

# Slovenské elektrárne, a.s.

## GENERAL TERMS AND CONDITIONS

SE as a Customer  
Version 01/02/2013

### I. INTRODUCTORY PROVISIONS

- 1.1 These are the General Terms and Conditions of Slovenské elektrárne, a. s. (hereinafter referred to as the "GTC"), which shall form an integral part and annex to the order/contract (hereinafter referred to as the "Contract") and shall enter in force together with this Contract. The respective provisions herein shall not apply if otherwise agreed in the Contract (pursuant to Art. 273 (2) of the Commercial Code) or their application is precluded exclusively therein.
- 1.2 For the purposes herein, the party, which provides services, works or performances, including eventual deliveries of goods related to the Contract subject matter or goods (hereinafter referred to as the "Delivery") under the Contract whose annex constitutes the GTC, is identified as the "Contractor" and the company Slovenské elektrárne, a. s. is identified as "SE", regardless of their titles in the Contract. The GTC provisions in which the identification "Contractor" can be found shall apply to local as well as foreign contractors.
- 1.3 The Contractor undertakes to inform demonstrably the sub-contractors and their workers participating in the Delivery to SE about all obligations resulting from the GTC and ensure its adherence to the GTC by its employees, sub-contractors and sub-contractors' employees.
- 1.4 On behalf of and representing SE:
- a) contact person/persons, whose name and surname is specified in the Contract, part "Contact person", or other person/persons, authorised by the Contact person, shall be entitled to act in the Contract matters,
  - b) authorized person/persons of SE, whose name and surname is specified in the Contract, part "Authorized person", or other person/persons, authorised by the Authorized person, shall be entitled to act in the matters of the Delivery, which means the Delivery performance, the Delivery takeover, the Delivery checks, the Delivery testing, etc.
- 1.5 On behalf of and representing the Contractor:
- a) contact person/persons, whose name and surname is specified in the Contract, part "Contact person", or other person/persons, authorised by the Contact person, shall be entitled to act in the Contract matters,
  - b) authorized person/persons of the Contractor, whose name and surname is specified in the Contract, part "Authorized person", or other person/persons, authorised by the Authorized person, shall be entitled to act in the matter of Delivery, which means the Delivery performance, the Delivery handover, the Delivery performance checks, the Delivery testing, etc., except for the handover of the Performance, where the clause 6.6 shall apply.
- 1.6 For the purposes herein, the price of the Delivery (hereinafter referred to as the "Price") shall mean:
- a) the total price of the Delivery, excluding the Value Added Tax (hereinafter referred to as "VAT"), agreed in the Contract, if the Contract subject matter is the Delivery in whole,

- b) the price of individual Delivery, excluding VAT, agreed in the Contract, if the Contract subject matter is the performance of several separate Deliveries,
- c) the price of the Delivery provided within the calendar month (or other agreed period of time), excluding VAT, agreed in the Contract, if the Contract subject matter is the recurring Delivery,
- d) the price of the Delivery upon written request, excluding VAT, if the Contract subject matter is to provide the Delivery upon written requests.

If the Contractor has its registered office or place of business outside the territory of the Slovak Republic and does not have a fixed establishment in Slovak Republic according to the Act No. 222/2004 Coll. on value added tax as subsequently amended (hereinafter referred to as "VAT Act"), which participates in the Delivery (hereinafter referred to as the "Foreign Contractor"), for the purposes herein, in such case the Price shall mean similarly the price as defined in letters a) to d) of this clause, except for the text "excluding VAT".

- 1.7 If a term "part of the Delivery" is used in the Contract, it shall mean the respective individual separate Delivery.
- 1.8 For the purposes herein, the "Contracting Party" shall mean SE or the Contractor, where the "Contracting Parties" shall mean SE and the Contractor.
- 1.9 Any reference in these GTC to the term "Commercial Code" or "CC" shall mean the reference to the Act No. 513/1991 Coll., Commercial Code as amended.

### II. BASIC PROVISIONS

- 2.1 The SE draft Contract or a motion to file a bid shall not be the call to commence the Delivery. The Contractor can only commence the Delivery under the Contract, on the basis and in accordance with the terms and conditions specified therein.
- 2.2 All the Deliveries performed by the Contractor beyond the scope agreed in the Contract shall be approved by SE in writing prior to the commencement thereof. SE shall not take over or pay for any Delivery performed prior to such approval.
- 2.3 If a unit price of the Delivery is agreed in the Contract and simultaneously the Contract or annexes give a number of units of the particular Delivery, the Contractor shall not be entitled to exceed the number of units given in the Contract without prior SE's written permission. SE shall not take over or pay for any extra Delivery made without such permission. In such case, SE shall be entitled to return an invoice back to the Contractor.
- 2.4 **No Delivery** from the Contractor or SE **are provided free of charge.**
- 2.5 If the Contractor provides deliveries on SE's premises, the Contractor shall take a note of the fact that SE may provide to the Contractor:
- a) premises having the nature of the site equipment, offices or other rooms,
  - b) electricity, technical gases, pressed air, water, etc.
- against payment and under a special contract.

2.6 Accommodation, meals and transport of the Contractor's staff shall be provided for and paid by the Contractor and these costs shall be included in the Price.

2.7 The Contractor declares that:

- a) the Delivery carried out under the Contract is in line with its scope of business,
- b) the Delivery shall be undertaken by professionally competent personnel in accordance with the applicable legal regulations and SE safety and technical conditions, if they form part of the Contract, and if annexes to the Contract include a Declaration on subcontractors, the Contractor undertakes to comply with the terms and conditions stated therein. In case that the Contractor breaches any obligation from those mentioned in the Declaration on subcontractors, SE may claim from the Contractor a contractual penalty pursuant to clause 10.6 herein,
- c) in the case any damage is incurred during the execution of the Contract in connection with its activities, the Contractor undertakes to compensate the damage to SE in the proven scope, including lost profit.

2.8 All notices and all communications between the Contracting parties under this Contract shall be made in writing, that is by registered mail, express courier service, by fax or e-mail and are deemed to be duly delivered by their delivery to the concerned Contracting party to the address or fax numbers given by the Contracting parties in the heading of the Contract in the event that the following text of the Contract does not give addresses or fax numbers for the delivery.

The Contracting Parties agreed that a document is regarded as delivered if:

- a) the receiving Contracting Party refuses to accept the document – in such case the document is regarded as delivered on the date of the refusal; or if
- b) the document is not delivered due to, for example, failure to collect the mail by the end of the collection period or because the addressee has not been reached, or because the addressee was unknown or for any other reason declared by the post office on the mail; in such case the document is regarded as delivered on the day when the mail is deposited with the post office.

2.9 During the term of the Contract, the Contractor shall notify SE **within 5 working days** about all changes related to:

- a) trade name,
- b) registered office or place of business,
- c) scope of business,
- d) statutory bodies, including the mode of their representation towards third parties,
- e) the Contractor's winding up,
- f) beginning of distraint of the Contractor's property and
- g) beginning of the proceedings pursuant to Act on Bankruptcy and Restructuring No. 7/2005 Coll.

During the term of the Contract, the Contractor shall also inform SE in writing about the date of cancelled VAT payer's registration, about the date of VAT payer's registration, and shall do so **without any delay** after that date.

In case of breach of the Contractor's obligations under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.5 herein.

### III. SPECIFIC CONDITIONS OF DELIVERY

3.1 The Contractor shall announce to SE names and e-mail addresses of those Contractor's representatives of who are supposed to be granted an access to the SE's information system at latest on the day of commencement of the performance under the Contract. The access to the SE information system has been set up in accordance with applicable authorization procedures in SE.

3.2 The place of delivery is the SE's registered office at Mlynské nivy 47, 821 09 Bratislava unless the Contract provides otherwise.

3.3 At the entry of the Contractor's workers, SE is entitled to perform a breathalyzer test or a test of use of narcotic or psychotropic substances of the Contractors' worker. In case the result of the breathalyzer is positive, SE may claim from the Contractor a contractual penalty pursuant to clause 10.11 herein.

3.4 At the entry of the Contractor's workers, SE is entitled to carry out personal inspection of bringing in prohibited items. At the departure of the Contractor's workers, SE is entitled to carry out personal inspection of taking out prohibited items.

The Contractor is not entitled to bring into SE's premises the following items:

- guns, ammunition, explosives, trap explosive systems and their imitations;
- alcohol, narcotic and psychotropic substances;
- items not related with work activities.

The Contractor is not entitled to take out of SE's premises the following items:

- any items and materials not owned by a Contractor;
- waste which the Contractor is not entitled and obliged to dispose or recycle in accordance with the Contract.

In case of breach of the prohibitions under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.10 herein.

3.5 In case of transport of SE's assets containing hazardous substances, which is a subject of the Delivery, the Contractor shall undertake to observe provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) (Regulation of the Minister of Foreign Affairs No. 64/1987 Coll.) as amended and Act No. 56/2012 Coll. on Road Transport.

3.6 If during the performance of the Delivery a work shall be created pursuant to the relevant provisions of Act No. 618/2003 Coll. on copyright and copyright-related rights as subsequently amended (hereinafter referred to as "**Copyright Act**"), the Contractor as the author shall conclude a licence agreement with SE as the licensee, in accordance with the provisions of Section 40 of the Copyright Act, without undue delay but not later than 15 days from creation of the work, the subject of which shall be awarding of a consent to utilize the work, based on which the Contractor shall grant to SE an **exclusive** licence and a right to provide sub-licence for the period of existence of the author's rights in property pursuant to the Section 21 of the Copyright Act, and a territorially unlimited licence, and a consent to utilize the work in the ways specified in Section 18, Subsection 2 of the Copyright Act.

If during the performance of the Delivery the Contractor creates the work meeting the definition of

- a) a patentable invention in compliance with respective provisions of the Act No. 435/2001 Coll. on Patents and Supplementary Protection Certificates as amended and asks for awarding a patent for the work or



- b) a technical solution protected by an utility model in compliance with respective provisions of the Act No. 517/2007 Coll. on Utility Models as amended and asks for protection of the work by an utility model or
- c) design in compliance with respective provisions of the Act No. 444/2002 Coll. on Design and asks for registration of the work as design or
- d) other subject of the industrial property

(hereinafter referred to as "**Subject of Industrial Property**"), the Contractor as the provider shall undertake to conclude a licence agreement with SE as the licensee without undue delay but no later than within 15 days from acquisition of the right to the Subject of Industrial Property in compliance with Article 508 et seq. of the Commercial Code, the subject of which is awarding of a consent to use the work protected as the Subject of Industrial Property (hereinafter referred to as "**Licence**"). The Contractor shall undertake to award an exclusive and territorially unlimited Licence to SE for its performance in the extent of the entire activity of SE, for the duration of validity of the right to the Subject of Industrial Property.

The remuneration for awarding the licence according to this clause is included in the Price for work. In case of Foreign Contractor the remuneration for utilization of the work created according to this clause is valued separately in the Contract unless its value is negligible.

- 3.7 The Contractor undertakes to settle all legal relations with third parties that created or supplied the Delivery content, namely by concluding relevant copyright and other contracts so that such parties cannot make any claims resulting from the moral, copyright, industrial rights, rights related to the copyright or other similar rights related to the duly performance of the Contractor's obligations against SE resulting from the Contract. In case of the cancellation of a Contractor with no legal successor, the Contractor shall, before its cancellation, provide SE with source data to the created work or to Subject of Industrial Property.

#### IV. CHEMICAL SUBSTANCES AND CHEMICAL COMPOUNDS

Provisions of this Section V. are applicable only to Contractors supplying chemical substances and compounds to SE (hereinafter referred to as "**CS or CC**").

- 4.1 A Contractor shall deliver, along with the delivered CS or CC the Safety Data Card (hereinafter referred to as "**SDC**") in the Slovak language. For CS or CC that are not dangerous, the Contractor only needs to deliver a statement that the delivered CS or CC is not classified as dangerous.
- 4.2 The expiration date must be clearly indicated directly on the packing of the CS or CC by the manufacturer or supplier. In justified cases (where CS or CC are in liquid form and are delivered in large-volume tanks or freely stored), the expiration date may be specified in the test certificate, other certificate or SDC directly.
- 4.3 Upon an additional written request by SE, the Contractor shall be obliged within 10 days from the delivery of such written request to deliver the SE's Authorized person any additional documents specified in the written request by SE (e.g.: a test certificate, technical specification, technical certificate, and other certificate, purpose of use, authorisation, other specific requirements for quality and cleanness, or the type of the product).
- 4.4 The Contractor shall provide marking of the CS or CC packages in compliance with the applicable legislation (Act No. 67/2010 Coll. on Conditions to Introduce Chemical Substances and Chemical Compounds on the Market and on Amendments of Certain Acts (hereinafter as the "**Chemistry Act**"). Labelling

of CS or CC on the package must in proportion to the size of the package be of such size, location, form, and design as to be always clearly and constantly visible. Labelling and documentation of the CS or CC must be in the Slovak language. The packing of dangerous CS or CC must also provide the following data:

- a) name of the dangerous substance, commercial or other name of mixtures,
- b) company name, seat, and telephone number of the legal entity, or the name, surname, permanent address, and phone number of the natural person supplying the dangerous CS or CC,
- c) warning symbols and verbal identification of danger,
- d) verbal identification of specific risk,
- e) verbal identification of safe use,
- f) EC number (registration number for every CS commercially available in the European Union); for mixtures name of substances presence of which caused the classification of the mixture as carcinogenic and mutagenic and substances with reproductive toxicity to human health,
- g) weight or volume.

#### V. INSURANCE

- 5.1 In the event the Contract subject matter is to provide the Delivery concerning SE's assets and in order to meet this purpose the Contractor takes over and relocates SE's assets outside the SE's buildings, the Contractor shall have the liability-for-damage insurance policy arranged up to the sum of the new value of the relocated assets belonging to SE. Assets may be relocated only with the consent of SE in writing.

#### VI. DELIVERY TAKEOVER AND TESTING

- 6.1 SE shall take over the Delivery by the means of a written Takeover protocol:
- a) in case of goods delivery, the Takeover protocol shall be considered to be the delivery note certifying the takeover of the delivery by SE and giving the date of takeover by SE;
 

In case of goods delivery from the territory outside the Slovak Republic the delivery note shall contain:

    - customs tariff code of goods,
    - country of origin,
    - net weight of goods
  - b) in case of other types of Deliveries the Takeover protocol shall be considered to be any document containing a detailed list of Delivery performed.
- 6.2 Takeover protocol signed by SE and the Contractor represents the document proving the fulfillment of the Contract subject matter.
- 6.3 If any identification cards for entry (hereinafter referred to as "**entry IDC**") were assigned to the Contractor's personnel for the purposes of performance of the Delivery, issued by SE, the Takeover protocol of the last Delivery performed under the Contract shall contain the number of entry IDC not returned by the Contractor's personnel by the date of the takeover of such Delivery.
- 6.4 The Takeover protocol shall be made at least in three counterparts. Two counterparts shall be received by SE, one counterpart shall be received by the Contractor.

- 6.5 The Contractor shall invite SE, in writing, to take over each Delivery in accordance with the Contract at least 5 working days before handover of the Delivery.
- 6.6 If the Delivery will be handed over on behalf of the Contractor by other person than the one authorized pursuant to the clause 1.5b) herein, such person shall submit no later than at initiation of the Delivery handover a written authorization signed by a statutory body of the Contractor proving his/her right to act on behalf of the Contractor in the Delivery handover procedure.
- 6.7 The Contractor shall submit all documents proving technical solution, quality of supplies and contractual performance within the Delivery, mainly the documents necessary to prove civil test pursuant to the valid legal regulations. At investments:
- a) execution documentation showing all modifications and minor deviations,
  - b) as-built documentation,
  - c) accompanying technical documentation primarily consisting of protocols from performed prescribed or agreed tests, certificates of used materials, protocols of initial revisions of electric installations, Log book etc.
- 6.8 Unless otherwise agreed by the Contracting Parties, the Contractor shall carry out testing or technical inspection of the Delivery (hereinafter referred to as the "Testing") prior to the handover of the Delivery, in order to find out whether the Delivery complies with the requirements on quality and execution and whether it complies with the specified conditions. The Contractor shall submit the results of the Testing to SE on the day of handing over the Delivery at the latest.
- 6.9 Unless otherwise agreed in the Contract, SE has the right to be present at the Delivery testing, the Contractor shall notify SE of the place and time of such testing fourteen (14) dates in advance of the scheduled date thereof or on other mutually agreed date.
- 6.10 Should the SE's authorized person fail to be present at the Testing at the specified time, the Contractor may execute the Testing in the SE's absence, however the Contractor shall inform SE about the Testing results without undue delay.
- 6.11 Costs related to the execution of the Delivery Testing shall be borne by the Contractor. If complex tests of the Delivery are performed, the respective provision of the Safety and Technical Conditions of Performance in SE shall be applied.
- 6.12 Unless the Testing is done at the agreed time by the Contractor's fault or the outcome thereof is negative, the Contractor shall refund to SE all the costs incurred by SE with respect thereto.
- 6.13 Testing in SE's presence shall not relieve the Contractor of the liability for defects identified after the effecting of the Delivery.
- 6.14 The Delivery, which is the subject of takeover, shall be transferred to SE's ownership with all the resulting rights and liabilities since the instant the Takeover protocol is signed.
- 6.15 Unless otherwise agreed in the Contract, in the event the Contractor manufactures an object in SE, on the SE's land or the land procured by SE, SE shall bear the damage liability for the manufactured object, however they are its owner.
- 6.16 The Contractor bears the risk of the damage on objects taken over by the Contractor from SE, being subject to assembly, maintenance, repair, modification, revision or measurement. The ownership title to the objects in this case remains to SE.
- 6.17 In the case SE took over the Delivery with defects or unfinished works non-preventing its use (hereinafter referred to as "small defects"), SE are entitled to **retain** money in the amount of **10% of the Price of the Delivery**. SE shall release the retained money within 23 calendar days in the month following the month of small defects removal.
- 6.18 The Contractor undertakes to inform SE of any changes to the facts stated in the preceding clauses of this article during the Contract term, in writing and **without undue delay**, within 5 working days from the change, at the latest. Otherwise, the information is regarded as valid, true and complete even on the day of the Contractor's tax liability commencement.
- VII. BILLING, PAYMENT AND TAX TERMS**
- 7.1 The basic document for payment of the Price shall be an invoice issued by the Contractor and delivered to SE. The invoice has to be made out in accordance with valid legislation.
- 7.2 The Contractor's invoice and payment shall be made in **euros** unless other currency is agreed in the Contract.
- 7.3 If the Contractor provides the transport of the goods (to the Slovak Republic borders or to the place of destination in the Slovak Republic) when importing the goods, for the purposes of customs proceedings that are arranged by SE, the Contractor shall provide to SE the information about the value of the transport at latest on the day of the loading the goods on the means of transport, unless such value is indicated in the Contract.
- 7.4 If the Price agreed to in the Contract is an hourly rate, the Contractor shall be entitled to charge SE only the hours actually worked during the providing of the Delivery. The Contractor shall not charge SE the time necessary for breaks at work, personnel transfers, for arranging entries to the SE's area, and the like.
- 7.5 The basis for issuing invoice for the performed Delivery is:
- a) a detailed description of the Delivery in the form of the Takeover protocol pursuant to the clause 6.1 herein (hereinafter referred to as "Takeover protocol"), if the billing after the takeover of the respective separate Delivery, including the Delivery upon written request, was agreed in the Contract; or
  - b) a detailed description of the Delivery performed during whole period for which the billing and payment was agreed in the Contract (hereinafter referred to as "billing period") (e.g. in the form of acceptance protocol or copies of the records in the assembly or construction logbook, service logbook/report or the report on worked hours) confirmed by SE in case of a recurring Delivery or Delivery for which a continuous invoicing was agreed in the Contract; and
- which shall be attached to the invoice by the Contractor.
- 7.6 If the SE's assets, within the performance of Delivery or for the purpose of the elimination of defects will be transported outside the territory of the Slovak Republic, where such Delivery shall be performed or the elimination of defects shall be made, and after the performance of Delivery or the elimination of defects the SE's assets shall be returned back to the Slovak Republic, the Contractor, if the transport shall be ensured by him or on his behalf, shall arrange, for the VAT purposes, the following documents:
- transport documents or other documents regarding dispatching, which contain the place of destination proving the dispatching of the SE's assets from the Slovak Republic to an EU member state and their returning to the Slovak Republic from an EU member state, if the Contractor provides the transport of the SE's assets through other entity, or



- the written confirmation of receipt of the SE's assets by SE's Authorized person if the transport of the SE's assets is carried out by the Contractor.

The Contractor shall hand these documents over to SE:

- a) in case the transport of the SE's assets was carried out within the performance of Delivery – together with the invoice issued for such Delivery, at latest;
- b) in case the transport of the SE's assets was carried out for the purpose of the elimination of defects – by the date of the takeover of the SE's assets back by SE, at latest.

7.7 Unless otherwise agreed in the Contract, the Contractor shall issue an invoice for the performed Delivery as follows:

- a) within fifteen (15) days **after the takeover** of each individual Delivery by SE on the basis of the Takeover protocol, if billing and acceptance of each individual Delivery is agreed in the Contract, or
- b) within fifteen (15) days at the latest **after the expiry** of a respective billing period agreed in the Contract in case of the recurring Delivery or in case of a continuous billing for the Delivery; and the subject for billing in this case shall be the Delivery in the scope delivered during the whole billing period, and the delivery date in this case shall be the last day of the billing period, or
- c) according to a payment calendar agreed in the Contract, or
- d) within fifteen (15) days from the receipt of the payment by the Contractor before effecting the Delivery.

7.8 The Contractor shall be entitled to issue a summary invoice under the VAT Act within 15 days after the end of a calendar month for the Deliveries that have been taken over by SE during a calendar month.

7.9 Special invoicing conditions:

- a) if for the Delivery supplied partially or repeatedly (other than those in the following clause) a payment has been agreed for a period of time longer than 12 calendar months, the Delivery is deemed to be supplied on the last day of every 12<sup>th</sup> calendar month until the supplying of the Delivery is completed, i.e. the Contractor shall issue an invoice after every such supplying,
- b) if services or goods with the assembly or installation are provided partially or repeatedly during the period of time longer than 12 calendar months and the payment has been agreed for a period of time longer than 12 calendar months, where the place of the supply is SE and SE is obliged to pay VAT, such services or goods with the assembly or installation are deemed to be supplied on the last day of every calendar year until the supplying of the services or goods with the assembly or installation is completed, i.e. the Contractor shall issue an invoice after every such supplying.

The conditions given in these two cases shall apply only to VAT purposes and shall not apply to invoice settlement. The payment shall be made only after real supplying of the Delivery within the payment term pursuant to the clause 7.15 herein or indicated in the Contract.

7.10 In addition to requisites set out by the valid legislation, every invoice shall contain the following:

- a) SE's Contract number,
- b) SAP number specified by SE in the Takeover protocol or specified in the Contract,
- c) date of sending the invoice,

- d) invoice due date pursuant to clause 7.15 herein,
- e) name of the financial institution and the Contractor's account number,
- f) signature of the representative authorized to act on the Contractor's behalf.

7.11 The Contractor shall deliver the invoice to SE within five (5) days following the issue thereof. In the event the Contractor fails to deliver the invoice to SE by the date stated and subsequently the tax administrator imposes a penalty on SE owing to the tax deducted unjustly or paid late within the meaning of the Act No. 563/2009 Coll. on tax administration (tax regulations) and on changes and amendments of certain acts as subsequently amended (hereinafter referred to as "**Act on tax administration**"), the Contractor commits to refund the imposed penalty to SE in full amount within ten (10) days from the delivery of its statement to the Contractor.

7.12 The Contractor shall send invoices to SE to the following address:

Slovenské elektrárne, a.s.  
Invoicing Department  
Mochovce Nuclear Power Plant  
P.O.BOX 11  
935 39 Mochovce

or to other address specified by SE in writing.

7.13 Should the Contractor send the invoice to other address than the address set out in clause 7.12 herein, the maturity period shall not start until the particular invoice is delivered to the address defined or determined in accordance with clause 7.12 above.

7.14 Should the invoice fail to contain the requisites pursuant to valid legislation, or if these necessities are not correct and in accordance with the applicable legislation or data in the invoice are not given in compliance with the Contract provisions agreed in the Contract, SE shall be entitled to return it back to the Contractor without any payment. Such being the case, the invoice due date shall cease to expire. SE shall be obliged to specify the reason for invoice return. The maturity term of the invoice shall start to lapse again on the day of the delivery of the corrected (new) invoice that meets the requirements of generally binding legal regulations.

7.15 **The invoice shall be due within the period of 60 days following the invoice delivery** to SE. Should the due day fall on a bank holiday, the invoice shall be due the following working day. The day of invoice delivery is the day of its marking by SE's daily stamp on the address in accordance with clause 7.12 herein. The invoice maturity period shall start on the following day after its delivery to SE.

7.16 The financial obligation shall be deemed fulfilled on the day when the outstanding amount is debited from the SE's account.

7.17 All bank expenses and fees of correspondence banks and the Contractor's bank shall be paid by the Contractor.

7.18 The VAT shall be added to the Price in the amount fixed by legal regulations in force governing the amount of tax on added value on the day of the commencement of the liability to tax.

7.19 The Contractor shall only issue an invoice containing VAT provided that the Contractor was a VAT payer at the time of tax liability commencement and with the supply of the Delivery the Contractor is subject to the tax liability and the Contractor is a person obliged to pay VAT. If the Contractor issues an invoice for SE which contains VAT at the time when the former is not a VAT payer, or if VAT was applied to the Delivery for which the Contractor is not subject to tax liability, or if the

Contractor was not a person obliged to pay VAT, and thereafter the tax administrator imposes additional VAT on SE and at the same time imposes a penalty on SE for such unlawfully deducted VAT, pursuant to Act on tax administration, the Contractor commits to refund such additional VAT and the imposed penalty to SE in full amount within ten (10) days of delivery of its statement to the Contractor.

The following clauses 7.20 and 7.21 herein shall apply to the **Foreign Contractor**:

7.20 During the term of the Contract, the Foreign Contractor shall inform SE in writing without undue delay of the following facts:

- a) whether he is a tax payer of the VAT in Slovak Republic,
- b) of his tax residency,
- c) of the setting-up of a permanent establishment pursuant to Act No. 595/2003 Coll. on income tax as subsequently amended (hereinafter referred to as "Act on income tax") and the respective treaty on double taxation avoidance and also of the dissolution of such permanent establishment,
- d) the setting-up of a fixed establishment pursuant to VAT Act, of the dissolution of such fixed establishment and also of its change,
- e) whether the Delivery is made from this fixed establishment, even in case of a partial Delivery therefrom,

in case that the Contractor failed to notify SE of the facts stated in this clause till the day of the Contract conclusion by the Declaration on tax position (and interrelation) which forms an annex to the Contract.

In case of breach of the Contractor's obligations under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.5 herein.

7.21 If the Foreign Contractor is a resident of the country outside the EU and has a permanent establishment set up in the Slovak Republic and pays contributions towards the income tax in the Slovak Republic, the Foreign Contractor shall submit, without delay, after the Contract signing or after this act has taken place, the confirmation of the Tax Authority Bratislava I. regarding the payment of advances. In the event the Foreign Contractor fails to submit such confirmation, SE will arrange the payment of such tax pursuant to the Act on income tax. In case of breach of the Contractor's obligations under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.5 herein.

7.22 Withholding tax

Price and payment conditions set out herein do not and shall not include any withholding tax. If payments in favour of the Contractor are subject to or shall be subject to the withholding tax pursuant to Act on income tax and respective international treaties, SE shall decrease, upon the above stated, the payments by the particular amounts pursuant to the respective treaty on double taxation avoidance and Act on income tax. In that case SE shall request from the concerned tax authority in the Slovak Republic to provide a confirmation of deducted tax and shall submit it to the Contractor. The Contractor shall provide to SE any cooperation while exercising SE rights and asserting SE claims according to this clause.

The Contractor is not entitled to request any compensation from SE in connection with the deduction of the withholding tax by SE, but it itself may request settlement from the concerned tax administrator.

The Contractor shall exert itself to identify payments included in the Price that may be subject to the withholding tax and specify their unit price. In case of doubt or the lack of cooperation provided by the Contractor, SE are entitled to deduct the withholding tax from the total Price, with the exception if the Contractor proves additionally that the withholding tax pursuant to Act on income tax and the respective treaty on double taxation avoidance is not to be deducted, or the Contractor specifies that amount of the invoiced Price that is subject to the withholding tax.

In case of breach of the Contractor's obligations under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.5 herein.

The provisions of the following clause apply to the **VAT payer in Slovak Republic**:

7.23 The Contractor declares that as of the Contract signing date there are no reasons for which SE should or could be a guarantor according to the provision of the Article 69 (14) in relation to Article 69b of the VAT Act for the Contractor's tax obligation formed from VAT which the Contractor charged to SE in addition to the Price pursuant to the Contract. The Contractor declares and undertakes to file a regular tax return on VAT and to pay the VAT liability, if any, to the local competent finance office by the determined deadline. The Contractor declares that it has no intention of not paying the VAT related to the subject of the Delivery pursuant to the Contract or an intention to reduce the tax or to gain a tax benefit and it has no intention to become unable to pay the tax.

SE are authorized to retain an amount equal to VAT from each invoice issued by the Contractor unless the Contractor confirms in writing to SE (e.g. by a separate declaration or directly in the invoice) that no obligation of guaranteeing for the tax from the performed Delivery, in accordance with Article 69 (14) of the VAT Act, or if the Contractor has been published in the list maintained by the Tax Directorate of the Slovak Republic pursuant to the aforementioned provision of the VAT Act. SE shall be entitled to retain the VAT from the issued invoices until the day on which the Contractor proves the opposite.

In case of breach of the Contractor's obligation under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.5 herein.

The provisions of the following clause apply to the **Foreign Contractor**:

7.24 Collateral tax

In the event the obligation to deduct the collateral tax from the Price has arisen for SE, SE shall deduct the sum of the collateral tax from the invoiced Price pursuant to Act on income tax and the Contractor shall pay out the Price decreased by the given collateral. SE shall not deduct the collateral tax from the Price if the Contractor submits to SE the original confirmation from the concerned tax authority proving that the Contractor pays tax advances pursuant to Section 34 or 42 of Act on income tax.

If the Contractor fails to submit a written confirmation proving the formation of a permanent establishment pursuant to clause 7.20c) herein, and SE will be obliged to deduct the sum of the collateral tax from the Price, SE shall:

- a) be entitled to deduct the sum of the collateral tax from the invoiced Price pursuant to Section 44, Subsection 2 of Act on income tax and to pay out to the Contractor the Price or its part decreased by the sum of such collateral tax and



- b) provide documentation to the Contractor (confirmation of the deducted collateral tax submitted to the concerned tax authority) which the Contractor may use for the set-off of the payment against its tax liability in Slovakia.

In other cases when the Contractor's activities do not cause the formation of a permanent establishment in Slovak Republic, the application of the collateral tax will be assessed on an individual basis, considering the nature of the Delivery, in accordance with the Act on income tax and the respective treaty on double taxation avoidance.

The Contractor is not entitled to request any compensation from SE in connection with the deduction of the collateral tax by SE, but it itself may request settlement from the concerned tax administrator.

In case of breach of the Contractor's obligation under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.5 herein.

- 7.25 The Contractor shall submit a written notice of bank account change to SE's address pursuant to clause 7.10 herein given in the invoice within 14 days at latest prior to the invoice maturity in the case of:

- a) change of bank,
- b) establishment of lien to receivables, or
- c) formal shortcomings (i.e. incorrect, incomplete bank account and so on),

and the authenticity of the signature of the Contractor's representative in this notice has to be certified.

- 7.26 The Contractor undertakes to be fully responsible for calculations, reporting, tax returns and payment of all its present as well as future pecuniary and non-pecuniary tax liabilities including the income tax, VAT and other taxes, fees and contributions (or particular penalties, fines or interests), that have arisen or will arise to the Contractor under the Contract according to any legal jurisdiction whether in the Slovak Republic or outside its territory. The Contractor shall not assert any claims towards SE in connection with the matters mentioned above. In case of breach of the Contractor's obligation under this clause, SE may claim from the Contractor a contractual penalty pursuant to clause 10.5 herein.

- 7.27 The Contractor undertakes not to transfer, handle in any way, or trade, for or without payment, in the receivables having arisen from the present Contract, or establish the right of lien to the receivables following from the Contract without the SE's prior written consent. A breach of this obligation is considered a significant breach of the Contract. In the case of the breach of the above mentioned, SE shall have the right to claim from the Contractor a contractual penalty pursuant to the clause 10.7 herein.

- 7.28 The Contractor shall not transfer or assign its liabilities under this Contract without the SE's prior written consent. Otherwise such transfer or assignment shall be invalid.

### VIII. WARRANTY PERIOD AND LIABILITY FOR DEFECTS

- 8.1 Unless otherwise agreed in the Contract, the Contractor shall be held liable for defects of Delivery throughout the warranty period which shall be **24 months**.
- 8.2 The warranty period shall start on the day of the Delivery takeover by SE, if otherwise not agreed in the Contract or in legal regulations in force.
- 8.3 The guarantee period shall not apply for the period when SE is unable to use the Delivery due to its defects for which the Contractor is responsible.

- 8.4 The Delivery has defects if the effected Delivery fails to correspond to the result specified in the Contract, with the purpose of its usage, have qualities set out in the Contract or with the generally binding legal regulations or valid technical standards.

- 8.5 The Contractor is responsible for defects of material, defects caused by the manufacturer, subcontractor or any other defects.

- 8.6 The Contractor shall be held liable for defects of the Delivery at the time of its handover and takeover by SE, even if the defect becomes obvious (detected by SE) after this time.

In case that the Delivery shows obvious defects at the takeover, SE shall be entitled to refuse to take over the Delivery. If the Delivery is refused to be taken over, SE shall make a record where it shall state the defects. One counterpart of the record on the refusal to take over the Delivery shall be provably handed over to the Contractor. The Contractor shall inform SE of the date for removal of defects without undue delay. After their removal, the Contractor shall be obliged to repeatedly call upon SE to take over the Delivery pursuant to this clause.

SE can take over the Delivery with defects non-preventing its use or unfinished works non-preventing its use (hereinafter referred to as "small defects"). SE is solely responsible for distinguishing small defects from the other defects. If such being the case, the Takeover protocol shall contain a list of small defects. Description of the small defects mentioned in the list shall be specific and clear, and a date of removal of each small defect shall be agreed on with the Contractor. Where the agreement on the date is not reached due to various reasons, the deadline for the small defect removal is **5 working days** after its detection at the Delivery takeover.

- 8.7 The Contractor is responsible for defects of the Delivery which rose after the Delivery handing-over if these defects were caused by a breach of its duties.

- 8.8 The Contractor is not responsible for defects of the Delivery caused due to the submission of incorrect or incomplete basic documents by SE and the Contractor could not find out their inappropriateness even when using all due care or when the Supplier notified SE of it in writing and SE insisted on their usage.

- 8.9 Performing a Delivery with defect/defects means substantial breach of the Contract where SE may:

- a) Require removal of defects by alternate delivery for the Delivery with defects. SE is not entitled to require the effecting of the alternate delivery, if it is not possible to return or hand the Delivery over to the Contractor considering its nature;
- b) require the effecting of missing Delivery;
- c) require free of charge removal of defects in the form of repair in the case of reparable defects;
- d) require an appropriate discount from the Price of the Delivery;
- e) withdraw from the Contract.

By applying claims resulting from defects, SE's claims for the loss compensation and a contractual penalty are not affected.

- 8.10 SE shall claim defects without undue delay in writing from the Contractor immediately after their identification. SE shall define its requests and the choice between the claims mentioned in the clause 8.9 herein. SE may also enclose appropriate evidence with its complaint. SE cannot change the applied claim without the Contractor's approval.

- 8.11 **The Contractor undertakes** to start eliminating the defects without undue delay after filing the entitled claim by SE in writing and they undertake **to eliminate the defects** by the deadline agreed, **within 5 working days** at the latest, unless otherwise agreed by the Parties. If the Contractor does not start eliminating defects without undue delay or if it does not continue in duly started elimination of defects, or if it is in delay with the obligation to eliminate the defects of the Delivery by the deadline pursuant to this clause, SE may claim from the Contractor the contractual penalty pursuant to clause 10.3 herein.
- 8.12 Should the Contractor be in delay with the defects elimination, SE may without the Contractor's assent eliminate the defects alone or use a third party's services for defects elimination at the Contractor's expense. In such case, SE is obliged to inform the Contractor about its decision in writing and without undue delay.
- 8.13 Based on the SE's request, the Contractor is obliged to remove defects in their Delivery without undue delay even though the Contractor does not accept its responsibility for the Defects. In the case of disputes, costs shall be temporarily borne by the Contractor until the decision on the claim is made.
- 8.14 In case that SE seek a Price discount under this Contract, the Contracting Parties agree that the Price discount will be defined on the basis of their agreement. If the Contracting Parties do not agree on the adequate Price discount within 30 days from the day of sending a claim notice pursuant to the clause 8.10 herein, the Price discount shall be calculated as a summary of:
- a difference between the value of the Delivery that the Delivery should have without any defects and the value of the Delivery with defects at the time when the Delivery should be performed, and
  - costs to be spent by SE on activities necessary for the Delivery to become free of any defects pursuant to the Contract.

The value of the Delivery without defects and the value of the Delivery with defects as well as the sum of costs spent by SE for elimination of the defects shall be specified by an expert opinion submitted by SE.

In case of the Price discount application by SE before issuance of an invoice for the Delivery to which the Price discount relates, the Contractor shall decrease the invoiced sum by the amount of discount. In the case of the Price discount application by SE after issuance of an invoice for the Delivery, the Contractor shall issue an invoice for the correction of the tax basis in compliance with valid legislation.

- 8.15 Other Contracting Parties' relations related to the guarantee for the Delivery, defects and resulting claims are governed by the applicable provisions of the Commercial Code.

#### **IX. LIABILITIES FOR THE DAMAGE**

- 9.1 The Contractor shall be responsible for the loss SE incurs due to its failure to adhere to legal or contractual obligations or SE incurs due to its activities during the Contract fulfilment. If during the Contract fulfilment damage is caused to SE due to the Contractor's activities, the Contractor undertakes to compensate for the damage incurred to SE to a provable extent according to this Section. The Contractor shall compensate the damage to SE within ten (10) days from the delivery of its statement to the Contractor.
- 9.2 SE and the Contractor are not responsible for the damage caused as a result of circumstances excluding liability.

#### **X. CONTRACTUAL PENALTIES, COMPENSATION FOR DAMAGE**

- 10.1 If the Contractor fails to commence performing the Delivery according to this Contract or if it interrupts the performance of the Delivery or if it waives the performance of the Delivery, SE may claim from the Contractor the contractual penalty in the amount of 10 % of the Price.
- 10.2 Should the Contractor fail to meet the deadline for the Delivery agreed in the Contract, SE may claim from the Contractor the contractual penalty in the amount of 1% of the Price for non-delivery for every, even a started, day of delay. The above mentioned provision shall be applied in the case of non-delivery or delayed delivery of documents, that are necessary for the takeover or use of other documents, which the Contractor is obliged to hand over to SE under the Contract.
- 10.3 Should the Contractor fail to start eliminating the defects of Delivery immediately or continue with the proper elimination of the defects or meet the duty of eliminating the defects of the Delivery within the period agreed between SE and the Contractor pursuant to the clause 8.11 herein, SE may claim from the Contractor the contractual penalty in the amount of 1% of the Price for every individual defect and for every, even a started, day of the delay related to its elimination.
- 10.4 If the Contractor warrants in the Contract the parameters of the Delivery, which the Contractor shall prove to SE at guarantee measuring of the Delivery parameters within the Testing carried out pursuant to clause 6.8 herein, in case of the failure to reach the parameters of such Delivery warranted by the Contractor in the Contract, SE may claim from the Contractor the contractual penalty in the amount of EUR 400,- for each failed parameter. Claimed contractual penalty for the failure of guaranteed parameters shall not relieve Contractor of his duty to ensure removal of shortages and to prove fulfillment of parameters guaranteed by the Contractor by means of a new guarantee measuring. If the Contractor fails to prove the fulfillment of guaranteed parameters by means of a new guarantee measuring, SE may claim a price discount depending on seriousness and number of failed parameters up to the amount of total reimbursement paid to the Contractor for the Delivery till the day of a failed new guarantee measuring, and also may withdraw from the Contract. Withdrawal from the Contract shall not affect SE's right for reimbursement of all payments made to the Contractor to the withdrawal date, or the right for reimbursement of contractual penalties agreed in the Contract or the right for indemnification in full extent.
- 10.5 Should the Contractor fail to fulfil any obligation from those mentioned in the clauses 2.9, 7.20, 7.21, 7.22, 7.23, 7.24 or 7.26 herein, SE may claim from the Contractor the contractual penalty in the amount of 1% of the Price for every individual breach.
- 10.6 If the Declaration on subcontractors pursuant to clause 2.7b) forms an annex to the Contract and the Contractor breaches any obligation from those mentioned in it, SE may claim from the Contractor the contractual penalty in the amount of 1% of the Price for each individual breach.
- 10.7 Should the Contractor assign or establish the right of lien to the receivables resulting from the Contract contrary to the clause 7.27 herein, SE may claim from the Contractor a contractual penalty in the amount of 100% of the financial volume of such assigned or sold receivable. For the purposes of this clause, the financial volume shall mean the total value of the principal receivables including the value of accessories to the receivables as of the date of the assignment or sale or other disposal of the receivable.



- 10.8 If confidential information or a trade secret is leaked on grounds for which the Contractor is liable or if the Contractor breaches any obligation from those mentioned in the clauses 15.1, 15.2 or 15.4 herein, SE may claim from the Contractor the contractual penalty in the amount of EUR 33,150 for every individual breach.
- 10.9 Should the Contractor fail to meet the duties breach of which is considered a substantial breach of the Contract pursuant to clause 17.4, SE may claim from the Contractor the contractual penalty in the amount of 10 % of the Price.
- 10.10 In case of breach of the prohibition of bringing in and taking out the prohibited items pursuant to clause 3.4 herein, SE may claim from the Contractor a contractual penalty in the amount of EUR 1,700 per case. Contractor's worker will be included in database of undesirable persons with entry banned for the whole contract term, as a minimum for a period of 12 months from such violation, eventually for longer period, depending on the severity of breach.
- 10.11 In case of a positive result of a breathalyzer test performed in accordance with clause 3.3 herein, SE may enforce against the Contractor and the Contractor's worker the following sanctions:
- If a breathalyzer test result is in extent from 0.15 mg/l to 0,29 mg/l (0.30 – 0.60 per mille) – the controlled Contractor's worker shall be banned from entry into the premises of SE and the identification card of the controlled Contractor's worker will be withheld until the next arrival for the Performance in the premises of SE. In case that the controlled Contractor's worker repeatedly breaches the prohibition of the use of alcohol (use of narcotic and/or psychotropic substances) he shall be banned from entry into the premises of SE for the whole contract term, however up to a period of 12 months.
  - In case of the breach of the prohibition of the use of alcohol (use of narcotic and/or psychotropic substances) by any other Contractor's worker, SE is entitled to claim from the Contractor a contractual penalty in the amount of EUR 800 per case. The Contractor's worker shall be banned from entry for the whole contract term, however up to a period of 12 months.
  - If a breathalyzer test result is exceeding 0.29 mg/l (above 0.60 per mille) – the identification card of the controlled Contractor's worker shall be collected and he shall be banned from entry, accompanied by the entrusted person of SE, he shall be taken out from the premises of SE. The controlled Contractor's worker shall be banned from entry for the whole contract term, however up to a period of 12 months and SE can also claim from the Contractor a contractual penalty in the amount of EUR 800 per case.
- 10.12 Any contractual penalties pursuant to the Contract or GTC will be applied in the form of a **penalty invoice** and are **due within fourteen days (14) following the day of issuing** a penalty invoice.
- 10.13 By exercising the contractual penalty pursuant to this Section, the SE's right to damage compensation is not affected and SE is entitled to enforce the loss compensation exceeding the contractual penalty according to this Section.
- 10.14 The payment of the contractual penalty shall not relieve the Contractor of the obligation to provide the Delivery or hand over the documents under the Contract.
- XI. INTEREST ON LATE PAYMENT**
- 11.1 For failure to meet the due date of a contractual penalty or of damage compensation in line with the Contract or GTC, SE

may claim from the Contractor interest on late payment at a rate of 0.02% of the outstanding amount for every day of delay, even for the started one. Interests on arrears are due within fourteen days (14) following the day of issuing a penalty invoice.

- 11.2 For failure to respect the invoice maturity date, the Contractor may claim from SE the interest on late payment at the rate of 0.02% from the unpaid amount for every day of the delay, however, up to the total 10 % of the invoiced sum at most.

**XII. AUDIT, QUALITY ASSURANCE, ENVIRONMENTAL PROTECTION AND SAFETY**

- 12.1 The Contractor undertakes, through an adequate regulation of obligations in contracts concluded with its subcontractors related to performance of the Contract, to enable SE to inspect these contracts.
- 12.2 If required, the requirements for quality, environmental protection and safety, and on audit assurance of the Contractor's management systems are stipulated directly in the Contract.
- 12.3 Where specified, any breach of the Contractor's duties specified in the Contract according to the previous clause shall be deemed to be a material breach of the Contractor's contractual obligations with the possibility of immediate withdrawal from the Contract.

**XIII. LIABILITY PRECLUDING CIRCUMSTANCES**

- 13.1 Neither of the Contracting Parties shall be held liable for failure to perform its obligations arising out of the Contract, except for the obligation of the Contractor to provide SE with information pursuant to the clauses 2.9, 7.22, 7.23 and 7.24 if it is proven that:
- such failure to perform was caused by extraordinary unpredictable and unavoidable events,
  - neither obstacles nor their consequences could be predicted at the time of the Contract conclusion;
  - neither obstacles nor their consequences could be prevented, avoided or overcome.
- 13.2 Unpredictable and unavoidable obstacles shall not include those which were caused due to failure to grant official permits, licences of similar authorisations for the purposes of the Delivery.
- 13.3 The consequences of circumstances precluding liability are limited to the duration of an obstacle to which these consequences are interrelated.
- 13.4 The liability-precluding circumstances shall relieve the liable Contracting Party of the obligation to pay the contractual penalty resulting from the breach of obligations to which the circumstances apply.
- 13.5 The time of performance shall be extended by the duration of liability precluding circumstances so as to be acceptable to the eligible Contracting Party. During this period, the eligible Contracting Party is not entitled to withdraw from the Contract.
- 13.6 Should the duration of liability precluding circumstances exceeds 6 months, either Contracting Party shall be entitled to unilaterally terminate the Contract, such withdrawal is effective on the day of delivery of the notice on withdrawal to other Contracting Party.

**XIV. DISCONTINUATION OF WORKS**

- 14.1 SE shall be entitled to give an instruction to the Contractor and the Contractor, based on this order, will be obliged to interrupt (even repeatedly) all or some works on the Delivery. SE shall specify the reason to the Contractor for its instruction to

interrupt works. Should the subject of Delivery be manufacturing of work, the Contractor shall perform respective measurements for correct storage, conservation, protection and preservation of the work, and to protect, conserve and preserve work during the discontinuation against any decay, devastation or damage. SE shall keep record about the instruction Log book. SE shall inform the Contractor about the estimated duration of the discontinuation and in case of change in the estimated duration of the discontinuation; SE shall inform the Contractor about a new estimated date of repeated beginning of works. In the case of any discontinuation of works, the Contracting Parties have to meet always in order to discuss the scope of discontinuation, in particular demobilisation, scope of conservation works, estimated costs of discontinuation and other consequences. The obligation of the Contractor to interrupt the works does not concern a discontinuation of technology equipment and other activities, if pursuant to the Contract they are supposed to be manufactured outside SE's premises or if the place of delivery/performance, handover and takeover of the Delivery is outside SE.

14.2 Should:

- a) the instruction for discontinuation be given for a period not longer than 7 days and in total such instructions for discontinuation of works do not exceed 20 days; or
- b) the Contractor bear the responsibility for the reason causing instruction for discontinuation, or if such discontinuation was caused by breaching the Contract by the Contractor,

then all costs incurred with regard to the discontinuation of works are borne by the Contractor.

14.3 Should the Contractor due to the discontinuation pursuant to clause 14.1 herein regardless clause 14.2b) herein be in delay, the Contractor shall inform SE, on the basis of which the Contractor shall have the right for extension of the deadline for the effecting of the Delivery.

14.4 The Contractor is not entitled to the extended deadline for performing the Delivery if the Contractor is liable for the reason of the instruction for suspension or such suspension was enforced by the breach of the Contract by the Contractor (defective fulfilment, breach of the Contract). Costs connected with repeated commencement of works shall be borne by the Contractor.

14.5 After issuing a permission or instruction to continue works, SE and the Contractor shall together review the subject of Delivery to which the discontinuation of works applied. The Contractor shall repair or replace decay, defects, degradations or damages at the Delivery if they occurred during discontinuation of works. Should it be necessary, due to error of the Contractor, to perform certain measures to mitigate losses, the Contractor shall take such measures.

**XV. CONFIDENTIAL INFORMATION, PROMOTION, ZERO TOLLERANCE OF CORRUPTION**

15.1 The Contractor undertakes to treat any data, information or documents received in relation to the bidding procedure, conclusion and/or performance of the Contract as information being confidential in nature (while information of confidential nature include a business secret, confidential information of financial nature and sensitive information about crucial infrastructure), which cannot disclose to third parties or use it contrary to the purpose thereof for its needs without SE's prior written permission. The Contractor undertakes also to keep secrecy about information of confidential nature even after the completion of the Delivery. The limitations stated in this clause and in this clause shall not apply to the disclosure of confidential information to dependent persons of SE according to the Act on income tax, i.e. to persons close economically,

personally or otherwise connected with SE (hereinafter referred to as "SE's interrelated company") and the Contracting Party's consultants (e.g. auditors, attorneys) provided that SE's interrelated company and the aforesaid consultants are bound by a non-disclosure duty of at least the same extent as set forth in this clause. The Contracting Parties shall also note that providing confidential information upon the request of a public authority or another governmental body, and the case of imposing such provision of confidential information by a generally binding legal regulation shall not be considered a breach of the provisions of this clause. If the Contractor breaches obligation of this clause, SE may claim from the Contractor the contractual penalty pursuant to clause 10.8 herein.

15.2 If in connection with the contract fulfilment the Contractor comes in contact with classified matters, the Contractor undertakes to observe the principles of their protection and classification in accordance with the legal regulations in force. If the Contractor breaches obligation of this clause, SE may claim from the Contractor the contractual penalty pursuant to clause 10.8 herein.

15.3 During the fulfilment of the Contract subject matter that concerns the processing of SE personal data or in the event the Contractor comes in contact with SE personal data, the Contractor undertakes to proceed within the meaning of the applicable Act on personal data protection.

15.4 Unless otherwise agreed in the Contract, the Contractor shall not be entitled to present SE as its trading partner or use SE trade name or logo in promoting itself or its activity or in statements for the media in any form whatsoever without prior written permission. If the Contractor breaches obligation of this clause, SE may claim from the Contractor the contractual penalty pursuant to clause 10.8 herein.

15.5 Application of the contractual penalties pursuant to previous clauses of this Section SE's entitlement to full indemnification is not thereby affected.

15.6 The Contractor is aware of the fact that as the member of the Enel Group, the business activities and internal activities of Slovenské elektrárne, a.s. follow and are subject to principles stipulated in the SE, a. s. Code of Ethics and in the Zero Tolerance of Corruption Plan, wording of which is published at web site <http://www.seas.sk/> (hereinafter referred to as the "Principles"). The Contractor takes note of the fact that SE wishes that their contractors follow the same principles when managing their business activities and relations.

15.7 The Contractor hereby declares that it is not a party to any litigation and/or arbitration proceedings against SE.

**XVI. LIST OF SE SUPPLIERS**

16.1 The Contractor takes a note that upon the Contract signing they will be included in the list of SE suppliers (hereinafter referred to as the "List of SE suppliers"). In the event that:

- a) the place of work performance or service delivery is SE registered office or SE's premises and the Contractor's employee while performing working duties resulting from the Contract, incurs registered injury with a sick leave exceeding 30 days or a fatal injury, or
- b) the Contractor breaches its obligation resulting from the Contract,

the Contractor's involvement in the List of SE suppliers will be suspended by assigning "suspended" status to them until the reasons and all circumstances behind the occurrence of the registered injury are reviewed or remedies made.

If based on the review of all the reasons and circumstances behind the occurrence of the registered injury SE conclude that



the Contractor is not responsible for the registered injury, or if the Contractor has made remedies for the breaches of contractual obligations within the period set out by SE, SE shall make a decision about re-including the Contractor in the List of SE suppliers deleting the "suspended" status. Should the opposite occur, the Contractor shall be included in the list of excluded SE suppliers (hereinafter referred to as "**List of excluded SE suppliers**").

Should a Contractor be suspended in the List of SE suppliers, SE shall send to the Contractor a written notice thereof together with the reasons for the suspension. In the same way, the Contractor will also be informed about the re-incorporation into the List of SE suppliers, or about the incorporation in the List of excluded SE suppliers.

- 16.2 The Contractor is included in the List of excluded SE suppliers if the Contractor has breached the Contract in a way defined as the substantial breach of a contract by the Commercial Code or the Contract.

Should the Contractor be included in the List of excluded SE suppliers, SE shall send the Contractor a written notice thereof together with the reasons for the incorporation in the List of excluded SE suppliers.

- 16.3 The Contractor included in the List of excluded SE suppliers may ask for re-inclusion into the List of SE suppliers after 12 months from inclusion into the List of excluded SE suppliers if the Contractor submits to SE an application for re-inclusion into the List of SE suppliers together with a list of implemented corrective measures preventing in an effective way the breach of the Contractor's obligations. After implementation of the corrective measures, the Contractor shall allow SE to verify implementation of the corrective measures by the means of inspection - audit at the Contractor. Based on the results of the audit, SE will decide on re-including of the Contractor into the "List of SE suppliers".

- 16.4 Suspended contractors or contractors included in the List of excluded SE suppliers will not meet the tender requirement pursuant to the general tender conditions in SE for the participation in the tenders announced pursuant to SE's internal regulations (i.e. out of the Public Procurement Act No. 25/2006 Coll.)

## **XVII. TERMINATION OF THE CONTRACT**

- 17.1 SE and the Contractor have agreed that the Contract shall be terminated by:

- a) the effecting of the Delivery and by fulfilment of the related contractual obligations of the Contracting Parties,
- b) expiration of the term for which the Contract is concluded,
- c) a written agreement of the Contracting Parties,
- d) a written notice of termination under clause 17.2 herein,
- e) a written withdrawal from the Contract pursuant to clause 17.3 herein.

- 17.2 Unless otherwise agreed in the Contract, SE shall have the right to terminate the Contract for the recurring Delivery concluded for a fixed term, without giving reasons with a **one-month** notice period which shall start on the first day of the month following the delivery of the notice to the Contractor. In case of a Delivery nature of the work, the Contractor shall undertake to hand the work over to SE in the condition as it is at the time of the notice period end, and SE shall undertake to pay only a sum it enriched with to the Contractor with regard to a level of the work completion. The sum shall be set on the basis of an agreement of the Contracting Parties. If the

Contracting Parties do not agree within **15 days** from the termination of the Contract, the sum shall be set by SE.

- 17.3 Any Contracting Party has the right to immediately terminate the Contract in the following cases:

- a) the other Contracting Party has breached its legal obligations or obligations laid down in the Contract or herein in a non-material way and despite a written notification it fails to make good over the period fixed by SE,
- b) the other Contracting Party breaches legal obligations or obligations laid down in the Contract or herein in a material way, with, in particular, a breach thus explicitly defined in the Contract or herein being considered a material one.

- 17.4 It is considered a substantial breach of the Contract mainly:

- a) failure to observe the agreed deadline for the elimination of a defect on the Delivery, or delay with the elimination of the defect found out during the performance of the Delivery recorded in the log book, in the claim or in other usual record the Contractor was familiarised with,
- b) if the Contractor acts in any way whatsoever contrary to the principles of fair business, commits an unfair competition act, acts contrary to legal regulations on competition protection, or disparages through its action the reputation and legitimate interests of SE,
- c) if while performing the Delivery for SE, the Contractor breached, circumvented or failed to comply with applicable legal regulations or SE internal rules related to occupational health and safety, fire prevention, the environment protection, entries to SE's premises, prohibition of illegal employment resulting from the legal regulations valid in the territory of the Slovak Republic or terms and conditions specified in the Safety and Technical Terms and Conditions for Delivery in SE,
- d) if the Contractor is declared bankrupt, the Contractor is in liquidation, there was discontinued a bankruptcy proceeding against the Contractor due to lack of assets or cancelled bankrupt due to lack of assets,
- e) if the Contractor, the Contractor's statutory body or a member of the Contractor's statutory body was lawfully sentenced for the criminal offence of harming financial interests of the European union, for the criminal offence of money laundering, for the criminal offence of setting-up, organizing and supporting a criminal gang, for the criminal offence of setting-up, organizing and supporting a terroristic group, a criminal offence of terrorism, and some forms of involvement in terrorism or for the criminal offence whose facts of the case is related to business,
- f) if the Contractor has insurance premium arrears in health insurance, social insurance and arrears of contributions to the old-age pension saving that are enforced by execution of a decision,
- g) if the Contractor has tax arrears registered that are enforced by execution of a decision,
- h) if the Contractor has been deprived of the authorization to supply the goods, to carry out construction works or to provide services,
- i) if the Contractor has been proven a material breach of professional duties,
- j) breach of a trade secret or a non-disclosure duty,

- k) if the Contractor breaches any obligation from those mentioned in individual points of the Declaration on subcontractors forming an annex to the Contract,
- l) if the Contractor assigned the right or established the right of lien to the receivables resulting from the Contract without previous written consent of the Client contrary to the clause 7.27 herein,
- m) if an obligation to guarantee the VAT on behalf of the Contractor pursuant to the clause 7.23 herein arises to SE.

If SE terminates the Contract because of a breach by the Contractor, SE may claim from the Contractor the contractual penalty pursuant to clause 10.9 herein.

- 17.5 In order to avoid any doubt, the Contracting Parties expressly agreed that SE are entitled to withdraw from the entire Contract even if the breach of the Contract, irrelevant whether material or minor, only applies to any individual Delivery.
- 17.6 Unless otherwise agreed in the Contract, withdrawal shall be effective on the day of the delivery of the notice of withdrawal to the other Contracting Party.
- 17.7 In the event of a withdrawal from the Contract, the Contracting Parties shall agree within 15 days the manner of settling the liabilities resulting from the terminated contractual relationship. Where an agreement is non-existing, SE will only pay to the Contractor the amount due for the work, services, or performances carried out and invoiced before the termination of the Contract came into effect, except for the invoiced VAT, unless the Contractor confirms to SE in written at delivery that SE is not obliged to guarantee the tax pursuant to the Article 69(4) of the Act on VAT, or if it has been published in the List kept by the Financial Directorate of the Slovak Republic in compliance with the aforementioned provision. SE shall be entitled to retain the VAT from the invoices issued until the Contractor proves the opposite.

#### XVIII. FINAL PROVISIONS

- 18.1 These GTC, Contract and relations resulting from the Contract or related to the Contract were concluded in compliance with the provisions of the CC and other generally binding legal regulations applicable in the Slovak Republic with exclusion of application of the UN Charter on International Purchase of Goods.
- 18.2 All the disputes arising out of or in connection with the present Contract, including the disputes concerning its validity, interpretation or annulment, shall be settled before the Court of Arbitration of the Slovak Chamber of Commerce and Industry in Bratislava in conformity with its internal rules and regulations. The Contracting Parties will respect the court's decision. Its decision will be binding upon the Contracting Parties.
- 18.3 The GTC have been elaborated in the Slovak version. If the GTC have been executed in Slovak and English version, in the case of discrepancies, the Slovak language herein shall prevail.
- 18.4 The GTC may be altered and amended exclusively by the Parties' agreement, in the form of an annex to the Contract whose part is the GTC.

Any alterations or amendments to this Contract can only be made based on the agreement of both Contracting Parties in the form of written and numbered amendments to the Contract, signed by the authorized representatives of both Contracting Parties, except for the following cases:

- a) change or adding of Authorized persons that the Contracting Party makes by an unilateral written record in the Log book or by other written notice sent to the Authorized person of the other Contracting Party,

- b) change or adding of a subcontractor pursuant to the annex Declaration on subcontractors that the Contractor makes by an unilateral written notice submitted to the Authorized person of SE, based on a previous written consent of SE with such change or adding (the Contractor shall submit a request for the change or adding of a subcontractor, including the documents proving fulfilment of requirements for technical and professional competence of the subcontractor, to the Authorized person, who assures the assessment of such request in accordance with SE's internal regulations),
- c) the change of a person performing the Delivery, made by the Authorized person of SE by a record in the Log book, or by other record on the basis of proving fulfilment of requirements for technical and professional competence by the Contractor.

- 18.5 If any of the provisions herein is or will become invalid, the remaining provisions hereof shall remain in force to the same extent.
- 18.6 The application of the general terms and conditions of the other Party or any other general terms and conditions is hereby precluded, unless otherwise agreed in writing by the SE and the Contractor.
- 18.7 In case that the Contractor has its registered office abroad and the Contracting Parties have not agreed to other communication language in the Contract, English shall become the communication language.