

CONTRACT
ON SUPPLY OF GENERATOR AND AUXILIARY TRANSFORMER SWITCHGEARS
FOR RIGA HPP, SUPERVISION OF INSTALLATION AND COMMISSIONING

Riga

Latvenergo AS (hereinafter referred to as the "Employer") Registration number: 40003032949 VAT payer number: LV40003032949 Address: Pulkveza Brieza Street 12, Riga, LV-1230 [..] represented by its [..]	and	Hitachi Energy Estonia AS (hereinafter referred to as the "Contractor") Registration number: - 14838818 VAT payer number: - EE102205075 Address: - Valukoja 8/1, 11415 Tallinn, Estonia [..] represented by its [..]
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hereinafter individually referred to as the "Party" and hereinafter jointly referred to as the "Parties" agree as follows:

SPECIAL TERMS

1. Subject of the Contract

- 1.1. The Contractor undertakes to perform for the Employer supply of generator and auxiliary transformer switchgears for Riga HPP, supervision of installation and commissioning (hereinafter referred to as the "Works"), but the Employer undertakes to pay for the Works performed pursuant to the terms of the Contract.
- 1.2. The Works envisaged within the framework of the Contract include:
 - 1.2.1. repair works;
 - 1.2.2. equipment, building maintenance and servicing;
 - 1.2.3. construction works;
 - 1.2.4. author supervision;
 - 1.2.5. survey works;
 - 1.2.6. development of a Work Performance Program;
 - 1.2.7. Construction project development;
 - 1.2.8. Technical Design development;
 - 1.2.9. delivery of Goods;
 - 1.2.10. supervision of installation and commissioning.

2. Contract price and Contract amount

The Contract price for the performance of the Works specified in this Contract, which the Employer pays to the Contractor, is set up to EUR 2 398 000,00 (two million three hundred ninety eight thousand *euro* and 00 cents), excluding VAT, and unforeseen works amount up to EUR 47 960,00 (forty seven thousand nine hundred sixty *euro* and 00 cents), excluding VAT, which together constitute the amount of the Contract up to 2 445 960,00 (two million four hundred forty five thousand nine hundred sixty *euro* and 00 cents), excluding VAT.

3. Components of the Contract

- 3.1. Special Terms of the Contract;
- 3.2. General Terms of the Contract;
- 3.3. Annexes to the Contract:
 - 3.3.1. Annex No.1 – Table of Prices and Milestone payment schedule;
 - 3.3.2. Annex No.2 – Time Schedule of Works;
 - 3.3.3. Annex No.3 – Technical Specification and Employer's Clarifications:
 - 3.3.3.1. Annex No.3.1 - Technical Comments;
 - 3.3.3.2. Annex No.3.2. - Employer's Clarifications;
 - 3.3.3.3. Annex No.3.3.- Technical Specification.
 - 3.3.4. Annex No.4 – List of Subcontractors and Works Delegated to Them;
 - 3.3.5. Annex No.5 – Information for Contractors Performing Works at Latvenergo AS Sites;

- 3.3.6. Annex No.6 – Tender submitted by the Contractor for the procurement procedure "Supply of generator and auxiliary transformer switchgears for Riga HPP", ID No.IPR-67159; IUB No. LE 2021/16 (not bound together with the Contract).

4. Work performance deadlines

- 4.1. The Contractor undertakes to perform the Works in accordance with the time schedule of the Works (Annex No.2), to start the performance of the Works on the day of signing the Contract and to complete the main stages of the Works as follows:
- 4.1.1. Delivery of switchgear set for the 1st unit - 3 (three) generator circuit breaker switchgears and 1 (one) auxiliary transformer switchgear – **52 (fifty-two) weeks** after Contract is signed, but not earlier than 15.04.2023;
- 4.1.2. Delivery of switchgear set for the 2nd unit - 3 (three) generator circuit breaker switchgears and 1 (one) auxiliary transformer switchgear – till **15.05.2024**, but not earlier than 15.04.2024;
- 4.1.3. The Works connected with post-delivery activities at Site – as provided in time schedule of the Works (Annex No.2), and its modifications under the Contract.
- 4.2. The Employer may change the Time Schedule for Works connected with post-delivery activities at Site postponing them up to 1 (one) year. Such postponement of the start of the Works has to be agreed between the Parties in accordance with the Clause 12 of the General Terms, however the Contractor's obligation is to substantiate any additional costs, if claimed thereof.
- 4.3. If delivery of switchgear set for the 1st unit is delayed for more than 30 (thirty) days due to the Contractor's own fault, the Employer is entitled to request, and Contractor is obliged to accept prolongation of the term for delivery of switchgear set for the 2nd unit and corresponding Works for 1 (one) year without additional costs by signing the relevant modification of the Contract in accordance with the Clause 12 of the General Terms.

5. Scope of Works and procedure of assignment

The scope of the Contractual Works is specified in the Contract and for any changes thereto, including unforeseen works, the Employer shall pay the Contractor only in cases if prior to performance of such works the Parties have mutually signed an agreement on changes in the scopes of the Works pursuant to Clause 12 of the General Terms, or for the performance of unforeseen works within the scope and amount of the Contract (from the unforeseen works item specified in Annex No.1), the Employer shall pay the Contractor only if the Parties have included the changes of the scope of such works in a technical deed signed by Project Managers of both Parties. If the Contractor, disregarded the procedure provided for in this Clause, have started and performed the works that are not included in the scope of Contractual Works and the Table of Prices (Annex No.1), then the Employer is not obliged to pay for these works subsequently when these works or the necessary works arising from them have been completed, and all these costs must be borne by the Contractor itself.

6. Warranty defects notification period

The warranty defect notification period shall be 36 (thirty-six) months after delivery and unloading date of the Goods for each unit or 24 (twenty-four) months after Taking Over Certificate is signed for each unit, whatever comes first.

The Contractor guarantees and ensures good quality, functional operation, safe use, compliance of Goods supplied under the Contract with the manufacturer's technical documentation, the provisions of this Contract, a quality certificate and/or certificate of conformity and regulatory enactments of the Republic of Latvia.

If the Goods supplied under the Contract cannot be used for the intended purposes by reason of a defect or defect elimination, the Contractor shall extend the Warranty defects notification period by such a period the Goods could not be used.

7. Contract performance securities

- 7.1. does not apply.
- 7.2. In accordance with the procedure specified in the General Terms the Contractor shall submit to the Employer:
- 7.2.1. a Contract performance security in the amount of 10% of the Contract price – within 21 (twenty-one) days after signing the Contract;
- 7.2.2. an Advance payment security in the amount of the advance payment provided for in the Contract;
- 7.2.3. a Warranty period performance security in the amount of 5% of the Contract price – before handing over the Works to the Employer.

- 7.3. With the prior consent of the Employer the Contractor has the rights to progressively reduce Advance payment guarantee and Contract performance security by the amount of Works performed by the Contractor, but not earlier than Taking Over certificate is issued for the first unit.
- 7.4. The Advance payment security shall be in the form of an irrevocable credit institution (bank) guarantee according to ICC Uniform Rules for Demand Guarantees (Publication No. 758), issued by the credit institution (bank) registered in the European Union and that (or its parent company) holds at least one credit rating assigned by Standard and Poor's, Moody's Investors Services or Fitch credit rating agencies and which is not lower than: "BBB-" if the rating is assigned by Standard and Poor's; "Baa3" if the rating is assigned by Moody's Investors Services; and "BBB-" if the rating is assigned by Fitch; or equivalent. For the avoidance of doubt, credit ratings assigned by all credit rating agencies mentioned above shall be in the level indicated in this Clause, if the bank holds credit ratings assigned by more than one credit rating agency mentioned above. If at any time while the guarantee is valid the credit institution (bank) that has issued the guarantee no longer complies with the requirements of this Clause, the Contractor shall without a delay provide the Employer with the respective guarantee issued by the credit institution (bank) corresponding to the requirements of this Clause. The credit institution (bank) guaranty or any amendment or extension of mentioned guarantees to be submitted by the Contractor to the Employer shall be sent via SWIFT MT 760 and advised through the bank of the Employer.

8. Insurance

- 8.1. does not apply.
- 8.2. The Contractor shall submit a copy of the insurance contract to the Employer in accordance with the procedures specified in the General Terms for:
- 8.2.1. mandatory civil liability insurance of the performer of construction works in the amount specified in regulatory enactments;
- 8.2.2. mandatory civil liability insurance of the construction specialists in the amount specified in regulatory enactments;
- 8.2.3. Contractor's civil liability insurance against the Employer.
- 8.3. The insurance indemnity limit of the Contractor's civil liability insurance against the Employer is not less than the Contract price.

9. Authorisation in the construction information system

- 9.1. does not apply.
- 9.2. The Employer shall provide the Contractor with the authorisation required for the performance of the Works in the construction information system.

10. Procedure of attraction of subcontractors

- 10.1. in accordance with procedure A of the General Terms.
- 10.2. in accordance with procedure B of the General Terms.

11. Procedure of acceptance of Works and payment

- 11.1. The Works are accepted in accordance with the procedure specified in the Technical Specification (Annex No.3.3), but in any case, by signing for each unit separately a Taking Over certificate as specified in the General Terms. Depending on the specific features of the Works, the Contract also provides for the following documents to be signed:
- 11.1.1. Milestone or delivery certificate (according to Milestone payment schedule);
- 11.1.2. taking over certificate of the equipment and/or building after repair and/or maintenance;
- 11.1.3. deeds for acceptance for service specified in the regulatory enactments regulating construction;
- 11.1.4. Performance certificate for each unit under the Contract after the fulfilment of all warranty liabilities;
- 11.2. The Works shall be taken over by the Employer for each unit separately by Taking Over Certificate when:
- 11.2.1. the Works are delivered in full intended scope, quality and without defects;
- 11.2.2. the Works have successfully passed Tests at Site and submitted all relevant reports acceptable to the Employer;

- 11.2.3. the Contractor has submitted the documentation requested under this Contract including Final documentation and operational manuals in the acceptable form for the Employer.
- 11.3. Together with the delivery of Goods, the Contractor shall deliver the documents specified in Annex No. 1 Table of Prices, including the invoice (tax invoice). After completing all the Works and signing the Taking Over certificate for each unit, the Contractor shall submit a tax invoice for the performed Works in accordance with the requirements of regulatory enactments. Tax invoices confirm the performance of the respective Works, including delivery of the respective Goods.
- 11.4. To perform Milestone payments the Parties shall sign a Milestone or delivery certificate after completing of each Milestone indicated in the Milestone payment schedule in Annex No.1. The Milestone or delivery certificate is not to be considered as acceptance documents of the Works but shall serve only as a basis for execution of payments in instalments. The Contractor shall be entitled to issue invoices only after Milestone or delivery certificate has been signed by the Employer. Each Milestone payment shall be reduced by the percentage deductions of Retention money and received Advance payment according to the Table of Prices in Annex No.1.
- 11.5. The Contractor shall issue invoices (if necessary, shall establish a branch office in Latvia) in accordance with the procedure defined in regulatory enactments.
- 11.6. Title to the Goods supplied under the Contract shall pass to the Employer upon delivery and payment for the relevant Goods in full. The title to the rest of the Works shall pass to the Employer upon signing of the relevant Taking Over certificate.

12. Contractual penalty for delay in performance of Works

- 12.1. in accordance with procedure A of the General Terms.
- 12.2. in accordance with procedure B of the General Terms. Each part of the Works to be penalised for delay is determined in Clauses 4.1.1. - 4.1.2. of the Special Terms.

13. Additional terms

- 13.1. The Parties agree on the following additional terms:
- 13.1.1. Term "Goods" means the six (6) new units of GCB switchgears and two (2) new units of disconnecter switchgears and other goods provided for delivery according to the Technical Specification (Annex No.3.3);
- 13.1.2. The Contractor shall indemnify the Employer against all third-party claims of infringement of patent, trademark or industrial design rights arising from use of the Goods (purchased from the Contractor) or any part thereof.
- 13.1.3. The Employer's personnel shall be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Goods. The Contractor shall give the Employer's personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment at no cost. Should any of the Goods inspected or tested is found to be defective or otherwise not in accordance with the Contract, the Employer may reject the Goods or part by giving notice to the Contractor with the reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract. If necessary or if required by the Employer, the Goods shall be retested at the Contractor's cost.
- 13.1.4. The Contractor shall provide packing of the Goods as is required to prevent their damage or deterioration during transportation. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness till the final destination of the Goods and the eventual absence of heavy handling facilities at all points during transportation. All parts, packages and crates shall be adequately marked in order to enable identification of their contents. Each item contained in a package shall be clearly identified on the packing list by its description, part number and assembly drawing reference and each item shall be marked or labelled to correspond with the packing list.
- 13.1.5. The Contractor has the right to terminate the Contract unilaterally by sending a written notice to the Employer if the Employer has failed to settle the payments under the Contract for the Works, executed and accepted as specified in the Contract, and the delay of the Employer lasts at least 60 (sixty) days after such notification. The condition set out in this Clause shall not apply where the Contractor has been subject to international or national sanctions or sanctions imposed by a Member State of the European Union or a Member State of the North Atlantic Treaty Organization that significantly affects the financial and capital market interests and, therefore, the payment cannot be taken

- 13.2. The Parties agree that the following Clauses of the General Terms of the Contract shall be modified:
- 13.2.1. The Clause 4.5. of the General Terms shall be deleted and replaced by the Clause 4.2. of the Special Terms.
 - 13.2.2. The Clauses 4.6., 4.7., 4.8., 6.8, 6.9., 6.10., 6.11., 6.12., 6.13., 6.15., 9.1., 17.3. of the General Terms shall be deleted.
 - 13.2.3. The Clause 4.1. of the General Terms shall be deleted and replaced with the following:
"The Contractor shall perform the Works in accordance with the provisions of the Contract, incl. the Technical Specification (Annex No.3.3), Information for Contractors Performing Works at Latvenergo AS Sites (Annex No.5) and the Technical Design, taking into account the Employer's instructions to the extent that such instructions do not change the Technical Specification, the Contract, the existing regulations, the Contract price or the terms for performance of the Works."
 - 13.2.4. The Clause 6.7. of the General Terms shall be deleted and replaced with the following:
"Five days prior to commencement of the Works at Site, the Contractor shall submit to the Employer's Project Manager an official letter (according to the form specified in the regulations of Latvenergo AS pass system) with a list of employees who will perform the Works under this Contract."
 - 13.2.5. The Clause 10.2. of the General Terms shall be deleted and replaced with the following:
"Unless otherwise provided for in the Contract, after the completion of all the Works for each unit, a Taking Over Certificate of Works shall be prepared and signed in 3 (three) copies or signed by secure electronic signature containing a time stamp."
 - 13.2.6. The Clause 10.3. of the General Terms shall be deleted and replaced with the following:
"The Employer may reject issuing Taking Over certificate if defects and deficiencies are substantially affecting the use of the Works for the intended purposes. This rejection shall give reasons for rejection and specify Works to be done by the Contractor to enable the Taking Over Certificate to be issued. Minor defects and outstanding Works, which do not affect the use of the Works for their intended purposes, have to be listed and attached to the Taking Over Certificate. The Contractor is obliged to rectify defects and deficiencies at its own expense."
 - 13.2.7. The Clause 9.3. of the General Terms shall be deleted and replaced with the following:
"Each of the Parties is responsible for direct losses caused to the other Party resulted from its act or omission. In this Clause defined limit of liability to the Party shall not exceed the Contract price. None of the Party shall be liable for any indirect losses to the other Party, for example, but not limited to loss of profit, production losses, capital losses related to interruption of production. Limit of liability for direct losses as well as the exemption from liability for indirect losses as set out in this Clause shall not to be applied to if losses arise as a result of fraud, gross negligence or willful misconduct of the Party."

14. Responsible persons and authorisations specified in the Contract

[..]

15. Management of the spread of COVID-19

- 15.1. The Parties shall be responsible for and undertake to comply with all measures established in the Republic of Latvia and the Employer's sites in connection with the restrictions of COVID-19, including the responsibility of each Party to ensure that the personnel or third parties with already confirmed COVID-19 infection, as well as persons who do not have an interoperable vaccination certificate or certificate of recovery, as well as persons who have not complied with the restrictions set by the regulatory enactments of the Republic of Latvia and the Employer's company, or persons who have come into contact with persons infected with COVID-19, or have COVID-19 characteristic signs of infection to be not allowed to work on Site. The Employer's representative introduces the other Party with the restrictions set by the Employer's company in relation to COVID-19.
- 15.2. Each Party shall bear the costs incurred by it in connection with the restrictive measures imposed by COVID-19 and compliance with them.
- 15.3. The Parties shall not be liable to each other for any delay or non-fulfilment of liabilities if the Party acted with due professional diligence and is therefore not responsible for any delay or non-fulfilment of liabilities due to spread of COVID-19 or restriction measures that have entered into force after the date of Contractor's tender submission or conclusion of this Contract, including, the Party shall not impose late payment interest, contractual penalties to the other Party and shall not demand compensation for losses or other costs caused by the above reasons.
- 15.4. The Party affected by COVID-19 is obliged to inform the other Party immediately about the delayed deadlines for the fulfilment of obligations and the planned deadlines for the performance of the Works and/or the circumstances of non-fulfilment of obligations.

- 15.5. The Party affected by COVID-19 shall, at the request of the other Party, demonstrate the circumstances set out in the notification, including that the cause of the delay or non-fulfilment of liabilities is COVID-19 and that it has acted with due professional care to prevent the delay or non-fulfilment of liabilities.
- 15.6. In the event if due to the spread of COVID-19 or measures related to its restriction, the Parties are unable to continue to fulfil their obligations, the Parties agree to have the right to terminate the Contract. A party shall also have the right to terminate the Contract unilaterally if due to the spread of COVID-19 or measures related to its restriction for the other Party it is impossible to continue fulfilling the obligations under the Contract for more than 90 (ninety) days.

16. Signatures of the Parties

- 16.1. By signing these Special Terms of the Contract, the Parties also agree to the General Terms of the Contract and the Annexes provided as selected in Clause 3.3. of the Special Terms.
- 16.2. The Contract, together with its Annexes is signed by secure electronic signature which contains a time stamp. The Contractor shall sign the Contract by secure electronic signature containing a time stamp and the signed Contract shall be sent to the Employer's e-mail: kanceleja@latvenergo.lv within one working day. The Contract signing date is the date of the last added secure electronic signature containing a time stamp.

EMPLOYER
Latvenergo AS
[..]

CONTRACTOR
Hitachi Energy Estonia AS
[..]

Ar [..] tiek apzīmēta informācija, kas nav izpaužama trešajām pusēm