

EPC+ MODULAR MODEL CONTRACT  
- Belgium -

Public version

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[www.epcplus.org](http://www.epcplus.org)

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## **EPC+ MODULAR MODEL AGREEMENT**

This agreement (the "Agreement") dated as of [day month year], is made and entered into by and between [Company name], represented by [Name], [Position], with its registered office at [ ], with enterprise number [..] (hereinafter referred to as the "Client"),

and

[Company name], represented by [Name], [Position], with its registered office at [ ], with enterprise number [..] (hereinafter referred to as the "Contractor").

Hereinafter, the Client and the Contractor shall be collectively referred to as the Parties”, and “Party” shall mean any one of the Client or the Contractor as applicable in the context in which the term is being interpreted.

### **§ 1 PREAMBLE – CONTRACT OBJECTIVE AND CONTRACT’S SUBJECT**

#### **§ 1 - 1 SUBJECT**

The objective of this contract is to reduce energy consumption, energy costs and emissions and to increase the user comfort in the contract object.

The CONTRACTOR has investigated with the help of the CLIENT potential savings in terms of energy consumption and energy costs (hereinafter the potential savings) in the contract object. These savings can be achieved through technical and other measures to improve the energy efficiency of the building and related equipment.

The CONTRACTOR has investigated the necessary investments needed to implement the proposed and agreed on measures.

The reduction of energy cost of the CLIENT is done by an independent guarantee-promise, in which the CONTRACTOR commits to use energy-saving measures to reduce the energy cost in the contract object of the CLIENT during the contract period.

The achieved energy savings will be verified by a simplified and standardized process, measured before and after the implementation of the measures in compliance with defined quality standards.

The CONTRACTOR will comply with the European Code of Conduct for EPC (developed within the Transparens-project) that ensures transparency and quality for the contractual subject. If this contract and the Code of Conduct are conflicting, this contract takes precedence over the Code of Conduct.

**§ 1 - 2 CONTRACT'S OBJECT**

*Short building description:*

*“name”, address, use, building age, conditioned area, ...  
...With reference to existing documents (plans, scheme, ...)*

*Italic: replace by short  
facility description*

**§ 2 PROJECT MANAGERS AND DISPATCHES**

Project managers of the CLIENT and the CONTRACTOR for all matters concerning this contract are:

For the CLIENT:

1<sup>st</sup> Name:  
Phone (direct):  
E-mail:  
  
2<sup>nd</sup> Name:  
Phone (direct):  
E-mail:

For the CONTRACTOR :

1<sup>st</sup> Name:  
Phone (direct):  
E-mail:  
  
2<sup>nd</sup> Name:  
Phone (direct):  
E-mail:

The project managers are empowered, to represent the CLIENT and respectively the CONTRACTOR vis à vis the other party. The authorization includes the right to amend or supplement the contract in writing.

It is agreed that legally effective notifications may only be delivered to the addresses hereafter:

**CLIENT:**

Office:  
Street Address:  
ZIP / Town:  
Phone (direct):  
Direct fax:  
E-mail:

**CONTRACTOR:**

Company:  
Street Address:

ZIP / Town:  
Phone (direct):  
Direct fax:  
E-mail:

### **§ 3 ASSISTANTS TO FULFILL THIS CONTRACT**

The Contractor is generally entitled and free at his discretion to appoint appropriate third parties respectively partners as subcontractors and agents for the implementation of this contract. The Contractors must inform the CLIENT in writing prior to the signature to this contract about the subcontractors engaged.

### **§ 4 ANALYSIS AND PERFORMANCES OF THE CONTRACTOR**

The overall performance of the CONTRACTOR is divided into preparatory services, and in the main performance. The preparatory services have already been performed prior to the signature of this contract and are integral part of this contract.

Preparatory Services: The CONTRACTOR initially performed an analysis including:

- 4-1 The determination of the Baseline
- 4-2 An analysis of energy savings and planning of energy measures (saving prognosis)
- 4-3 The determination of the investment costs, saving guarantees and the time schedule of implementation.

Main Performance: In the framework of this contract the Contractor will perform the following duties:

- 4-4 Implementation of the planned energy measures according the time schedule
- 4-5 Saving Guarantee
- 4-6 Financing of the Investment
- 4-7 Proof of Savings
- 4-8 Service and Maintenance

#### **§ 4 - 1 BASELINE**

Basis of the CONTRACTOR's analyses are surveys to define the energy consumption and costs.

Depending on the planned energy measure, the total energy consumption or just concerned parts can be the baseline for further energy savings (e.g. lighting – only energy consumption for lighting is the reference for savings and not the whole electricity

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consumption of the building). The reference is clearly defined through \_\_\_\_\_ (e.g. *by metering, consumption according energy bill or other suitable bases*). *Additional associated comfort conditions, terms of use and outside conditions (heating degree days) have to be declared in detail. The relevant energy costs have to be calculated with the current energy rates according to relevant energy bills within the reference period – normally the calendar year.*

The present calculation rules for determining the baseline of energy costs (related to calendar year/accounting period, inside and outside conditions) and the exact procedure for calculation of the baseline energy costs (weather-adjustment of heat energy consumption etc.) are part of this contract and included in the Appendix Fine Analysis - Baseline.

On the basis of collected data (Appendix Fine Analysis - Baseline) the parties agree to the *year/the metering/....* as reference (*year*) and set a benchmark for the guaranteed savings of the CONTRACTOR an energy cost value expressed in amounting

*Italic: to be adapted individually*

to net .... € without VAT

### **§ 4-2 SAVINGS PROGNOSIS**

The CONTRACTOR, respectively a professionally qualified subcontractor authorized by the CONTRACTOR, will determine the savings potential, and based on this determination will provide a final and binding savings prognosis in terms of energy use and energy costs. This binding savings prognosis is stated in Appendix Fine Analysis – Baseline.

### **§ 4-3 AMOUNT AND STRUCTURE OF THE TOTAL INVESTMENT/ TIME SCHEDULE**

The investment costs include:

- **Planning / engineering / optimization of existing equipment:**  
All performances of the CONTRACTOR, which should be considered engineering or architectural services, including the commissioning or necessary default investigations.
- **Technical equipment / facilities / plant and implementation:**  
All physical objects, which the CONTRACTOR brings to the contract object, as an energy-saving measure, regardless whether they are essential elements or accessories, including software, but except imaginary elements

In accordance with the CLIENT the CONTRACTOR has to generate a timetable for implementation of the measure.

**§ 4-4 IMPLEMENTATION**

The CONTRACTOR is obliged to implement energy saving measures for the purpose of realization of the savings potential regarding the contract object according to time schedule.

Energy costs in terms of this contract are the ones of the reference period. The statutory VAT remains generally sidelined.

All energy-saving measures implemented by the CONTRACTOR need the acceptance by the CLIENT. After competition a formal acceptance / take over by the CLIENT must occur (c.f. §7).

**§ 4-5 SAVING GURANTEE**

The CONTRACTOR guarantees to reduce the above-defined energy costs per billing period to a savings amount of \_\_\_\_\_€ according to the tariffs in the table below. The statutory VAT will remain outside the budget.

The saving is budgeted as follows:

Consumed media	Cost Savings €/a	Consumption Reduction	tariff	Performance reduction	tariff
Heat energy medium 1	€/a	MWh/a	€/MWh	kW	€/kW
Heat energy medium 2	€/a	MWh/a	€/MWh	kW	€/kW
Electrical Power	€/a	MWh/a	€/MWh	kW	€/kW
Water / Waste Water	€/a	m <sup>3</sup>	€/m <sup>3</sup>		
Sums	€/a				

**§ 4-6 PROOF OF SAVINGS (FORMAL ACCEPTANCE)**

After implementation of the measure the CONTRACTOR has to give proof of the achieved savings according to the M&V-concept (c.f. Appendix 1 Fine Analysis). Furthermore the CONTRACTOR has to commit the energy measure complete and without any faults for a formal acceptance by the CLIENT.

The verification of the achieved saving is depending on the measure implemented and can occur in a simplified M&V-mode or in accordance with IPMVP (International Performance Measurement and Verification Protocol, option A-D (c.f. Appendix Fine Analysis),

*e.g. by metering before and after implementation, comparison of energy consumption according to energy bills or by other suitable instruments fixed in the fine analysis as part of this contract*

*Italic: to be adapted individually*



§ 4-7 SERVICE AND MAINTENANCE OF SUPPLIED CONSTRUCTION,

*Italic: Service and Maintenance is normally not part of the EPC+Contract... If maintenance of the supplied constructions should be part of the contract this paragraph can be inserted....]*

The CONTRACTOR takes over service and maintenance of the parts built by him for three years after implementation of the measures. The CLIENT can cancel Service and Maintenance by the end of each year.

Maintenance for the purposes of this contract covers all measures for the establishment and determination of the real value by current technical means of a system (inspection), all measures for the restoration of the desirable technical status a system (maintenance) and measures to restore the status of technical desires through a system (maintenance) in the sense of all energy-saving measures provided by the CONTRACTOR, and also at construction works respectively in the landed property introduced or delivered systems / equipment / and plant.

*Italic: to be adapted to national standards*

Maintenance refers explicitly to construction services provided by the CONTRACTOR.

The remuneration for Service and Maintenance is defined in § 6.

**§ 5 INVOLVEMENT OF THE CLIENT**

The CLIENT supports the CONTRACTOR, or its subcontractors to the best of its abilities in the creation of analysis and implementation. The CLIENT will in particular

- ensure that the CONTRACTOR or its agents have access to the contract subject within the normal working hours,
- provide energy relevant data like energy bills, technical descriptions and schemes,
- inform the CONTRACTOR about any change in use of the building.

**§ 6 REMUNERATION OF CONTRACTOR AND FINANCING**

§ 6-1-V1 BASIC REMUNERATION INVESTMENT – FINANCING BY CLIENT

As basic compensation for its services, the CONTRACTOR will receive an amount of € \_\_\_\_\_ plus VAT right after the formal acceptance with full proof of energy saving.

Payment conditions: .....

*Depending on the chosen financing method the appropriate paragraph shall be kept or adapted.*

§ 6-1-V2

**FINANCING BY CONTRACTOR**

The CONTRACTOR will bill the whole investment right after the formal acceptance with full proof of energy saving and receives installments according to the payment plan in Appendix “Payment Plan”.

§ 6-2 **MODULE FORFAITING**

*The CONTRACTOR is allowed to sell a fixed percentage of these payments (to meet with this contract incurred investment costs connected with its execution to a finance company.*

*Italic:  
optional,  
only if  
applicable*

*This percentage of the basic salary is a maximum of .... %. The finance company will inform the CLIENT of the assignment. The CONTRACTOR shall provide the financing company with the requested authorization to announce the assignment. Until revocation of the finance company the CLIENT remains obliged to perform the assigned claims of the financing company to the CONTRACTOR.*

§ 6-3 **SERVICE AND MAINTANANCE**

*The CLIENT will pay to the CONTRACTOR the in § 6 mention remuneration for service and maintenance.*

*Italic:  
optional,  
only if  
applicable*

**§ 7 TAKE OVER, RISK AND OWNERSHIP TRANSFER**

§ 7 - 1 **TAKE OVER**

All energy-saving measures of the CONTRACTOR, whether building works, other works or performances, need the acceptance of the CLIENT.

After the full and complete completion the CONTRACTOR has to seek for formal acceptance of the measures. The acceptance has to be documented.

§ 7-2 **RISK TRANSFER**

The risk of energy-saving measures provided by the CONTRACTOR transfers with the formal acceptance by, and after the proof of savings (c.f. §4-6) to, the CLIENT.

§ 7-3 TRANSFER OR OWNERSHIP

The ownership of technical plant / equipment / devices / that the CONTRACTOR by way of energy saving measures, either delivers or otherwise brings into the contract object transfers with the full payment of the remuneration declared in § 6 of this contract.

**§ 8 CONTRACT BEGIN, BEGIN OF MAIN PERORMANCE**

§ 8-1 CONTRACT BEGIN

This contract shall enter into force together with its attachments at the date of signing of the contract by both parties.

§ 8 - 2 END OF CONTRACT

The duration of the contract will be \_\_\_\_months, starting with the signature date of the CLIENT.

**§ 9 LIABILITY QUESTIONS**

The liability of the CONTRACTOR is limited to damages caused by intent or gross negligence. The liability related to consequential damage is excluded.

The overall liability of the CONTRACTOR is limited to 5% of the net contract sum with a maximum of EUR .....

**§ 10 INSURANCE OF CONTRACTOR (optional)**

The CONTRACTOR takes our adequate insurance against risks, which can arise in connection with this contract, and will inform the CLIENT about this insurance policies.

**§ 11 EARLY TERMINATION**

This contract may be terminated prior to the end date by either party forthwith by written notice to the other party if the other party:

is in material breach of any of its obligations under this contract and fails to remedy such breach within fourteen days of being required to do so.

Any termination of this contract shall be without prejudices to the respective rights and liabilities of each of the Parties accrued at the time of such termination.

**§ 12 CONFIDENTIALITY**

§ 13-1 CONFIDENTIALITY OBLIGATIONS.

The Parties shall hold all Confidential Information in confidence in accordance with the terms of this agreement.

§ 13-2 USE ONLY FOR THE PURPOSE.

The Parties shall use Confidential Information solely for the purpose of the implementation of the measures.

§ 13-3 DEFINITION OF CONFIDENTIAL INFORMATION.

The term "Confidential Information" includes all information, written or oral, disclosed or made available to the other party through any means of communication.

**§ 14 JURISDICTION, LEGAL STATUS**

This contract shall be governed and construed in accordance with the law of Belgium.

**§ 15 ANNEXES**

- **Appendix 1 Fine Analysis** which following content:
  - Short description of the object (building)
  - Description of the energy measure (type and scope, time schedule)
  - Baseline with refer to the bases (metering, bills,..)
    - consumption, price, period, indoor and outdoor contitions
  - Description proof of energy savings
  - M&V-concept ( Including baseline adaptations or change in the use of facilities (conditions, area, time,...), degree-day method)

- **Appendix 2 Payment Plan**

- **Appendix 3 .....**

....., ....., .....

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This contract has been signed on .././..... in two original copies, each Party having received a copy.

....., .....

For and on Behalf of the CLIENT

....., .....

For and on Behalf of the CONTRACTOR