DRAFT AGREEMENT ON THE SUPPLY OF COOLING WATER TREATMENT CHEMICAL
(Agreement No. _____)

agreed and concluded by and between

TERMOELEKTRARNA ŠOŠTANJ, d.o.o.,
Cesta Lole Ribarja 18, 3325 ŠOŠTANJ,
represented by M. Sc. Branko Debeljak, managing director
hereinafter referred to as "**the Buyer or TEŠ**"
ID for VAT: SI92189903.
Company registration number: 5040388000.

and

COMPANY NAME
Address
represented by _____, director
hereinafter referred to as "**the Seller**"
ID for VAT: _____.
Company registration number: _____.

as follows

1. PRELIMINARY PROVISIONS

On the Public Procurement Portal under notice number _____ of _____ the Buyer published a public contract "Cooling water treatment chemical" for a period of two (2) years.
The public contract award procedure was conducted under the low-value contract procedure in accordance with Article 47 of Public Procurement Act (ZJN-3).
A contract award decision became final on _____.

The Parties hereto note that in the pursue of their business activity the Buyer has the need for a solution and for the supply of cooling water treatment chemical (hereinafter referred to as: "the goods").

The Seller submitted their tender, which after negotiations became final, and which was reviewed and approved by the Buyer. The aforementioned tender was the most favourable tender and as such forms the basis for the conclusion of this agreement which shall be concluded once the public contract award procedure has been completed.

The documentation relating to the award of public contract and the Seller's tender form an integral part of this agreement. All documents of which the agreement consists shall be deemed as a whole and shall also be construed as such. In the event of any contradictions or inconsistencies regarding certain obligations, the following order of precedence shall apply in the construction of such obligations, unless agreed otherwise:

1. Agreement;
2. Documentation relating to the award of public contract;
3. Technical part of the documentation relating to the award of public contract;
4. Tender proforma invoice including the specification of goods;
5. Seller's tender.

2. SUBJECT OF THE CONTRACT

The Seller's range of products entails the appropriate solution, and consequently the goods for the Buyer. In addition, the Seller is also able to organise the transport and thus supply the goods in the framework of the solution to the Buyer, and provide them with all the supporting services detailed in the technical part of the documentation relating to the award of public contract.

The Parties agree that the Seller shall supply the Buyer with the goods specified in the Seller's tender and final tender which form an integral part of this agreement.

By concluding this Agreement, the Seller undertakes to sell the solution to the Buyer and deliver them the needed quantities of goods, and the Buyer shall pay them the agreed price in return.

The Buyer reserves the right to increase or reduce the scope of ordered goods and to adjust it to their actual needs. The Seller is aware of and agrees that owing to the aforementioned reservation they cannot reasonably expect to have any profit and that they have no rights whatsoever in respect of loss of income or loss of profit resulting from the loss of positive contractual interest or alike in the event the volume of the ordered goods is lower than envisaged owing to the Buyer's reduced needs. The Seller expressly and unconditionally waives all and any claims against the Buyer in the event that the estimated quantities are not achieved or if they are exceeded. The volume of ordered goods may also deviate from the estimates owing to the circumstances which the Buyer is unable to foresee.

The Parties do not waive changed circumstances retrospectively.

By submitting their tender, the Seller gives their prior consent to all the Buyer's reservations contained in documentation relating to the award of public contract and in the agreement so that the Buyer may implement them unilaterally.

In accordance with point one of Article 95(1) of ZJN-3, the Buyer reserves the right to extend the validity of the agreement for a period of up to 12 months, if it is determined that they still require the subject of the public contract award procedure and provided the estimated value of the public contract award procedure has not yet been fully utilized.

3. QUALITY OF GOODS AND PROVISION OF SERVICES

3.1
The Parties hereto agree for the chemical composition of the goods intended for the chemical treatment of cooling water at TEŠ to be such to meet the requirement of not exceeding the maximum allowed corrosion rate of Fe up to 0.08 mm/year.

The corrosion measurements shall take place in the form of corrosion coupons.

The Seller shall provide all required preparations for the treatment of cooling water, including the associated dispensing equipment (which also includes all maintenance and operating costs in connection with this).

The dispensing equipment offered has the option of automatically adjusting the dosage of the preparation for the treatment of cooling water when the conditions in the cooling system change, in the sense of increasing or decreasing the concentration of the preparation in the cooling water (regulation of the pump for dosing the preparation).

The Seller shall also be obliged to provide adequate servicing of the on-line measuring device to enable the monitoring/measuring of parameters. (To be included if the selected tenderer included measurements using the on-line measuring device in their tender)

The supplied preparations for the treatment of cooling water shall not contain heavy metals such as zinc, molybdenum etc..

3.2
The Parties agree for the quality of the goods to comply with the above-stated requirements regarding the chemical compositions and the requirements made by the Buyer in the documentation relating to the award of public contract.

Safety data sheets for the goods shall comply with the requirements under Regulations (EC) Nos. 1907/2006 and 878/2020.

The Seller undertakes to inform the Buyer immediately of any changes related to the safety data sheets.

The Seller undertakes to submit to the Buyer the safety data sheet for the supplied goods in the Slovene language (at first delivery and each time the safety data sheet is changed in any way).

The Seller undertakes to provide the Buyer with a delivery note of the supplied goods whenever the goods are delivered.
The Seller shall be obliged to start remedying any shortcomings within one (1) business day and to supply new adequate goods no later than within fifteen (15) business days. All costs related to the remedying of shortcomings shall be borne by the Seller.

If the Buyer has reasonable concerns that the Seller will not supply the goods within the agreed deadlines, that they will not supply goods of adequate quality or that they will not fulfil their obligations under the agreement, the Seller must take all necessary measures to remedy the delay or restore the required quality at their own expense. Otherwise, the Buyer may enforce the right to withdraw from the agreement and the right to contractual penalty.

3.3
The Seller shall ensure automatic, continuous and direct measurements of the content/concentration of the supplied goods in the cooling water and shall ensure direct monitoring of the parameters listed herein at all times:

- pH-value reading (mandatory measurement),
- specific conductivity (mandatory measurement),
- the degree of corrosion on the material (Fe) (mandatory via corrosion coupons); *measurement in the case of an on-line gauge, (to be included if the successful tenderer included an on-line gauge in the tender)*
- measurements of the content/concentration of the preparation in the cooling system *(mandatory measurements),*
- *Content/concentration of the active component in the offered preparation in the cooling system (to be included if the selected tendered included in their offer the active component),*
- water turbidity *(mandatory measurement).*

The Seller shall provide internet access to the database and the current values of the parameters in the cooling water, i.e., for all parameters listed in the previous paragraph.

For the term of the Agreement the Seller shall be obliged to provide:

- at least 1 (one) regular visit (periodically, maximum every 45 days) and 2 (two) inspections following an emergency call-out within 24 hours per year (if it turns out this is absolutely necessary). *During a regular visit they shall perform the cleaning check-ups and verify the accuracy of the equipment, the amount of the preparation and parameters in the cooling water subject to analysis (the analytical department of the TEŠ laboratory).*
- Prompt preparation of a periodic report (at least 2× a year) which they shall send to the Buyer.
- Preparation of detailed annual report on the cooling water processing (cumulative, for a period of 12 months).
- Submission of proposals and measures aimed at optimising the process to the Buyer.
- Giving expert recommendations and advice to the Buyer.
- Periodic monitoring of and reporting to the Buyer on the functioning of the capacitor, and calculating the fouling factor for the relevant period within the meaning of poorer heat transmission, effect on the Unit's efficiency, etc. with the calculation being based on the input parameters provided/delivered by the Buyer. The calculation of the fouling factor is performed once every 3 months (i.e. 4 times a year).

4. METHOD AND TIME LIMIT FOR DELIVERY OF THE GOODS

The Seller has estimated the required quantity of goods in their tender for a period of two years. However, the estimate may vary up or down according to the Buyer's actual needs. The Seller shall not be entitled to any claim due to actual quantity exceeding or falling short of the estimated quantity.

The quantity of the goods shall be agreed between the parties on a delivery-by-delivery basis. Deliveries shall be made successively to the Buyer's warehouse during working hours from 7 AM to 2 PM from Monday to Friday (on business days).

The Seller shall supply the goods to the Buyer in an adequate packaging (IBC). *The Seller undertakes to accept from the Buyer the reusable packaging and commits to accept from the Buyer all empty packaging*

used to deliver the preparation to the Buyer. (To be included if the selected tenderer included the taking back of the waste packaging in their tender)

The Seller shall deliver the goods under this agreement to the Buyer on a monthly basis as agreed or no later than within one (1) month from the date of the order sent by the Buyer's contact person via e-mail. The Seller shall ensure the uninterrupted delivery of the goods, subject to the operational needs of the Buyer.

Owing to potential unforeseen circumstances (e.g., proven difficulties/delays in transporting, supplying the materials required for the goods and thereto related disturbances of production or limited production etc. through no fault of the Seller) the delivery of the goods may be rescheduled or postponed for as long as such unforeseen circumstances lasted. This, however, shall not affect the change of obligations the Seller has under the agreement or the value of the contract.

The Buyer reserves the right to extend the deadline for completing the delivery of the goods if for reasons attributable to the Buyer there is a delay, a suspension of the delivery of goods, if the Buyer orders additional goods or demands that the order be carried out in a significantly different manner affecting the critical supply channels - for as much time as is required for the delivery to be completed.

The above changes do not constitute a significant change under Article 95 of ZJN-3.

The orders for goods shall be placed on business days from Monday to Friday from 7 AM to 3 PM.

Should it prove necessary during the implementation of the agreement, the Buyer and the Seller may also agree on different delivery dates or agree on details which may in any way affect the smooth running of the deliveries.

The quantities of the goods are indicative and are not binding on the Buyer.

The Buyer and the Seller agree that the Buyer shall only purchase goods actually required during the term of the agreement.

The Seller undertakes to indicate in the delivery note the Buyer’s agreement number and the code of the ordered goods.

5. CONTRACTUAL PENALTY

The Parties agree that if the Seller fails to fulfil their obligations under this agreement, within the agreed time limit or quality or if the Buyer finds that the Seller is unable to provide the goods ordered by the Buyer, the Seller shall pay the contractual penalty within eight (8) days of the date of the invoice or if the Seller fails to fulfil their obligations in time, the Buyer may for reason of coverage engage another Seller at the Seller’s expense and demand from the Seller the difference between the purchase price determined in the agreement and the purchase price paid for the coverage purchase.

In the event of engaging a different seller, the original Seller shall pay to the Buyer the contractual penalty as well as the cost of the invoice issued by such other seller increased by 8% of handling charges incurred by the Buyer.

If the Seller through no fault of his own, i.e., for reasons attributable to the Buyer, is unable to fulfil their obligations under the agreement in time, or in the event of force majeure, the contractual time limit may be extended accordingly. In this case the Seller shall be obliged to convincingly evidence the circumstances that prevented them to fulfil their obligations under the agreement in time. The contractual deadline may also be extended in other cases if the Buyer estimates that replacing the Seller despite an insignificant delay in fulfilling the obligations under the agreement would not be sensible.

The amount of the contractual penalty shall be determined on the basis of the price listed in section 7 of the agreement. The contractual penalty to be paid for each calendar day of delay (or for each calendar day when the goods supplied fail to meet the agreed quantity) shall amount to 0.5% of the maximum estimated contractual value of the agreement, with the maximum contractual penalty being capped at 15% of the maximum estimated contractual value of the agreement.

In addition to the contractual penalty, the Seller shall also be liable to pay to the Buyer any compensation for damages suffered by the Buyer as a result of the Seller's breach of the obligations assumed by them under this agreement.

In the event of damage which the Buyer incurs on account of the Seller's delay in fulfilling their obligations, with such damage exceeding the amount of contractual penalty, the Seller shall be obliged to pay not only the contractual penalty but also compensation for the damage incurred by the Buyer as a result of the Seller not fulfilling the obligations which they assumed under this agreement. Such compensation shall be capped at the total value of the agreement with VAT included. This limitation does not apply to damage caused by intent or gross negligence. The Seller shall, if invited to do so by the Buyer, participate with the Seller as a party in any disputes arising out of delay, improper performance or non-performance by the Seller.

In the event that the Seller is unable to deliver the goods within the agreed time limit due to force majeure or other justified reasons, the delivery deadline under this agreement shall be extended accordingly. The transportation of the goods shall take place at the Seller's risk.

6. CONTRACTUAL PENALTY FOR DEFAULT

In the event of deviations from the guaranteed maximum degree of corrosion (up to 0.08 mm/year) due to reasons attributable to the Seller, the Buyer shall be entitled to a separate contractual penalty in the amount of 20% of the maximum estimated contractual value for a period of twenty-four (24) months. The Seller will have to prove that the reasons for the deviation are not within his/her sphere of influence. In the event the agreement is extended on the basis of a contractual entitlement, the Buyer shall be entitled to an additional separate contractual penalty in the amount of 20% of the maximum estimated contractual value for the period of extension.

7. CONTRACTUAL PRICE

7.1 Price per unit
The Parties agree for the tender price/unit, to be exclusive of VAT, to include the parity DDP Šoštanj (Incoterms 2020), and to be indicated _____EUR/kg.

7.2 Maximum estimated contractual value
The Parties agree for the maximum estimated contractual value to amount to EUR _____ excl. VAT. VAT shall be charged in accordance with the applicable legislation.

The unit price is fixed and unchangeable for one year after the conclusion of the agreement. After the one-year period, it may be adjusted at the proposal of the Seller or at the proposal of the Buyer (raised or lowered) by taking account of the EUROSTAT data, based on how the tender price was structured (PPI C20 60%, HICP all 20%, Labour Index 20%) and on the basis of the last applicable indices compared to the index applicable on the day the tender was submitted, i.e.:

- PPI C20 (PPI – C20 Producer prices in industry, domestic market), the share of which in the tender price amounted to 60% on the day the tender was submitted (C20 = Manufacture of chemicals and chemical products), published at: PPI - https://ec.europa.eu/eurostat/databrowser/bookmark/695a66a9-7237-4961-b36f-646d6a301490?lang=en;

- HICP all (HICP - Harmonised index of consumer prices), the share of which in the tender price amounted to 20% on the day the tender was submitted, published at: HICP - https://ec.europa.eu/eurostat/databrowser/bookmark/0233cc0a-f035-41b1-92cf47956566d1f0?lang=en;

- Labour Index (LI - Labour input industry), the share of which in the tender price amounted to 20% on the day the tender was submitted, published at: LI - https://ec.europa.eu/eurostat/databrowser/bookmark/13fd0da6-5f15-4a25-8f6c-0646b3401837?lang=en.

8. PAYMENT CONDITIONS AND PAYMENT METHODS

The delivery note signed by both Parties and attached to the invoice shall form the basis for the invoice.

The Seller undertakes to issue an accurate invoice (in terms of substance and calculations) to the Buyer's registered office or to the following e-mail address tes.invoices@te-sostanj.si in a PDF format within three (3) business days from the date of delivery of the goods, which the Buyer shall settle within sixty (60) days from the date of delivery of the goods by wiring the required amount to the Seller's account.

The invoice shall also have the amount of VAT indicated or shall comprise an adequate statement of the service being exempt from the payment of VAT in line with the regulations governing the VAT accounting in the EU Member States.

The Buyer shall be obliged to pay the correctly issued invoice no later than by its due date.
The default interest shall be calculated in the amount of the rate corresponding to the 6-month EURIBOR applicable on the due date of the invoice. The Buyer shall be obliged to pay the interest within 30 days of the issued invoice.

9. COMPLAINTS

The Seller represents and warrants to the Buyer that the goods are free from any material and legal defects and that they meet all the requirements of the contract.

The Buyer shall inspect the goods in terms of quantity and quality and shall notify the Seller of any manifest defects within a reasonable time.

In the event that the Buyer notices a defect or doubts the quality of the goods, the Buyer shall immediately notify the Seller thereof so that they may jointly analyse the arbitration sample.

In the event that the analysis of the arbitration sample reveals that the quality of the goods is inadequate, the contractual penalty referred to in Article 5 of this agreement shall begin to run from the date of the analysis.

The Seller undertakes to remove any goods of inadequate quality at their own expense and to redeliver the ordered goods of adequate quality to the Buyer at their own expense.

In the event that the complaint relates to damage caused during transport or that a defect is found at the time of acceptance of the goods from the carrier, a complaint report shall be drawn up and signed by the carrier or the Buyer's representative who accepted the goods.

The Seller undertakes to inform the Buyer in writing (via e-mail) about the resolution of the complaint and to deliver the complained goods within the agreed delivery period.

For positively resolved complaints, for incorrectly sent and returned goods, the Seller issues a credit note to the Buyer, for the amount of which the Buyer's obligation is reduced.

In the event that the delivered goods are not suitable, the costs that the Buyer would have incurred due to this shall be covered by the Seller.
In the event that the delivered goods are not suitable, where the Seller insists on the delivery, the Buyer may withdraw from this agreement without any obligation to the seller, charge the Seller a contractual penalty according to the agreement, , and the Seller shall also cover the difference in price to the next most favourable offer, for which the Buyer shall issue an invoice

10. WARRANTY PERIOD

The Seller provides warranty for the quality of the supplied goods. If stored correctly, the shelf life of the supplied goods corresponds to that indicated in the safety data sheet/label on the packaging. In the event the shelf life is not explicitly stated on the safety data sheet/label on packaging, the shelf life shall be 5 (five) years, effective as of the delivery date.

11. OTHER OBLIGATIONS OF THE SELLER AND BUYER

11.1
The Seller undertakes to comply with all the conditions under the Chemicals Act (ZKem) and legislation on the transport of hazardous substances, which must be evidenced by appropriate documentation.

11.2
The Seller undertakes to deliver the goods in time, in accordance with the terms and conditions set out in this agreement, and to notify the Buyer in the event of any problems with the delivery of the goods.

11.3
The Seller shall hand over the delivered consignment to the Buyer in accordance with the Buyer's internal regulations on the acceptance of consignments of the goods and expressly undertakes to remove any contamination resulting from the delivery at their own expense.

11.4
The Buyer undertakes to accept the goods ordered and to cooperate with the Seller in line with the provisions of this agreement, and to provide adequately and professionally qualified personnel as is required in documentation relating to the award of public contract and in the technical part of the aforementioned documentation.

11.5 Business secret and personal data protection
The Seller undertakes:

- to treat as business secret all data and information they receive or which they will have access to or which they will be acquainted with, regardless the form (in writing or in oral form) and regardless the media such data and information is on, if such data is defined as business secret as well as any such data and information not specifically determined as business secret, if the Seller should or could have known that sending or disclosing such data and information to unauthorised persons could cause pecuniary and non-pecuniary damage to the Buyer, the companies within the Buyer's group or third parties;
- to permanently protect all personal data which they will become acquainted with in performing their work for the Buyer or the companies within the Buyer's group or in relation to the work performed for the Buyer or the companies within the Buyer's group or which they will become acquainted with in performing their work for the Buyer or the companies within the Buyer's group regardless of whom such data refer to.

Permanent protection of business secret and personal data as described in the preceding paragraph means for the Seller to use the documents, data and information under the preceding paragraph exclusively for the implementation of this agreement, and not to disclose any such data, without a preliminary written consent of the Buyer, to any third parties, in particular not to publish them in media and not to reproduce them or use them for any other purpose but for the implementation of this agreement, and to immediately return to the Buyer or destroy all records on paper or other media, if the Buyer so requires.

The Seller undertakes to bind all their personnel who participate in the implementation of this agreement by the same level of business and personal data protection obligation and compliance with the HSE Group’s information security policy as the Seller is bound by under this Article.

The Parties are aware of the fact that violating the obligation of protecting business secret and/or personal data under this Article constitutes a breach of the applicable regulations and as such the basis for the Seller's liability for damages.

The Seller, who gains access to the Buyer's information system in the performance of this contract, is obliged to act in accordance with the HSE Group's information security policy, written in the HSE Group's general act entitled: "PKS-12 Politika upravljanja informacijske varnosti skupine HSE ", which is published at ISO-27001.pdf (te-sostanj.si).

Notwithstanding the above, the Buyer is subject to the obligation to provide access to public information and is thus obliged to publish certain data that proceeds from the concluded legal transaction by law.

11.6 Subcontractors *(to be included if the Seller implements the agreement with a subcontractor)*
The Seller may assign the supply of goods under this agreement to the subcontractors listed in the list of subcontractors in Appendix No. 8 and with the data on individual subcontractor in Appendix No. 8a. If there are any changes regarding the subcontractors during the implementation of the public contract the Seller shall inform thereof the Buyer and shall send them new information, no later than within five days of the change including all the necessary appendices. Any such change shall not release the Seller of any of their obligations and liabilities they have under the agreement.
The Seller specifically undertakes to inform all their subcontractors of the obligation to protect business secret and personal data as is stipulated under Section 11.5 of this agreement.
Notwithstanding the provisions of the preceding paragraphs of this Article the Seller shall be obliged to verify the adequacy, qualifications and references of the subcontractors and shall be held responsible for any actions, omissions or negligence of any of their subcontractors, their representatives or substitutes as if any such actions, omissions or negligence had been performed by the Seller themselves, their representatives or substitutes.
With the aim to ensure a correct implementation of this agreement, the Seller shall be obliged to represent their subcontractors in their relations with the Buyer as well as to manage and control their work.

(only if a subcontractor requires a direct payment)
If a subcontractor requiring direct payment is involved, Appendix No. 9 (Subcontractors' consents) shall form an integral part of this agreement under which the subcontractors provide their consent that the Buyer may settle the subcontractors' claims due from the Seller. In this case the Seller, by signing this agreement, authorises the Buyer to make direct payments to all subcontractors listed in the agreement. Any such payments shall be made based on the approved invoice/statement to the current accounts listed in the table hereinafter. The Seller shall be obliged to attach to their invoice/statement the invoices/statements of their subcontractors which they had approved beforehand. The payment is conditioned upon an approved invoice/statement of the subcontractor.

Appendix No._____: In the framework of this agreement the Seller cooperates with the following subcontractors:

	SUBCONTRACTOR'S NAME
FULL ADDRESS	
COMPANY REGISTRATION NUMBER	
TAX ID NUMBER	
CURRENT ACCOUNT	
ITEM	
QUANTITY	
VALUE	
PLACE OF DELIVERY	
DELIVERY DEADLINE	
TYPE OF SUPPLIES	

The Seller shall be liable in full to the Buyer for the performance of the obligations, regardless the number of subcontractors.

If direct payment to the subcontractor is not obligatory, the Buyer shall require from the main Seller to send them, no later than within 60 days of the payment of the final invoice or of the final statement, their written statement and the statement of the subcontractor that the subcontractor had received the payment for their works or services or supplied goods that relate directly to the subject of the public contract.
If the Seller fails to submit the statement in time, this forms the grounds for an instigation of a minor offence procedure against the Seller before the National Review Commission. Apart from the fine, the sanction also envisages the exclusion of the Seller from the public contract awarding procedures for a prescribed period of time.

In accordance with Article 94(3) of the Public Procurement Act, the Seller shall notify the Buyer of any changes to information on subcontractors and shall send information on new subcontractors that they intend to subsequently engage in the implementation of the public contract. They shall do so no later than within five (5) days of engaging a new subcontractor. Should the Seller fail to do so, the Buyer has the

right to charge them a contractual penalty in the amount of EUR 5,000.00 for failure to inform of any changes of subcontractors.

11.7
The Buyer undertakes to acquaint the Seller with the Management System. The Seller undertakes that in implementing this agreement, they shall comply with the requirements of the Buyer's Management System. The requirements of the management system are published on the buyer's website https://www.te-sostanj.si/podjetje/usmeritve/ or are annexed to this agreement and shall be bound together with this agreement.

11.8 Damage resulting from environmental pollution
In implementing this agreement, the Seller shall be obliged at any time to comply with the applicable environmental protection regulations. If owing to the Seller's act or omission the applicable environmental protection regulations would be violated and the Buyer would as a result incur any damage, including the payment of a fine or penalty, the Seller undertakes to compensate the Buyer for such damage in full. In any such event the Buyer shall have, based on this provision, an independent claim towards the Seller. The Seller shall be obliged to settle any such claim based on the issued invoice within eight (8) days of the invoice being issued.

11.9
The Parties to the agreement agree to inform each other immediately of any change to the data, in particular of the changes pertaining to the current account, ID for VAT purposes, registered office or a change to the pursued business activity, status and commercial changes, financial difficulties arising from regular operation or even of dissolution of the company.

11.10
The Seller shall be obliged to regularly monitor all legislative acts and implementing regulations and other relevant legislation referring to the subject of the contract, and shall comply with them and also assumes full responsibility for it. The Seller shall also be obliged to inform the Buyer of any potential acts and obligations imposed on the Buyer. The Buyer assumes no responsibility towards third parties for any defects, claims for damages and alike arising from the Seller's failure to comply with the legislation in relation to the subject of the contract. Any repairs or changes to the way they acted, as established by a competent inspection authority (e.g. for inspection, etc.), shall be borne by the Seller provided they refer to the supplies or services that were provided by the Seller.

12. FORCE MAJEURE

The Seller shall not be held responsible for damage which occurs because they fail to fulfil or because they are in delay in fulfilling their obligations under the agreement, if after the conclusion of the agreement, certain unforeseeable circumstances occurred, which the Seller was unable to prevent, remedy or avoid (force majeure).

Should the circumstances from the preceding paragraph hereof arise, the Seller shall no later than within 7 days inform the Buyer in writing of the onset and cessation of such circumstances and shall, if the Buyer so requires, submit to them any evidence of the existence and duration of force majeure as well as of its scope and repercussions. If the party fails to act as described in the previous sentence, they may not invoke the existence of force majeure.

After the end of force majeure, the Parties draw up a report in which they record potential changes to the obligations and based on such report conclude an annex hereto.

If on account of force majeure the Parties incur any damage, each Party shall cover the damage incurred as a result of force majeure.

Given the duration of the force majeure, the contractual deadlines shall be extended accordingly with a written agreement between the parties.

13. ANTI-CORRUPTION CLAUSE

If in relation to this agreement a person promises, offers or gives any undue advantage to the representative or agent or a signatory of the Buyer on behalf or for the account of another party of the

agreement for the purpose of obtaining business, concluding business under more favourable terms and conditions, omitting due supervision over the implementation of obligations under the agreement, or any other act or omission which causes the Buyer damage or by which the representative or the agent or the signatory are put in a position to obtain an undue advantage by the Buyer or by the other party to the agreement, or if any such other party is put in a position to obtain undue advantage, this agreement shall be deemed null and void.

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

By signing this agreement, the Seller declares that in none of the stages of concluding or implementing this agreement they have not concluded nor will they conclude any transactions with the Company's members of the management board, supervisory board, managers and procuration holders or their family members, and familiarises themselves that in line with Article 270.a of the Companies Act they must inform of any such transactions the Buyer's company because the conclusion of any such transaction is subject to the consent of the supervisory board or the general meeting in the event the company has no supervisory board. The Seller declares that they have been familiarised with the content of this paragraph including the obligation to inform and that they are familiar with the consequences arising therefrom. Therefore, they agree that a separate declaration of the Seller on the non-existence of the aforementioned circumstances is not necessary and the Seller waives any such declaration.

15. CONDITION SUBSEQUENT

This agreement has been concluded under the condition subsequent which shall be fulfilled if one of the following conditions is met:

- if the Buyer has knowledge that the court has, through a final decision, established that the Seller or a subcontractor had violated labour, environmental or social legislation; or
- if the Buyer has knowledge that during the implementation of this agreement the competent state body established that the Seller or a subcontractor committed at least two breaches in relation to:
  - payment for the work performed,
  - working hours,
  - breaks,
  - performance of work under civil law contracts notwithstanding the existence of elements of employment relationship; or
  - concerning illegal employment,

  for which they have been fined by one or more final decisions.

If the Buyer becomes aware of the breach, they shall inform thereof the Seller within ten days.

The Seller may, within the time limit specified by the Buyer, which shall not exceed fifteen (15) days, submit evidence demonstrating that they have adopted sufficient measures to prove their reliability despite pending breaches. If it was the subcontractor who committed the breach, the Seller may within the same time limit submit evidence demonstrating that the subcontractor has adopted sufficient measures to prove their reliability despite pending breaches. Should the Seller fail to submit the supporting documents for the subcontractor or if they do submit them but the Buyer estimates the measures are insufficient, the Seller may replace the subcontractor within the time limit determined by the Buyer, which, as is stipulated under Article 94 of ZJN-3, shall not exceed 15 (fifteen) days, or take over the part which they subcontracted to this subcontractor, provided such a replacement or take-over does not constitute a material change of the agreement. If the Seller fails to submit supporting documents for themselves or their subcontractor, or if they do submit them, but the Buyer estimates the measures are insufficient, or if the Seller does not take over the works themselves or propose a new subcontractor or if in accordance with Article 94 of ZJN-3 the Buyer rejects the new subcontractor that the tenderer proposed in due time, the condition subsequent shall be fulfilled under the condition that at least six months remain from the date on which the Buyer gets acquainted with the breach to the date of expiry of the agreement. Notwithstanding the preceding sentence, the public procurement agreement shall not be terminated if the termination of the same would cause the Buyer disproportionate costs or substantial difficulties for the smooth execution of the works or disproportionate delays, and provided that the Buyer informs the Seller that the agreement is not to be terminated no later than 20 days after becoming aware of the breach.

In the event the circumstances and conditions from the preceding paragraph are met, the agreement shall be deemed rescinded on the date of concluding a new agreement on carrying out contract award procedure for the relevant contract. The Buyer shall inform the Seller of the date of conclusion of the new agreement.

If the Buyer fails to start a new public contract award procedure within 60 days of the breach, the agreement shall be deemed rescinded sixty days after taking notice of the breach.

16. PERSONS RESPONSIBLE AND CONTACT PERSONS FOR THE IMPLEMENTATION OF THE AGREEMENT

To facilitate the implementation of this agreement, the Parties agree to each appoint their respective responsible person and contact person.

_____ (_____._____@te-sostanj.si) shall be appointed responsible person by the Buyer. The Buyer's responsible person shall give instructions to the Seller in accordance with the provisions of this agreement.
The Buyer's contact person in charge for placing the orders shall be _____ (_____._____@te-sostanj.si).

_____ (_____) shall be appointed responsible person by the Seller. The Seller's responsible person ensures that the Buyer's instructions are implemented.
The Seller's contact person in charge for accepting the orders placed shall be _____ (_____._____@_____).

Should the Parties change the responsible persons/contact persons appointed hereunder, they shall inform each other thereof in writing.

17. TERM OF THE AGREEMENT

The agreement shall be concluded for a period of two (2) years, i.e., from _____ to _____ (*to be determined by the Buyer once the procedure is legally concluded*). The agreement may be extended for a period of up to twelve (12) months, provided that the estimated value of the public contract has not yet been exhausted.

18. FINAL PROVISIONS

The agreement is deemed concluded on the date of signature by both parties and shall enter into force subject to the condition precedent of obtaining the approval of the Supervisory Board of TEŠ (NS TEŠ).

The Parties may only amend the agreement by mutual consent. Any amendment shall only be valid if made in writing in the same manner as this agreement.

The Parties agree that the Seller shall be prohibited to transfer any claims arising from this agreement to any other natural or legal person, to pledge any such claims or to freely dispose thereof.

If any provision hereof is or becomes invalid this does not affect the validity of other provisions hereof. The invalid provision shall be replaced with a valid one, which must come as close to the purpose of the original invalid provision as possible.

The Parties will resolve any disputes arising herefrom by mutual agreement. Should they be unable to resolve any such dispute, the matter will be resolved by the Celje District Court (Okrožno sodišče v Celju).

This agreement is subject to the law of the Republic of Slovenia.

If the Seller fails to meet their obligations under this agreement, if they implement this agreement contradictory to explicit requirements/instructions of the Buyer or contradictory to the professional rules, technical regulations, standards, and applicable legislation or when it is obvious that the Seller will not be able to meet their obligations hereunder, the Buyer shall warn them thereof in writing and shall set an adequate time limit for a proper implementation of the agreement. If the Seller does not comply with the written notice of the Buyer, the latter is entitled to withdraw from the agreement without notice period and

without any liability towards the Seller. The Buyer shall withdraw from the agreement by sending a written notice thereof to the Seller.

Notwithstanding the foregoing, the Parties agree that the Buyer may at any time without assigning reason or cause withdraw from the agreement with a 2-month notice period which starts on the date when the Seller receives the written notice of termination.

This agreement is made in two (2) counterparts of which the Buyer shall receive one (1) counterpart and the Seller shall receive one (1) counterpart. If the Agreement is signed electronically using certified digital certificate, one (1) signed counterpart thereof in the electronic format shall serve both parties hereto.

Signed on: _____

COMPANY NAME
Director:
Name and surname: _____

Signed on: _____

TERMOELEKTRARNA ŠOŠTANJ d.o.o.
Managing director:
M. Sc. Branko Debeljak

Annex:
Specification of goods.
Requirements in the field of system management (15 pages).
(In the event that subcontractors are engaged):
List of subcontractors – Appendix No. 8.
Subcontractor details – Appendix No. 8a.
Consent and authorisation of the contractor and subcontractor - Appendix No. 9.