing that they will comply with the aforementioned guidelines and procedures. Careless or improper use of this information shall be viewed as serious misconduct, which may result in the application of Article 7.1.1.

14.4.4 Evaluation of performance

FLUXYS BELGIUM and the CONTRACTOR shall consult one another on a regular basis to evaluate whether the CONTRACTOR's execution of the Agreement is proceeding smoothly.

FLUXYS BELGIUM is entitled to check or audit compliance with the Agreement by the CONTRACTOR and its agent(s), or to have said compliance checked/audited by a third party, subject to prior written notification.

14.4.5 Suspension of execution of the Agreement

FLUXYS BELGIUM must be given immediate written notification of any suspension of the Agreement and of the reasons for the suspension.

If execution of the Agreement is suspended for reasons other than Force Majeure, FLUXYS BELGIUM reserves the right to demand payment by the CONTRACTOR of a lump-sum compensation equal to ten percent (10%) of the total value of the Agreement, without prejudice to FLUXYS BELGIUM' right to demand higher compensation if it is shown that the value of the damage incurred is greater than the aforementioned ten percent (10%) and without prejudice to FLUXYS BELGIUM' right to immediately cancel the Agreement without compensation, to the detriment of the CONTRACTOR, by means of a registered letter.

14.4.6 Replacement of agent(s)

The CONTRACTOR guarantees that it shall not replace its agent(s) on its own initiative at any point during the Agreement.

If an agent is unavailable, or if FLUXYS BELGIUM is of the opinion that the agent lacks the required skills, the CONTRACTOR shall replace this person within the Week. In exceptional cases, this period can be extended, with FLUXYS BELGIUM' approval.

The CONTRACTOR shall ensure that the replacement of its agent(s) has no effect on the execution of the Agreement. The CONTRACTOR shall bear any costs required to ensure the continuation of the assignment (training for the replacement agent and any other additional costs to FLUXYS BELGIUM) as well as any costs generated by delays to the project, unless:

- (a) the agent had to be replaced for reasons of Force Majeure; or,
- (b) FLUXYS BELGIUM gave prior agreement to the replacement.

15. CONFIDENTIALITY

15.1 The CONTRACTOR shall neither directly nor indirectly disclose the contents of the Agreement or of its assignment, any commercial or technical information or the contents of correspondence between the Parties without prior written agreement from FLUXYS BELGIUM.

In general, the CONTRACTOR shall not disclose any non-public information relating to FLUXYS BELGIUM, FLUXYS BELGIUM' internal organisation or FLUXYS BELGIUM' relationships with third parties which the CONTRACTOR obtains during execution of or in connection with the Agreement.

15.2 The CONTRACTOR shall have a declaration to this effect signed by its representative(s) or agent(s), if requested to do so by FLUXYS BELGIUM.

15.3 The undertaking contained in Article 15.1 applies for the entire duration of the Agreement and for a period of five (5) years following the end of the Agreement.

15.4 Non-compliance with this provision shall be viewed as serious misconduct.

15.5 Notwithstanding all of the above, no Party shall be responsible towards the other for any unauthorised disclosure of information if it can be established that it protected the information in the same way as it protects its own confidential information and business secrets.

15.6 FLUXYS BELGIUM shall respect the CONTRACTOR's manufacturing and construction secrets provided it has received prior written notification of:

- (i) the confidential nature of the information, techniques and documents shared with it or shown to it by the CONTRACTOR; and,
- (ii) the period for which this information etc. shall remain confidential.

16. PROVISIONS ON HEALTH, SAFETY AND THE ENVIRONMENT (WELFARE)

16.1 General

16.1.1 Before going to the site of delivery or service provision, the CONTRACTOR shall always report to the relevant FLUXYS BELGIUM official and comply closely with the instructions issued by this person. The safety instructions applying to FLUXYS BELGIUM' Seveso sites must be followed particularly carefully.

16.1.2 The Material and Services described in the Agreement shall comply with applicable legislation in force in Belgium regarding welfare, safety, health, the environment and decoration of workplaces. The CONTRACTOR shall be responsible for the necessary regulatory and legal inspections of its equipment and shall produce the relevant certificates upon demand.

16.1.3 The general obligations and measures to be taken by the CONTRACTOR for carrying out deliveries of Material in accordance with the legislation are described in greater detail in the following document: *Welfare Requirements when Making Deliveries (Belgian Welfare at Work Code (Codex), Title VI, Article 8)*. If the Material that is the object of the Agreement is subject to:

- (i) Directive 2006/42/EC (Machinery Directive), an EC declaration of conformity for the machinery must accompany the acknowledgement of the order; and,
- (ii) the Pressure Equipment Directive (PED), an EC declaration of conformity for the materials must accompany the delivery.

16.2 Prior measures to be taken for Services involving a risk

16.2.1 HSE plan

The *Health, Safety and Environment Plan* or *HSE Plan* drawn up by FLUXYS BELGIUM sets out the specific safety measures that must be observed when carrying out work in FLUXYS BELGIUM facilities. FLUXYS BELGIUM will hand over the HSE Plan to the CONTRACTOR before execution of the Agreement begins. Before starting to execute the Agreement, the CONTRACTOR will adapt and add to the HSE Plan if necessary, sign it and return it to the relevant FLUXYS BELGIUM official.

16.2.2 Safety meetings

Before execution of the Agreement begins, safety meetings shall be held at which the CONTRACTOR's officials must be present:

- (i) At a *kick-off meeting*, managers discuss the execution methods and schedule for Services involving a risk. The general and specific measures arising from the risk analyses are discussed; on no account may the resulting arrangements replace the applicable safety measures, except with the written agreement of FLUXYS BELGIUM.
- (ii) At a *safety information meeting*, the CONTRACTOR, under the guidance of FLUXYS BELGIUM, will inform its staff about the general quality, environmental and welfare rules and risk analyses specific to FLUXYS BELGIUM' facilities; the CONTRACTOR shall organise a safety information meeting at least once a year.
- (iii) At a *start-of-work meeting*, which is held before execution begins, the nature of the works, the work method and the specific risks involved are explained, together with the applicable HSE rules; the start-of-work meeting is repeated for each new phase of execution.
- (iv) At a *toolbox meeting*, safety aspects are briefly discussed. This is an opportunity for consultation, held by a manager of the CONTRACTOR for one or more operational staff members. The toolbox meeting briefly addresses a subject related to safety welfare with the aim of informing staff and encouraging them to adopt safer actions and behaviour; the toolbox meeting is repeated for each new phase of execution.

16.3 Checks by the CONTRACTOR

The CONTRACTOR must ensure that all safety rules applying at the place of execution and the requirements arising from the risk analyses are gone over, thoroughly understood and strictly observed by its employees and those of any subcontractors it may have. The CONTRACTOR shall furnish FLUXYS BELGIUM with a certificate signed by each of its subcontractors. Any irregularity or unsafe action or situation must be reported to FLUXYS BELGIUM immediately.

16.4 Actions in the event of non-compliance

- 16.4.1 FLUXYS BELGIUM may carry out checks or inspections to ensure that the CONTRACTOR's staff have received the appropriate training and instructions and that the safety arrangements are being strictly complied with.
- 16.4.2 If it is apparent that the CONTRACTOR and/or its subcontractor(s) and/or its agent(s) fail to comply with the necessary safety requirements, FLUXYS BELGIUM will report this in writing. If it is apparent that the CONTRACTOR fails to take effective steps to remedy this situation, or in the event of urgency, FLUXYS BELGIUM may take steps itself, or have the necessary steps taken, and pass on the costs of these to the CONTRACTOR. If safety requirements are breached, FLUXYS BELGIUM shall be entitled to demand a replacement of the CONTRACTOR's representative(s), agent(s) or subcontractor(s), at no additional cost to FLUXYS BELGIUM.
- 16.4.3 Non-compliance with safety requirements shall be viewed as serious misconduct (Dutch: '*zware fout*'; French: '*faute grave*'), which may result in application of Article 7.1.1.

17. TRANSPORT AND DELIVERY OF MATERIALS

17.1 Transport and unloading

- 17.1.1 If the Agreement concerns the supply of Material, the CONTRACTOR shall transport the delivery to the delivery address provided by FLUXYS BELGIUM.
- 17.1.2 The CONTRACTOR shall be responsible for unloading, unless explicitly stated otherwise in the Particular Commercial Conditions. The CONTRACTOR may use unloading equipment belonging to FLUXYS BELGIUM (if available) provided it obtains prior written permission from FLUXYS BELGIUM.
- 17.1.3 The CONTRACTOR shall provide the necessary staff and equipment.

- 17.1.4 The CONTRACTOR shall ensure that the packaging is appropriate to the delivered Material, taking into account the means of transport used and the storage possibilities.
- 17.1.5 If the Materials to be delivered are particularly heavy or bulky, the CONTRACTOR shall contact the relevant FLUXYS BELGIUM official at least three (3) working Days before the delivery.

17.2 Terms of delivery

- 17.2.1 The CONTRACTOR shall comply with the working schedule applicable to the delivery address and shall ask its FLUXYS BELGIUM contact person about the working schedule before executing the Agreement. The delivery may only be made to the address, on the Days and at the times specified by the contact person, or, where none is specified, during working hours on working Days.
- 17.2.2 The CONTRACTOR shall give FLUXYS BELGIUM a delivery note at the time of delivery, regardless of whether the Agreement covers assembly upon delivery. FLUXYS BELGIUM' signature of the note or any other document is merely proof of delivery – it does not indicate that the delivery has been accepted.
- 17.2.3 Any instructions for assembly and/or use and/or maintenance shall be delivered to the delivery address along with the Material. In the case of staggered delivery, these instructions should be delivered with the first delivery.
- 17.2.4 If, when unpacking the delivery, FLUXYS BELGIUM notices visible damage, FLUXYS BELGIUM shall have sixty (60) Days, beginning on the delivery date, to inform the CONTRACTOR, regardless of what is stated on the delivery note.

18. SPARE PARTS

- 18.1 If the Agreement concerns the supply of Material, the CONTRACTOR warrants that it will supply new spare parts for the Material purchased pursuant to the Agreement for a period of fifteen (15) years. This fifteen (15) year period shall begin upon delivery or at the time of the last delivery for the order.
- 18.2 Any spare parts provided shall be subject to a Warranty Period in accordance with Article 12.3.
- 18.3 If, before the end of the fifteen (15) year period, the CONTRACTOR should become unable to continue supplying spare parts, it shall give FLUXYS BELGIUM written notification of this at least twelve (12) months in advance so that FLUXYS BELGIUM can buy a stock of spare parts if it wishes to do so.

19. REPAIR OF MATERIAL AT FLUXYS BELGIUM' REQUEST

- 19.1 This Article applies if the Agreement relates to the repair of Materials belonging to FLUXYS BELGIUM.
- 19.2 The Materials that FLUXYS BELGIUM hands over for repair shall remain the property of FLUXYS BELGIUM. If the Materials must be treated, this shall be considered to have happened at FLUXYS BELGIUM' request. The CONTRACTOR undertakes neither to sell the Materials nor to give them to third parties as long as they remain the property of FLUXYS BELGIUM.
- 19.3 The CONTRACTOR shall bear the risk of transporting and delivering the Materials for repair.
- 19.4 As soon as the Materials have been delivered, the CONTRACTOR shall become responsible for risks relating to the storage and treatment of the Materials. The CONTRACTOR shall be liable for any theft, loss, damage or destruction of the Materials. The CONTRACTOR undertakes to replace or repair the Materials if necessary, within two (2) Weeks of FLUXYS BELGIUM' request. Treatment of the Materials shall not be viewed as damage or destruction as long as the result complies with the specifications given by FLUXYS BELGIUM in the order.
- 19.5 Risks are transferred back to FLUXYS BELGIUM when the Materials (treated or otherwise) are:
- (i) collected by FLUXYS BELGIUM from the CONTRACTOR's storage facility; or,
 - (ii) delivered by the CONTRACTOR to FLUXYS BELGIUM' storage facility (it makes no difference whether the CONTRACTOR transports the materials itself or has them transported by a third party).

20. OTHER PROVISIONS

20.1 Processing of personal data

- 20.1.1 Where and insofar as the Parties, under the Agreement, process personal data, they shall in this regard comply with their respective obligations under the applicable data protection legislation (including the General Data Protection Regulation 2016/679).
- 20.1.2 FLUXYS BELGIUM reserves the right, under the Agreement, to process personal data relating to the personnel of the CONTRACTOR for the purpose of managing and performing the Agreement between the CONTRACTOR and FLUXYS BELGIUM and for invoicing purposes. The CONTRACTOR undertakes to (i) provide its personnel with all the information regarding this processing as required by the applicable data protection legislation and (ii) ensure that there is always a legal basis for this processing. The same obligation applies to FLUXYS BELGIUM where and insofar as the CONTRACTOR, under the Agreement, processes personal data relating to the personnel of FLUXYS BELGIUM.
- 20.1.3 Where and insofar as the CONTRACTOR, under the Agreement, processes personal data as the processor on behalf of FLUXYS BELGIUM, the Parties undertake to conclude a separate processing agreement, which is included as an annex to the Agreement.

20.2 Language of the Agreement

The language of the Agreement is specified in the Particular Commercial Conditions and shall be used for all documents relating to the Agreement. In the event of inconsistency and/or ambiguity, the version of a contractual document written in the same language as the Agreement shall take priority over any other version.

All documents provided by the CONTRACTOR in connection with the Agreement must, at FLUXYS BELGIUM' request, be translated into French, Dutch and/or English within a reasonable deadline. This shall be at the CONTRACTOR's expense.

20.3 Units of measurement

The only authorised units of measurement are the international units of measurement in the metric system.

20.4 Administrative authorisations and permits

- 20.4.1 The CONTRACTOR is responsible for obtaining any prior authorisations and permits required by the relevant authorities, and/or authorised approval bodies for the provision of the Works, Materials and/or Services.
- 20.4.2 The CONTRACTOR shall supply, at FLUXYS BELGIUM' request, all information relating to the Works, Materials and/or Services provided which FLUXYS BELGIUM needs in order to apply for permits.
- 20.4.3 The CONTRACTOR undertakes to make the necessary arrangements to ensure that the Works, Materials and/or Services are approved by the relevant authorities and/or the authorised approval bodies.
- 20.4.4 After the Date Of Conclusion Of The Agreement, the CONTRACTOR is not authorised to demand additional payment to finance these arrangements or cover adjustments to its services, studies, deliveries or works requested by the relevant authorities and/or the authorised approval bodies.

20.5 Relationship between the Parties

Each of the Parties shall remain independent of the others. Neither the CONTRACTOR nor any person or third party appointed by the CONTRACTOR to execute the Agreement shall be an employee, partner, agent, proxy or legal representative of FLUXYS BELGIUM.

No element of the Agreement may be interpreted as making one Party the agent or distributor of the other or creating a joint venture or any other type of relationship authorising one Party to represent the other in dealings with third parties.

20.6 Complaints

- 20.6.1 If the CONTRACTOR wishes to make a complaint against FLUXYS BELGIUM, it must inform FLUXYS BELGIUM by registered letter of its reason for doing so within eight (8) Days of the occurrence of the event that has given rise to the complaint. FLUXYS BELGIUM shall confirm receipt within eight (8) Days.
- 20.6.2 The CONTRACTOR then has thirty (30) Days following FLUXYS BELGIUM' confirmation of receipt to submit a complete file detailing the reasons for the complaint and estimating the damage suffered.

If the CONTRACTOR is unable to submit a complete file within thirty (30) Days, it must notify FLUXYS BELGIUM, which may then issue a new deadline provided this inability stems from the Agreement and is not the fault of the CONTRACTOR.

If the CONTRACTOR has not submitted the file by the deadline mentioned above, which may have been extended, the CONTRACTOR will be considered to have dropped its complaint.

20.6.3 FLUXYS BELGIUM shall share its viewpoint with the CONTRACTOR within thirty (30) Days of receiving the complete file.

20.7 Rejection

Rejection of or non-compliance with one provision in these General Terms and Conditions of Purchase may not be interpreted as overall rejection of and/or non-compliance with all provisions.

20.8 Divisibility in the event of one invalid clause

If one of the provisions in the Agreement is null, invalid or unfeasible, the other provisions shall still apply in full. The Parties shall replace the null, invalid or unfeasible clause with a permissible, valid or feasible clause that conforms with their original intentions.

20.9 Courts/applicable law

20.9.1 Applicable law

The Agreement is subject exclusively to Belgian law. The courts of Brussels have exclusive jurisdiction.

20.9.2 Arbitration

If the Parties have explicitly agreed to this, any disputes concerning the validity, interpretation or execution of the order may be brought before a board of arbitration from the Belgian Centre for Mediation and Arbitration of the Brussels Chamber of Commerce and Industry (CCIB/KHNB), in accordance with the rules applying to this Centre. There shall be one (1) arbitrator, the place of arbitration shall be Brussels, and the procedure shall take place in Dutch.

Any omission by either Party to perform a task mentioned in the Rules of the CCIB/KHNB as being necessary to start, continue or conclude the arbitration procedure automatically authorises the director of the CCIB/KHNB or the arbitrator to perform this task. The CONTRACTOR and FLUXYS BELGIUM undertake to accept the result of the arbitration proceedings as final.

20.10 Assessment

20.10.1 The services/deliveries in the Agreement may be subject to an assessment of compliance with delivery or execution times, quality requirements, safety rules, timely submission of the contractual documents and completeness of the documents upon delivery of materials/provision of services.

20.10.2 FLUXYS BELGIUM shall inform the CONTRACTOR of the results of this assessment. In the event of deficiencies, the CONTRACTOR shall be requested to draw up an action plan.

If no action plan is drawn up within the agreed timeframe or if the action plan is not acted upon within the agreed timeframe, this may lead to the removal of the CONTRACTOR from FLUXYS BELGIUM' Vendor Database, as a result of which no orders/contracts can be awarded to the CONTRACTOR. In this case, the CONTRACTOR shall have to submit a new qualification file if it wishes to be re-entered in the Vendor Database.

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