

*(The agreement shall be prepared for individual package for which the contractor will be awarded the contract)*

**SAMPLE AGREEMENT ON THE SUPPLY OF GOODS/SERVICES DURING THE OVERHAUL OF UNIT 6**

- \_\_\_\_\_ **(name of the package)**  
(Agreement no. \_\_\_\_\_)

agreed and concluded by and between

**TERMOELEKTRARNA ŠOŠTANJ d.o.o.,**  
Cesta Lole Ribarja 18, 3325 ŠOŠTANJ,  
Represented by Director General PhD. Viktor Vračar,  
Hereinafter: **Contracting Entity**.  
VAT for ID: SI92189903.  
Registration number: 5040388000.

and

**NAME OF THE COMPANY,**  
**ADDRESS**  
Represented by Director  
Hereinafter: **Contractor/Supplier**  
VAT for ID: SI \_\_\_\_\_.  
Registration number: \_\_\_\_\_.

as follows:

**1. INTRODUCTORY PROVISIONS**

With publication No. \_\_\_\_\_ of \_\_\_\_\_ published on the Public Procurement Portal and with publication No. \_\_\_\_\_ of \_\_\_\_\_ published in the Official Journal of the EU, the Contracting Entity announced the public contract entitled »The supply of goods and services during the overhaul of Unit 6«. The public procurement procedure was conducted in a negotiated procedure with the publication taking place in accordance with Article 45 of Public Procurement Act (hereinafter: ZJN-3). The decision on the award of the public contract became final as of \_\_\_\_\_.

The Contracting Parties hereby acknowledge that in order to ensure an unhindered, reliable and safe operation of the facility (TEŠ) the goods/services have to be provided during the overhaul of Unit 6 - \_\_\_\_\_ *(name of the package)* (hereinafter: the goods or services).

The Supplier/Contractor submitted request to participate No. \_\_\_\_\_ of \_\_\_\_\_, tender No. \_\_\_\_\_ of \_\_\_\_\_, and on the basis of negotiations the Contractor/Supplier submitted their final tender No. \_\_\_\_\_ of \_\_\_\_\_, which the Contracting Entity reviewed and approved as adequate. The aforementioned tender (No. \_\_\_\_\_ of \_\_\_\_\_ and No. \_\_\_\_\_ of \_\_\_\_\_) was the most cost-effective one and forms the basis for entering into this Agreement made after the public procurement procedure.

Documents related to the submission of the public contract and the request to participate/the tender submitted by the Contractor/Supplier form an integral part of this Agreement. All documents forming this Agreement constitute a whole and shall also be construed as such. In case of contradictory statements or inconsistencies regarding certain obligations the following order shall apply for the interpretation purposes:

1. Agreement;
2. Documents related to the submission of the public contract;
3. Technical part of the documentation;
4. Pro forma invoice with specification of goods and services;
5. The request to participate/Tender of the Contractor/Supplier.

## **2. SUBJECT OF THE AGREEMENT**

### **2.1**

By signing this Agreement, the Parties hereto agree that the Contractor/Supplier shall, for consideration, supply for the Contracting Entity the goods or services during the overhaul of Unit 6 - \_\_\_\_\_ (*name of the package*) in a manner agreed herein. The Contractor/Supplier undertakes to perform all obligations under this Agreement in a quality and professional manner and in the scope required by the Contracting Entity and the applicable legislation.

### **2.2**

The supply of goods or services during the overhaul of Unit 6 - \_\_\_\_\_ (*name of the package*) shall encompass all goods/services stated under technical specifications as well as any other goods/services identified as necessary for an unhindered operation of Unit 6.

The Contracting Entity reserves the right to increase or decrease the scope of ordered goods/services and adapt them to the actual needs of the Contracting Entity. Due to this reservation, the Contractor/Supplier is aware and agrees that he cannot reasonably expect any profit and he does not have any rights due to loss of income or lost profit due to the loss of positive contractual interest or similar loss, if the scope of ordered goods/services will be smaller than expected due to smaller needs of the Contracting Entity. The estimated scope of ordered goods/services may also deviate due to changed circumstances that the Contracting Entity cannot foresee.

By submitting the offer, the Contractor/Supplier has already given prior consent to all the Contracting Entity's reservations from the related documentation to the submission of the public contract and the contract in such a way, that the Contracting Entity can implement them unilaterally.

## **3. QUALITY OF GOODS**

The Contractor/Supplier herein undertakes that the quality of the delivered goods shall comply with data agreed in the documentation, the required applicable standards and applicable legislation.

In case of non-compliant quality of the delivered goods and non-compliant material, the Contractor/Supplier must immediately start eliminating the malfunctions/defects or deliver new goods. Any costs resulting from elimination of malfunctions/defects shall be covered by the Contractor/Supplier.

## **4. TIME LIMIT FOR THE SUPPLY OF GOODS/IMPLEMENTATION SERVICES**

*(Changes accordingly depending on the object of the package)*

The Contractor/Supplier undertakes to deliver the goods in full - \_\_\_\_\_ (*name of package*) by 30.6.2024 at the latest.

The Contractor/Supplier undertakes to fully perform the services - \_\_\_\_\_ (*name of the package*) no later than 30.6.2024, or by the term scheduled for the overhaul.

The Contractor/Supplier is obliged to deliver the goods to the Contracting Entity's warehouse. By legibly signing the delivery note, on which the code of the Contracting Entity's goods and the contract number of the Contracting Entity will be indicated, the Contracting Entity will confirm the quantity of goods received.

After the supply/implementation, the Contractor/Supplier and the Contracting Entity shall sign a protocol of the implementation/supply. By signing the aforementioned protocol, the obligations under this Agreement shall be considered completed in full.

The Contracting Entity reserves the right to change the deadline for the performance of the services, if the planned overhaul term is moved to 2025 or the overhaul term is moved to any other date; the right to extend the deadline for the completion of the services, if there is a delay due to a reason on the Contracting Entity's side, the interruption of the services at the request of the Contracting Entity, if the Contracting Entity orders an additional service or significant changes in the implementation that affect critical paths in the provision of services - for such a period of time, as necessary to perform these services.

Due to possible unforeseen circumstances (e.g. rescheduling the overhaul of block 6, proven problems/delays in transport, in the supply of materials for goods, and as a result disrupted or curtailed operation of production, etc., which were not caused by the Contractor/Supplier's fault), the supply of goods/ the performance of the services is postponed or extended for as many days as the unforeseen circumstances lasted, which must not affect the change in the contractual obligations of the Contractor/Supplier or the contractual value.

Due to possible unforeseen circumstances that would cause the overhaul deadline to be postponed, the delivery of goods/performance of services may be postponed or even extended by prior agreement with the Contracting Entity, for as many days as the unforeseen circumstances lasted, but this may not affect the change in the obligations of the contract of the Contractor/Supplier or contract value.

The Contracting Entity reserves the right to extend the deadline for the completion of the supply of goods/performance of services, if there is a delay or interruption of the supply of goods/services at the request of the Contracting Entity due to a reason on the part of the Contracting Entity, if the Contracting Entity orders additional goods/services or significant changes in the implementation that affect critical paths in the supply of goods/performance of services - for as long as it is necessary for these supplies of goods/services to be carried out.

All possible changes to the Agreement that would be necessary for all of the above shall be made on the basis of point 1 of paragraph 1 of article 95 of the ZJN-3.

## **5. OBLIGATIONS OF THE CONTRACTOR/SUPPLIER**

### **5.1**

The Contractor/Supplier undertakes to fulfil their obligations under the Agreement in accordance with the rules of profession, requirements and instructions of the Contracting Entity, and within the agreed time limit, and to immediately notify the Contracting Entity in writing of any circumstances that may make quality and correct implementation of supplies/services difficult or impossible, and to use advanced methodologies and methods in the implementation of supplies/services.

The Contractor/Supplier undertakes to have all necessary equipment and technology with the aim to secure timely and quality implementation of supplies/services.

The Contractor/Supplier as a professional with long-standing experience hereby states that they have carefully inspected the technical part of the documentation of the Contracting Entity which shall form the basis for the implementation of supplies/services under this Agreement, that the documentation is free of any errors or shortcomings, that the tender was prepared on the basis of such documentation, and further represents and as a professional warrants that the tender submitted considers all quantities and types of services as well as all costs necessary for the implementation/supply under this Agreement, and that they are responsible and shall cover the costs for any potential unforeseen or excessive services required for the implementation of supplies/services under this Agreement.

In the framework of implementing the obligations under this Agreement the Contractor/Supplier is obliged in particular:

- to start their contractual obligations (supplies/services) in the agreed time, and implement them in accordance with the provisions of the Agreement, and complete them in the agreed time limit;
- to complete contractual obligations correctly, diligently, in a quality manner, in accordance with technical rules, applicable standards and norms;
- to complete all contractual obligations economically and to the benefit of the Contracting Entity;
- to allow the Contracting Entity to have uninterrupted control over the implementation of obligations, and control over the quality of the implemented supplies/services;
- to cooperate with the control personnel of the Contracting Entity for the entire duration of implementing their obligations;
- to notify the Contracting Entity in due time of any bottlenecks or delays influencing the time limit of the implementation of supplies/services;
- submit all the documentation in accordance with the Contracting Entity's requirements, which is stated in the technical part of the documents related to the submission of the public contract.

If the Contracting Entity reasonably believes that the Contractor/Supplier will not be able to meet their contractual obligations within the agreed time limits, provide the required quality or meet other obligations under this Agreement, the Contracting Entity shall be obliged, at their own expense, to do everything in order to remedy the delays and to establish the required quality. Otherwise, the Contracting Entity may seek to withdraw from the Agreement and enforce contractual penalties.

## 5.2

In addition to the above obligations, the Contractor/Supplier is obligated to ensure the following:

- works/services undertaken will be carried out regardless of the SARS-CoV-2 (i.e. COVID 19) epidemic and its mutants,
- the Contractor/Supplier has a sufficient number of qualified personnel even in case of increased absence of own experts (fluctuation) due to infection, so that in spite of increased staff fluctuation the price and duration of the works/services will not change,
- the Contractor/Supplier will provide the necessary data for the purpose of timely registration of the beginning of works/services and acquisition of the necessary permits from the competent authorities of the Republic of Slovenia for the employees entering the Republic of Slovenia who have no (permanent or temporary) residence in the Republic of Slovenia,
- the Contractor/Supplier is aware that the employee of the Contractor/Supplier/Contractor's/Supplier's partner entering the Republic of Slovenia who has a permanent or temporary address in countries not on the list of epidemiologically safe countries or administrative units of countries (based on the assessment of the epidemiological situation by the Slovenian National Institute of Public Safety – NIJZ) or who is coming from these countries may be quarantined for a period of 14 days. The quarantine shall be prescribed in accordance with the regulations of the Republic of Slovenia valid on the day when the employee is entering the territory of the Republic of Slovenia. The quarantine shall be prescribed at the address indicated in the employer's certificate that the person entering the Republic of Slovenia received from the employer before crossing the border, or the address where the employee is actually staying at in the Republic of Slovenia. The employer/contractor/contractor's partner from the previous sentence must ensure proper quarantine conditions, food and security during the quarantine period at its own expenses,
- in order to prevent and limit the spread of the SARS-CoV-2 virus (COVID 19), its mutations and other viruses, the client is allowed to check the health condition of persons (checking for high temperature using a contactless thermal camera and checking for obvious symptoms typical of infection with SARS-CoV-2),
- at the Contracting Entity's request, the Contractor/Supplier will submit a negative SARS-CoV-2 (COVID-19) test of the employee, which shall not be older than 3 days (or in accordance with the valid instructions provided by NIJZ),
- at the Contracting Entity's request, the Contractor/Supplier will organise obligatory testing for SARS-CoV-2 (COVID-19) for the employees performing works/services for the Contracting Entity, at its own expenses, if so required by the measures for ensuring occupational health and safety, the Contractor/Supplier will ensure that his workers/experts are ready to work or approached the implementation of the subject of the Agreement in accordance with the regulations/stipulations of the NIJZ in force at the time.

All possible changes to the Agreement that would be necessary for all of the above shall be made on the basis of point 1 of paragraph 1 of article 95 of the ZJN-3.

## 6. OBLIGATIONS OF CONTRACTING ENTITY

In the framework of implementing their obligations under this Agreement the Contracting Entity is obliged in particular:

- to make all that is necessary for the Contractor/Supplier to be able to meet their contractual obligations;
- to cooperate with Contractor/Supplier in order to ensure the contractual obligations will be completed in time and to the satisfaction of both;
- to notify the Contractor/Supplier in due time of any bottlenecks or delays influencing the time limit of the implementation of supplies/services.

## 7. CONTRACTUAL PENALTY

The Contracting Parties agree that if the Contractor/Supplier fails to meet their obligations under this Agreement within the agreed time limit or if the Contracting Entity finds out that the Contractor/Supplier will not be able to

meet the obligations imposed on them by the Contracting Entity, the Contractor/Supplier shall pay the contractual penalty within 8 days of the date on the invoice, and provided the Contractor/Supplier fails to meet their obligations within the given time limit, the Contracting Entity may, at the expense of the Contractor/Supplier, hire a different contractor/supplier, and demand the difference between the purchase price defined in the Agreement and the purchase price in the covering purchase.

In case a different contractor/supplier is hired, the original Contractor/Supplier shall also pay to the Contracting Entity, in addition to the contractual penalty, the costs of the invoice of the other contractor/supplier increased by 8% of handling costs incurred by the Contracting Entity.

If the Contractor/Supplier was unable to meet their contractual obligations in time for reasons on the side of the Contracting Entity or due to force majeure, the contractual time limit may be extended proportionately to the duration of such circumstances or force majeure. In such case, the Contractor/Supplier is obliged to demonstrate the circumstances that had prevented them to fulfil their contractual obligations. The contractual time limit may also be extended in other cases if the Contracting Entity estimates that despite insignificant delay in the implementation of contractual obligations the change of the contractor/supplier does not make sense.

The amount of the contractual penalties shall be defined on the basis of contractual prices determined under Section 8 hereof, depending on the time of implementing the contractual obligations. The contractual penalty shall correspond to 0.5% of the contractual value for each day of delay with a maximum total amount of contractual penalty corresponding to 15% of the total contractual value.

In addition to the contractual penalty, the Contractor/Supplier is also obliged to pay the Contracting Entity all compensation for damage that the Contracting Entity would have as a result of the Contractor's/Supplier's breach of the obligations assumed by this Agreement.

In the event of damage suffered by the Contracting Entity as a result of non-fulfillment, improper fulfillment or delay by the Contractor/Supplier and the resulting damage exceeds the amount of the contractual penalty, the Contractor/Supplier is obliged to pay the Contracting Entity all compensation for the damage in addition to the contractual penalty, but up to a maximum of the total contract price including VAT, which the Contracting Entity would have due to the Contractor's/Supplier's violations of the obligations assumed by this Agreement. This limitation does not apply to damages that are caused intentionally or by gross negligence. The Supplier, if requested to do so by the Contracting Entity, must cooperate with the Contractor/Supplier as a party in any disputes arising from delay, improper performance or non-performance by the Contractor/Supplier.

In the event that the Contractor/Supplier is unable to deliver the goods within the agreed time due to force majeure, which does not cover the epidemic of infectious disease COVID-19, the delivery time under this contract shall be extended accordingly. The goods travel at the risk of the Contractor/Supplier.

## **8. CONTRACTUAL VALUE**

### **8.1 Prices as per individual items**

Contractual prices as per individual items are specified in the attached Specification of goods and services, are fixed for the term of the Agreement, DDP Šoštanj (Incoterms, 2020) and are stated without VAT which shall be charged as per the applicable VAT legislation.

### **8.2. Contractual value**

The Contracting Parties acknowledge that the contractual value for the supplied goods or services during the overhaul of Unit 6 - \_\_\_\_\_ (*name of the package*) shall be \_\_\_\_\_ EUR (without VAT).

## **9. TERMS OF PAYMENT AND PAYMENT METHODS**

*(To be adequately completed given the option selected by the Contractor/Supplier)*

The basis for the calculation is the protocol demonstrating that the services/supplies under this Agreement have been completed in full. The said protocol shall be annexed to the invoice.

### *Option 1*

The Contracting Entity shall pay the value of the implemented supplies/services within 60 days of the date on which such supplies/services are implemented to the bank account: \_\_\_\_\_ opened at \_\_\_\_\_.

### *Option 2*

The Contracting Entity shall pay the supplies/services implemented in the following manner:

- 20% of the contractual price shall be paid in the form of an advance payment within 30 days of the invoice for the advance payment issued together with the advance payment guarantee, which will be proportionally settled according to each successive supply or supplies/services;
- 80% of the contractual value shall be paid within 60 days of the date on which such supplies/services are implemented to the bank account: \_\_\_\_\_ opened at \_\_\_\_\_.

The Contractor /Supplier undertakes to deliver the invoice, free of any errors (both in terms of content and calculation), to the seat of the Contracting Entity or on e-mail tes.invoices@te-sostanj.si in .pdf form within eight (8) days of the date on which the contractual obligation was met.

VAT shall also be stated on the invoice or an adequate VAT exemption clause in accordance with the provisions governing the charging of VAT in EU member states.

The Contracting Entity is obliged to settle the issued invoice by the due date at the latest.

Default interest shall be charged in the amount of a 6-month EURIBOR applicable on the date when the invoice is due for payment. The Contracting Entity shall be obliged to pay the default interest within 30 days of the date of the invoice.

## **10. OTHER OBLIGATIONS OF THE PARTIES**

### **10.1 Business secret and personal data protection**

The Contractor/Supplier undertakes to:

- permanently protect as business secret any data and information which they will obtain or have access to or become acquainted with in any way, in whatever form (written, oral), and on whatever medium, provided such data or information is considered business secret as well as such data or information not considered business secret if they were supposed to know that communicating or disclosing such information to unauthorised people, companies within the group of the Contracting Entity or to third parties would cause material or non-material damage;
- permanently protect all personal data which they shall become acquainted with while working with the Contracting Entity or companies within the group of the Contracting Entity, regardless of whom such data or information refer to.

Permanent protection of business secrets and personal data under the preceding paragraph means the obligation of the Contractor/Supplier to use the documents, data and information under the preceding paragraph solely for the purpose of implementing this Agreement, and not to disclose them in any way to third parties without the prior written consent of the Contracting Entity, in particular not by publishing them in the media, not to reproduce them, to exploit them solely with the aim to implement this Agreement, and to immediately return or destroy all documents or media containing such data or information if the Contracting Entity so requires.

The Contractor/Supplier undertakes to make all persons participating in the implementation of this Agreement on the side of the Contractor/Supplier respect at least the same business secret and personal data protection standards as they are bound by under this Section.

The Contracting Parties are aware that the violation of obligation to protect business secret and/or personal data under this Section constitutes a violation of applicable regulations and the basis for liability for damages of the Contractor/Supplier.

Notwithstanding the foregoing, the Contracting Entity, as a person liable for access to information of a public nature, is obliged to publish statutory defined information from the concluded legal transaction.

#### 10.2 Subcontractors (*to be taken into account if the Contractor/Supplier uses subcontractor(s)*)

The Contractor /Supplier may transfer the obligations under this Agreement to subcontractors listed in Appendix 7 hereto and with data on individual subcontractor from Appendix 7a hereto. If during the implementation of the public contract there are any changes concerning the subcontractors, the Contractor/Supplier shall inform thereof the Contracting Entity, and shall send them new information, namely no later than within 5 days of such change, together with all required annexes. Any such change shall not release the Contractor/Supplier of their obligations and liabilities.

The Contractor/Supplier explicitly undertakes to notify their subcontractors of the obligation to protect business secrets and personal data as stipulated in Section 10.1 of this Agreement.

Notwithstanding the provisions of the preceding paragraphs of this Section, the Contractor/Supplier is obliged to verify the competence, qualification and references of the subcontractors, and shall be liable for any acts, omissions or negligence of any subcontractor, their representative or deputy, as if they were acts, omissions or negligence of the Contractor/Supplier themselves, or their representatives or deputies.

The Contractor/Supplier shall be obliged to represent their subcontractors in relations with the Contracting Entity and to manage and supervise their work in order to ensure the correct implementation of this Agreement.

*(Only if the subcontractor requires direct payment)*

*In case subcontractors require direct payments from the Contracting Entity, Appendix No. 8 hereto – Consents of subcontractors also forms an integral part of this Agreement. In this case the Contractor/Supplier, by signing this Agreement, authorises the Contracting Entity to make direct payments to all subcontractors listed in the Agreement, on the basis of the approved invoice/situation, namely to the bank accounts listed in the table below. The Contractor/Supplier shall annex to their invoice/situation the preliminary approved invoices/situations of their subcontractors. A preliminary approved invoice/situation is a prerequisite for payment.*

Appendix No.\_\_\_\_: Contractor/Supplier uses the following subcontractors in the implementation of this Agreement:

	NAME OF THE SUBCONTRACTOR
FULL ADDRESS	
REGISTRATION NUMBER	
TAX NUMBER	
BANK ACCOUNT	
SUBJECT	
QUANTITY	
VALUE	
PLACE OF THE IMPLEMENTATION/SUPPLY	
TIME LIMIT OF THE IMPLEMENTATION/SUPPLY	
TYPE OF WORKS/SUPPLIES	

The Contractor/Supplier is fully responsible towards the Contracting Entity for good and correct implementation of their obligations regardless of the number of subcontractors they use.

If direct payments to subcontractors are not obligatory, the Contracting Entity shall require from the main Contractor/Supplier to send them, within 60 days of the payment of the final invoice or situation, a written statement and a statement of the subcontractor that they (the subcontractor) have received the payment for the implemented construction works or services or goods supplied related directly to the subject of the public contract.

If the Contractor/Supplier fails to submit the statement within the given time limit this constitute the ground for the initiation of minor offence proceedings against the Contractor/supplier before the National Review Committee. Apart from the fine the Contractor/Supplier is also banned from the public procurement procedures for a certain period of time.

In accordance with paragraph three of Article 94 of ZJN-3, the main contractor shall notify the Contracting Entity of any changes to information pertaining to subcontractors and shall, no later than five days of such a change,

provide information with respect to any new subcontractors which it intends to subsequently involve in the works or services/supplies. If the Contractor/Supplier fails to do that the Contracting Entity has the right to charge to them a contractual penalty of 5,000.00 EUR for each violation for not notifying the changes of individual subcontractors.

#### 10.3

The Contracting Parties agree that the Contractor/Supplier shall receive an ID card upon arrival at the premises of the Contracting Entity allowing them to enter the premises of the Contracting Entity. The Contractor/Supplier shall return the aforementioned ID card at the reception desk, immediately after having completed their obligations and upon leaving the premises of the Contracting Entity. Should the personnel of the Contractor/Supplier fail to do that the Contracting Entity shall charge the ID card as per the applicable price list. In case the services/supplies are subcontracted the same shall apply for the subcontractors.

#### 10.4

The Contracting Entity undertakes to acquaint the Contractor/Supplier with the Management System. The Contractor/Supplier undertakes to comply with the requirements of the management system of the Contracting Entity. The management system requirements are considered an appendix hereto and shall be bound together with this Agreement. In implementing the obligations under this agreement, the Contractor/Supplier also undertakes to comply with the regulations governing the safety at work applicable at the Contracting Entity, and to sign the Safety at Work Agreement with the Contracting Entity. The form Field of occupational health and safety at work and fire safety is an attachment to this Agreement and shall be bound with this Agreement.

#### 10.5 Damage resulting from the environmental pollution

For the entire duration of implementing this Agreement, the Contractor/Supplier is obliged to strictly comply with all applicable regulations governing the environmental protection. If on account of violations of regulations governing the environmental protection resulting from the actions or omission of actions by the Contractor/Supplier the Contracting Entity suffers any damage, including the payment of any fine or pecuniary penalty, the Contractor/Supplier undertakes to indemnify the Contracting Entity the full amount of such damage. In such case, the Contracting Entity has an independent claim/receivable against the Contractor/Supplier based on this provision. The Contractor/Supplier shall be obliged to pay any such claim within 8 days of the date on the invoice with the latter forming the basis for such payment.

#### 10.6

The Contracting Parties agree to immediately notify each other of any material changes to information, in particular of any changes pertaining to the bank account, ID for VAT, seat or business activity as well as of any status-related or business-related changes, financial difficulties pertaining to regular operations or even the liquidation of the company.

#### 10.7

The Contractor/Supplier is obliged to regularly monitor all laws, by-laws and other relevant legislation regarding the subject of the Agreement and to act in accordance with it, for which he assumes full responsibility, and must also inform the Contracting Entity about any actions and obligations on the part of the Contracting Entity. The Contracting Entity does not assume responsibility towards third parties for any mistakes, compensation claims and similar, also not for the Contractor's/Supplier's conduct in violation of the legislation, related to the subject of the Agreement. All possible corrections or changes in conduct according to the findings of the competent authority for inspection shall be borne by the Contractor/Supplier, if they relate to the supplies/services that he performed.

### **11. WARRANTY PERIODS AND OBLIGATIONS DURING THE WARRANTY PERIOD**

Subject to terms and conditions listed below, the Contractor/Supplier undertakes to remedy for free any shortcomings or defects which result from defects, shortcomings or non-compliance of materials, workmanship, assembly procedures, or which are identified during the inspection procedure.

In case the Contracting Entity identifies the shortcomings from the preceding paragraph during the warranty period they shall inform thereof the Contractor/Supplier in writing as soon as possible. After having received such notification, the Contractor/Supplier shall without any charges to the Contracting Entity repair or replace



such defective equipment or such defected parts of equipment/service provided, in the shortest possible time. The warranty period for replaced parts of equipment/service provided starts running as of the date of incorporating them, and the warranty period for the repaired parts of equipment shall be adequately extended from the time when the defect occurred until it is remedied.

Supplied goods or services during the overhaul of Unit 6 - \_\_\_\_\_ (*name of the package*) is subject to a 1-year warranty granted by the Contractor/Supplier, unless it is more or otherwise stated in the technical part of the documentation. During the validity of the warranty, the Contractor/Supplier shall at their own expense remedy any defects resulting from poor-quality service or poor-quality materials.

The Contractor/Supplier shall be responsible for remedying damages, defects or shortcomings which result from the proven non-compliance of materials or hidden defects, even after the warranty period expires, but no more than 5 years after the final acceptance of the works.

## **12. FORCE MAJEURE**

The Contractor/Supplier shall be free from liability for damage that would result from non-performance or delay in the implementation of the contractual obligation if, after the conclusion of the Agreement, unforeseen circumstances arose which the Contractor/Supplier could not prevent, eliminate or avoid (force majeure).

In circumstances from the preceding paragraph of this Section occur, the Supplier is obliged to notify the Contracting Entity in writing of the occurrence and cessation of the said circumstances immediately, but no later than within 7 days.

Once force majeure is over, the Contracting Parties shall determine any possible changes to the contractual obligations in the form of the minutes and shall on the basis of the latter conclude an Annex to this Agreement.

If on account of force majeure Contracting Parties suffer any damage each of them shall cover any such damage themselves.

The contracting party on whose side the force majeure occurred must immediately inform the opposite contracting party of the onset and termination of the force majeure and, upon its request, provide it with all the necessary evidence of the existence and duration of the force majeure, its extent and its consequences. If the contracting party does not do so, he cannot claim the existence of force majeure. The contractual terms are extended accordingly according to the duration of the force majeure by written agreement between the parties.

## **13. ANTI-CORRUPTION CLAUSE**

This Agreement shall be deemed null and void if any person on behalf of or for the account of the other Contracting Party promises, offers or gives to any representative or agent or the signatory of the Contracting Entity any undue advantage for the purpose of obtaining business, concluding business under more favourable terms and conditions or omitting due supervision over implementation of any contractual obligation or any other act or omission which causes damage to the Contracting Entity, or puts a representative, agent or signatory in a position to obtain an undue advantage either by the Contracting Entity or the other Contracting Party, or the other Contracting Party is put in a position to obtain such undue advantage.

## **14. TRANSACTIONS WITH MEMBERS OF THE MANAGEMENT BOARD, THE SUPERVISORY BOARD, MANAGERS AND PROCURATION HOLDERS**

By signing this Agreement, Contractor/Supplier declares that at any stage of concluding or during the performance of the Agreement, he is not and will not conclude transactions with members of the management board, the supervisory board, managers and procuration holders or their family members and he is informed, that for these transactions in accordance with 270a. Article of Companies Act, he is obliged to inform the Contracting Entity in advance, as the consent of the supervisory board or the consent of the general meeting is required for the conclusion, if the Contracting Entity does not have a supervisory board. The Contractor/Supplier declares, that he is aware of the content of this paragraph of the Agreement, the obligation to inform and is aware of the consequences arising from it, and therefore agrees that a special written statement by Contractor/Supplier on the non-existence of these circumstances is not required and he waives it.

## 15. CONDITION SUBSEQUENT

This Agreement is made on the condition subsequent which is fulfilled if one of the following circumstances arises:

- the Contracting Entity finds out that the court has by way of a final decision determined the violations of labour, environmental or social legislation by the Contractor/Supplier or a subcontractor, or
- the Contracting Entity finds out that the competent governmental authority determined that during the implementation of this Agreement the Contractor/Supplier made at least two violations related to:
  - work remuneration,
  - work hours,
  - rest period,
  - executing work based on civil law contracts despite the existence of elements of an employment relationship or undeclared employment,

whereby a fine for such two violations has been issued by way of one or more final decisions, provided that from the time of becoming aware of the violation and until the end of the Agreement there is at least a 6-month period left, or if the Contractor/Supplier uses a subcontractor, if on account of the violation identified in relation to the subcontractor, the Contractor/Supplier fails to replace such subcontractor in a manner as stipulated in Article 94 of ZJN-3 and the provisions contained herein, within 30 days of becoming aware of such violation.

In case the circumstances and conditions from the preceding paragraph are fulfilled the Agreement shall be deemed terminated as of the day on which a new public procurement contract is concluded for the subject in question. The Contracting Entity shall notify the Contractor/Supplier of the date on which new Agreement is concluded.

If the Contracting Entity fails to start the new public procurement procedure within 30 days of becoming aware of the violation, the Agreement shall be deemed terminated on the 30<sup>th</sup> day of becoming aware of the violation.

## 16. RESPONSIBLE/CONTACT FOR AGREEMENT IMPLEMENTATION

To facilitate the implementation of this Agreement the Contracting Parties agreed that they will both appoint their responsible/contact person.

For the person responsible on the side of the Contracting Entity \_\_\_\_\_ shall be appointed (\_\_\_\_@te-sostanj.si). The contact person of the Contracting Entity is \_\_\_\_\_ (\_\_\_\_@te-sostanj.si). The responsible/contact person of the Contracting entity shall give the Contractor/Supplier instructions in accordance with the provision of this Agreement.

For the responsible person on the side of the Contractor/Supplier \_\_\_\_\_ shall be appointed (\_\_\_\_@\_\_\_\_). The contact person of the Contractor/supplier is \_\_\_\_\_ (\_\_\_\_@\_\_\_\_). The responsible/contact person of the Contractor/supplier shall ensure that the instructions given by the Contracting Entity are complied with.

Should the Contracting Parties change the responsible/contact persons appointed under this Agreement, they shall inform each other thereof in writing.

## 17. FINAL PROVISIONS

This Agreement becomes valid on the date of signature of both contracting parties and is valid until all contractual obligations from this Agreement are fulfilled.

The Contracting Parties agree that the Contractor/Supplier will not transfer the claim from this Agreement to another natural or legal person, pledge it or dispose of it in any other way.

The Contracting Parties may amend this Agreement upon mutual consent. Any amendments are valid only if they are made in writing and in the same manner as this Agreement.

This Agreement may be changed or amended with a written annex hereto approved and signed by both Contracting Parties. If any of the provisions of this Agreement is or becomes invalid, this does not affect the other provisions of this Agreement. The invalid provision shall be replaced with a valid one which is as close to the intent reflected by the original provision as possible.

The Contracting Parties shall endeavour to resolve any disputes relating to this Agreement in an amicable way. Should this not be possible, the district Court in Celje shall have jurisdiction over the matter.

If the Contractor/Supplier fails to meet their obligations under this Agreement, if they implement this Agreement contrary to explicit requests/instructions of the Contracting Entity or contrary to rules of profession, technical regulations and applicable legislation, or if it is obvious that the Contractor/Supplier will not meet their obligations under this Agreement, the Contracting Entity may issue them a written reminder to fulfil their obligations hereunder, and give them a time limit to do so. If the Contractor/Supplier disregards the reminder of the Contracting Entity, the latter may withdraw from this Agreement without notice and any liability towards the Contractor/Supplier. The Contracting Entity shall notify the Contractor/Supplier of their withdrawal from this Agreement in writing.

The Contracting Parties agree that the Contracting Entity may withdraw from the Agreement at any time with a two (2) month notice period, with the notice period starting when the Contractor/Supplier receives a written notice.

This Agreement shall be governed and construed in accordance with the laws of Slovenia.

This Agreement is made in two (2) counterparts of which each Contracting Party shall receive one (1) counterpart.

Signed as of: \_\_\_\_\_

Signed as of: \_\_\_\_\_

**NAME OF THE COMPANY**

Director:

Name and surname: \_\_\_\_\_

**TERMOELEKTRARNA ŠOŠTANJ d.o.o.**

Director General:

PhD. Viktor Vračar

**Appendices:**

Specification of goods and services – The supply of goods and services during the overhaul of Unit 6: PACKAGE \_\_: \_\_ (*name of the package*).

Field of occupational health and safety at work and fire safety (1 page).

Requirements from the field of quality management system (27 pages).

*(If subcontractors are used):*

List of Subcontractors – Appendix No. 7.

Subcontractor Details – Appendix No. 7a.

Consent or power of attorney of the Contactor or subcontractor – Appendix No. 8.