

ORDER AGREEMENT

Riga,

24. May. 2024



Latvenergo AS (hereinafter referred to as the Customer)	and	EKOS Teknoloji ve Elektrik A.Ş. (hereinafter referred to as the Contractor)
Registration number: 40003032949		Registration number: 22642
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Address: Pulkveza Brieza Street 12, Riga, LV-1230		Address: Gaziosmanpasa OSB Mah. 7.Cad. No: 17-19A, 10100, Altieylul, Balikesir, Turkey
Credit institution:		Credit institution:
SWIFT code:		SWIFT code:
Account number:		Account number:

hereinafter severally referred to as the "Party" and jointly as the "Parties" agree on the following provisions of the agreement (hereinafter referred to as the Agreement):

SPECIAL PROVISIONS

1. Subject of the Agreement

- 1.1. The Contractor sells and delivers compact transformer substations (CTS) with power transformers to the Customer (hereinafter referred to as the Order), but the Customer shall pay to the Contractor for the Order fulfilled pursuant to the terms of the Agreement. The Order specification is provided in the annex to the Agreement (Order Specification).

2. Contract Amount

- 2.1. The total payment for the performed Order is determined in accordance with following procedure:
 - 2.1.1. The price of Order (tender) is fixed on the day of submission of the tender;
 - 2.1.2. Price recalculation for the Order is performed on the day of entering into force of the Agreement in accordance with Annex No. 3 of the Agreement "Price recalculation formula". The recalculation of the price performed by the Customer shall become an integral part of this Agreement and payment is made in accordance with the price recalculation.
 - 2.1.3. The payment for the Order shall be without VAT. All the taxes and duties are included in the item price and they shall be paid by the Contractor, except value added tax. A special VAT regime applies and it is calculated, specified in invoices and paid in accordance with applicable laws and regulations.
- 2.2. The amount of the Advance payment is 50% of the Contract price (109 855,00 EUR). The Customer make the Advance payment within 10 (ten) days after Agreement entered in force and having received a respective supporting document (invoice) from the Contractor and appropriate Advance payment security.
- 2.3. In accordance with the procedure specified in the Clause 5 of General provisions of the Agreement the Contractor shall submit to the Customer an Advance payment security in the amount of the advance payment specified in Clause 2.2 of the Special provisions.

3. Term of the Agreement

- 3.1. This Agreement enters in force when signed by both Parties and is valid until complete fulfilment of obligations provided herein.
- 3.2. The Contractor shall fulfil the Order in accordance with the procedure set out in the Agreement and with the deadlines set in the annex.

4. Warranty period

- 4.1. The warranty period of the fulfilled Order shall be 36 (thirty-six) months from the date of transfer and acceptance of the Order.

5. Amount of performance security of the Agreement

- 5.1. Within 20 (twenty) days of signing the Agreement, the Contractor shall submit to the Customer, a performance security of the Agreement of 10 985.50 EUR (ten thousand nine hundred eighty five euro, 50 cents) (hereinafter referred to as the Performance Security of the Agreement).

6. Procedure of attraction of subcontractors

- 6.1. No subcontractors are attracted under the Agreement.

7. Additional penalties

- 7.1. Special provisions of the Agreement do not provide for additional penalties.

8. Additional provisions

- 8.1. The Parties agree on the following additional provisions:

8.1.1. The Contractor agrees that until signing the deed of delivery and acceptance Customer is entitled to perform tests based on random selection of the delivered goods and compare results with the Contractor's offer within Tender of procurement procedure "Compact transformer substation (CTS) with power transformers delivery" (id.Nr. AS "Latvenergo" 2023/21_1) and standards applicable to the goods. In case of in compliance the Parties act in accordance with the clause 2.7 of the General provisions of the Agreement and the Contractor shall replace the goods with compliant ones without any charge;

8.1.2. The Contractor's responsible person shall come to the inspection stated in clause 8.1.1. of the Special provisions of the Agreement within 3 working days from the moment the Customer has been informed the Contractor, unless both Parties have not agreed on another time limit for the test performance;

8.1.3. The Contractor shall indicate in the invoice:

- a) combined nomenclature (CN) code - 8 digits, the gross weight and net weight (in kg) of the goods (if the good contains accumulator it's weight has to be indicated separately);
- b) the type of packaging material (paper/cardboard, wood, plastic, polystyrene, aluminium, black metal) and weight (in kg) of each type of packaging material.

In a) and b) subsections mentioned information has to be indicated for each item of the invoice.

- 8.2. The Contractor ensures that goods and/or materials originating in the Russian Federation or the Republic of Belarus will not be used in the performance of the Agreement.

- 8.3. The Contractor shall ensure supply chain traceability of goods and/or materials, and their components, which are required to be used for the fulfilment of the Agreement. No later than within 5 (five) working days after request of the Customer the Contractor shall provide to the Customer information or documents on the country of origin of goods and/or materials, or their components, required to be used for the fulfilment of the Agreement, their manufacturer and delivery routes. If the Contractor cannot submit the requested information or documents within the specified time period, the Customer has the right to terminate the Agreement in accordance with Clause 12.3 of the general provisions of the Agreement.


9. Annexes to the Agreement

- 9.1. Annex 1 – Order Specification.
- 9.2. Annex 2 – Authorised Persons and Contact Persons.
- 9.3. Annex 3 - Price recalculation formula.

10. Signatures of the Parties

- 10.1. By signing these special provisions of the Agreement, the Parties agree to the general provisions of the Agreement and Annexes to the Agreement as appended.

CUSTOMER

Latvenergo AS 

CONTRACTOR 

24.05.2024

20.05.2024

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GENERAL PROVISIONS

Structure of the Agreement

This Agreement consists of:

- 1.1.1. Special Provisions;
- 1.1.2. General Provisions;
- 1.1.3. Annexes.

2. If any contradictions between special provisions of the Agreement, general provisions of the Agreement and/or annexes to the Agreement arise when interpreting the content of the Agreement, special provisions of the Agreement shall prevail primarily, general provisions of the Agreement shall prevail secondarily, while annexes to the Agreement shall prevail in the order, in which they are specified in Clause 9 of the special provisions of the Agreement.
- 1.3. The concepts defined in the special provisions of the Agreement are used in the general provisions of the Agreement and annexes to the Agreement.
- 1.4. The procedure for performance of the Agreement applicable from general provisions of the Agreement shall be determined in the special provisions of the Agreement, and it depends on whether goods are sold and delivered or a service is provided.

2. Procedure for performance of the Agreement

(A) Placing an Order

Goods and Service

- 2.1. An Order shall be deemed to be coordinated and transferred to the Contractor for performance on the day of entry of the Agreement into force, regardless of whether it is the purchase and delivery of goods or provisions of a service.

(B) Delivery or fulfilment of an Order

Goods

- 2.2. The Contractor shall deliver an Order of Goods (or part thereof) in accordance with the range, amount, reception places, deadlines and other provisions specified in the annex to the Agreement (Order Specification).
- 2.3. No later than 2 (two) business days before the expected delivery, the Contractor shall notify the Customer's contact person specified in the annex to the Agreement (Authorised Persons and Contact Persons) in writing by e-mail that the Order will be delivered to the specified place, specifying the contact information of the supplier of the Order (vehicle make and state registration number, supplier's name, surname) to apply for an entry-pass, and the Customer will be able to receive it. The Customer shall ensure acceptance of the Order during its working hours.

Service

- 2.4. The Contractor shall fulfil and transfer an Order of a Service (or part thereof) in accordance with the amount, deadlines and other provisions specified in the annex to the Agreement (Order Specification).

(C) Transfer and acceptance of an Order

Goods

- 2.5. The Contractor shall transfer the Order of Goods (or part thereof) to the Customer together with goods delivery documents prepared in accordance with applicable laws and regulations. In individual cases, upon agreement between the Parties, an Order of goods (or part thereof) may be transferred with a deed of goods delivery and acceptance.
- 2.6. Together with the goods the Contractor shall transfer to the Customer technical documentation, certificates of origin and warranty certificates of these goods, as well as other documents which are necessary for full use, operation, functionality of these goods.
- 2.7. When accepting an Order, the Customer shall be entitled to randomly select the compliance and quality of the goods. If any of the goods do not conform to the requirements defined in this Agreement, including if the goods are not delivered in the specified quantity, the authorised representative of the Customer shall draw up a statement of defects that shall be signed by the authorised representatives of the Parties. Upon agreement between the Parties, the term for elimination of defects shall be specified in the statement of defects. The term for elimination of defects shall not be longer than the Order performance term defined in the annex to the Agreement (Order specification). Moreover, in such event the Customer is entitled not to accept and not to pay for the Order in the part related to damaged goods. No later than within the term specified in the statement of defects, the Contractor shall eliminate the defects specified in this statement at their own expense and pay a penalty to the Customer for delayed fulfilment of the Order in accordance with the Clause 4.3 of the general provisions of the Agreement. The term for elimination of the defects indicated in this statement shall not be

deemed an extension of the term for the performance of the Order (the specific stage). If the Contractor refuses to sign the statement of defects, it shall be signed unilaterally by the Customer and it shall be binding upon the Contractor.

The Goods to be delivered within the scope of an Order shall be deemed delivered and transferred to the Customer, when authorised representatives of the Parties have signed delivery documents regarding the delivery of the goods or the deed of goods delivery and acceptance, and the Contractor has transferred to the Customer the documents specified in Clause 2.6 of the general provisions of the Agreement.

9. Within 14 (fourteen) days the Customer shall have the right to pursue the claims on shortage of the goods, defects and/or damages made during portage which have not been identified during the acceptance of the goods. The Customer may pursue claims on hidden defects during the entire Warranty Period. If the Customer has pursued claims within the period specified in this Clause, the Contractor shall be obliged to eliminate the shortage and/or replace defective goods no later than within the term specified upon an agreement between the Parties (the term shall not be longer than the Order performance term defined in the annex to the Agreement (Order specification)), as well as shall pay a penalty to the Customer in accordance with the Clause 4.4 of the general provisions of the Agreement.

Service

- 2.10. An Order of a Service (or part thereof) shall be deemed to be completed and delivered to the Customer if the deed of Service delivery and acceptance has been signed by both Parties.
- 2.11. The Contractor shall notify the Customer's contact person specified in the annex to the Agreement (Authorised Persons and Contact Persons) in writing by e-mail immediately upon the fulfilment of the services under the Order about their readiness to transfer the Order or part thereof, at the same time issuing a signed deed of Service delivery and acceptance signed by them.
- 2.12. The Contractor shall transfer with the fulfilled Order and the deed of delivery and acceptance to the Customer all the documentation related to the Services (operation manuals, quality conformity, technical, etc.). The conveyance of the documentation mentioned above to the Customer shall be a precondition for signing of the deed of delivery and acceptance of the fulfilled Order, unless the Parties have agreed otherwise.
- 2.13. When accepting an Order, the Customer shall be entitled to reject the Order (or part thereof), as well as refuse to pay, if the services provided (incl. materials, equipment) fail to conform to the provisions of the Agreement and/or are not fully completed. In this event, the authorised representative of the Customer shall draw up a statement of defects that shall be signed by the authorised representatives of the Parties. If the Contractor's authorised representative does not sign the statement of defects within 3 (three) business days of receiving the notice, the statement of defects prepared by the Customer's authorised person shall be binding upon the Contractor. No later than within the term specified in the statement of defects (the term shall not be longer than the Order performance term defined in the annex to the Agreement (Order specification)), the Contractor shall eliminate the defects specified in this statement of defects at their own expense and pay a penalty to the Customer for delayed fulfilment of the Order in accordance with the Clause 4.3 of the general provisions of the Agreement. The term for elimination of the defects indicated in this statement shall not be deemed an extension of the term for the performance of the Order (the specific part).
- 2.14. Repeated delivery-acceptance of the Order shall take place after the elimination of the faults specified in the statement of defects in accordance with the conveyance and acceptance procedure of the services laid down in the Agreement.
- 2.15. If the Order fulfilment result is not useful and/or usable for the Customer due to the delayed Order delivery, the Customer has refused to accept and pay for the Order (or the specific stage/part).
- 2.16. The services provided within an Order shall be deemed to be completed and delivered to the Customer, when both authorised representatives of the Parties have signed the deed of delivery and acceptance of the Order for the respective services and the Customer has delivered the documents referred to in Clause 2.12 of the general provisions of the Agreement to the Customer. If the Parties have agreed on fulfilment of the Order in stages, any interim deeds on the works performed in the previous month (or other period defined by the Parties) shall not be deemed an Order acceptance document, but serve as a basis for issuing a document (invoice) and payment in stages, of the respective interim deed has been signed by both Parties.

(D) Settlement

Goods and Service

- 2.17. The total Contract Amount of the Order is defined in special provisions of the Agreement, taking into account the prices defined in the annex to the Agreement (Order Specification). The total Contract Amount include any related costs, including, but not limited to costs of delivery, installation, packaging, materials, articles, equipment, works, transport, and other, as well as any applicable taxes and duties. If the Parties has agreed on payment of the Contract Amount in separate stages, stages of the Order shall be specified in the annex to the Agreement (Order Specification).

18. The Parties shall issue and send invoices to each other to the e-mail or postal address, if any, of the contact person of the Party specified in the annex to the Agreement (Authorised Persons and Contact Persons). Invoices may be issued and delivered at the Order acceptance place during conveyance and acceptance of the Order. The Contractor shall ensure its compliance with the requirements of credit and payment institutions for the performance of settlements with the Customer provided for in the Agreement (the Customer's credit institution is indicated in the details of the Agreement).
- 2.19. Unless special provisions of the Agreement provide otherwise, the payment for the Order shall be a post-payment. Post-payment for the fulfilment of the Order shall be made by transfer to the Contractor's account in a credit institution specified in the supporting document (invoice, goods delivery document containing details of the supporting document) issued by the Contractor, which corresponds to the Contractor's account in a credit institution specified in the Agreement. The Customer shall make the payment within 30 (thirty) days of fulfilment of the Order (its stage), signing of the respective document on delivery and acceptance of the Order or its part (goods delivery document, interim deed, deed of delivery and acceptance) by both parties (if it's applicable to fulfilment of the Order), and receiving the relevant supporting document from the Customer. The date of the payment order of the Customer shall be deemed the date of the payment order.
- 2.20. If the Parties agree on a Contract Amount payment procedure with partial or full prepayment in the special provisions of the Agreement, the Customer shall make prepayments in the amounts and within the deadlines specified in the special provisions of the Agreement having received a respective supporting document (invoice) from the Contractor. After complete fulfilment of the Order and signing of the document of delivery and acceptance of the respective Order (goods delivery document, interim deed, deed of delivery and acceptance) by both parties (if it's applicable to fulfilment of the Order), the Contractor shall submit to the Customer a supporting document (invoice), which states the total Contract Amount, the received prepayment amount and the remaining outstanding part of the Contract Amount, if any.
- 2.21. If the Contractor receives a prepayment and has not fulfilled the Order in accordance with provisions of the Agreement and therefore the fulfilled Order or part thereof is not or cannot be accepted, the Contractor shall pay the value of this Order or its unaccepted part to the Customer. In this event, the Contractor shall issue a credit invoice to the Customer and shall return the received payment for the unfulfilled and/or unaccepted part of the Order within 10 (ten) days of the set date of fulfilment of the Order.

3. Liability of the Parties

- 3.1. Until the Order is completely fulfilled and delivered, the Contractor shall:
- 3.1.1. bear all the risk for complete or partial destruction of the Order;
 - 3.1.2. bear all risks for accidents with persons, damage or destruction of materials, equipment or other property (both the Customer's and third persons'), including also accidental case;
 - 3.1.3. be liable for compliance with the requirements of labour safety, fire safety, environmental protection as well as other laws and regulations regulating the fulfilment of such an Order.
- 3.2. The Parties shall be liable for direct losses caused to the other Party as a result of their acts/omissions.
- 3.3. The Customer shall be entitled to withhold on a no contestation basis any applicable penalties and/or inflicted direct losses from the Performance Security of the Agreement, if any, and/or withhold the amount of penalty and/or direct losses by the way of set off by reducing the amount of payment to be made to the Contractor, and/or issue a penalty invoice to the Contractor.
- 3.4. The Contractor guarantees and ensures good quality, functional operation, safe use, compliance of the Order result with the manufacturer's technical documentation, the provisions of this Agreement and the Order Specification, a quality certificate and/or certificate of conformity and regulatory enactments of the Republic of Latvia.
- 3.5. If the fulfilment of the Order by the Contractor results in an intellectual property infringement and a claim is brought against the Customer, the Contractor undertakes to cover all the costs and direct losses results from the Customer's efforts to refute these claims. The Contractor shall also cover all expenses and indemnify against any losses awarded to the third parties. Upon agreement with the Customer, the Contractor at its own cost may provide the Customer with the right to continue to use the result of the fulfilled Order, to replace or alter it in the manner not creating the intellectual property infringements.
- 3.6. In the Customer's approved politics it is determined that the Customer's employees and cooperation partners, including the Contractor and its subcontractors, shall observe high ethics standards in their operations. According to the politics, in case if the Customer has fundamental suspicions about corruptive or fraudulent actions in relation to the Agreement's fulfilment, the Customer is entitled during the Order fulfilment and within 365 days after the termination of the Agreement to require information and/or to carry out an audit/check in relation to the Agreement's fulfilment. The Customer selects the auditor and pays for its services. The information gained in the result of the audit/check shall be deemed confidential and shall not be revealed to third persons. The Customer ensures that the auditor observes Agreement's terms regarding confidentiality. The Contractor's duty is to incorporate the requirements stipulated herein in the contracts that

the Contractor concludes with the subcontractors to ensure the fulfilment of this Agreement. If the Customer finds that the Contractor or its subcontractors do not cooperate with the Customer in the fulfilment of this Clause, the Customer shall be entitled to terminate the agreement by a unilateral written notice one month in advance.

- 3.7. By signing the Agreement, the Parties declare that international sanctions and national sanctions will be observed in the fulfilment of the Agreement (including such sanctions imposed by a member state of the North Atlantic Treaty Organization, that significantly affect the interests of financial and capital market participants or the interests of financial and capital market according to the legislation of the Financial and Capital Market Commission), within the meaning of the Law on International Sanctions and National Sanctions of the Republic of Latvia and legal acts issued on the basis thereof (hereinafter - Sanctions) and will take all necessary actions to ensure that the Parties' cooperation with their subcontractors does not create any additional Sanction risks for the other Party, including but not limited to ensuring cooperation of the Parties with such subcontractors, whose member or shareholder structure is clear and verifiable.
- 3.8. The Party shall immediately notify the other Party in due course if it has established a breach of such Sanctions in relation to the performance of the Agreement in its own or its subcontractors' activities or any relation of the Board or Council members, direct or indirect members, shareholders, beneficial owners with the Sanctions, or the prosecution or punishment of the Party itself or the above-mentioned persons related to it in the European Union due to money laundering, terrorism or its financing, violations of the movement of goods of strategic importance.
- 3.9. At the request of the Customer, in order to ensure that the Customer can verify the compliance with the Sanctions, no later than within 5 (five) working days, unless the Parties have agreed on another term, the Contractor is obliged to provide the Customer with:
- 3.9.1. information based on verifiable facts (for natural persons - name, surname, year of birth, country of citizenship; for legal persons - name, country of registration, registration number) about members of the Contractor's board or council, direct or indirect members, shareholders, beneficial owners or persons who otherwise effectively control the Contractor;
- 3.9.2. information or documents regarding the country of origin of the goods and/or materials required for the performance of the Agreement, their manufacturer, delivery route, if such goods and/or materials are subject to import, export or transit restrictions according to the legislation of the European Union during the term of the Agreement or were subject to such restrictions 12 (twelve) months prior to the conclusion of the Agreement.
- 3.10. The Contractor acknowledges and agrees that in accordance with the requirements of the national security legislation of the Republic of Latvia, the Contractor and its employee(s) may be denied or revoked the already issued permit/access to the generation and administrative facilities of Latvenergo AS. In the event that this permission/access to a particular employee is denied or revoked, the Contractor undertakes to replace the respective employee with another suitably qualified employee as soon as possible, but not later than within 1 (one) month, and does not make any claims against the Customer, nor does it demand reimbursement of the losses incurred in relation to such a change of employee. If the replacement of an employee cannot be done within this term, the Parties have the right to agree on an extension of the Agreement term for a period during which the Contractor, objectively proving the circumstances, undertakes to replace the employee or the Parties agree to terminate the Agreement.

4. Penalties

- 4.1. The payment of the penalty shall not release the Parties from fulfilment of their obligations stipulated hereof and the award of direct losses.
- 4.2. Penalty invoices, if any, shall be paid within the deadline specified in the invoice, which is not shorter than 10 (ten) business days of the date of issuing the invoice.

Contractor's penalties

- 4.3. For failure to respect any deadline under the Agreement (including also the Order fulfilment deadline) the Contractor shall pay a penalty of 0.5% (zero point five per cent) of the Contract Price for each day of delay, but no more than 10% (ten per cent) of the Contract Price.
- 4.4. If fulfilment of the Order or part thereof is not compliant (quality, functionality, specification) with provisions of the Agreement, the Contractor shall pay a penalty of 10% (ten per cent) of the amount of the improperly fulfilled Order or part thereof without VAT.
- 4.5. If the Order consists of goods and the Contractor does not ensure replacement of low quality/non-compliant goods in accordance with the procedure laid down in the Agreement, the Contractor shall pay the Customer the amount of the low quality/non-compliant goods and pay a penalty of 10% (ten per cent) of the amount of the goods that have not been replaced without VAT.

6. If the Customer has terminated the Agreement based on Clause 12.2 and/or 12.3 of the general provisions of the Agreement, the Contractor shall pay a penalty for default of liabilities in the amount of 10% (ten per cent) of the Contract Price.
7. During the effective period of the Agreement the Contractor undertakes to prevent any parallel (simultaneous) employment of Customer's employees and not to conclude any employment contracts or other civil liability contracts on performance of certain work with any Customer's employee. Employment contracts or other civil liability contracts on performance of certain work with such an employee of the Customer can be concluded only, if a written consent of the Customer is received. If there has been parallel (simultaneous) employment of the Customer's employee without Customer's consent and the Contractor is unable to prove that actions have been taken to ensure the fulfilment of the prohibition of parallel (simultaneous) employment of the Customer's employee by the Contractor (for example, a certification of the employee has been received that there is no legal employment relationship between the employee and the Customer), the Customer shall be entitled to calculate a penalty amounting to 5 (five) minimum monthly wages defined in the Republic of Latvia for each such violation. The Parties agree that the employment restriction set in this Clause shall apply only to parallel (simultaneous) employment of an employee by the Customer and the Contractor, and it has no effect on usual consecutive turnover of personnel on the labour market, as a result of which an employee ends a labour employment relationship with the Customer and establishes a labour employment relationship with the Contractor.

Customer's penalties

- 4.8. For failure to respect payment deadline the Customer shall pay a penalty of 0.5% (zero point five per cent) of the amount of the outstanding payment without VAT for each day of delay, but no more than 10% (ten per cent) of the amount of the outstanding payment without VAT.
- 4.9. If the Contractor has terminated the Agreement based on Clause 12.4 of the general provisions of the Agreement, the Customer shall pay a penalty for default of liabilities in the amount of 10% (ten per cent) of the Contract Price.
- 4.10. The contractual penalty stated in Clause 4.8 and 4.9 of the general provisions shall not be calculated in cases, when the Contractor and/or the persons stated in Clause 12.3.1 of the general provisions are subject to Sanctions and, therefore, settlement of payment is impossible.

5. Rules of Performance Security of the Agreement

- 5.1. Provisions of this section shall apply, if special provisions of the Agreement provide for the Contractor's duty to submit a Performance Security of the Agreement.
- 5.2. A Performance Security of the Agreement can be submitted as:
- 5.2.1. a guarantee of a credit institution;
 - 5.2.2. an insurance policy;
 - 5.2.3. if provided for by documents of the procurement procedure of the Agreement and/or special provisions of the Agreement – as crediting of money to the Customer's account in a credit institution.
- 5.3. The Performance Security of the Agreement, regardless of the submitted type of the Performance Security of the Agreement, shall provide for the unconditional duty of the submitter of the security to pay security for the requested amount to the Customer at the Customer's first demand. The content of Performance Security of the Agreement shall be approved by the Customer.
- 5.4. If the Performance security of the Agreement is submitted as an insurance policy, it should state that the insurance policy is irrevocable and should be fulfilled unconditionally at the first written request of the Customer, and the required amount of the security should be paid no later than within 30 (thirty) days of submission of request, without asking the Customer to justify its claim, and that the included insurance conditions cannot cumbersome or change in any way this procedure of payment of security amount. The insurance premium should be paid in full, and the Contractor shall submit the document, certifying payment of the premium, to the Customer along with the insurance policy.
- 5.5. The Performance security of the Agreement (either credit institution guarantee or insurance policy) should state that it is governed by the ICC Uniform Rules for Demand Guaranties, ICC Publication No. 758, and all disputes related to this security shall be settled by the court of the Republic of Latvia.
- 5.6. The Performance Security of the Agreement shall be effective until complete fulfilment and acceptance of the Order and for 30 (thirty) days thereafter. If the Order is not fulfilled within the deadline set in the Agreement or the Parties agree on an extension of the term of the Agreement, the Contractor shall be liable to extend the Performance Security of the Agreement for the period equal to the extension of the Order fulfilment period.
- 5.7. In case a guarantee of a credit institution or an insurance policy is submitted, the Contractor should submit the original document to the Customer.
- 5.8. The Customer shall withhold of performance security of the Agreement:

- 5.8.1. to compensate any direct losses inflicted upon the Customer and/or withhold the penalties applied to the Contractor – in the amount of these payments;
- 5.8.2. if the Performance Security of the Agreement should be extended in accordance with Clause 5.6 of the general provisions of the Agreement, but the Contractor does not do this – in full amount.
- 5.9. The Performance Security of the Agreement shall be returned and/or terminated by the Customer as follows:
 - 5.9.1. In case a guarantee of a credit institution or an insurance policy is provided as the Performance Security of the Agreement, the Customer, if the submitter of the Performance Security of the Agreement requests this, shall send them a written notice relieving of the Contractor of the liabilities and/or shall return originals of the documents of Performance Security of the Agreement.
 - 5.9.2. In case crediting of money is provided as the Performance Security of the Agreement, the Customer shall transfer it in full or in the amount that has remained or was not withhold to the Contractor's account in a credit institution specified in the Agreement within 10 (ten) business days of termination of the Performance Security of the Agreement in accordance with Clause 5.6 of the general provisions of the Agreement.

6. Warranty

- 6.1. Provisions of this section shall apply only, if special provisions of the Agreement provide for a warranty period.
- 6.2. The Contractor undertakes responsibility for failures (including damages, defects or inconformity to the requirement of the Agreement or the laws and regulations) concerning the Order incurred during the warranty period.
- 6.3. The Contractor's warranty does not cover proven defects, damage or failures that occur due to:
 - 6.3.1. use by the Customer contrary to the usage guidelines (manufacturer's instructions);
 - 6.3.2. evident users' negligence, improper usage or intentional damage of the Order;
 - 6.3.3. unauthorized alteration, repair or inspection, use of non-approved components or assembly or connection of the constituent parts (components) of the Order in a way contradicting the manufacturer's instructions;
 - 6.3.4. force majeure.
- 6.4. The Contractor within the warranty period after receipt of written notice from the Customer at his own cost undertakes to eliminate damages, failures or inconformity to the requirement of the Agreement or the laws and regulations.
- 6.5. The contact person of the Customer shall notify the Contractor's contact person specified in the annex to the Agreement (Authorised persons and Contact persons) by e-mail of any failures found in the fulfilment of the Order. The notice of the Customer will be deemed received on the day when it was sent. Within 2 (two) working days of receiving the notice of the Customer the Contractor shall confirm that the notice has been received indicating the term and the procedure for elimination of the identified failures (including, if necessary, agreeing on the place and time, when the Contractor's authorised person will arrive to receive the damaged/non-compliant Order/its part). The term and the procedure for elimination of failures are considered to be coordinated, when the Customer has accepted the offer of the Contractor by e-mail.
- 6.6. If the Contractor does not coordinate the term and procedure of elimination of identified failures with the Customer in accordance with the procedure laid down in Clause 6.5 of general provisions of the Agreement, the Customer shall be entitled to prepare a statement of defects unilaterally, and it is binding for the Contractor.
- 6.7. If the Parties fail to agree on defects identified, applicability of the warranty or terms necessary for the elimination of the defects, or quality of the works performed within the framework of the warranty, the Parties may agree on the involvement of an expert commission (up to three experts) in resolution of the dispute and its opinion shall be decisive. The Parties shall cover expenses of the expert commission in equal parts.
- 6.8. If the Contractor fails to eliminate the defects to which the warranty is applicable within the stipulated term or the Parties cannot agree on the expert commission, the Customer shall be entitled to eliminate the failures by himself or by involvement of the third parties. In such event, the Contractor compensates the Customer all expenses related to the elimination of the defects.

7. Authorisation

- 7.1. Any authorisations issued and contact persons designated for the purposes of fulfilment of the Agreement are specified in the annex to the Agreement (Authorised Persons and Contact Persons).

8. Property rights

- 8.1. All property rights to the Order and its fulfilment, as well as related preparations and documentation (projects, drawings) after payment of the Contract Amount in full amount belong to the Customer.
- 8.2. The Customer shall have the economic rights to the objects of copyright created as a result of performance of the Agreement.

3. After making the payment for the goods in full, all the property rights relating to the goods shall be transferred to the Customer.

Subcontractors and Contractor's qualified personnel

- 9.1. In case if the Agreement has been concluded as a result of a procurement procedure where the qualification of personnel was evaluated, the list of such personnel and the justification for their qualifications shall be indicated in Annex (List of qualified personnel of the Contractor, the justification of their qualifications). The Contractor ensures compliance of the qualification of the personnel included in Annex throughout the duration of the Agreement, changes to the list of qualified personnel (relevant Annex) are possible only with the prior written permission of the Customer. The Customer shall not agree to the change of the personnel in cases when the offered personnel does not meet the requirements brought forward for the personnel in the procurement procedure documents or it does not have at least the same qualification and experience as for the personnel specified in Annex.
- 9.2. The list of subcontractors and works delegated to the subcontractors is determined in the annex to the Agreement (List of Subcontractors and Works Delegated to Them). The Contractor shall have the right to replace subcontractors or involve additional subcontractors only upon a prior written agreement with the Customer.
- 9.3. The Contractor assumes full responsibility for work performed by the subcontractors, for compliance with the deadlines of work performed by the subcontractors, loss incurred, as well as remuneration of the subcontractors.
- 9.4. Customer shall not be held liable for Contractor's obligations assumed towards subcontractors or third parties in order to ensure performance of the Agreement or in relation to the Agreement.
- 9.5. The procedure of attraction of subcontractors applied by the Parties shall be specified in the special provisions of the Agreement.

(A) Simplified procedure

- 9.6. When using the simplified procedure of attraction of subcontractors, the Contractor shall submit to the Customer a written application on replacement of subcontractors or involvement of additional subcontractors, or changes to the list of the works entrusted to subcontractors. The involvement of subcontractors cannot be in conflict with provisions of the Agreement, as well as the requirements of the procurement procedure, if the Agreement has been concluded as a result of a procurement procedure. After examination of the application and approval for the changes proposed by the Contractor by the Customer, the Parties shall add or amend the annex to the Agreement (List of Subcontractors and Works Delegated to Them) in accordance with Clause 13.3 of the general provisions of the Agreement.

(B) Procedure in accordance with the requirements of the Law On the Procurement of Public Service Providers

- 9.7. When involving a subcontractor in accordance with the requirements of the Law On the Procurement of Public Service Providers (hereinafter – the LPPSP), the Contractor shall submit to the Customer a written application on replacement of subcontractors or on engagement of additional subcontractors, or amendments to the List of Works entrusted to the subcontractors accompanied by a memorandum of agreement with the said subcontractor, as well as documents attesting to subcontractor's qualification in the amount requested in the LPPSP and the procurement procedure documents.
- 9.8. Customer shall not approve replacement or engagement of subcontractors in the event of any of the following:
- 9.8.1. the subcontractor offered does not conform with the requirements for subcontractors laid down in the LPPSP and procurement procedure documents;
- 9.8.2. the subcontractor whose abilities the Contractor relied upon to certify its compliance with the requirements set in the procurement procedure documents is replaced, and the offered subcontractor does not have at least the same qualification, to which the Contractor referred when certifying its compliance with the requirements of the procurement procedure, or it meets the tenderer exclusion conditions listed in the LPPSP and documents of the procurement procedure;
- 9.8.3. replacement of subcontractor would require amending the procurement tender in a way that would have affected the choice of proposal in accordance with the proposal assessment criteria stated in the procurement procedure documents, had they been included initially.
- 9.9. Customer approves replacement of subcontractor, provided that conditions referred to in Clause 9.8 of the general provisions of the Agreement do not apply to the new subcontractor, in the following cases:
- 9.9.1. the subcontractor specified in the annex to the Agreement (List of Subcontractors and Works Delegated to Them) has submitted a written notice on withdrawal from performance of the Agreement;

- 9.9.2. the subcontractor specified in the annex to the Agreement (List of Subcontractors and Works Delegated to Them) meets the tenderer exclusion conditions stated in the LPPSP and the procurement documents.
- 9.10. The Customer shall not agree to the attraction of a new subcontractor in case when such changes, if they would have been made in the initial tender, would have influenced the selection of the tender according to the tender evaluation criteria specified in the procurement procedure documents.
- 9.11. If the Customer agrees with the changes proposed by the Contractor, the Parties shall amend/supplement the annex to the Agreement (List of Subcontractors and Works Delegated to Them) in accordance with Clause 13.3 of the general provisions of the Agreement.
- 10. Protection of personal data**
- 10.1. For the purpose of ensuring the fulfilment of the provisions of the Agreement, including the circulation of information, as well as to fulfil the legal obligations applicable to the Parties and to respect the legitimate interests of the Parties, the Parties shall have the right to process personal data obtained from the other Party, complying with the legal requirements for the processing and protection of such data, including, but not limited to the General Data Protection Regulation ((EU) 2016/679).
- 10.2. A Party disclosing the personal data to the other Party for processing shall be responsible for ensuring the legal basis for the processing of personal data of the respective data subjects. The Party obtaining persons data within the scope of fulfilment of the Agreement shall be deemed the controller of the obtained personal data and shall be responsible for further compliance of the processing of these personal data with the requirements of regulatory enactments.
- 10.3. If the fulfilment of the subject of the Agreement (Order) provides that one of the Parties (processor) processes personal data at the instruction of the other Party (controller), such processing of personal data shall take place in accordance with the Rules of processing of personal data appended to this Agreement as a separate annex.
- 11. Force majeure**
- 11.1. Neither Party shall have any liability for full or partial failure to fulfil any obligations under this Agreement if such failure to fulfil the obligations occurred caused due to force-majeure circumstances occurred after signing of the Agreement and the entry of which the Parties could not foresee and prevent.
- 11.2. Such circumstances include fires, acts of war, terrorist attacks, epidemic and pandemic, natural disaster as well as other circumstances beyond the possible limits of control or impact of the Parties.
- 11.3. Non-fulfilment or undue performance of obligations by the Contractor, suppliers and other involved persons shall not be deemed as force majeure circumstance.
- 11.4. A Party referring to force-majeure circumstance shall within 3 (three) days notify about that the other Party specifying the possible term for fulfilment of the obligations.
- 11.5. If due to force-majeure circumstance the fulfilment of the Agreement delays for more than 30 (thirty) days each Party has the right to terminate the Agreement unilaterally. If the Agreement is terminated in such way neither Party may claim compensation of damages to the other Party.
- 12. Termination of the Agreement**
- 12.1. The Agreement may be terminated by mutual written agreement by the Parties or according to the provisions of the Agreement.
- 12.2. The Customer shall have the right to terminate the Agreement or its part unilaterally by sending a written notice to the Contractor if at least one of the following events has occurred:
- 12.2.1. the Contractor fails to fulfil the Order or part thereof within 10 (ten) business days counting from the next day after expiry of the delivery term specified in the Agreement;
- 12.2.2. the Contractor fails to perform any other obligations or duties provided by the Agreement and the Contractor has not eliminated such failure within 10 (ten) business days after receipt of the relevant written notice of the Customer;
- 12.2.3. after signing the statement of defects the Contractor repeatedly delivers an Order not meeting provisions of the Agreement and/or 2 (two) statements of defects have already been prepared, and/or the Contractor has not eliminated faults in accordance with Clauses 2.7, 2.9 and/or 2.13 of the general provisions of the Agreement;
- 12.2.4. The Contractor fails to submit the performance security of the Agreement within time period specified in the Agreement or if the provided performance security of the Agreement has become invalid;
- 12.2.5. If the Contractor has been declared insolvent, the Contractor's economic activity has been suspended or the Contractor is being liquidated;
- 12.2.6. It has been established that during the procurement procedure the Contractor has provided false information for the assessment of its qualifications;

- 12.2.7. The Contractor or any other person among the Contractor's staff, representatives or subcontractors has given or offered (directly or indirectly) to any person a bribe, gift, gratitude money, commission money or any other valuable item as an incentive or reward for performance or non-performance of any activity, or for showing or not showing favour or disfavour towards any person in connection to this Contract;
- 12.2.8. The Contractor or any person among the Contractor's staff, representatives or subcontractors pursuant to the procedure prescribed by law has been found guilty of illegal action in connection to performance of this Contract;
- 12.2.9. It is detected that the Contractor or any of the Contractor's personnel, representatives or subcontractors is involved in business relationships that create a conflict of interest situation regarding the implementation of the Agreement;
- 12.2.10. The Contractor has committed a severe violation of professional activity, which calls into question its honesty, or has failed to perform a procurement contract, framework agreement or concession agreement with the Customer, and it is admitted by a decision of competent institution or court judgment, which has come into force and has become indisputable and non-appealable.
- 12.3. By sending a written notice to the Contractor, the Customer is entitled to unilaterally terminate the Agreement or a part thereof, and as a result of such actions the Customer shall not incur legal liability, including civil liability, if at least one of the following cases has occurred:
- 12.3.1. sanctions have been imposed on the Contractor, a member of its board or council, a beneficial owner, an authorised representative or a procurator, a person authorized to represent the Contractor in activities associated with its branch or a member of partnership, a member of its board or council, a beneficial owner, an authorised representative or a procurator, if the Contractor is a partnership, on its subcontractor and, as a result, performance of the Agreement is difficult or impossible;
- 12.3.2. based on verifiable facts, the Customer has reasonable suspicions that the Contractor's shares are indirectly owned or effectively controlled by a natural or legal person, entity or body on which the Sanctions have been imposed, including when the credit institution servicing the Customer refuses to make payments for the fulfilment of the obligations arising from the Agreement, including in cases when additional information or documents are provided to such a credit institution servicing the Customer for the execution of the respective payment;
- 12.3.3. at the request of the Customer, the Contractor has not provided, within the time specified in the Agreement, verifiable information on the members of the Contractor's board or council, direct or indirect members, shareholders, beneficial owners or information on the country of origin of goods and/or materials required for performance of the Agreement, their manufacturer and delivery routes, if such goods and/or materials have been or were subject to import, export or transit restrictions according to the legislation of the European Union during the term of the Agreement or 12 (twelve) months prior to the conclusion of the Agreement, or such goods and/or materials have been used in performance of the Agreement;
- 12.3.4. the Customer, according to the procedure mentioned in Section 48 of the LPPSP, has established that the Contractor or any person specified in that Section meets at least one of the reasons for exclusion referred to in there, and the Contractor has not been able to ensure the restoration of reliability in accordance with the procedures specified in the LPPSP.
- 12.4. The Contractor has the right to terminate the Agreement unilaterally by sending a written notice to the Customer if the Customer has failed to settle the payments under the Agreement for the Orders fulfilled and accepted as specified in the Agreement and the delay of the Customer lasts at least 60 (sixty) days. The condition set out in this Clause shall not apply where the Contractor and/or the persons stated in Clause 12.3.1 of general provisions have been subject to Sanctions and, therefore, the payment cannot be taken.
- 12.5. If the Agreement is terminated in cases specified in Clauses 12.1 – 12.4 of the general provisions of the Agreement, the Parties shall prepare and mutually sign a separate statement for the scope of the Order actually fulfilled and its value. When preparing the statement the Parties shall take into account the quality of fulfilment of the Order. The Customer shall pay to the Contractor for the Order or its stages fulfilled according to the terms of the Agreement, in compliance with the prepared statement and the price schedule provided in the annex (Order Specification). The Customer shall have the right to deduct the calculated penalty and/or direct loss award from the amount of payment when performing the payment according to the Agreement. The Parties shall perform the mutual settlement in the case provided herein within 30 (thirty) days after the statement mentioned herein is signed, unless the Customer, pursuant to laws and regulations of the Republic of Latvia is prohibited to make settlements with the Contractor.
- 13. Final provisions**
- 13.1. The Parties represent and warrant that they are duly authorised to enter into this Agreement and to provide the undertakings set forth herein as well as they have capability to fulfil the obligations under this Agreement.

- 3.2. The Parties agree that the Agreement with its annexes as well as the information obtained during the performance of the Agreement is confidential, except the subject, term, the Amount of the Agreement and the Parties; and this information shall not be divulged to third parties. Restrictions mentioned in this Clause shall not apply to cases when any of the Parties must divulge the information pursuant to laws and regulation of the Republic of Latvia.
- 13.3. Any amendments or supplements to the Agreement shall be drawn up in writing and signed by both Parties. Upon signing such amendments and supplements shall become an integral part of the Agreement. Amendments to the Agreement shall not be drawn in writing in the case specified in Clause 13.8 of the general provisions of the Agreement, when changes are notified by sending a notification.
- 13.4. Matters that are not stipulated by this Agreement shall be resolved pursuant to the laws and regulations of the Republic of Latvia.
- 13.5. The Parties shall solve any disputes and/or disagreements related to the fulfilment of this Agreement through negotiations. If the Parties are unable to achieve a solution through negotiations within 2 (two) weeks of occurrence of the dispute, the Parties shall solve such disputed in courts of the Republic of Latvia in accordance with the laws and regulations of the Republic of Latvia.
- 13.6. All negotiations, agreements, correspondence of the Parties and other acts, taking place prior to the conclusion of the Agreement, shall become invalid upon signing the Agreement. This provision shall not be applicable to the regulations of the procurement procedure related to the Agreement and the bid submitted by the Contractor (Candidate).
- 13.7. If any provision of this Agreement becomes invalid due to amendments of legal acts, the other provisions of the Agreement shall remain valid and in such case the Parties shall apply the Agreement pursuant to requirements of the governing legal acts.
- 13.8. In case of changes in the legal status of any Party, rights of representation of employees of the Parties or any other details of the Parties specified in the Agreement, including current accounts in a credit institution, phone numbers, e-mails, registered addresses, etc., this should be notified to the other Party in writing immediately. In case if the bank account details of the Contractor (resident of the Republic of Latvia) are being changed and the credit institution is situated outside the Republic of Latvia, the Contractor is obliged to supplement the notification to the Customer with a certified printout/statement from the State Revenue Service's Electronic declaration system (VIDEDS) attesting that the particular bank details are declared to the State Revenue Service. If the Party fails to comply with the provisions of this paragraph, the other Party shall be deemed to have fully performed its obligations by using the information on the other Party, contained in the Agreement. The provisions of this paragraph shall also apply to the representatives of the Parties and their details mentioned in the Agreement and its annexes.

Bound together and numbered

39 thirty-nine pages



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I. Medvedska

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