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PARTICULAR CONDITIONS

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Conditions of Contract  
for **CONSTRUCTION**

FOR BUILDING AND ENGINEERING WORKS  
DESIGNED BY THE EMPLOYER

First Edition 1999

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# Particular Conditions

## 1 General Provisions

### 1.1

#### Definitions

#### 1.1.1

##### The Contract

1.1.1.2 In Sub-Clause 1.1.1.2, the words in brackets “if any” are removed.

1.1.1.3 Sub-Clause 1.1.1.3 is removed and is replaced with the following wording:  
“Letter of Acceptance” means Employer’s notice of selecting the Contractor while the Contract is originate by execution thereof by both Parties.

1.1.1.4 At the end of Sub-Clause 1.1.1.4., the following provision is added: “Letter of Tender also means the tender submitted by Contractor within the tendering procedures as of the Act no. 134/2016 Coll. upon tendering of public contracts (hereinafter referred to as “ATPC”).“

1.1.1.6 The words of “or by Contractor” are inserted behind the words of “prepared by Employer” into the first sentence of Sub-Clause 1.1.1.6.

1.1.1.11 A new Sub-Clause 1.1.1.11 is added:

“**Site Diary**” means the document the terms of which are stipulated by valid and enforceable legal regulations.

#### 1.1.2

##### Parties and Persons

1.1.2.8 The following sentence is added to the end of Sub-Clause 1.2.2.8:  
“Subcontractor also includes the natural person thereof in the light of ATPC.”

#### 1.1.3

##### Dates, Tests, Periods and Completion

1.1.3.4 The following sentence is added to the end of Sub-Clause 1.1:3.4: “Tests on completion mean all tests specified in Employer’s Requirements.”

1.1.3.7 The following words of “namely including the defects that occurred after taking-over of the Works” are inserted into the Sub-Clause 1.1.3.7, the first sentence behind the brackets (Completion of Outstanding Work and Remedying Defects).

1.1.3.8 Sub-Clause 1.1.3.8 is removed without amendments.

1.1.3.9 In Sub-Clause 1.1.3.9., the words of “is 365 days” are amended to: “is 365 or 366 days in case of the leap-year”.

1.1.3.10 A new Sub-Clause 1.1.3.10 is added:

“**Trial operation**” means the operation ordered by surveyor’s office or permitted on request as of the Act no. 183/2006 Coll., Building Act as amended (hereinafter referred to as “Building Act”).

#### 1.1.4

##### Money and Payments

1.1.4.13 A new Sub-Clause 1.1.4.13 is added:

“**Invoice**” is a tax document issued as of the enforceable legal regulations.”

1.1.4.14 A new Sub-Clause 1.1.4.14 is added:

“**Advance payment guarantee**” means the guarantee (or guarantees) as of Sub-Clause 14.2 [*Advance payment*].”

1.1.4.15 A new Sub-Clause 1.1.4.15 is added:

“Right of Passage means any legal title to use the plots of land owned by different persons than the Employer, or to the parts thereof, mainly but without limitations in the form of easement or lease.”

#### 1.1.6

##### Other definitions

1.1.6.10 A new Sub-Clause 1.1.6.10 is added:

“**Access Routes**” mean the roads connecting the Site to the network of publicly accessible roads specified in more details by Employer’s Requirements or other documents constituting the Contract.”

1.1.6.11 A new Sub-Clause 1.1.6.11 is added:

“**Existing WWTP**” means the set of buildings, plots of land and technological facilities constituting the Waste Water Treatment Plant in Modřice that is owned and operated by Employer.”

## 1.2

### Interpretation

In Sub-Clause 1.2, the first paragraph, sub-paragraph d), it is replaced with

the following wording:

“d) “written” or “in writing” means the text written by hand, typewriter or printed and provided with the signature of acting person, or delivered via data message to the data mailbox of the other Party.”

The sub-paragraphs (e) and (f) of the following wording are inserted behind the sub-paragraph (d):

- e) time-counting is governed by the appropriate provisions of the Act no. 89/2012 Coll. Civil Code as amended (hereinafter referred to as “Civil Code”);
- f) in the provisions including the phrase of “reasonable profit”, the reasonable profit means the amount equal to 5% of Costs.”

The following paragraph is inserted to the end of sub-paragraph 1.2:

“In the matters not expressly governed by this Contract, the legal regulations, mostly, but without limitations Civil Code shall govern. To determine the subject-matter of Parties’ liabilities resulting from the Contract, the directory provisions of Sections 2587 to 2635 of Civil Code are not taken into account. To determine the subject-matter of Parties’ liabilities resulting from the Contract, mercantile usage is not taken into account, and the mercantile usage does not govern the directory provisions of Civil Code in the light of Section 558, paragraph 2, Civil Code.”

## **1.5**

### **Priority of documents**

In Sub-Clause 1.5, sub-paragraph a), the words in brackets of “(if any)” are removed without amendments.

## **1.6**

### **Contract Agreement**

In Sub-Clause 1.6, the first sentence, the words of “by 28 days” are replaced with the words of “by 40 days”.

## **1.7.**

### **Assignment**

Sub-Clause 1.7 is removed and is replaced with the following wording:

“Contractor shall not transfer or assign to any third person any duties or any rights resulting from this Contract or associated therewith without previous Employer’s written approval. Employer is entitled to transfer any rights and duties resulting from this Contract or associated therewith.”

## **1.8**

### **Care and Supply of Documents**

The following paragraph is inserted behind the third paragraph of Sub-Clause 1.8:

“Contractor shall also make available the drawings and all documents pertaining to the accomplished construction Works of the changes thereof or their copies to the corresponding building authority in the conduct of its powers according to Building Act or the Act no. 254/2001 Coll. On Waters (hereinafter referred to as “Water Act”). Contractor shall also make available the Site Diary kept by the Contractor as of special regulations.”

## **1.10**

### **Employer’s Use of**

### **Contractor’s Documents**

Sub-Clause 1.10 is cancelled and replaced with this wording:

“Contractor declares that on the basis of his authorship or legal relation to the author or authors of author crafts related to the Contractor’s Documents, he is entitled to conduct all author’s proprietary rights on his own behalf and at this expenses to Contractor’s Documents, including material interception of the activity results, and mostly, but without limitation he is entitled to use all these parts of consideration as author craft for all known utilisation methods, and grant the Employer the authorisation to enjoy this right as transferee. This shall apply by analogy in relation to documents that form the Letter of Tender and Contractor’s Proposal.

Contractor shall provide the Employer with the assignable, exclusive and gratuitous licence not limited in its scope or method to copy, disseminate or use otherwise the Contractor’s Documents, as well as the Letter of Tender and Contractor’s Proposal, including their possible modifications, i.e., making and using of their modifications. Employer is entitled to use Contractor’s Documents, Letter of Tender and Contractor’s Proposal in an unlimited scope and for all their methods of use stipulated in Section 12, Act no. 121/2000 Coll. Authors’ Act as amended (hereinafter referred to as “Authors’ Act”). This licence:

- a) is granted for a definite period within the lasting time of licensed right in compliance with appropriate provisions of Authors’ Act;
- b) authorises any person duly having the particular part of the Works at his/her disposal to duplicate or otherwise use Contractor’s Documents,

Letter of Tender and Contractor's Proposal including their amendments for the purposes of completion, operation, maintenance, reworking, modifications, repairs and demolitions of the Works;

- c) in case of Contractor's Documents, which are in the form of software and other computer programmes, to permit their use on any computer at the Site and at the other venues as needed;
- d) authorises the Employer to grant sub-licences;
- e) is transferred to Employer's legal successor in its extinction.

Remuneration for the licence is included into the Received amount.

As to the software is concerned, the Contractor is obliged to pass on the Employer all versions of software source code that is the part of the Works according to the Contract and the development and user documentation associated therewith. Employer will be entitled to use the transferred source code of this software freely within the scope necessary to provide making, operation maintenance or repairs of the works and the technological systems of Employer associated therewith as well as to conduct all other authorisations that the Employer acquired to this software as to the Contract if, at least, one of the following conditions is complied with: (i) the Contract is withdrawn, (ii) Contractor becomes bankrupt, (iii) in the stipulated period, otherwise in the reasonable time, Contractor will not remove any defect of the computer programme or software which is he obliged to do according to the Contract; or (iv) Employer starts to use the Works in conformity with the Contract. After testing of the appropriate version by the designated representatives of both contractual parties, the source code will be stored in a box or envelope that will be sealed until the source code is lawfully used by the Employer in the manner allowing to verify integrity of its closure impartially.

If it is detected during implementation of the Works that the transfer of source code is not necessary in relation to the certain software or a part thereof due to the reasons on Employer's part, the Contractor and Employer can agree in writing that the Employer will not request transference of such source code versions. Under such circumstances, the subject-matter of the agreement by Parties means the Contractor's obligation in relation to the software or a part thereof according to the previous sentence to provide Employer free of charge such licence authorisation so that the Employer may use (modify) the specified software or parts thereof even without source codes, and to transfer the source data to the Employer unless the Parties agree otherwise.

### **1.13 Compliance with Laws**

Sub-Clause 1.13 is amended so that the sub-paragraph a) is replaced with

the following wording:

“a) All permissions, statements, approvals, positions and other documents required by applicable laws for making and using of the Works, including putting the construction Works in operation and its use are procured by Contractor except the ones that were or shall be procured by Employer according to Employer’s Requirements. The details are specified by Employer’s Requirements and“

At the end of Sub-Clause 1.13, the following paragraph is added:

“To achieve this, the Contractor is obliged to provide Employer a necessary cooperation.”

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## **2 The Employer**

### **2.3**

#### **Employer’s Personnel**

In sub-paragraph (b), the text of “(a), (b) and (c)” is replaced with the text of “(a) to (e)”.

### **2.4**

#### **Employer’s Financial Arrangements**

Sub-Clause 2.4 is removed without amendments.

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## **3 The Engineer**

### **3.1**

#### **Engineer’s Duties and**

#### **Authority**

The following paragraphs are inserted behind the third paragraph of Sub-Clause 3.1:

“Engineer is obliged to notify the Employer as soon as practicable in writing in advance that he intends to issue the order for Variation with description of a proposed work that should be performed and give all known details about a potential impact of Variation on the Works, Contractual Price and Time for Completion. If the Employer finds an obvious defect in the Variation and its stipulated effect, he is entitled to notify the Engineer of it within 7 days since the notice with his remarks to the Variation is delivered or as soon as practicable to notify that he makes no remarks. After expiry of this period, the Engineer can issue the order for Variation if not specified otherwise. If the Employer announces remarks, the Engineer shall incorporate them in a necessary scope and subsequently he may issue the order for Variation so



that no delay may occur.

Engineer may initiate the Variation at the order without notification as of the previous paragraph only in case of an imminent property loss or health injury or under similar extraordinary circumstances. Engineer shall immediately notify the Employer of such situation.

Should the Employer make his remarks to the Variation or makes no remarks, the duty of Engineer to proceed with a due diligence or his possible responsibility for the injury having originated to the Employer due to breach of his duties.

Before the Engineer proceeds to the steps as of the following Sub-Clauses, the Engineer is obliged to present the Contractor any Variation for assessment if:

- a) Variation increases the Contractual Price,
- b) Variation results in extension of the Time for Completion as of the Sub-Clause 8.4 (Extension of Time for Completion) by more than 30 days,
- c) Variations were capable to reduce or completely stop the operation of existing WWTP.

Subsequently in the period of 14 days since submittal of Variation as of the previous paragraph, the Employer can inform the Engineer about his objections, or may issue the notice that he enforces no objections as soon as practicable.

If the Employer does not express his opinion within 14 days after the Variation is submitted, it is understood that he does not consent to the Variation and the Engineer is not entitled to issue the order for Variation.

If the Employer does not consent to the Variation and the Contractor or Engineer assume that implementation of Variation is necessary to complete the Works in conformity with the Contract, the Engineer shall agree or determine the next progress as of Sub-Clause 3.5 and the Employer or Contractor can proceed in conformity with Clause 20 if they do not agree with the determination of Engineer. [*Claims, disputes and arbitration*].

To avoid any doubts, it is agreed that any Employer's objections, disagreement or notice that he does not enforce any objections as of this Sub-Clause has not influence on Engineer's duty to proceed with a due diligence or on his possible responsibility for loss having originated to Employer due to breach of his duties.

In the fourth paragraph of Sub-Section 3.1 "The Employer granted his consent " is supplemented with „unless stated otherwise in the Contract“.

## 3.2

### Delegation by the Engineer

In Sub-Clause 3.2, the first paragraph, the last sentence is removed without amendments.

The following sentence is added in the second paragraph of Sub-Clause 3.2:

“If they cannot speak in this language for communication, they shall have the interpreter available during the whole realisation period of the Works.”

## 3.3

### Instructions of the Engineer

The last sentence of the first paragraph, Sub-Clause 3.3, is removed, and the following text is inserted instead of it:

*“If it is stipulated in Engineer’s order that it includes Variation, the procedure as of Sub-Clause 13.3 [Variation Procedure] will be applied. If it is not stipulated in this way and the Contractor assumes that Engineer’s instructions:*

- a) constitute Variation (or include works that are already included into the existing Variation);*
- b) contradict the Legal regulations or reduce safety of the Works or are impracticable from the technical point of view, then*

*Contractor shall notify the Engineer of this fact immediately (and before starting of any works associated with instructions of Engineer) while this notification shall be sufficiently justified. If the Engineer does not issue his notice confirming his instruction, modifying it or revoking it within the 7-day period since delivery of such notice, it is understood that Engineer has rescinded his instruction. If the Engineer issues the notice, Contractor shall proceed as of the conditions determined in this notice.*

## 3.4

### Replacement of the Engineer

In Sub-Clause 3.4, the text of “42 days” is removed and replaced with the text of “14 days”.

The last sentence of Sub-Clause 3.4 is removed without amendments.

### 3.6

#### Project meetings

A new Sub-Clause 3.6 (Project meetings) is added:

“Engineer is entitled to summon the project meetings to co-ordinate the progress of works on the Works. He will inform the Contractor upon summoning of the project meeting three (3) business days in advance, at least. Contractor’s representative shall participate in these project meetings. Engineer shall record the issues debated at the project meeting and shall provide copies of record to the participants in project meeting. Responsibility for every step that is to be performed in conformity with the Contract shall be stipulated in the minutes. Engineer shall summon the first project meeting within 28 days after the Commencement Date. Engineer shall summon the project meeting once in a month, at least.”

### 3.7

#### Risk register

A new Sub-Clause 3.7 [*Register of Risks*] is added:

“In any time, the Engineer, Employer or Contractor may summon a joint meeting to adopt measures for reducing the risks affecting the Contractual Price, quality or Time for Completion. Contractor and Engineer shall participate in the meeting. Engineer shall enter any submitted risk to the Register of Risks, which the Engineer shall generate, keep and update.”

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## 4 The Contractor

### 4.1

#### Contractor’s General obligations

The following words are added to the end of the second paragraph of Sub-Clause 4.1:

“Contractor or the persons controlled by him or controlling him may not hold the position of the Engineer.”

The following paragraphs are inserted below the end of Sub-Clause 4.1:

“Contractor is obliged to designate the site in compliance with the enforceable legal regulations, namely with Section 152 of Building Act and to install the information table at the entry to the Site to designate the Building as of Employer’s instruction.

Contractor is obliged to perform the Works in conformity with all mandatory requirements known to him and the conditions possible stipulated by administrative authorities including mainly, but without limitation the mandatory requirements and conditions stipulated by the enforceable planning permission for the Works, enforceable building permit for the Works and permit to handle with water as well as possible public-law contracts or other permissions issued to conduct the Works.

## 4.2

### Performance Security

Sub-Clause 4.2 is removed and is replaced with the following wording:

“Contractor shall obtain guarantee for fulfilment of the contract in the form of bank security as of provisions of Section 2029, Civil Code, (hereinafter referred to as “Contract Performance security”) in the amount stipulated in the Attachment to Tender and shall keep it in this amount for the whole period of its lasting. This Security shall be issued by the Czech bank or other Czech entity authorised to issue the bank guarantees within its scope of business or by a foreign bank (credit institution) with its registered office in the EU member state and branch in the Czech Republic or by a foreign bank (credit institution) with its registered office in the EU member state operating in the Czech Republic based on the right of free movement of services for the benefit of the Employer as beneficiary, and it shall be in the master form that is incorporated into the tender documentation.

Contract shall transfer the Contract performance security to the Employer within 15 days after publication of the Letter of Acceptance by Employer. Contract performance security shall be effective on its transfer day to the Employer at the latest. Transfer of the Contract performance security constitutes condition for execution of the Contract Agreement.

Contractor shall assure that the Contract performance security will be valid and effective until expiry of all Warranty Periods including a possible extension thereof or until the Contractor completes all unfinished works known as to the completion date and stipulated in the Taking-Over Certificate and removes all defects whichever occurs later.

If the validity of Contract performance security is limited in time, and

- (i) Contractor did not remedy the defects by 28 days before termination date of its validity, or
- (ii) Contract performance security is to expire earlier than all Warranty Period extinguish,

then the Contractor shall extend the validity of Contract performance security before all defects are removed or all Warranty Periods expire (whichever occurs later), and he shall pass on the Contractor the certificate of extension for Contract performance security no later than within twenty one (21) days before the termination date of its validity.

Employer may exert his claim from the Contract performance security only for the amounts to which the Employer is entitled as of the Contract mainly, but within limitation in case that:

- a) Contractor will not extend validity of the Contract performance security as it is described in the previous paragraph and in such situation the Contractor can claim the full amount of the Contract performance security;
- b) Employer will not pay the Contractor the amount belonging to Contractor though the amount was agreed with the Employer or determined as of Sub-Clause 2.5 [*Claims, disputes and arbitration*] within 42 days after agreement or determination, including the title to payment of contractual fine as of Sub-Clause 4.26;
- c) The Employer is entitled to a contract price discount as per Sub-Clause 9.4,
- d) Contractor does not remedy breach of the contractual duty within 42 days after he received Employer's notice requiring remedy of a breached contractual duty;
- e) Contractor will commit breach of the Contract with which the Employer's title to receive contractual fine is associated by the Contract;
- f) Contractor will commit breach of the Contract due to which the loss is suffered by the Employer.

Employer is not obliged to realise the rights for drawing from the Contract performance security.

If the rights for drawing from the Contract performance security is exercised as per letter a) above, the Employer shall return within 21 days from the expiry of the Warranty Period for the construction part of the Works to the Contractor the remaining part of the Contract performance security (if any) after deduction of all claims under the Contract performance security incurred by the Employer. The Employer shall also submit to the Contractor the list of such claims.

Employer shall compensate the Contractor for the loss within the scope in which the Employer was not entitled to claim from the Contract performance security. Employer shall return the Contract performance security to Contractor within 21 days after

- (i) elapse of all Warranty Periods;
- (ii) completion of all unfinished works stipulated in the Taking-Over Certificate; or
- (iii) after remedy of all defects;

whichever of the above-mentioned circumstances occurs later.

Contractor shall assure that Employer will be entitled to draw funds from the Contract performance security at the first call and without objections or restrictive conditions of the legal person having issued the Contract performance security.

If the Employer asserts his right to draw from Contract performance security, the Contract is obliged to top up the Contract performance security immediately, but no later than within fourteen (14) days so that it may achieve the level stipulated in the Attachment to Tender.

If the Contract performance security is invalid or unenforceable, the Contractor undertakes to procure the Contract performance security for the benefit of Employer whose value and conditions will correspond to the ones stipulated in the Contract immediately no later than within fourteen (14) days.”

#### **4.4**

##### **Subcontractors**

Sub-Clause 4.4 is cancelled and replaced with this wording:

“Contractor is entitled to authorise a third person to perform parts of the Works except the parts of the Works for which the Employer made reservations in tendering conditions that they may not be performed by Sub-Contractors.

If the scope of works realised by Sub-Contractor exceeds CZK 10,000,000.00, the Contractor shall notify Employer of this in writing within 7 business days in advance before work of the particular Sub-Contractor is started.

Furthermore, Contractor shall submit the Engineer the list of his Sub-Contractors stipulating the type of works and scope of their activities without any unnecessary delay and on request and shall always submit an updated list of Sub-Contractors according to the real situation without any unnecessary delay.

Contractor bears an exclusive responsibility for all performances provided through Sub-Contractors and other third persons used to realise the Works in the same scope as if he had provided such performance by himself.

If, due to objective reasons, it is not possible to perform the Works as of this Contract in the scope in which the Contractor proved his qualification via Sub-Contractor by such Sub-Contractor, the Contractor shall notify the Engineer of this fact in writing including stipulation of relevant reasons. Within 10 business days since notification of the above-mentioned fact to the Engineer, the Contractor shall submit Engineer the necessary documents proving fulfilment of qualification within the full scope while the appropriate qualification prerequisite can be manifested by the Contractor himself or he can prove it through another Sub-Contractor. Engineer will review the submitted documents without any delay and will provide the Employer with a written report.

#### **4.6**

##### **Co-operation**

The following words are added to the end of sub-paragraph (a), Sub-Clause 4.6:

“mainly, but without limitation in the scope mentioned in Employer's Requirements,”

#### 4.8

##### Safety Procedures

The following paragraph is inserted at the end of Sub-Clause 4.8:

“Contractor shall assure performance of the Works in compliance with the generally binding legal regulations in the area of safety and health protection in labour, fire protection, environment, etc. In conducting of works, he will provide observation of safety regulations and also will make all steps to protect environment. Furthermore the Contractor shall provide observation of the instructions and internal Employer's regulations necessary for securing safety of the existing WWTP operation. The details are specified by Employer's Requirements.”

#### 4.9

##### Quality Assurance

Sub-Clause 4.9 is replaced with the following wording:

##### “4.9. Quality Control System

In the following provisions of this Sub-Clause, the “QM System” means the system for the quality control. Contractor shall prepare the QM System in writing and introduce it into his internal procedures so that observation of the Contract requirements may be assured. Contractor shall prepare the QM System for purposes of the Works and deliver it to the Engineer within 28 days since the Commencement Date. If the QM System is updated or modified, Contractor shall deliver the Engineer a written copy of the update or modified QM System without any unnecessary delay.

QM System shall comply with the demands stipulated by Employer's Requests and shall include Contractor's procedures to assure:

- a) That all notices and other communications as of Sub-Clause 1.3 [*Communications*], Contractor's Documents, records of actual performance (if the QM System can be applied to them), operation and maintenance manuals, (if the QM System can be applied to them), and other topical records related to the Works, Goods, works, processing methods or tests can be traced and found in their complete wording with confidence;
- b) An appropriate co-ordination and management resulting in the right interconnection of the individual Works stages and to provide an adequate co-ordination and management of Sub-Contractors' activities; and
- c) That Contractor's Documents will be submitted to the Engineer for assessment as of the Sub-Clause 5.2 [*Contractor's Documents*].

The Engineer shall assess the QM System submitted by the Contractor within the period of 21 days. If the Engineer identifies defects in the QM System, he will issue the Contractor a written notice that it is not in compliance with the Contract, while he shall justify this notice and shall specify a particular scope to which the identified defects pertain. Contractor shall modify the QM System to be in conformity with the Contract within 14 days after service of the defect notice. Should the Engineer not issue the notice as of this paragraph within 21 days since a written counterpart of the QM System was delivered to him by Contractor, it is understood that it complies with the Contract.

Any time, the Engineer can give the Contractor a written notice that the latter does not observe the duty to implement and follow the QM System and will mentioned the scope in which the latter breaches this duty. After the Contractor receives the notice as of this paragraph, he is obliged to remove these defects immediately.

Contractor shall regularly perform an internal audit of the QM System, however once in 6 months at the minimum. Contractor shall deliver the Engineer the report about the results of an accomplished internal audit, namely within 7 days after its completion, at the latest. Each such report shall contain the proposed measures to improve and/or to correct the QM System and/or to implement it if such measures are suitable.

If the Contractor is subjected to an external audit based on certification, the Contractor shall immediately notify the Engineer of any defects detected by external audit. Should the Contractor consist of several persons, this duty will apply to all persons constituting a part of this company (Contractor)."

#### **4.11**

##### **Sufficiency of the**

##### **Accepted Contract Amount**

In Sub-Clause 4.11, the words of "it applies that the Contractor" are replaced with the words of "The Contractor declares that".

#### **4.15**

##### **Access Route**

The first sentence of Sub-Clause 4.15 is cancelled and replaced with this wording:

"Contractor declares that he was satisfied as far as the suitability and accessibility of Access Routes to the Site is concerned."

At the end of Sub-Clause 4.15, the following provision is added:

"The details are specified by Employer's Requirements."

#### **4.17**

##### **Contractor's Equipment**



The following sub-paragraph is inserted at the end of Sub-Clause 4.17:

“Contractor is also responsible for all Employer’s Equipment as bailee and the former shall carefully keep it in custody as it corresponds to the nature of things so that no harm to Employer’s Equipment may occur.”

#### **4.19**

##### **Electricity, Water and Gas**

The second and third paragraphs of Sub-Clause 4.19 are cancelled and replaced with this paragraph:

“Contractor shall realise the uptake of electric power, water, gas and other media he requires in association with implementation of the Works in the connection points determined by Employer in Employer’s Requirements. Contractor shall procure all the instruments necessary to utilise these services and measurement of consumed quantity, including fitting of connection points with individual devices to measure the consumed quantities of energy, water, gas and other services at his own expenses and risk.

Until the Trial operation is started according to Sub-Clause 1.1.3.10 of the contract, the Contractor shall pay Employer all costs associated with the supply of energy, water, gas and other media that the Contractor used up in association with implementation of the Works, namely based on the invoice issued by the Employer for Contractor always within 14 days from the invoice receipt from the media provider with the maturity period of such invoice being 14 days from the issue.

After initiation of Trial operation, the Employer carries the costs on consumed media.

#### **4.20**

##### **Employer’s Equipment and Free-Issue Material**

Sub-Clause 4.20 is removed without amendments.

#### **4.22**

##### **Security of the Site**

The following words are added to the end of sub-paragraph (b), Sub-Clause 4.22:

“and to the authorised officials.”

#### **4.23**

##### **Contractor’s Operations on Site**

The following paragraph is inserted behind the second paragraph of Sub-Clause 4.23:

“In the context of performed works, the Contractor shall fulfil the duties of waste originator as of the Act no. 185/2001 Coll. On Wastes as amended later, and he shall assure fulfilment of those duties even on the part of possible Sub-Contractors, namely inclusive keeping of the continuous records on wastes and methods of dealing with wastes and archiving of these records for the period stipulated by the appropriate Legal Regulations. At Employer’s request, Contractor shall submit the records on wastes and methods of dealing with them kept by Contractor for inspection without any unnecessary delay, including such records kept by Sub-Contractors.”

At the end of Sub-Clause 4.23, the following provision is added:

“Contractor shall exert his maximum effort so that a due operation of the existing WWTP or any other associated infrastructure or facility cannot be interfered with or threatened in consequence of the realised Works. During the realisation time of the Works, the Contractor shall suffer the access of Employer or a person authorised by the latter to the Site within the necessary scope and for the must period to take measures that are needed to provide a due operation of the existing WWTP or any other associated infrastructure or facility (inclusive taking measures needed to prevent or keep off the emergency or other malicious conditions). Contractor shall exert a reasonable effort so that the access and operations of Employer, or the persons authorised by the latter, in the Site area resulted in the least possible impacts on Contractor’s ability to perform the Works duly; and the Contractor shall be informed about each such access to the Site associated with taking of a certain measure and nature of such measure sufficiently in advance if it is possible due to the nature of the matter.”

**4.25**  
**Employer’s duty**  
**to pay Contractor**  
**contractual penalty**

A new Sub-Clause 4.25 is added [*Employer’s duty to pay Contractor contractual penalty*]:

“Employer has right to be paid with a contractual penalty from the Contractor in the amount stipulated in the Attachment to Tender if:

- a) Contractor breaches the duty to perform parts of the Works in personam for which the Employer reserved in tendering conditions that they may not be performed by subcontractors from Sub-Clause 4.4 [*Sub-Contractors*], or if the Contractor breaches the duty to declare the Sub-Contractors according to Sub-Clause 4.4 [*Sub-Contractors*];
- b) Contractor does not achieve the successive milestone as of Sub-Clause 4.26 [*Successive Mandatory Milestones*] or does not complete the Works in accordance with the Contract in Time for Completion;
- c) Contractor breaches the duty as of the last paragraph of Sub-Clause 6.9 [*Contractor’s Personnel*];

- d) Contractor does not remove defect or damage within a reasonable period stipulated by Contractor as of Sub-Clause 11.4 [*Failure to Remedy Defects*];
- e) Contractor is delayed with submittal of the Contract performance security or keeping the validity thereof at the required level;
- f) Contractor is delayed with submittal or keeping the validity of Insurance Policies as of Clause 18;
- g) Contractor does not submit the initial or any updated Programme as of Sub-Clause 8.3 [*Programme*] even after an additional call by the Engineer;
- h) Despite the Engineer's instruction to remedy, the Contractor does not fulfil the duties as of Sub-Clause 6.7 [*Health and Safety*].

Contractor's duty to fulfil the duty whose realisation was reassured by contractual penalty does cease by enforcement of the claim for payment of contractual penalty or by its actual payment.

Employer's right to receive compensation for the loss caused by breaching of Contractor's duty, to which the contractual penalty pertains, is not prejudiced by agreement upon the contractual penalty.

Contractual penalty is payable within 28 days after delivery of a written call to pay the contractual penalty with a brief description and time specification of the contractual duty for which the contractual penalty is requested. The call shall further include the information about the requested method for payment of contractual penalty. If the Contractor is delayed with consideration of contractual penalty, he shall pay the Employer the statutory interest on late payment for each started day of delay.

Parties agreed that the maximum total amount of contractual penalties paid by the Contractor for breaching of the Contract will not exceed the amount stipulated in Attachment to Tender.

Employer is unilaterally entitled to set off Contractor's title to payment of Contract Price, or its individual instalments as of the Schedule of Payments or other payments to which the Contractor is entitled as of this Contract, versus the title to payment of contractual penalties as of this clause or towards other payments to which the Employer is authorised as of this contract.

#### **4.26**

#### **Successive Mandatory**

#### **Milestones**

A new Sub-Clause 4.26 [*Successive Mandatory Milestones*] is added:

"Contractor shall perform the Works in such a manner that within the deadline until which the works corresponding to the appropriate successive mandatory milestones are to be completed, the Works were performed in a scope specified for the appropriate successive mandatory milestone. Issuance of Statement as of Sub-Clause 1.1.4.12 [*Statement*] by the Contractor constitutes the background for compliance with the milestone. Deadline for compliance with the successive mandatory milestone can be

extended under the circumstances stipulated in Sub-Clause 8.13.

Official record will be written by parties upon compliance with each successive mandatory milestone. Completion of records upon compliance with each successive mandatory milestone does not effect completion or taking-over of the Works or the Section thereof, neither has it meant that the Works or the part thereof was performed properly and without defects.

Programme of Successive Mandatory Milestones is included in the form of Successive Mandatory Milestones.”

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## **5 Design**

### **5.1**

#### **General Design**

##### **Obligations**

In Sub-Clause 5.1, the first paragraph, the last sentence is removed.

### **5.2**

#### **Contractor's Documents**

In Sub-Clause 5.2, the first paragraph, the words of “needed to acquire all official approvals” are replaced with the words of “needed to acquire all permissions, statements, approvals, positions and other documents required by legal regulations to perform and utilise the Works”.

In Sub-Clause 5.2, all the remaining paragraphs except the first and second paragraphs are removed, and the following text is inserted instead:

5.2.1 Employer's Requirements stipulate which of the Contractor's Documents the Contractor shall submit for assessment to the Engineer as of this Sub-Clause. Contractor manifests by submittal of those documents that those Contractor's Documents comply with the terms stipulated in Employer's Requirements or the Contract and are ready for assessment by the Engineer.

The Engineer shall assess the Contractor's Documents submitted in this manner within the period of 21 days after such documents are served to him (hereinafter referred to as “time for assessment”). Employer's Requirements can determine a different length of the time for assessment in the individual Contractor's Documents.

Within the time for assessment, the Engineer shall issue his announcement that:

- (a) As far as the submitted Contractor's Documents are concerned, there are no objections on his part (hereinafter referred to as "announcement upon inexecution of objections"); such announcement can include non-binding remarks pertaining to the matters that do not influence the Works in a material manner, or
- (b) Submitted Contractor's Documents contravene of the Employer's Requirements or the Contract, while the Employer's Requirements shall justify this notice and explain where the stipulated Contractor's Documents contradict with Employer's Requirements or the Contract.

Unless the Engineer issues any notice as of the previous paragraph within the time for assessment despite that the Contractor provided him all the documents needed for a proper assessment of the validated Contractor's Documents, inclusive Contractor's Documents on which the assessed Contractor's Documents are based on or are associated with, and the Engineer issued his announcement upon inexecution of objections for such Contractor's Documents, it is understood that the Engineer issued his announcement upon inexecution of objections.

Should the Engineer issue the instruction that it is necessary to submit several other Contractor's Documents for assessment of Contractor's Documents compliance with the Contract, the Contractor shall procure those Contractor's Documents at his own expenses and shall deliver them to the Engineer immediately. Should the Engineer issue the announcement as of the above-mentioned sub-paragraph b) of this Sub-Clause, the Contractor shall:

- i. Modify Contractor's Documents so that they may be in conformity with Employer's Requirements and the Contract,
- ii. Deliver again the modified Contractor's Documents to the Engineer for assessment, while a new time for assessment starts to run in the delivery moment of the modified Contractor's Documents, and
- iii. Is not entitled to extend the Time for Completion, if delay in progress of works occurs in the Works due to modification of Contractor's Documents and their re-assessment by the Engineer within the stipulated period.

If additional costs incur to Employer due to re-assessment of Contractor's Documents by the Engineer, the Employer can claim payment of such additional costs from the Contractor in conformity with Sub-Clause 2.5.

5.2.2 The following conditions apply for each part of the Works for the performance of which the Contractor's Documents must be submitted for assessment by the Engineer:

- a) Performance of such part of the Works may not be started, until the Engineer issues the announcement upon inexecution of objections (or until the time for execution of objections expires in vain for the Engineer) for all

Contractor's Documents that are relevant to its designing and performance;

- b) Performance of such part of the Works shall be in conformity with Contractor's Documents;
- c) If the Contractor intends to modify some of Contractor's Documents that have been already assessed by the Engineer according to Sub-Clause 5.2.1, he shall ask the Engineer in writing to possible making of the change in Contractor's Documents (hereinafter referred to as "application for change") and shall sufficiently justify the application. If the Contractor started to perform the part of the Works prejudiced by the required change in Contractor's Documents, then:
  - i. He shall interrupt his works on this part of the Works;
  - ii. The procedure for assessment of Contractor's Documents stipulated in the Sub-Clause 5.2.1 will apply to assess the application for change;
  - iii. Works on the part of the Works cannot be restored until the Engineer issues his announcement upon inexecution of objections (or until the time for execution of objections expires in vain for the Engineer) for the application for change."

### **5.3**

#### **Contractor's Undertaking**

At the end of Sub-Clause 5.3, sup-paragraph (c) is inserted behind sub-paragraph (b):

"(c) permissions, statements, opinions issued by the public bodies in relation to the Works as well as in compliance with the other relevant working documents."

### **5.6**

#### **As-Built Documents**

Sub-Clause 5.6 is removed and is replaced with the following wording:

"Requirements on documentation of real performance of the building and other requirements for Contractor's Documents are mentioned in Employer's Requirements."

### **5.8**

#### **Design Error**

In Sub-Clause 5.8, the last sentence, the words of "as of this Clause" are replaced with the words of "according to this Contract."

---

## 6 Staff and Labour

### 6.5

#### Working Hours

Sub-Clause 6.5 is removed and is replaced with the following wording:

“At the Site, the works can be performed in the business hours determined in Employer’s Requirements unless the valid and enforceable legal regulations or administrative decisions specify otherwise or the Engineer determines by his instruction with justification otherwise.”

### 6.7

#### Health and Safety

The second sentence is removed in the first paragraph of Sub-Clause 6.7:

At the end of Sub-Clause 6.7, the following provision is added:

“Contractor shall assure observation of conditions in view of the Health and Safety according to the applicable laws, including:

- a) Observation of statutory requirements pertaining to the operation of reserved technical devices,
- b) Compliance with the requirements for safe operation and use of machines, technical devices, instruments and tools,
- c) Introduction of the fire fighting system as of the appropriate legal regulations,
- d) Introduction of the system for handling with wastes as of the Waste Act,
- e) Compliance with the requirements of the act on chemical substances and chemical preparations,
- f) Compliance with the requirements in transport that the employer shall provide in operation of shipping by means of transport.

If the tasks are fulfilled by employees of two and more employers at one workplace, the employers shall inform each other about the risks and adopted measures to protect against their effect in writing.

Contractor shall comply with all duties resulting therefore from the Act no. 309/2006 Coll. on Provision of other conditions for Health and Safety, namely in relation to the Health and Safety Coordinator at the Site.

Furthermore, the Contractor shall bind other natural persons operating with his knowledge in performance of the Works:

- (i) To observe the Safety and Health regulations and to the duty to use personal protective tools, technical devices, instruments and tools complying with the requirements of special regulations.

- (ii) To be subjected to the duty to inform the Engineer 5 days in advance before taking-over the site about all circumstances that could lead to an increased risk of threat to life and injury to health of other workers.

Failure to observe the above-mentioned duties is considered failure to fulfil Employer's duty according to the Contract."

## **6.9**

### **Contractor's Personnel**

The following paragraph is inserted at the end of Sub-Clause 6.9:

Both Contractor and his Sub-Contractors shall provide natural persons for management of performance of the Works and selected activity in building construction whereas such person obtained authorisation to conduct those activities as of special regulations, namely in the number, with experience and professional skills stipulated in the tendering conditions of public contract for performance of the Works.

## **6.10**

### **Records of Contractor's**

### **Personnel and Equipment**

Sub-Clause 6.10 is replaced with the following wording:

Unless the Contractor and the Engineer agree otherwise, the Contractor shall mention in each Progress Report submitted as of Sub-Clause 4.21 [*Progress Reports*]:

- a) Data about the kinds of works and number of actually worked hours by Contractor's Personnel;
- b) Data about Contractor's Equipment that was used;
- c) Data about Temporary Works that were used;
- d) Data about installed Technological Facilities;
- e) Data about the numbers and types of used Materials

for each working activity mentioned in the Programme at each workplace and for each business day."

---

# **7 Plant, Materials and Workmanship**



## 7.5

### Rejection

The following sentence is inserted at the end of Sub-Clause 7.5:

“The Sub-Clause 11.4. applies in Failure to Remedy Defect.”

## 7.6

### Remedial Work

This paragraph is inserted at the end of Sub-Clause 7.6:

„The scope in which the Contractor was authorised to payment for work is determined by the procedure determined for evaluation of changes in the Works as of Sub-Clause 13.3 [*Variation Procedure*].“

## 7.7

### Ownership of Plant and Materials

Sub-Clause 7.7 is removed and is replaced with the following wording:

“Each item of Technological Facility and Materials is transferred to Employer’s ownership in the scope corresponding to the Country’s Legal Regulations, free of liens and encumbrances and other rights of third person in time when they are supplied to the Site.”

## 7.8

### Royalties

Sub-Clause 7.8 is removed and is replaced with the following wording:

“Contractor shall pay all the fees associated with implementation of the Works and their putting in operation, namely the administrative and local fees, rent and other payments for:

- a) Natural Materials obtained outside the Site and
- b) Removal of material from demolition and excavations and other excessive material (either the natural one or the artificially created one) except the cases when the areas for their storage at the Site are specified by the Contract.

All these fees constitute a part of Received Sum.”

---

## 8 Commencement, Delays and Suspension

## 8.1

### Commencement of Works

Sub-Clause 8.1 is removed and is replaced with the following wording:

“Engineer shall give the Contractor a notice about the Date of Work Initiation 7 days in advance, at least, while the Commencement Date shall occur within 30 days after the Contract Agreement comes in force. Contractor is not entitled to proceed to perform works on the Works before the Commencement Date mentioned in the notice as of the previous sentence.”

## 8.2

### Time for Completion

At the end of Sub-Clause 8.2, the following provision is added:

“The Works or Section is not considered to be completed unless and until the Contractor does not comply with the terms stipulated in sub-paragraphs (a) and (b) above. The other requirements on completion of the Works are mentioned in Employer’s Requirements.

Contractor shall comply with his duties associated with taking-over of the Works or Sections (as applicable) as of the Contract by Employer according to Sub-Clause 10.1 [*Taking Over of the Works and Sections*] and their completion so that the Works may be completed and taken-over (including a successful performance of Tests on Completion) in the Time for Completion.

Contractor shall guarantee that the Engineer will receive all documents and deeds stipulated in Employer’s Requirements that he is to receive before completion and taking-over of the Works.

Should the Contractor fail to observe this duty and taking-over cannot be accomplished due to this according to Sub-Clause 10.1 [*Taking Over of the Works and Sections*] in the Time for Completion, he will fail his duty to complete the Works or the Section thereof (as applicable) in Time for Completion.

## 8.3

### Programme

The first section of Sub-Clause 8.3 is replaced with the following wording.

Contractor shall submit the Engineer the initial programme for performance of the Works within 28 days after he received the notice of the Commencement Date according to Sub-Clause 8.1 [*Commencement of Works*]. Contractor shall also submit the updated programme that accurately reflects the actual working progress on the Works any time when any programme ceases to depict the actual progress or fails to comply with Contractor’s duties

otherwise, namely without any unnecessary delay no later than within 14 days.

The initial programme as well as every updated programme shall be submitted to the Engineer in two (2) counterparts as hard copies and in one electronic format on the data medium processed in the \*.mmp format for MS Project and \*.xls format for MS Excel and in the \*.pdf format. Every programme shall include:

- (a) Commencement Date, Time for Completion of the Works including each Test on Completion,
- (b) Deadlines for granting of access right, transfer of the Site and allowing of its use in conformity with the deadline stipulated in Attachment to Tender, the order in which the Contractor intends to perform the Works including the works of each of the specified Sub-Contractors,
- (c) Programme for passing of the individual parts of the building project documentation to the Engineer and the Programme for transfer of technological regulations and manufacturing and technical dossier,
- (d) Contractual value of works assumed for implementation in the individual months of performing the Works as of the Contract,
- (e) Sequence and timing of remedial works (if any) as of Sub-Clause 7.5 [*Rejection*] and 7.6 [*Remedial Works*],
- (f) All activities with logical links and depicting of the earliest and latest possible deadline for commencement and completion of each activity, reserves (if any) and critical path (possibly critical paths),
- (g) Days of all locally recognised days off and bank holidays,
- (h) All key deadlines for supply of Technological Equipment and Materials,
- (i) For each activity: real actual progress as to the specified date, any delay of this progress and impact of such delay on further activities (if any),
- (j) Successive Mandatory Milestones,
- (k) Schedule of Payments,
- (l) Accompanying report including:
  - (i) Description of all main stages for performance of the Works,
  - (ii) General description of procedures the Contractor intends to use in performance of the Works,
  - (iii) Data depicting the appropriate Contractor's estimated of the Contractor's Personnel number in every category and number of every type of Contractor's Equipment needed at the Site for each building premise broken down to individual months,
  - (iv) In the event of updated programme, the identification of any material change in comparison to the previous programme submitted by Contractor before the above-mentioned change,
  - (v) Contractor's proposal for surmounting the effect of any delays in the work progress on the Works."

In the second paragraph of Sub-Clause 8.3, the words of "(within 14 days after receipt of updated programme)" are inserted behind the words of "within 21 days after receipt of programme".

In the fourth paragraph of Sub-Clause 8.3, the words of "or it contravenes of the actual procedure and intentions stipulated by the Contractor" are replaced with the words of: "ceases to depict the actual progress or fails to comply with

Contractor's duties otherwise."

This paragraph is inserted at the end of Sub-Clause 8.3:

"In the event of Contractor's delay with submittal of the initial programme or updated programme, the Employer is entitled to withhold from the Contractor 10% of periodical payment, namely even repeatedly until this breach is remedied by the Contractor. The other Employer's claims originated in association with Contractor's delays to submit the initial programme or updated programme are not hereby prejudiced."

## **8.5**

### **Delays Caused by Authorities**

The following words are added to the end of sub-paragraph (a), Sub-Clause 8.5:

"and all Legal Regulations as well as the other relevant norms"

The following words are added to the end of sub-paragraph (c), Sub-Clause 8.5:

"And he cannot prevent it even with exertion of effort that can be rightly demanded from the Contractor."

## **8.6**

### **Rate of Progress**

The following words are added to the end of sub-paragraph (a), Sub-Clause 8.6 in front of the word of "*and/or*": "or prepared for putting in operation".

In the last paragraph of Sub-Clause 8.6, the words of "and with the contractual penalty as of this Contract" are inserted behind the words of "with compensation for loss due to delay (if any) as of the Sub-Clause 8.7 stipulated below."

## **8.7**

### **Delay Damages**

Sub-Clause 8.7 is removed without amendments.

## **8.9**

### **Consequences of suspension**

The following words are added to the end of the second paragraph of Sub-Clause 8.9:

“or by breaching of any Contractor’s duty prescribed in the Contract or resulting from Legal Regulations.”

## **8.13**

### **Time Extension to Comply with**

### **Successive Mandatory Milestone**

A new Sub-Clause 8.13 [*Time Extension to Comply with Successive Mandatory Milestone*] is added.

“According too Sub-Clause 20.1 [*Contractor’s Claims*], the Contractor is entitled to extension of time for compliance with the successive mandatory milestone if the situation occurs with which the Contract links the possibility for extension of the Time for Completion of the Works or Section, namely for the period by which performance of the works needed to comply with the successive mandatory milestone is or will be delayed due to the particular cause versus the deadlines mentioned in the Form of Successive Mandatory Milestones. Sub-Clauses of 8.4 [*Extension of Time for Completion*], 8.5 [*Delays Caused by Authorities*] and 20.1 [*Contractor’s Claims*] will be similarly applied for the purposes of exertion of a possible claim for extension of the time to comply with successive mandatory milestone.

The reasons for possible extension of Time for Completion and the time to comply with successive mandatory milestone are evaluated separately.”

---

# **9 Tests on Completion**

## **9.1**

### **Contractor’s Obligations**

The following sentence is added to the end of the fourth paragraph of Sub-Clause 9.1: “The other requirements for tests before taking-over of the Works are mentioned in Employer’s Requirements.”

## **9.4**

### **Failure to Pass Tests on Completion**

The following text is inserted behind the last paragraph of Sub-Clause 9.4:

“If it is proven in Tests on Completion that the Works do not achieve the performance parameters stipulated in the Letter of Tender within the evaluation criterion of Guaranteed Parametres, in the List of Guaranteed

Parameters Form, and at the same time, this defect is not remedied within the specified period, the Employer is entitled to the amount compensating the reduced value of the Works for the Contractor – discount of the Contract Price.

Amount of discount of the Contract Price will be calculated by the enumeration method included in Employer's Requirements. The total amount of discount under this Sub-Clause shall not exceed the limits as per the Attachment to Tender.

---

## **10 Employer's Taking Over**

### **10.1**

#### **Taking Over of the Works and Sections**

The following sentence is removed from the second paragraph of Sub-Clause 10.1: "If the Works are divided to Sections, Contractor may alike ask for Taking-Over Certificate for each Section." and it is replaced with the sentence of: "Contractor will not take over the individual Sections separately."

The following words are removed at the end of the first paragraph of Sub-Clause 10.1: "or it is understood that it was issued in conformity with this Sub-Clause."

The last paragraph of Sub-Clause 10.1 is removed without amendments.

### **10.2**

#### **Taking Over of Parts of the Works**

The second and third paragraph of Sub-Clause 10.2 are removed and replaced with the following wording:

"If it is not agreed otherwise, the Contractor may not use any part of the Works unless and until the Engineer issues the Taking-Over Certificate for this part except the situation when it is permitted to use the Works earlier in the mode of the Building Act"

In the last paragraph of Sub-Clause 10.2, the words of "compensation for loss" replaced with the words of "contractual penalty" in all cases and grammar forms.

### **10.3**

#### **Interference with Tests on Completion**

Sub-clause 10.3 is removed and replaced as follows:

„Shall the Contractor be prevented from the performance of the Tests on Completion for reasons attributable to the Employer for more than 2 weeks from the date

- (i) when the Contractor was for the first time ready to perform the Tests on Completion, or
- (ii) when the Contractor received a notice of the date of the Tests on Completion if later than the date specified above under item (i),

a if, as a result, the Contractor incurs a delay or Costs as a result of a delay in the performance of the Tests on Completion, then

- (i) the Contractor shall notify the Engineer and
  - (ii) the Contractor is under sub-clause 20.1 (Contractor's claims) to
- a) extension of time for any such delay if the completion is or will be delayed under sub-clause 8.4 (Extension of the time for completion) and
  - b) payment of any such Costs plus an extra reasonable profit that will be included in the Contract price..

After receipt of such notice, the Engineer shall follow sub-clause 3.5 (Determination) to agree or determine such a matter.”

## **10.5**

### **Trial operation**

A new Sub-Clause 10.5 [*Trial Operation*] is added:

“Contractor takes responsibility for a proper conduct of Trial Operation. Detailed requirements for the progress of Trial Operation are determined by Employer's Requirements.”

---

# **11 Defects Liability**

## **11.1**

### **Completion of Outstanding Work and Remedying Defects**

In sub-paragraph (a), Sub-Clause 11.1, the letter of “a” is removed at the end and is replaced with comma.

In sub-paragraph (b), Sub-Clause 11.1, comma is removed and it is replaced with the letter of “a.”

A new sub-paragraph (c) of the following wording is inserted behind sub-paragraph (b), Sub-Clause 11.1:

“(c) transfer all the above-mentioned works to Employer (or the representative thereof) on the basis of official records.”

A new paragraph with the following wording is inserted at the end of Sub-Clause 11.1:

“Contractor shall inform Employer about the method he intends to use for remedy of the Works Defect without any unnecessary delay after the defect is notified. Employer shall agree upon the particular method for remedying the defect. This consent may not be withdrawn or deleted without a serious reason. Minutes shall be taken about remedy of the defect by the Engineer.

## **11.2**

### **Cost**

#### **of Remedying Defects**

Sub-Clause 11.2 is replaced with the following wording:

“Any work referred to by sub-paragraph (b), Sub-Clause 11.1 [*Completion of Outstanding Work and Remedying Defects*] shall be performed at the risk and expenses of Contractor unless the defect or damage was caused by an improper use of the Works by Employer.

The Contractor undertakes to provide all necessary co-operation and mainly, but without limitation to submit quotation for making of new works when and in such scope in which such work can be attributed to any other cause and the Employer decides upon the necessity to perform new works and upon their placement in another proceedings according to the Act no. 134/2016 Coll. upon tendering of public contracts. Furthermore, if the Contractor is not selected for implementation of those works, he undertakes to provide the selected contractor of new works all co-operation for their proper implementation.”

## **11.3**

### **Extension of Defects Notification Period**

In the last sentence of the first paragraph, Sub-Clause 11.3, the words of “by more than two years” are replaced with the words of “by more than five years”.

## **11.4**

### **Failure to Remedy Defects**



The first paragraph of Sub-Clause 11.4 is cancelled and replaced with the following wording.

“Contractor shall remedy the defect or damage in an appropriate period determined by Employer (or on his behalf) communicated to the Contractor.”

## **11.6**

### **Further Tests**

At the end of the first sentence of Sub-Clause 11.6, the words of “after removal of the defect or damage” are inserted.

## **11.7**

### **Right of Access**

In Sub-Clause 11.7, the words of “Until the Certificate of Contract Fulfilment was issued” and are replaced with the words of: “Until the validity of Performance Security did not expire”.

## **11.8**

### **Contractor to Search**

The sentence with the following wording is inserted at the end of Sub-Clause 11.8:

*“Modification of Contract Price is subjected to approval by Employer.”*

## **11.9**

### **Performance Certificate**

Sub-Clause 11.9 is removed without amendments.

## **11.10**

### **Unfulfilled Obligations**

Sub-Clause 11.10 is removed without amendments.

## **11.11**

### **Clearance of Site**

In the first paragraph, Sub-Clause 11.11, the words of “Certificate of Contract Fulfilment” are replaced with the words of “Taking-Over Certificate”.

In the second paragraph, Sub-Clause 11.11, the words of “28 days” are replaced with the words of “four (4) calendar months” and the words of

“Certificate of Contract Fulfilment” are replaced with the words of “Taking-Over Certificate”.

---

## **12 Tests After Completion**

### **12.2**

#### **Delayed Tests**

The first paragraph of Sub-Clause 12.2 is cancelled and replaced with the following wording.

“If due to the reasons that cannot be attributed to the Contractor some Test on Completion pertaining to the Works or any Section cannot be completed during the Warranty Period (or any other time agreed by the Parties), the Contractor shall not perform this Test.”

### **12.4**

#### **Failure to Pass Tests**

#### **After Completion**

In the first sentence, Sub-Clause 12.4, the word of “valid” is replaced with the phrase of “are cumulatively fulfilled” and the word of “namely” is removed as well as the comma before it.

In sub-paragraph c), Sub-Clause 12.4, the the following part is removed: “then it applies that these Tests on Completion on the Works or Section were successfully accomplished” and is replaced with this text: “Contractor is not obliged to perform the tests on the Works or Section again”.

---

## **13 Variations and Adjustments**

### **13.1**

#### **Right to Vary**

At the end of Sub-Clause 13.1, the following provision is added:

“Parties shall observe the enforceable and effective wording of the Act no. 134/ 2016 Coll. upon tendering of public contracts and proceed in compliance with this act in case of Variations.

Contractor shall provide Employer with all necessary co-operation to fulfil the prerequisites of the Act no. 134/ 2016 Coll. upon tendering of public

contracts.

If the Variation results from a changed liability in the light of the Act no. 134/ 2016 Coll. upon tendering of public contracts, the Parties shall execute a change sheet for the specific Variation. The Engineer can issue the instruction to perform works before the change sheet to the Contract for performance of those works is signed in the light of the Act no. 134/ 2016 Coll. upon tendering of public contracts if a smooth running of the construction were interfered or occurrence of damage threatened.

Until the change sheet is signed by both Parties, the works included in the change sheet cannot be included into the Statement. If the Statement includes such works, under such circumstances, the Engineer does not take into account the Statement, and he will return the Statement to Contractor for reworking.

In case that in the light of Section 222, the Act no. 134/ 2016 Coll. upon tendering of public contracts, the statutory conditions mentioned herein are not complied with and the Employer decides it is necessary to tender new works in the tendering procedures and the Contractor is not selected to implement those works, Contractor undertakes to provide the selected contractor of new works all co-operation for their proper implementation.

If delay occurs or the costs causally associated with providing of cooperation to another contractor are incurred by the Contractor, the Contractor shall give the Engineer a notice and is entitled as of Sub-Clause 20.1 [*Contractor's Claims*] to:

- a) extension of time for any such delay if the completion is or will be delayed according to Sub-Clause 8.4 [*Extension of Time for Completion*] and
- b) Payment of the Costs spent in this manner, while they will be included to the Contract Price.

After receipt of this notice, the Engineer shall proceed in compliance with Sub-Clause 3.5 [*Determinations*] so that these matters may be agreed or determined.

### **13.3**

#### **Variation Procedure**

At the end of Sub-Clause 13.3, the following provision is added:

“The Engineer and Contractor shall use the price for any item in appraisal of the Variation (in the following priority order):

- (i) Specified in the Contract;
- (ii) Derived from that of a similar item specified in the Contract;

- (iii) Determined on the basis of the appropriate item in the proceedings of building works issued by the company RTS a.s., Company Registration Number: 255 33 843 with its registered office in Lazaretní 4038/13, Židenice, 615 00 Brno, valid as to the submittal date of proposed Variation by the Contractor; to avoid any doubts, it is agreed that the surcharge of a reasonable profit or overhead costs of the Contractor are not added to the price obtained by this method, because they have been already incorporated into those prices;
- (iv) In case of specific works not included in the Contract, the Variation shall be appraised on the basis of individual calculation using the price usual at the specific place and time. The price usual at the specific place and time will be determined as of the results of market consultations with three contractors, at least, addressed by Contractor. In such case, the Variation shall be appraised by the lowest price obtained in this way to which the 5% surcharge representing the reasonable Contractor's profit, 5% administrative overhead and 5% production overhead will be added;
- (v) If it is not possible to appraise the Variation as of item (iii), the price shall be determined by the Engineer according to Sub-Clause 3.5 [*Determinations*] base on the proposed Contractor's calculation for the reasonable direct costs; he 5% surcharge representing the reasonable Contractor's profit, 5% administrative overhead and 5% production overhead will be added to the price obtained in this manner;

Contractor shall submit the Engineer the calculation as of items (ii) and (iv) as soon as possible after the Engineer raises his request. The calculation as of item (iv) shall also include the quotations of the contractors addressed by Contractor.

Engineer may proceed in compliance with Sub-Clause 3.5 [*Determinations*] to agree or determine whether the Variation should be paid as of the actually supplied quantity or performed work or by the lump sum. In the event of payment according to actually delivered quantity or performed work, the provisions for measurement and appraisal are used as they are stipulated in Employer's Requirements. If there are no such provisions in Employer's Requirements, the Engineer shall proceed in conformity with Sub-Clause 3.5 [*Determinations*] to agree or determine the method of measurement or appraisal. In accordance therewith, the Contract Price shall be determined, and it shall be subjected to the modifications in compliance with the Contract.

Until the suitable item price is agreed or determined, the Engineer must determine the temporary item price for the purposes of the Periodical Payment Certificates.

If necessary, the Engineer can agree or determine the appropriate advance for Variation as of Sub-Clause 3.5.

## 13.5

### Provisional Sums

Sub-Clause 13.5 is removed without amendments.

## **13.6**

### **Daywork**

Sub-Clause 13.6 is removed without amendments.

## **13.7**

### **Adjustments for**

### **Changes in Legislation**

In Sub-Clause 13.7, the first paragraph, the words of “or modifications in the court or official administrative interpretation of such Legal Regulations” are removed.

In Sub-Clause 13.7, the second paragraph, the words of “or such interpretations” are removed.

## **13.8**

### **Adjustments for**

### **Changes in Cost**

Sub-Clause 13.8 is removed without amendments.

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# **14 Contract Price and Payment**

## **14.1**

### **The Contract Price**

In Sub-Clause 14.1, sub-paragraph (d) is amended so that the full stop at the end is replaced with comma and the words of “if the Contract does not stipulate otherwise or if it does not follow from the Contract otherwise.” are added to the end.

## **14.2**

### **Advance Payment**

Sub-Clause 14.2 is removed and is replaced with the following wording:

“The advance payment will be provided in the amount mentioned in the Attachment to Tender as the single advance payment in the initiation of

works. The amount of advance payment and the appropriate currencies and exchange rates shall be the ones determined in the Attachment to Tender.

Employer will provide the advance payment to mobilise under condition that the Contractor will present (i) the Performance Security in compliance with Sub-Clause 4.2 [*Performance Security*] and (ii) Advance payment guarantee in the amounts and currencies equal to the advance payment.

Contractor shall obtain the Advance payment guarantee in form of bank guarantee as of provisions of Section 2029 of Civil Code in the amount stipulated in the Attachment to Tender. This guarantee shall be issued by the Czech bank or other Czech entity authorised to issue the bank guarantees within its scope of business or by a foreign bank (credit institution) with its registered office in the EU member state and branch in the Czech Republic or by a foreign bank (credit institution) with its registered office in the EU member state operating in the Czech Republic based on the right of free movement of services for the benefit of the Employer as beneficiary, and it shall be in the master form that is incorporated into the tender documentation.

Contractor shall assure that the security is valid and enforceable until the return of advance payment, but its amount can be gradually reduced for the amount returned by the Contractor as it is stipulated in the Payment Certificates. If the conditions of security specify expiry of its validity period and the advance payment was not returned till 28th day before its validity period expires, the Contractor shall extend the security period until the advance payment is returned.

Unless and until the Contractor receives this security or if the total advance payment is not mentioned in Attachment to Tender, this Sub-Clause is not used.

Advance payment shall be returned as deduction of the amount confirmed in the Periodical Payment Certificates that will follow after issuance of the Periodical Payment Certificate where the sum of all confirmed periodical payments (except the advance payment) exceeds seventy (70%) of the Received Sum. Engineer will apply these deductions in the full amount in all subsequent Periodical Payment Certificates in compliance with the provisions of Sub-Clause 14.3, sub-paragraph (d), so that and in such scope until the advance payment provided as of this Sub-Clause 14.2 is returned. The total value of advance payment shall be paid up no later than issuance of the Taking-Over Certificate of the Works.

If the advance payment was not paid up before issuance of the Taking-Over Certificate of the Works or before withdrawal as of Clause 15 [*Termination by Employer*], Clause 16 [*Suspension and Termination by Contractor*] or Clause 19 [*Force Majeure*] (as of circumstances), the whole balance remaining in that time becomes immediately payable by the Employer to Contractor."

## **Application for Interim Payment Certificates**

At the end of the first sentence of the first paragraph, Sub-Clause 14.3, the words of “that must include the report on progress of works during this month in compliance with Sub-Clause 4.21 [*Progress Reports*]” are deleted and replaced with the full stop.”

The text with the following wording is added to the end of the first paragraph of Sub-Clause 14.3:

“Contractor shall also pass the Engineer the Statement in electronic form in the format of \*.xml on CD-R disc.

Contractor shall keep and submit separate Statements in relation to the individual Sections of the Works. “

In the second paragraph, Sub-Clause 14.3, the words of “for each Section” are inserted behind the word of “Statement”.

Sub-paragraph (c) is removed without amendments.

In sub-paragraph (g), the word of “periodic” is inserted between the words of “Payment Certificate”.

## **14.4**

### **Schedule of Payments**

Sub-Clause 14.4 is removed and is replaced with the following wording:

“Within 28 days since Commencement Date, the Contractor undertakes to submit Schedule of Payments as a part of the programme according to Sub-Clause 8.3 specifying the submitted quarter instalments by which the Contractual Price will be paid. Schedule of Payments shall comply with the value determined by the Contractor in the Lump-sum contract amount breakdown form for the Received Amounts that constitutes a part of the Contract and is used as a mandatory entry to the Schedule of Payments.

Parties agreed that:

- (a) The instalments mentioned in this Schedule of Payments were the estimated contractual values for the purposes of sub-paragraph (a), Sub-Clause 14.3 (Application for Interim Payment Certificates);
- (b) Sub-Clause 14.5 (Plant and Materials intended for the Works) is not applied; and
- (c) Contractor shall immediately, but no later than within fourteen (14) days after the actual progress of works starts to slow down more than supposed by the Schedule of Payments, submit the Engineer the updated Schedule of Payments together with an updated programme as of Sub-Clause 8.3.

Should the Contractor fail to submit the update Schedule of Payments as of the sub-paragraph (c) of this Sub-Clause, the Engineer is entitled to proceed in compliance with Sub-Clause 3.5 [*Determinations*] to agree or determine the revised instalments that shall take into account the scope in which the progress of works is slower than stipulated in the Schedule of Payments.

Estimated contractual value for the purposes of this sub-paragraph (a), Sub-Clause 14.3 [*Application for Interim Payment Certificates*] will be determined for the works contained therein as of the Form of Lump Sum Breakdown for the Received amounts.

No instalment may be honoured to the Contractor unless the corresponding part of the Works is really performed.”

#### **14.6**

##### **Issue of Interim Payment Certificates**

The following text is inserted behind the first paragraph of Sub-Clause 14.6:

“If some data mentioned in the Statement are not true, right or complete or if their correctness cannot be verified by Engineer due to lack of supporting documents, the Engineer shall notify the Contractor of this fact within 28 days after receipt of the Statement. In such case,

- (i) the Statement is not taken into account and
- (ii) Contractor shall without any unnecessary delay submit the Engineer the new Statement with all supporting documents that will comply with the Contract. Subsequently, the Engineer shall issue the Employer the Interim Payment Certificate that stipulates the amount of interim payment the Employer will honour to the Contractor based on Statement. The date of taxable payment performance means the date of the Statement approval. Tax document for the interim payment can be issued only after approval of the Statement.”

#### **14.7**

##### **Payment**

Sub-paragraphs (a) to (c), Sub-Clause 14.7 are removed and replaced with the following text:

- a) instalment of the advance payment within 60 days after request for the advance payment by Contractor or after receiving the documents in conformity with Sub-Clause 4.2 [*Performance Security*] and Sub-Clause 14.2 [*Advance Payment*] whichever becomes later on the basis of the advance payment invoice ;



- b) the amount confirmed in each Interim Payment Certificate within 60 days since the Engineer receives Contractor's invoice issued on the basis of the Interim Payment Certificate, and
- c) the amount confirmed in the Final Payment Certificate within 60 days since the Engineer receives Contractor's invoice issued on the basis of the Final Payment Certificate."

#### **14.8**

##### **Delayed Payment**

The first and second paragraphs of Sub-Clause 14.8 are cancelled and replaced with the following wording.

"If the Contractor does not receive the payment in conformity with Sub-Clause 14.7 [*Payment*], Contractor is entitled to receive payment of interest in arrears at the amount stipulated by Legal Regulations."

#### **14.9**

##### **Payment of Retention Money**

Sub-Clause 14.9 is removed without amendments.

#### **14.10**

##### **Statement at Completion**

Sub-Clause 14.10 is removed without amendments.

#### **14.11**

##### **Application for Final Payment Certificate**

Text of Sub-Clause 14.11 is removed and replaced with the following wording:

"Within 84 days after receipt of the Taking-Over Certificate, Contractor shall submit the Engineer six copies of Final Statement with supporting documents that represent:

- (a) Value of all works performed in conformity with the Contract and
- (b) Any other amounts of which the Contractor thinks they will belong to him as of the Contract or otherwise.

If some data mentioned in the Final Statement are not true, right or complete or if their correctness cannot be verified by Engineer due to lack of supporting documents or the Final Statement is in contradiction with the Contract otherwise, the Engineer shall notify the Contractor of this fact together with the reasons within 28 days after receipt of the Final Statement. In such case,

- (i) the Final Statement is not taken into account and
- (ii) Contractor shall without any unnecessary delay submit the Engineer the new Final Statement with all supporting documents that will comply with this Contract. Subsequently, the Engineer shall issue the Employer the Final Payment

Certificate as of Sub-Clause 14.13. The date of taxable payment performance means the date of the Final Statement approval. Tax document for the final payment can be issued only after approval of the Final Statement.”

If, however, after debating of the Final Statement by the Engineer and Contractor about any agreed changes of drafted final statement, it becomes obvious that the several item included into the Final Statement is disputable, the Engineer shall deliver the Employer (with a copy for Contractor) the Interim Payment Certificate for the part of a drafted final statement that is not disputable between the Engineer and Contractor. After the dispute is finally resolved as of Clause 20 [*Claims, disputes and arbitration*], the Contractor shall prepare the modified version of Final Statement and submit it to the Employer (with a copy for Engineer).”

#### **14.14**

##### **Cessation of Employer’s Liability**

The first paragraph of Sub-Clause 14.14 is removed and replaced with the following wording:

Employer is not liable to the Contractor for any matter or thing according to or associated with the Contract or performance of the Works except (and in such scope) that the Contractor expressly included the amount to the Final Statement for this purpose except the matters and things that occurred after issuance of Taking-Over Certificate.”

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## **15 Termination by Employer**

#### **15.2**

##### **Termination by the Employer**

Sub-paragraph (a) is replaced with the following text:

“a) is delayed with the extension of the Performance Guarantee and with keeping of this guarantee valid in the required amount for the period exceeding 30 days;”

In Sub-Clause (d), the word of “whole” is deleted and the words of “in contradiction with the Contract” are inserted behind the word of “sub-contractors”.

Sub-paragraph (e) is replaced with the following text:

“e) if it is decided upon his bankruptcy, entering into liquidation or there is any dealing or event that have a similar effect (according to the appropriate Legal Regulations) as any of those dealings or events,”

The following text is inserted behind sub-paragraph (f):

- g) Does not observe the conditions prescribed by the tendering documentation of the order for performance of the Works even after expiry of an additional reasonable time that was determined for him by Employer to comply with the appropriate conditions,
- h) In the tendering process and specification of the order for performance of the Works, he mentioned in his Tender the information and documents not corresponding to reality and that had or could have effect on the result of a specific tendering procedures,
- i) Is in delay with fulfilment of successive mandatory milestones for the period exceeding 90 days,
- j) Is delayed with submittal or keeping the validity of Insurance Policies as of Clause 18 for the period exceeding 60 days;
- k) Does not proceed in conformity with the notices as of Sub-Clause 15.1 [*Notice to Correct*];
- l) In case the Contractor breaches some duty resulting from the Contract, Technical Standards or Legal Regulations and it is necessary to suspend or substantially restrict operations of the existing WWTP for the period exceeding ten (10) consecutive calendar days;
- m) Does not complete the Works even within 3 months since Time for Completion expires (with all extensions as of Sub-Clause 8.4); and furthermore
- n) Under the conditions stipulated by Civil Code;”

The second section of Sub-Clause 15.2 is replaced with the following wording:

“After service of the Contract withdrawal of Employer, the Contractor shall immediately terminate any other work on the Works except the work for which the instruction was issued by Engineer to protect health and property or for the Works safety, and shall remove all other Goods from the Site except those necessary for safety.”

These words of “namely in the period of 14 days since the Contract withdrawal is served” are inserted into the fourth paragraph, Sub-Clause 15.2, at the end of the first sentence.

The following text is inserted behind the last paragraph of Sub-Clause 15.2:

“In conformity with provisions of Section 2004, paragraph 2, Civil Code, the Employer can withdraw from the Contract only in the scope in which it was not duly fulfilled as to the withdrawal date.”

### **15.3**

#### **Valuation at Date of Termination**

At the end of Sub-Clause 15.3, the following text is added:

“In determination of the value of the Works, Goods and Contractor's Documents and any other amounts belonging to Contractor for works performed in compliance with the Contract, the Engineer shall proceed with a due diligence and shall build on the Contract Price and appraisal method for the Works and their individual stages (successive mandatory milestones) agreed in the Contract.”

### **15.5**

#### **Employer's Entitlement to Termination**

The third sentence is deleted in the first paragraph of Sub-Clause 15.5

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## **16 Suspension and Termination by Contractor**

### **16.2**

#### **Termination by Contractor**

Sub-paragraph (a) is removed without amendments.

Sub-paragraph (d) is removed and is replaced with the following wording:

“Commencement Date, in the light of Sub-Clause 8.1 (Commencement of Works), will not be announced in the period of three (3) calendar months while the period starts on the first day of calendar month following after the Contract Agreement is made.”

Sub-paragraph (e) is removed without amendments.

Sub-paragraph (g) is removed without amendments.

The last sentence of Sub-Clause 16.2 is removed without amendments.

At the end of Sub-Clause 16.2, the following text is added:

“In conformity with provisions of Section 2004, paragraph 2, Civil Code, the Contractor can withdraw from the Contract only in the scope in which it was not duly fulfilled as to the date of notice to the Employer.”

## 16.4

### Payment on Termination

In sub-paragraph (c), Sub-Clause 16.4, the words of: “in consequence of this withdrawal” are replaced with the words of “breaching of Employer’s duty.”

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# 17 Risk and Responsibility

## 17.1

### Indemnities

The following words are removed at the end of the last paragraph of Sub-Clause 17.1: “as it is described in sub-paragraphs (d) (i), (ii) and (iii) of Sub-Clause 18.3 [*Insurance against Injury to Persons and Damage to Property*].”

## 17.2

### Contractor’s Care of the Works

In the first paragraph of Sub-Clause 17.2, the words in both parentheses are removed: “(or it is understood that it has been issued according to Sub-Clause 10.1 [*Taking Over of the Works and Sections*])” and “(or it is understood that it has been issued)”.

## 17.5

### Intellectual and Industrial Property Rights

Text of Sub-Clause 17.5 is removed and replaced with the following wording:

“If the rights to intellectual property are bound to performance of the Works or some section thereof or any documentation or thing provided by a contractual party to the other contractual party in the light of appropriate generally binding legal regulations, the parties are mutually bound to protect such rights so that no harm may be caused to the person whom such intellectual property right suits.

If the intellectual property right suits to a third person, the parties are hereby mutually bound to inform each other about such situation and also simultaneously inform each other about the scope of rights for using such protected subject matter.

Without a previous approval of Employer, the Contractor may not take any photographs of the Works for the promotional and advertising purposes and neither he may authorise other persons, nor independently publish any articles, photographs or other illustrations pertaining to the Works in cooperation with another person.

If a Party breaches provisions of this Sub-Clause, the other Party is entitled to damages within 28 days after such claim is enforced against it.

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## **18 Insurance**

### **18.1 General Requirements for Insurance**

Text of Sub-Clause 18.1 is removed and replaced with the following wording:

“On Employer's request without any unnecessary delay, the Contractor as an insuring Party shall submit to the Employer:

- a) the proof that the insurances he should have arranged and that are described in this Clause are valid and
- b) copies of the particular insurance policies.

If the Employer requires, the Contractor shall have the insurance policies made as of this Contract assessed by insurance broker determined by the Employer. At Employer's request, the Contractor shall also submit the Employer a proper payment of insurance premium and fulfilment of other Contractor's duties resulting from insurance policies.

If the Contractor as the insuring Party does not make or keep in force any insurance, which he should make or keep in force, or does not submit a satisfactory evidence and copies of insurance policies in compliance with arrangements of this Clause and its Sub-Clauses or does not provide cooperation resulting in fulfilment of the intended sufficient insurance protection of the Employer (following the professional assessment of the material scope for presented insurance policies) as of this Article and its Sub-Clauses, the Employer (as of his discretion and without prejudice to any rights or remedies) can make insurance for the appropriate additional insurance coverage and pay the particular insurance directly. In such circumstances, the Contractor shall pay the Employer the appropriate amounts in the value of this insurance and associated fees paid by Employer to the Contractor.”

### **18.2 Insurance for Works and**

## Contractor's Equipment

Text of Sub-Clause 18.2 is removed and replaced with the following wording:

"Before starting of the Contract performance, the Contractor shall make the insurance policy for the property construction and assembly insurance of the "all risks" type (relating mainly, but without limitation to fires, floods, inundations or other natural disaster and against theft or incidental damage by negligence) of the Works, parts of the Works and their attachments, including especially building and assembly works, Materials, products, devices, documents associated with performance of the Works (hereinafter referred to as "Works and Accessories" only),(hereinafter referred to as "Works Insurance"). In the Form of Insurance Conditions, there are detailed requirements for the Works Insurance.

The upper limit of assurance benefit for a single loss event (claim) may not be lower than the amount stipulated in the Insurance Terms and Conditions Form in the time of insurance policy execution for the Works Insurance.

Insurance policy may not include provisions excluding the indemnity liability of insurance company (the so-called exclusions from insurance) except the exclusions corresponding to the exclusions implemented in relation to the similar subject matter of insurance at the market of provided insurance services in the Czech Republic in a standard manner.

Contractor shall make all modifications in Works Insurance so that the Works would be insured during the whole performance period until the issue of the Taking-over Certificate of the Works insured in conformity with the requirements stipulated in this Clause and in the Form of Insurance Conditions.

Contractor will submit a copy of insurance policy to the Employer no later than within 15 days since execution of the Contract Agreement. Violation of this duty represents a material breach of the Contract by Contractor.

Contractor shall provide that all conditions as of this Clause and Form of Insurance Conditions will be satisfied in the insurance policies for the Works Insurance for the whole period of the Works Insurance and that the Employer (not the Contractor) will be designated as the person authorised to receive assurance benefit for the whole period when the Works Insurance lasts. Contractor is entitled to designate another person as the authorised recipient of assurance benefit only after receipt of a previous written approval of Employer. Contractor shall further provide that it will be stipulated in insurance policies made for the Works Insurance that the assurance benefit will be paid out to the Employer as the person authorised to receive assurance benefit in its full scope at Employer's request, and that no Contractor's consent or that of other persons would be required. Violation of any duty as of this paragraph is considered a material breach of the Contract by Contractor.

### **18.3**

#### **Insurance against Injury to Persons and Damage to Property**

Sub-Clause 18.3 is removed including the heading and is replaced as follows:

#### **“18.3 Insurance against Injury to Persons, Damage to Property and Other Damages Caused to Employer**

Before performance of the Contract is started, the Contractor shall make the insurance policy whose subject matter will include liability insurance for health and property loss caused by Contractor to Employer due to fulfilment of the Contract (including Employer's property who is not insured as of Sub-Clause 18.2) and to third persons. Contractor shall provide that the above-mentioned insurance pertains to Contractor's liability for damages originated in association with fulfilment of Contract (hereinafter referred to as "Liability Insurance"). Assurance benefit limit shall be at the level stipulated in the Form of Insurance Conditions, at the minimum, based on the Liability Insurance. In the Form of Insurance Conditions, there are detailed requirements for the Liability Insurance.

Contractor's sub-contractors will be specified as the co-insured in insurance policies made in accordance with this Contract. If co-insurance of sub-contractors is not possible, the Contractor will request for the sub-contractors to comply with the insurance requirements stipulated in this Sub-Clause and in the Form of Insurance Conditions, i.e. to effect insurance policies.

Contractor shall maintain the insurance within the scope mentioned in the Form of Insurance Conditions, at least, until the Taking-Over Certificate of the Works is issued, i.e. until the expiry of the insured warranty period as per the Form of Insurance Conditions (based on circumstances). Insurance policy may not include provisions excluding the indemnity liability of insurance company (the so-called exclusions from insurance) except the exclusions corresponding to the exclusions implemented in relation to the similar subject matter of insurance at the market of provided insurance services in the Czech Republic in a standard manner.

Contractor shall provide that the above-mentioned insurance applies to Contractor's liability for damages possible originated as of the Contract. Contractor will submit a copy of insurance policy to the Employer no later than within 15 days since execution of the Contract Agreement. Violation of this duty represents a material breach of the Contract by Contractor.

Waiver of recourse rights of insurer towards Employer will be agreed in the insurance policy.”

### **18.4**

#### **Insurance for Contractor's Personnel**



Sub-Clause 18.4 is removed without amendments.

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## 19 Force Majeure

### 19.6 Optional Termination, Payment and Release

Sub-Clause 19.6, Optional Termination, Payment and Release, is cancelled including the heading and is replaced with the following wording:

“19.6 Notice, Payment and Release

“Each of the Parties can give notice the other Party if Force Majeure the notice of which was given as of Sub-Clause 19.2 [*Notice of Force Majeure*] prevents to perform the whole Works in progress, essentially, for a continuous period of 84 days or for more repeating periods that in sum will exceed 140 days due to the single and the same notified Force Majeure, and in the other situations stipulated by this Contract. In such situation, the Contract expires after elapse of the 7-day cancellation period since the notice delivery to the other Party. Contractor shall proceed in conformity with Sub-Clause 16.3 [*Cessation of Work and Removal of Contractor's Equipment*].

After such withdrawal, the Engineer shall determine the value of performed work and issue the Payment Certificate that shall include:

- a) The amounts to be paid for any performed works whose price is determined in the Contract;
- b) Costs incurred by Technological Equipment and Materials ordered for the Works that were supplied to the Contractor or for which the Contractor is obliged to accept the delivery. Ownership (and associated risks) of this Technological Equipment and Materials are transferred to the Employer when the Employer pays for them and the Contractor fulfils his duty to transfer them for Employer's disposal;
- c) Removal costs for Interim Works and Equipment of Contract from the Site and return shipping of those items to the workplace in Contractor's country (or anywhere else, but not for higher costs).

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## 20 Claim, Disputes and Arbitration

### 20.1 Contractor's Claims

The following paragraph is inserted in Sub-Clause 20.1:

“If the Engineer does not respond in the time defined by this Sub-Clause, any of the Parties can consider this claim to be refused by the Engineer.”

## **20.2**

### **Appointment of the Dispute**

#### **Adjudication Board**

At the end of Sub-Clause 20.2, the following text is added:

“Adjudicator is an appointed person designated in the Attachment to Tender. Simultaneously in making the Contract Agreement, the Parties have also made the agreement with adjudicator as of the master included into the Contract. If the adjudicator designated in the Attachment to Tender ceases to perform the adjudicator function for any reason, the parties will immediately elect a new adjudicator in the matter described above in this Sub-Clause and further in the Contract.

## **20.4**

### **Obtaining Dispute Adjudication Board’s Decision**

In the last paragraph of Sub-Clause 20.4, the words of “final and” are removed without amendments.

## **20.6**

### **Arbitration**

Sub-Clause 20.6 is replaced with the following wording.

“If an amicable solution of the dispute fails on the basis of Parties’ dealings, the dispute will be finally decided by the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic.”

## **20.7**

### **Failure to Comply with Dispute Adjudication**

#### **Board’s Decision**

Sub-Clause 20.7 is removed without amendments.