

# CONTRACT

## FOR PUBLIC PROCUREMENT FOR ADDITIONAL PROJECT DESIGN AND CONSTRUCTION OF SITE :

MARITZA HIGHWAY /A-1/ ORIZOVO – KAPITAN ANDREEVO,  
SECTION: LOT 2 DIMITROVGRAD – HARMANLI, FROM KM 36<sup>+400</sup> TO KM  
70<sup>+620</sup>

**CONTRACTING AUTHORITY:**

.....

**CONTRACTOR:**

.....

**Sofia, 2010**

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Today, ..... 2010 (..... two thousand and ten), in Sofia,

1. Road Infrastructure Agency, having its principal address at 3, Macedonia blvd., Sofia 1606, UIC....., represented by ..... – chairman of the Management Board, hereinafter called **CONTRACTING AUTHORITY** for short, and
2. ...., having its principal office and management address at ....., registered under company file No ...../..... at ....., having UIC/ BULSTAT [*for foreign persons - the respective identification in compliance with the national legislation of the country of location*], represented by ..... - ..... [*position of the representative*], hereinafter called **CONTRACTOR**<sup>1</sup> for short,

On the grounds of Art.41, in relation with Art. 74<sup>2</sup> of Public Procurement Law and on the basis of the Protocol of the Management Board ..... and the decision of the Chairman of the Managing Board ..... for choosing a Contractor, concluded the present Contract for the following:

## I. DEFINITIONS

**Art. 1.** Unless the context requires otherwise, the words and expressions, listed in this Art. 1 alphabetically, shall have the following meaning:

1. **“Archeological Sites”** shall have the meaning, given in Art. 146, para 1 of Cultural Heritage Law;

2. **“Bank with a good reputation”** is a bank, which has an assessment of the credit rating/financial stability at least BBB – according to the assessment system of Standard & Poor's and Fitch IBCA or at least Baa3, according to the assessment system of Moody's Investors Service;

3. **„Contracting Authority”, „RIA”** shall mean Road Infrastructure Agency, represented by the Chairman of the Managing Board and/or the person, authorized by him;

4. **„Performance Bond”** shall mean cash deposit in an Escrow Account and unconditional and irrevocable bank warranty, by which the **CONTRACTOR** provides their performance under this Contract, and which should be provided under the conditions of Art. 60 and the following in this Contract.

5. **„Warranty for advance payment”** shall mean an irrevocable and unconditional bank warranty, by which the **CONTRACTOR** provides for his obligation for returning the amount from the received by the **CONTRACTING AUTHORITY** advance payment, which is granted under the conditions of Art. 8, para 3 from the Contract<sup>3</sup>;

6. **„Warranty obligations”** shall mean any obligation for fault removal within the respective Warranty period in compliance with Decree No 2 from 31 July 2003 for putting into operation of the constructions in the Republic of Bulgaria and the minimum warranty periods for executed construction and installation works, equipment and construction sites (promulgated in SJ, 72 from 2003, modified and supplemented in gazette number 49 from 2005);

7. **„Warranty period”** shall mean the warranty period for performed CIWs, including facilities, offered in the Technical Offer;

8. **„Time schedule for completion”** shall mean linear time schedule for executing the separate types of additional project design and CIWs, which the **CONTRACTOR** has offered in

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<sup>1</sup> When the Bidder is an union, the text under Art. 2 shall be added and shall clearly specify, that the **CONTRACTOR** is an union and all the union members' data shall be filled in. It is also completed by the person which, according to the establishment document of the union and the Proposal, has the authoritative power to sign the Contract

<sup>2</sup> At conclusion of Contract paragraph 74 from PPL shall be added, if applicable.

<sup>3</sup> This definition shall be excluded from the Contract if, in the Technical Offer, the **CONTRACTOR** has stated that they do not wish to use advance payment.

their Technical Offer, which schedule contains description of activities, falling into the scope of Contract

9. „**Date for completion**” shall mean the date of preparing an Act of Findings, sample 15 under Regulation No 3 for the whole Construction site;

10. „**Contract activities**” shall mean the activities under Art. 4, para 2 of this Contract;

11. „**Fault**” shall mean each discrepancy between the performed works and the provisions of the Contract, the Investment project and the Technical specification;

12. „**Contract**” shall mean the present Contract, including the Preamble and Appendices;

13. „**Additional Works**” shall mean activities, necessary for the Actual completion of the Construction and that are not part of the obligations of the CONTRACTOR in compliance with the present Contract and its Appendices.

14. „**Additional design**” shall mean each modification or addition to the Investment Project, performed by the CONTRACTOR and approved by the CONTRACTING AUTHORITY at the provisions of the Contract and in compliance with Appendix No 10 to the bidding documentation for the public procurement procedure.

15. „**As-built documentation**” shall mean the documentation, prepared right after execution of any part of CIWs, differing from the Investment Project;

16. „**Stage**” shall mean a stage of the construction, specified in Art. 7, para 1 from the Contract, which the CONTRACTOR shall execute at the provisions of the Actual completion, in compliance with intermediate period in the time schedule for completion.

17. „**Team**” shall mean the designers and the persons, performing the technical management of the construction (managerial employees), as well as the workers and employees (specialists and technically qualified staff), which the CONTRACTOR shall appoint for execution of construction, in compliance with the Technical Offer;

18. „**Legislation**” shall mean the Constitution of the Republic of Bulgaria, ratified promulgated and active international contracts, in which the Republic of Bulgaria is a party, acts by the institutions of the European Union with binding force, the laws regulatory acts, accepted by the competent institutions of the Republic of Bulgaria;

19. „**Public Procurement Law**” (PPL) is the law, promulgated in SG, No 28 from 2004, with its additions and modifications;

20. „**Cultural Heritage Law**” is the law, promulgated in SG No 19 from 13 March 2009 with its additions and modifications;

21. „**TPA**” shall mean the Territory Planning Act (promulgated SG No 1 from 2001, with its additions and modifications);

22. „**Fault notification**” shall mean a written message from the CONTRACTING AUTHORITY to the CONTRACTOR for faults, occurred during the warranty periods;

23. „**Fraud**” is each deliberate activity and/or inactivity, which damages the financial interests of the European Community, including the Republic of Bulgaria, and consists in:

a) in relation to the expenses - each deliberate activity and/or inactivity, related to:

aa) use or provision of false, incorrect or incomplete reports or documents, as a result of which funds from the national budget and/or the common budget of the European Community or the budgets, managed on behalf of the country or European Community have been incorrectly utilized or retained;

bb) non-disclosure of information in infringement of a specific obligation, having the same effect as in “aa”;

cc) unlawful use of such funds for purposes, different from the purposes they were granted for;

b) in relation to the incomes - each deliberate activity and/or inactivity, related to:

aa) use or provision of false or incorrect reports or documents, as a result of which the resources of the common budget of the European Community or the budgets, managed by or on behalf of the European Community communities, have diminished;

bb) non-disclosure of information in infringement of a specific obligation with the same effect as in “aa”;

cc) unlawful use of legally received benefit with the same effect as in “aa”.

24. **“Investment project”** is the project, provided as Appendix No 1 of the present bidding documentation for public procurement and its modifications and additions (incl. additional project design and detailed design), performed after the conclusion of Contract;

25. **„Consultant”** shall mean the person, with whom the **CONTRACTING AUTHORITY** has concluded a Contract for consultancy services about execution of the Contract under Art. 166, para 1 of TPA, as well as other obligations, assigned by the present Contract and the Consultancy Contract;

26. **“Poor performance”** shall mean when a Party on this Contract has performed its obligation with a lower quality than required;

27. **„International certificate for executed design and construction – installation works”** shall mean the certificate for Actual completion of a Stage, which gives grounds for Interim payment;

28. **„Interim payment”** shall mean payment by the **CONTRACTING AUTHORITY** to the **CONTRACTOR** of part of the Price for completion of contract, being (a) the value for the respective Stage, (b) reduced with the sums for restoring the advanced payment under Art. 8, para 2;

29. **„Escrow account”** is account [the account shall be filled in here], opened in the name of the **CONTRACTING AUTHORITY**, in which the **CONTRACTOR** deposits/has deposited the amounts under this contract, being the Performance Bond for this contract, when they are in the form of cash deposits;

30. **„Ordinance No 3”** shall mean Ordinance No 3 from 31 July 2003 for making acts and protocols during construction works (promulgated in SG No 72 from 15 August 2003 (with its subsequent additions and modifications);

31. **„Beginning of construction”** shall mean the date of making and signing Sample Protocol 2a under Ordinance No 3 for determining the construction line and level for any part of the Construction site.

32. **„Non-performance”** of the **CONTRACTOR** shall be any wrongful activity or inactivity of his or his employees, workers, representatives, co-counteragents, agents and/or subcontractors, performed in infringement of the provisions of this Contract or the applicable legislation;

33. **„Irregularity”** shall be any violation of provision of the legislation of the European Community and/or the Bulgarian legislation, resulting from activity or inactivity of the **CONTRACTOR**, which has or could have as a sequence harmful impact on the budget of the European Union and/or national budget by reporting unjustified expense.

34. **„Inaccurate performance”** shall mean each non-performance, different from the due one under this Contract or the legal provisions, incl. delayed, bad, incomplete or partial performance;

35. **„Announcement”** is the announcement for public procurement under Art. 25, para 2 of PPL, promulgated on the online page of the State Gazette under No [registration No] from [date] and the Official journal of the European union under No [registration No] from [date];

36. **„Equipment”** shall mean construction machinery, production equipment and facilities, including technical equipment for testing and study, which will provide quality control of the construction and installation works, listed in Appendix B to this Contract, which the **CONTRACTOR**, in compliance with the Technical Offer, shall provide and maintain for various stages of construction;

37. **„Public procurement”** shall mean the procedure for awarding the public procurement contract, carried out in compliance with the provisions and under the PPL;

38. **„Final execution”** of CIWs shall mean issuing use permit for the whole construction;

39. **„Proposal”** shall mean the Proposal of the **CONTRACTOR** from ..... (date), consisting of Technical and Price Offer, on the basis of which the **CONTRACTING AUTHORITY** has taken a decision for choice of **CONTRACTOR** for the Public Procurement Contract, which is an inseparable part of this Contract (Appendix B);

40. **„Plot plan”** shall mean detailed development plan for the elements of the technical infrastructure outside the limits of the urbanized territories under TPA;

41. **“Plan for safety and health”** is the plan for safety and health in compliance with Ordinance No 2 from 2004 about the minimum requirements for safe and healthy labor conditions during performance of CIWs (promulgated SG No 37 from 2004 with its sequential additions and modifications);

42. **„Subcontractor”** is a person, specified in the Technical Offer, which will participate in performance of CIWs and/or design works under the contract, based on a contract with the **CONTRACTOR**;

43. **„Subject of public procurement”** shall mean the performance of Additional project design and Construction of **MARITZA HIGHWAY /A-1/ ORIZOVO – KAPITAN ANDREEVO, SECTION: LOT 2 DIMITROVGRAD – HARMANLI, FROM KM 36<sup>+400</sup> TO KM 71<sup>+011,31</sup>**

44. **„Implemented plot plan (IPP)”** shall mean a plot plan, that has become effective and the condemnation for the needs of the state in which has finished.

45. **„Project documentation”** shall mean the coordinated and approved investment projects, plans and sketches, described and appended in Appendix A of this Contract and the additional project designs, prepared by the **CONTRACTOR** and approved by the **CONTRACTING AUTHORITY** under the present contract and the Bulgarian legislation;

46. **Protocol for non-completion or partially completed construction-installation works** shall mean the protocol, specified in Art. 54, para 1 from this Contract;

47. **„DDP”** shall mean Detailed Development Plan, including the plot plan under TPA;

48. **“Total incompleteness”** shall be the case when a Party of the Contract has not performed at all a specific obligation under the Contract within the specified time period or when the Party has completed something, opposite of what they are obliged not to perform or when the Party performed all of their duties, but with such a delay or so poorly, that it is useless for the other Party.

49. **„Road facilities”** shall have the meaning, specified in §1, s. 3 from the Additional provisions of the Roads Act;

50. **„Certificate”** shall mean a protocol for completed work for specific Stage or the whole construction, prepared and approved in compliance with the provisions of the Contract;

51. **„Certificate for payment”** shall mean each Interim certificate for performed designer and construction-installation works, which is a basis for payment by the **CONTRACTING AUTHORITY** of part of the Price for performance of Contract;

52. **„Certificate for final completion of works”** shall mean the certificate, prepared after use permit for the whole construction;

53. **„Certificate for actual completion”** shall mean the certificate, regulated in Art. 53, para 4 from this Contract, issued after preparing an Act of findings, sample 15 for the whole construction, giving grounds of the **CONTRACTING AUTHORITY** to send request to NCSA for appointment of State Acceptance Commission for issuing Protocol for establishing suitability for use for the whole construction, sample 16, in compliance with Art. 176, para 1 from TPA

54. **„Systematic non-performance”** shall be found when a non-performance for one and the same obligation under the Contract is found three or more times, regardless of the time period between the non-performance.

55. „**Construction site**” shall mean the territory, on which the construction will be built, as well as the terrains, necessary for preparation and performance for CIWs;

56. „**Construction and installation works (CIWs)**” shall mean the activities, which shall be performed in compliance with the provisions of this Contract for execution of Construction;

57. „**Construction products**” shall mean the products, put into the construction: construction materials, including asphalt mixtures and concretes, products, elements, details, kits etc.

58. „**Construction elements/details**” shall mean parts of the structure of the road facility, which are produced in production conditions on the Construction site or are delivered by a specialized producer;

59. „**Parties**” shall mean collectively the **CONTRACTING AUTHORITY** and the **CONTRACTOR** under this Contract;

60. „**Party**” shall mean the **CONTRACTOR**, as well as the **CONTRACTING AUTHORITY** under this Contract;

61. „**Construction**” shall mean **MARITZA HIGHWAY /A-1/ ORIZOVO – KAPITAN ANDREEVO, SECTION: LOT 2 DIMITROVGRAD – HARMANLI, FROM KM 36<sup>+400</sup> TO KM 71<sup>+011,31</sup>**, which should be the result of the performed by the **CONTRACTOR** CIWs at the provisions of the present Contract;

62. „**Serious breach**” shall mean inaccurate performance of any of the CIWs, the value of which is equal or exceeds 3 % (three percent) from the total value of Contract.

63. „**Technical infrastructure**” shall have the meaning, provided in § 5, s. 31 from the Additional provisions of TPA;

64. „**Technical offer**” is the part of the Proposal of the **CONTRACTOR**, provided in the public procurement procedure, by which the **CONTRACTOR** has made bounding offers for execution of the Contract and any part of Appendix B to the Contract;

65. „**Technical passport**” shall have the meaning, specified in § 5, s. 64 from the Additional provisions of TPA.

66. „**Technical specifications**” are all the technical recommendations in laws, regulations, standards and technical approval, which determine the requirements to the construction products in such a way, that they could comply with the expected use and operation by the **CONTRACTING AUTHORITY**. These recommendations include rules for design, testing, construction supervision and terms for acceptance of construction and installation works, methods and technologies in construction, as well as all the other technical conditions, related to the construction. Part of the technical specifications is also the technical specification of the **CONTRACTING AUTHORITY**, provided with the bidding documentation for the public procurement procedure;

67. „**Technology construction program**” shall mean a corresponding to the Time schedule program for execution of the **CONTRACTOR** for performance of CIWs, which describes: linear time schedule, equipment layout, incl. delivery times, installation and commissioning of the production equipment and facilities; organization of the production or supply of construction products; organization of the quality control, incl. special building laboratory; organization of CIWs; sequence of performance of CIWs on the construction site; technological stages for performance of construction activities; organization of the warranty maintenance of the construction site;

68. „**Actual completion**” of CIWs shall mean:

(a) in respect to the whole construction – completion of these CIWs, allowing hand-over of the whole construction site from **CONTRACTOR** to the **CONTRACTING AUTHORITY** by Act of findings, sample 15;

(b) in respect to a specific Stage – full completion of all the works, included for this Stage, and their acceptance by the **CONSULTANT** under the provisions of the Contract;

69. „**Financial risk**” shall mean the risk, which occurs separately and combined in the following variations:

- a) currency risk –risk, resulting from changes in the exchange rates;
- b) interest risk - risk, resulting from changes in the interest rate;
- c) market risk - risk, resulting from changes in the market price.

70. „**Force majeure**” shall mean force majeure and/or unexpected circumstances under §1, s. 14 and 14b from the Additional provisions of PPL.

71. „**Price for completion of Contract**” shall mean the amount under Art. 7, para 1 from this Contract;

72. „**Price offer**” the price for completion of contract, which the **CONTRACTOR** has proposed as part of their Proposal, submitted under the Public Procurement Contract, and which is part of Appendix B of the Contract.

73. „**Partial Interim Certificate** ” shall mean the certificate, issued under the provisions of art. 10a .

74. **Partial implementation**" shall occur whenever a Party has fulfilled only partially any of its obligations, unless the completed part thereof is clearly insignificant in the interests of the other Party or given the nature of the obligation the partial failure shall be regarded as a complete failure or poor .

## II. STATEMENTS AND DECLARATIONS OF THE PARTIES

**Art. 2.** By this Contract the **CONTRACTING AUTHORITY** states and declares that:

1. Each of the statements, facts and circumstances, contained in this Art. 2 is true, accurate in all respects and not misleading;
2. They will immediately inform the **CONTRACTOR** in writing, if they receive any information about any circumstance, related to the subject of Contract and concerning the rights and obligations of the Parties after signing the Contract;
3. The conclusion of Contract is not in a conflict with the legislation as to the moment of its signature;
4. The provisions of the Contract remain valid and binding obligations for the **CONTRACTING AUTHORITY**;
5. There is no conflict of interests for persons, occupying managerial position or employees of the **CONTRACTING AUTHORITY**, who participated in the preparation and carrying out the public procurement procedure.

**Art. 3.** By this Contract the **CONTRACTOR** states and declares that:

1. Each of the statements, facts and circumstances, contained in this Art. 3 is true, accurate in all respects and not misleading;
2. They are a valid and dully established and active legal entity according to the legislation of [country of location]<sup>4</sup>, which complies with the requirements of Art. 47, para 1 from PPL and to Art. 47, para 2 from PPL. To certify thisat the time of signing the Contract the **CONTRACTOR** has provided to the **CONTRACTING AUTHORITY** documents, issued by the respective competent bodies:

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<sup>4</sup> This and the next statement shall be respectively changed, according to the status of the Contractor (physical person or union). If the Contractor is an union, at signing the Contract to Art. 3 the following text shall be added: «The members of the union of the Contractor are jointly responsible for performance of Contract.»



a) a copy of the registration document or Unified Identification Code in compliance with Art. 23 from Commercial Register Act<sup>5</sup>;

b) documents, certifying the absence of circumstances under Art. 47, para 1 and para. 2 from PPL:

aa)

bb)  <sup>11</sup>

3. The person(s), signing the contract, has the respective [legal/contractual] authority to sign the Contract, which is certified by [please specify the document, giving the person(s) this representative power].

4. The conclusion and performance of this Contract in any respect does not constitute non-performance or infringement of another contract, under which the **CONTRACTOR** is a party or which results in obligations for the **CONTRACTOR** or their assets, which would considerably affect the performance of the obligations of the **CONTRACTOR** under this Contract;

5. There are no active lawsuits, judgments or acts of administrative authorities, claims or pursuits against the **CONTRACTOR** or there is no danger of such against the **CONTRACTOR**, which will considerably affect the performance of their obligations under the Contract.

6. For signing the Contract the **CONTRACTOR** does not need any consent or permission, license, notification or representation by a state or administrative body, or if such are required, they are timely provided by **CONTRACTOR** and the latter has provided them to the **CONTRACTING AUTHORITY** as to the date of signing the Contract;

7. They have received the whole information for the Subject of the Public Procurement Contract, which was provided by the **CONTRACTING AUTHORITY** for the purposes of this Contract and was made available to the **CONTRACTOR**. **CONTRACTOR** states, that they have performed their own preliminary enquiry concerning the Subject of Public Procurement Contract, as well as inspection of the site, on the construction will take place, and have not counted on, neither solely counts on a declaration or warranty from the **CONTRACTING AUTHORITY** about information for them;

8. When preparing their Proposal, they have taken into account all the circumstances of any type, that can impact the deadline for execution of Contract and/or Price for execution of Contract;

9. That they shall execute the construction in compliance with the laws and the provisions of Contract;

10. That they shall notify the **CONTRACTING AUTHORITY** immediately in writing, if they receive any information about any circumstance, related to the Subject of the Contract, which concerns the rights and obligations of both Parties under the Contract.

### III. SUBJECT OF CONTRACT

**Apr.. 4. (1)** The **CONTRACTING AUTHORITY** assigns and the **CONTRACTOR** agrees, against payment of the Price for execution of Contract, to dully perform the Subject of the Public Procurement Contract.

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<sup>5</sup> Only the applicable text should be left out. According to Art. 47, para 10 from PPL, in relation to Art. 23, para 4 from the Commercial register Act, if the Bidder has specified their UIC, the Contracting Authority has no right to request “proves for the circumstances, entered into the commercial register, and acts, declared in the commercial register.”

<sup>11</sup> The respective documents, describing the absence of the circumstances under Art. 47, para 1 and 2 of PPL, shall be described in the necessary number of sections under the Article.

(2) The **CONTRACTOR** shall perform the following activities, related to building up the Construction:

1. Performance of CIWs in compliance with the Investment Project and the Technology Construction Program, the recommendations and orders in the Order Book.

2. Supply and use for construction of the necessary construction products, complying with the Technical specifications and the Investment project;

3. Production and/or supply of construction details/elements and their use into the construction;

4. Providing terrains for the needs of construction – for temporary construction, for production site (production bases) for the needs of construction, for storage of materials and equipment and other needs in relation with the construction, specified in the Health and Safety Plan c (in the cases when these are outside the territory, on which the Construction takes place);

5. Additional project design or design activities, not included in the initial Investment Project, part of the bidding documentation for the Public Procurement Procedure.

6. Performance of relocation works for underground and overhead networks and facilities during the construction works;

7. Performance of the necessary research and laboratory testing;

8. Organization of activities, related to collection, transportation, disposal and recovery of construction and other wastes, appeared as a result of performance of activities under this para 2, in compliance with the requirements of Bulgarian legislation.

9. Preparing of construction documents; preparing of as-built documentation of the Construction for each CIW, that differs from the Investment project;

10. Participation in the proceedings for building commissioning;

11. Removal on their own account of the Faults, found out at hand-over and commissioning of construction;

12. Warranty support for the construction (removal of faults during the warranty periods).

13. All the other activities, assigned to the **CONTRACTOR** under the provisions of the present Contract, including the activities under Section XVII PLAN FOR PROVIDING “MEASURES FOR INFORMATION AND PUBLICITY”

14. All the other activities, necessary for execution of the Subject of Public Procurement Procedure and warranty support of the construction, unless the Contract or the Bulgarian legislation do not explicitly assign them to the **CONTRACTING AUTHORITY**, **CONSULTANT** or a third party.

#### **IV. DEADLINE FOR COMPLETION OF THE ADDITIONAL PROJECT DESIGN AND CIW UNDER THE CONTRACT**

**Art. 5. (1)** The deadline for completion of the Additional project design and CIWs under the Contract amounts to ..... (.....)<sup>6</sup> months and starts with the Beginning of construction works and ends with the Date of completion. To avoid ambiguity, the Additional project design may

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<sup>6</sup> To be filled accordingly to the **CONTRACTOR’S Proposal**. The maximum duration cannot be more than **25 months**

start immediately after signing of Contract, and the deadline for its completions is still the Date of completion of construction.

(2) Within the deadline under para 1 the **CONTRACTOR** shall perform Additional design and CIWs until the Actual completion of the whole Construction. The **CONTRACTOR** shall comply with the interim deadlines for completion of certain Stages, determined in compliance with the Time schedule for completion, provided with the Technical Offer:

**Art. 6. (1)** The deadline for completion of construction and its various stages can be extended only in the event of a force majeure circumstance, which makes impossible the timely completion of the Construction or of a certain Stage.

(2) If the **CONTRACTOR** considers that they have right to obtain extension of deadline for completion of Contract or a specific stage of it, the **CONTRACTOR** shall send a written request to the **CONTRACTING AUTHORITY** for that, as provided in Art. 75.

(3) In the presence of circumstances under para 1 the **CONTRACTING AUTHORITY**, after receiving the opinion of the **CONSULTANT**, has one of the following options:

1. To extend the deadline for completion of Contract or a specific stage of it, if there is a request by the **CONTRACTOR** under para 2, or

2. To exercise their right to terminate the Contract in compliance with Art. 78, s. 2 from the Contract. This right is also available for the **CONTRACTOR**.

(4) In the cases under Art. 3, s. 1, the **CONTRACTING AUTHORITY** notifies the **CONTRACTOR** in writing within 14 days as from receiving their request. The Parties sign an Annex to the Contract for extension of the deadline for completion of the Contract and the time, by which the deadline for completion of Contract is extended, shall correspond to the duration of the circumstance under para 1.

(5) The **CONTRACTOR** has no right to request extension of deadline for completion of Contract due to occurrence of a force majeure circumstance, if this circumstance concerns only certain Stages and the **CONTRACTOR** can speed up the works on the other Stages within the limits of the Price for completion of Contract, including through relocating members of his team and equipment from the affected stages in such a manner, that will allow the Actual completion of Contract within the deadline, specified in this Contract.

**Art. 6a. (1)** In all the cases when this Contract or its Appendices specify that at the occurrence of certain risks, assigned against the **CONTRACTING AUTHORITY**, the deadline for completion of a specific stage shall be suspended for the time of delay of execution of the Stage, the time for completion shall not be suspended, if the risk that occurred affects only certain activities of the respective Stage and the **CONTRACTOR** may speed up its work for other activities, included in the respective Stage, within the proposed price, including through relocation of team members and equipment from the affected activities in such a manner, that allows. To avoid any ambiguity, the suspension of the deadline for completion does not change the deadlines for completion of the other Stages.

(2) The right of the **CONTRACTOR** under para 1 is exercised as specified in Art. 6, para 2.

## **V. PRICE FOR EXECUTION OF CONTRACT. METHODS OF PAYMENT OF THE CONTRACT PRICE. CONTROL OF EXPENDITURE.**

**Art. 7. (1)** The Price for execution of Contract, due by the **CONTRACTING AUTHORITY** to the **CONTRACTOR** amounts to [to be specified according to the Price Offer], without VAT.

Проект

incl.:

Stage I, which is ....., amounts to [to be specified according to the Price Offer], without VAT  
Stage II, which is ....., amounts to [to be specified according to the Price Offer], without VAT  
Stage III, which is ....., amounts to [to be specified according to the Price Offer], without VAT  
etc.

(2) The **CONTRACTOR** confirms that the Price for execution of Contract is the only remuneration for executing the Contract Activities and the **CONTRACTING AUTHORITY** does not owe to the **CONTRACTOR** any other additional remunerations.

(3) The **CONTRACTOR** confirms that the Price Offer completely covers its expenditures for execution of this Contract, including without limitations the following expenditures:

1. Expenditures on Additional Project design and/or CIWs until the Actual completion of the whole construction, incl. those for preparation of construction, for performing temporary construction works, for providing the transportation of machinery and payment of labor, temporary organization of the traffic, landfill of unsuitable soil and construction wastes, change of construction organization, labor protection, insurance of CIWs and professional liability, as well as any other inherent costs.

2. The price of the Financial risk;

3. The expenditures for purchasing construction products;

4. The expenditures, related to unexpected geological conditions or any other unexpected circumstances, that are not force majeure circumstances.

5. The expenditures for completion of works for testing and commissioning of the Construction, which the **CONTRACTOR** has to perform;

6. The expenditures for performing coordinating procedures, except for the expenses, specifically assigned against the **CONTRACTING AUTHORITY**.

7. Any other expenditures, necessary for execution of the Activities under this Contract.

(4) The Price for execution of Contract is final and shall not be subject to change in the event of any changes of construction materials, equipment etc. The change of Price for execution of Contract is only possible only in the cases, specified in the Public Procurement Law.

(5) Notwithstanding against whom are the occurred risks, that impede the performance of the Activities under the Contract, the **CONTRACTOR** has no right to increase the Price for performance of Contract. In the event that additional works are required, they shall be assigned by a procedure, carried out in compliance with the PPL.

(6) All the payments under the Contract shall be performed in BGN.

(7) If, in compliance with the active legislation, VAT is due, it shall be calculated on the Price for completion of Contract.

**Art. 8.<sup>7</sup>** (1) Within 30 days s from the Date of signing the Contract, the **CONTRACTING AUTHORITY** transfers to the **CONTRACTOR** advance payment of [BGN], without VAT, equal to 5 percent of the Contract Price, without VAT. No interest shall be charged on the advance payment.

(2) The advance payment is discharged by deduction of sums, amounting to 5 % from the payments to the **CONTRACTOR** under Art. 9 until the full recovery of the advanced payment.

(3) The advance payment shall be performed only against providing an irrevocable and unconditional bank warranty, issued by a first class bank and covering the whole mount of the advanced payment, prepared by the sample, appended to the bidding documentation for the Public Procurement Procedure (or in a different form, containing the same or better terms for the **CONTRACTING AUTHORITY**), with a period of validity of 90 days as from the Date of

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<sup>7</sup> Текстът ще бъде изключен от договора, ако с Техническата си оферта Изпълнителят е посочил, че не иска авансово плащане.

completion of contract. The amount of the warranty for provisioning the advance payment shall diminish by the amount of each deduction, made under para 2.

**Art. 9.** Interim payments shall be performed on the basis of:

1. Actual completion of a Stage.
2. Report for completed CIWs, which contains the information under Art. 45 from this Contract, accompanied by appended proves for the quality of the performed CIWs;
3. Interim certificate for performed designer works and CIWs, composed by the **CONTRACTOR**, verified and coordinated with the **CONSULTANT** and approved by the **CONTRACTING AUTHORITY** under the provisions of the Contract;
4. Tax invoice, issued by the **CONTRACTOR** after the approval of the respective certificate by the **CONTRACTING AUTHORITY**.

**Art. 10. (1)** The **CONSULTANT**, within 10 working days after receiving the documents under Art.9, para 1, s. 1-3 from the **CONTRACTOR**, shall verify and coordinate the amount, which should be paid to the **CONTRACTOR**, and in the presence of conditions for payment, shall provide to the **CONTRACTING AUTHORITY** for approval the Interim certificate for executed design works and CIWs. In the event that the **CONSULTANT** refuses to coordinate the Interim certificate, they shall provide to the **CONTRACTOR** a well reasoned written statement for their refusal within the time period, stated in the previous sentence.

2) The **CONTRACTING AUTHORITY** shall approve or reject the certificate, provided for approval, within 10 working days as from receiving the statement of the Consultant, and notifies in writing the **CONTRACTOR** and the **CONSULTANT**. In the event that the **CONTRACTING AUTHORITY** refuses to approve the Interim certificate, they shall provide to the **CONTRACTOR** and the **CONSULTANT** their well reasoned written statement for rejection.

(3) In the event that the **CONSULTANT**, respectively the **CONTRACTING AUTHORITY**, refuses to coordinate/approve the Interim certificate for executed design and construction-installation works under the provisions of this Article, the **CONTRACTOR** shall undertake activities for removal of the reasons for this refusal, and shall obey to the recommendations of the **CONSULTANT** and the **CONTRACTING AUTHORITY**.

(4) The amount under Art. 8, para 1 shall be subtracted by **CONTRACTING AUTHORITY** from the amounts of the Interim certificate until the full restoration of the advance payment under Art. 8, para 1, as well as the amount for all the forfeits and reimbursements, due by the **CONTRACTOR**.

(5) The rest of the amounts under the Interim certificate shall be paid to the **CONTRACTOR** within 60 days, as from the date of invoice.

(6) In the event of delay of the due amounts by the **CONTRACTING AUTHORITY** by more than 30 days after the deadline under para 5, the **CONTRACTOR** has the right to obtain compensation for the delayed payment to the amount of the statutory interest for delay.

(7) The payment of all the amounts from the **CONTRACTING AUTHORITY** by bank transfer shall be made to the following bank account of the **CONTRACTOR**:

Bank:  
IBAN:  
BIC:

**Art. 10a (1)** Regardless the above stated, the **CONTRACTING AUTHORITY** reserves its rights for estimation to pay to the **CONTRACTOR** under the stipulations of this article, part of the Interim

payment for the corresponding stage prior the Actual completion of the Stage and occurrence of all payment terms under art. 9 and i.10 .

(2) Payment under art. 1 shall be made for activities which value as a percent of the total value of the corresponding stage is explicitly stated in the Time Schedule for completion and which are fulfilled in their total volume by the CONTRACTOR in accordance with the Contract requirements. .

(3) Payment procedure under this article 10a shall be initiated under a written request by the CONTRACTOR or CONSULTANT .

(4) Payment shall be effected based on Partial Interim certificate, for the preparation of which provisions of art. 9 and 10 shall apply. .

(5) Partial Interim certificate shall be drawn for the amount of activities under art. 2, determined in accordance with the Time Schedule for completion .

(6) Only payments for activities, part of one and the same Stage shall be certified in a Partial Interim certificate .

(7) The amounts under art. 10, para 4 shall be deducted from the amounts of the Partial Interim certificate

(8) Payment of amounts under the Partial Interim certificate shall be effected under the provisions and terms of art. 10

## **VI. TECHNICAL CAPACITY OF THE CONTRACTOR**

**Art. 11. (1)** The **CONTRACTOR** provides on their own the Equipment, specified in the Technical Offer, necessary for the precise execution of the Contract.

(2) During the performance of Activities under the Contract the **CONTRACTOR** shall use the Equipment, specified in the Technical Offer.

(3) The **CONTRACTOR** shall provide the quality control of the construction products and elements and of the performed CIWs, by providing on its own account the technical equipment for research and testing, as well as the services of accredited construction laboratory, approved by the **CONTRACTING AUTHORITY**, for the purposes of testing, in compliance with the requirements of the Contract, Technical specifications and applicable legislation

## **VII. CONTRACTOR'S TEAM**

**Чл. 12. (1)** In order to perform the Activities under the Contract and for the time of validity of the Contract, the **CONTRACTOR** shall have a Team for performing additional design and construction: qualified designers and persons for performing the technical management of the construction, including for providing quality control (managerial personnel) and workers and employees (specialists and technical staff) in compliance with the Technical Offer, as specified in Appendix No 11 and Appendix No 12 to the bidding documentation for the Public Procurement Procedure (Appendix A).

(2) Members of **CONTRACTOR**'s team shall have the necessary capacity for execution of activities, the legal provisions or contractual provisions for which stipulates that such capacity is required. Provided the corresponding stage includes activities, not fulfilled by persons with the necessary capacities, provided such capacity is required, no Intermediary certificate is drafted for this stage.

(3) The **CONTRACTOR** has the right to replace at their own risk the number and qualification of their workers in compliance with the quantities and applied technologies for the performed Activities under the Contract, only in the presence of unexpected circumstances for the **CONTRACTOR**, having occurred after conclusion of Contract, which require such change, and after preliminary written notification to the **CONTRACTING AUTHORITY**.

(4) The **CONTRACTING AUTHORITY** may require from the **CONTRACTOR** to remove from the performance of Activities under the Contract a managerial employee or worker, who breaks the legislation or shows incompetence when performing his duties. The suspended person shall leave the Construction site within 3 days from receiving the request by the **CONTRACTOR**. After suspension this person cannot be assigned any activity under this Contract.

(5) THE **CONTRACTING AUTHORITY** may request from the **CONTRACTOR** to suspend from fulfillment of activities a manager or worker, breaching the statutory provisions or showing incompetence during the performance of his obligations. The suspended person shall leave the construction site within 3-days period after receiving the **CONTRACTOR**'s request. After his removal, the above person shall not be assigned with whatsoever activity under the Contract. ,

(6) All costs, incurred due to vacate, withdrawal or replacement of **CONTRACTOR**'s manager or worker shall be beared by the **CONTRACTOR**.

## VIII. SUBCONTRACTORS

**Art. 13. (1)** For performing the Activities under the Contract the **CONTRACTOR** has the right to hire the Subcontractors, specified in their Technical Offer.

(2) The share of subcontractors in the Price for execution of Contract shall be the same as the one, specified in the Technical Offer.

(3) Within 10 days from conclusion of a contract with a subcontractor, the **CONTRACTOR** shall provide a copy of this contract to the **CONTRACTING AUTHORITY**.

(4) The conclusion of a contract with a subcontractor shall not modify the duties of the **CONTRACTOR** under this Contract.

(5) The **CONTRACTOR** shall be liable for the activities of the Subcontractor as if of their own activities.

**Art. 14.** When concluding contracts with subcontractors, the **CONTRACTOR** shall provide for the following warranties, so that:

1. the applicable provisions of the Contract shall be binding for performance by the Subcontractors;

2. the activities of the Subcontractors shall not directly or indirectly cause non-performance of Contract;

3. when performing their control functions under the Contract the **CONTRACTING AUTHORITY** shall be able to check without hindrance the activities and documentation of Subcontractors.

## IX. CONSTRUCTION PRODUCTS

**Art. 15. (1)** The risk of damage or destruction of all the construction products, that shall be used for the construction, shall be borne by the **CONTRACTOR**.

**Art. 16. (1)** The **CONTRACTOR** shall provide regularity of all the deliveries of Construction Products, necessary for the Construction, in a manner that will ensure timely, qualitatively and effective performance of CIWs and following of the Time schedule for execution.

(2) By written request from the **CONTRACTING AUTHORITY** the **CONTRACTOR** shall provide to the **CONTRACTING AUTHORITY** a copy of the contracts for supply of construction materials within 7 days as from receiving the request.

**Art. 17. (1)** The **CONTRACTOR** shall use in the construction the construction products, specified in the Technical Offer by type, origin, quality, standard and technological parameters in compliance

with the Project Documentation, the build permit, the Technical Specifications and in correspondence with the applicable legislation;

(2) The Construction products, regardless of whether they were produced by the **CONTRACTOR** and/or their subcontractors or delivered by a supplier, should be accompanied by documents, proving their origin, correspondence to a standard or other technical approval or quality.

**Art. 18. (1)** The **CONTRACTOR** has the right to change at their own risk the Construction products, that they will use in the construction. The change can be made only if the Construction products comply with the requirements by standards, technical norms or approvals, provided for in the Project documentation, the build permit and the Technical specification, and for which the **CONTRACTOR** fully provides proves for correspondence, quality certificate and others and that they are of the same or better quality *качество* as the replaced Construction products, and for which the **CONSULTANT** and the **CONTRACTING AUTHORITY** are preliminary informed in writing.

(2) In the cases under para 1 the change shall be made after approval by the **CONSULTANT**, written in the Order book.

(3) All the expenses, related to the change of Construction products, are at the account of the **CONTRACTOR**.

(4) If as a result of the replacement of Construction products the quality of CIWs becomes poorer, the liability shall be completely with the **CONTRACTOR**.

**Art. 19. (1)** If it turn out that a specific Construction product has not been determined in the Project documentation, the build permit and the Technical specification, than this same construction product shall be preliminary approved by the **CONSULTANT**. Construction products, that do not comply with the standards and which do not have technical approvals, shall not subject of approval by the **CONSULTANT**.

(2) The **CONTRACTOR** shall provide to the **CONSULTANT** due proves for the respective proposed for prove products with the respective standards, Project documentation, build permit and Technical Specification.

## **X. ORGANIZATION OF ADDITIONAL PROJECT DESIGN AND CIW**

**Art. 20 (1)** The **CONTRACTOR** shall execute the construction in compliance with the Investment project, supplemented by the project designs, prepared as a result of the Additional project design.

(2) The **CONTRACTOR** shall repair all mistakes and incompleteness in the Investment project and to reflect in it all the requirements of the Bulgarian legislation.

(3) Outside the cases under Para 2 the **CONTRACTOR** can make changes in the Investment project only at the provisions and limitations of the work order for Additional project design (Appendix No 10 to the bidding documentation for the Public Procurement Procedure) and the Technical specifications of the **CONTRACTING AUTHORITY** (Appendix 2 to the bidding documentation for the Public Procurement Procedure). All the changes in the Investment project shall be prepared and signed by persons with full design capacity, in compliance with the provisions of the legislation.

(4) All changes in the investment project shall be performed at the account of the **CONTRACTOR** and are included in the Price for execution of Contract. Despite the above said, the changes in the Investment project, being imposed by changes in the legislation, having occurred after the deadline for submission of Proposals, shall be on the account of the **CONTRACTING AUTHORITY** and shall be additionally assigned under the PPL.



**Art. 20a (1)** The changes in the Investment project can be made only with the approval of the **CONTRACTING AUTHORITY** .

(2) The **CONTRACTING AUTHORITY** shall approve or reject the proposed modifications and additions in the Investment project within 14 days as from receiving the proposal for Additional project design, accompanied by a design solution, prepared under the provisions of Appendix No 10 from the bidding documentation for the Public Procurement Procedure and in compliance with the requirements of the legislation, and written justification of the necessity of such Additional project design.

(3) The **CONTRACTING AUTHORITY** may reject the proposal under Para 2, only if it does not comply with the provisions of the Contract, including without limitation Appendices Nos ако то не съответства на условията на настоящия Договор, включително, без да се ограничава 2 and 10 of the bidding documentation for the Public Procurement Procedure (Appendix A of this Contract) and the legislation.

4) If the **CONTRACTING AUTHORITY** does not provide its written opinion to the **CONTRACTOR** under the provided proposal within the time period, specified in Para 2, the proposal shall be considered approved, if it complies with the provisions of Para 3.

**Art. 20b (1)** After receiving the approval of the **CONTRACTING AUTHORITY** under Art. the **CONTRACTOR** shall perform on its own account and at its own risk all agreement procedures with the competent authorities and organization including to the National Railway Infrastructure Company (regarding the displacement of Dimitrovgrad – Podkova” railway, km 41<sup>+597</sup>, regarding the implementation of the project proposal and in case the statutory provisions this project proposal requires the issue of new construction permit or amendment of existing construction permit it shall present to the **CONTRACTING AUTHORITY** all documents on the grounds of which the new construction permit shall be obtained or the existing one shall be amended. .

(2) The **CONTRACTING AUTHORITY** shall provide on their own account performance of conformity assessment of the proposal for Additional project design and the essential requirements to building works under Art. 143 from TPA and issuance of new build permit or a modification of the existing one within 21 days of receiving all the documents under Para 1 by the **CONTRACTOR**.

(3) If the of conformity assessment of the proposal for Additional project design and the essential requirement to building works is negative, the **CONTRACTING AUTHORITY** shall be exempt from its duty under Para 2, and in such case the procedure under Art. 20a and 20б shall start over. The **CONTRACTOR** has no right to request suspension of deadline for execution of certain Stages due to delays, having occurred as a result of a negative conformity assessment of the provided project proposal.

(4) If the **CONTRACTING AUTHORITY** does not perform their duty under Para 2 within the specified period, the deadline for performance of the affected Stages shall be suspended for the period of delay.

**Art. 20c (1)** THE **CONTRACTOR** is obliged at its account and at its own risk to work out and agree with the National Railway Infrastructure Company all specifications for railway infrastructure regarding the displacement of Dimitrovgrad – Podkova” railway, km 41<sup>+597</sup>

(2) Following the approval of technical specifications under art. 1 by the National Railway Infrastructure Company, the **CONTRACTOR** shall be obliged to comply with them fully during the design and implementation of the displacement of Dimitrovgrad – Podkova” railway, km 41<sup>+597</sup>

**Art. 20d (1)** The period between the Contract signing and commencement of works shall be considered a preparatory period for organization of construction process and shall not be part of the term under art. 5 of the present contracts. .

**(2)** Preparatory period includes:

1. completion of land expropriation for construction needs. (in case the expropriation is not completed)

2. approval of investment project for the Construction site (in case the project is not approved prior the Contract signing)

3. issue of construction permit (in case it is not issued prior the Contract signing)

4. carrying out the necessary activities for drawing up Protocol form . № 1 under Ordinance № 3, for handing over and acceptance of the approved investment project and vested construction permit for the Construction site ;

5. carrying out the necessary activities for drawing up Protocol form № 2a under Ordinance № 3, for opening the Construction site ;

**Art. 20f** In case after the commencement of work, additional expropriation of land or change of land designation would be necessary, as well as amendment in the construction permit as a result of such amending the construction permit as a result of such expropriation of land or change of land designation, the term for execution of the relevant stage shall be suspended under the terms and conditions of art. 6a for the period during which performance is delayed due to these procedures .

**Art. 21. (1)** The beginning of the constructions shall be no later than 120 days as from the date of signing the Contract.

**(2)** The deadline under Para 1 is agreed in benefit of the **CONTRACTING AUTHORITY**.

**(3)** In the event that the **CONTRACTING AUTHORITY** has sent a written invitation to the **CONTRACTOR** for preparing and signing Protocol by sample no 2a and the **CONTRACTOR** did not appear on the specified place in the specified time to sign the protocol and did not have substantiated reasons, as a Beginning of construction shall be considered the date, specified in the invitation by the **CONTRACTING AUTHORITY**.

**Art. 22. (1)** In the event that the real geological conditions differ from the geological conditions in the sites of survey (drilling, test pits etc.), specified in the Investment project, prepared by the **CONTRACTING AUTHORITY** and contained in the bidding documentation for the Public procurement Procedure, and these causes a delay in execution of Contract, the deadline for performance of the respective stage shall be suspended under the provisions of Art 6a by the time, with which the execution was delayed as a result of this inaccuracy. To avoid ambiguity, the rules from the previous sentence shall not be applied for the Additional project design.

**(2)** In the event that additional works are required due to inaccurate data, specified in the Investment project, they shall be performed on the account of the **CONTRACTING AUTHORITY** and shall be assigned additionally under the PPL.

**(3)** The **CONTRACTING AUTHORITY** shall not be liable for geological surveys outside the places of survey. If the **CONTRACTOR** finds such geological conditions, these cannot give grounds for increase of the Price for execution of the Contract or for extension or suspension of the deadline for execution of the respective Stage.

**Art. 23. (1)** The **CONTRACTOR** shall provide to the **CONTRACTING AUTHORITY** for approval the Technology construction program within 30 days as from the date of signing the Contract, which program is Appendix C to this Contract.

**(2)** The initial Technology construction program cannot be in conflict with the time schedule for execution. In the event of delay of real Activities by **CONTRACTOR** compared to the Time schedule for execution, the **CONTRACTOR** shall immediately propose for approval to the **CONTRACTING AUTHORITY** changes in the Technology construction program, which reflect the real advance of execution and the measures necessary to catch up the delay.

**Art. 24. (1)** The **CONTRACTOR** shall weekly report to the **CONSULTANT** the really executed work for the past week and shall prepare a comparison to the Time schedule for execution and the Technology construction program. In the cases of discrepancies between the real progress of the activities under the Contract and the deadlines, specified in the Time schedule for execution of CIWs and the Technology Construction program, the **CONTRACTOR** shall provide a written explanation for the reasons of delay, as well as measures for recovering the speed.

**(2)** The **CONTRACTOR** shall inform in writing the **CONSULTANT** within 24 hours in advance for each activity, subject to closing or opening by the **CONSULTANT**.

**Art. 25. (1)** At least once a month the **CONSULTANT** and the **CONTRACTOR** shall conduct coordinated meetings for discussing the sequence of execution, the progress of CIWs and their performance in compliance with this Contract. A written report for each meeting and discussion shall be prepared and signed.

**(2)** The **CONTRACTING AUTHORITY** shall have the right to attend the meetings under Para 1

**(3)** The **CONSULTANT** or the **CONTRACTING AUTHORITY** have the right to appoint a special meeting under Art 1.

## **XI. RELATIONSHIP BETWEEN THE CONTRACTOR, CONTRACTING AUTHORITY AND CONSULTANT IN THE PROCESS OF EXECUTION OF CIW**

**Art. 26. (1)** The **CONSULTANT** performs the functions, related to conformity assessment of the Additional project design and the essential requirements to building works and construction supervision and represents the **CONTRACTING AUTHORITY** by performing the activities, provided for in this Contract and the contract between the **CONSULTANT** and the **CONTRACTING AUTHORITY**;

**(2)** The **CONSULTANT** has the right of access to the Construction site at any time during execution of CIWs.

**Art. 27.** The **CONTRACTOR** guarantees that at any time there will be a competent person at the Construction site available and this person will receive all the recommendations, instruction and/or orders, issued by the **CONSULTANT** in relation to the CIWs under this Contract on behalf of the **CONTRACTOR**.

**Art. 28.** The **CONTRACTOR** shall comply with all the recommendations, orders and instructions of the **CONSULTANT**, related to the execution of CIWs for the construction, in compliance with the Project documentation, building permit, Technical specifications, the requirements of the Contract and the legislation, including, but not limited to:

1. the lawful beginning of construction;

2. completeness and correctness of prepared acts and protocols during the construction;
3. the requirements of safe and healthy labor conditions during the performance of construction;
4. not allowing damages to third parties or properties during the performance of construction;
5. the fitness of the Construction for commissioning;
6. modification of the approved investment projects, after receiving the preliminary consent of the **CONTRACTING AUTHORITY**;
7. the change of Technology construction program of the **CONTRACTOR** in the cases under Art 43, Para 1 of this Contract;
8. performance of additional inspections of the quality of any CIWs or performance of additional testing of the quality of used Construction products, requested under the provisions of Art 51, Para 5. The expenditures, related to these tests and inspections shall be at the account of the **CONTRACTING AUTHORITY**, unless it has been found that the CIWs and the Construction products do not correspond to the provisions of this Contract. In this case the **CONTRACTOR** shall indemnify the **CONTRACTING AUTHORITY** for their expenditures for the inspections and testing.
9. suspension of an employee of the **CONTRACTOR** from the Construction site under the provisions of Art 12, Para 4.

**Art. 29. (1)** The CONSULTANT shall control the performance of the Additional design and CIWs under the provisions of the Contract.

**(2)** On the basis of the assessment of the documentation under Art 9, Para 1 from this Contract, as well as after inspection and/or testing of the executed CIWs, the CONSULTANT confirms or rejects the payment of the amounts, specified in the Interim certificates for performed CIWs.

**Art. 30.** Despite of the responsibilities of the CONSULTANT to the **CONTRACTING AUTHORITY** under this Contract or the contract between the CONSULTANT and the **CONTRACTING AUTHORITY**, the **CONTRACTOR** shall be unconditionally and unrestrictedly liable for the Additional project design and the CIWs under this Contract.

**Art. 31. (1)** When exercising their rights and obligations under the Contract or the applicable legislation, the **CONTRACTING AUTHORITY** shall be represented by the Chairman of the Management Board of RIA, who implements the decisions of the MB of RIA or persons, authorized by the Chairman and for which the **CONTRACTOR** and the CONSULTANT are informed in writing. In the cases, specified in the Contract, the CONSULTANT can also act as a representative of the **CONTRACTING AUTHORITY**.

**(2)** If the **CONTRACTING AUTHORITY** gathers a team for management of this Contract (Project management Team), they shall inform the **CONTRACTOR** and the CONSULTANT in writing for the scope of the representative powers of the team leader

## **XII. PERFORMANCE OF ADDITIONAL PROJECT DESIGN AND CONSTRUCTION**

**Чл. 32.** At performance of their obligations, the **CONTRACTOR**:

1. shall undertake the whole responsibility for the qualitative and timely performance of the Activities under the Contract;
2. shall carry the responsibility for the safe and healthy labor conditions.
3. performs the Activities under this Contract in such a manner, which will not undermines or damage the good reputation of the **CONTRACTING AUTHORITY**.

4. shall undertake the full responsibility for protection of roads, used during the construction works and for the security of the existing road traffic.

5. shall organize the solution of all matters, which occurred during the construction and related to the temporary organization of the road traffic and coordination with other interested parties.

6. shall provide and maintain on their own account the complete surveillance and safeguarding of the construction site during the whole period of construction works.

7. shall coordinate all the required changes in their Technology construction program during implementation of construction with the **CONTRACTING AUTHORITY** and the **CONSULTANT**.

8. shall provide availability for control and acceptance of the executed types of works.

9. shall perform laboratory control via an accredited specialized laboratory for complying to the requirements of the active legislation and Technical specifications of the **CONTRACTING AUTHORITY**.

10. shall maintain on their own account the temporary roads and sites, related to the construction needs, in normal road conditions.

11. shall use for the construction only Construction materials, complying with the requirements of the Project documentation and the legislation, accompanied by the respective documents for quality.

**Art. 33. (1)** The **CONTRACTOR** shall comply with the applicable legislation, regulating hiring workers and employees and providing safe and healthy labor conditions.

**(2)** The **CONTRACTING AUTHORITY** has the right to perform checks and to require the respective documents from the **CONTRACTOR**, certifying their duty under Para 1.

**Art. 34. (1)** The **CONTRACTOR** shall be liable for the safety of all the activities, performed during the implementation of the construction.

**Чл. 35. ИЗПЪЛНИТЕЛЯТ** отговаря за вреди от трудова злополука, претърпяна от негов служител при или по повод изпълнението на Строежа, независимо от това дали негов представител или друг негов служител има вина за настъпването им.

**Art. 35.** The **CONTRACTOR** is responsible for damages from labor accidents, suffered by any of his workers at or concerning the implementation of the construction, от негов служител при или по повод изпълнението на Строежа, no matter if their representative or another employee of theirs is guilty for the incident.

**Art. 36. (1)** The **CONTRACTOR** executes the Construction in compliance with the Project documentation, building permit, Technical specifications and the Health and Safety Plan.

**(2)** In the event of conflict or discrepancy between the texts of the Technical specifications, the priority of the documents for applying and interpretation shall be in the following order:

1. Laws;

2. Regulations;

3. Technical rules, norms and standards, issued by the Minister of Regional development and public works;

4. Standards and technical approvals;

5. The Technical specification of the **CONTRACTING AUTHORITY**;

6. Technical recommendations of the Investment project for execution of CIWs and the Construction products, used for implementation of construction.

**Art. 37. (1)** The CIWs shall be executed in such a manner, that they do not pose hindrance to the access or use of roads, sidewalks or properties, owned by the **CONTRACTING AUTHORITY** or third parties. All the expenses in relation to this duty shall be on the account of the **CONTRACTOR**.

**(2)** Before starting any works on the construction and by the completion the **CONTRACTOR** shall take all the necessary precaution on their own account for ensuring the safety of the citizens by placing warning signs, directions for diversion of traffic, suitable lights etc., in compliance with the legislation.

**Art. 38.** The **CONTRACTOR** shall immediately inform the competent bodies and respective operating company for:

1. found during the construction underground and overhead networks and facilities of the technical infrastructure, that are not specified in the respective specialized maps and registers, as well as to take the necessary precautions for their protection from damages and dislocation.

2. possible damages of the networks and facilities, resulting from the performance of CIWs and the undertake on their own account the expenses for recovering the damages.

**Art. 38a (1)** All the elements of the technical infrastructure, which should be relocated and/or restored by the **CONTRACTOR** in the progress of the construction – installation works, are indicated in the Investment project.

**(2)** In the event that the data for the elements of the Technical infrastructure, specified in the Investment project, turn out to be inaccurate or incomplete and this causes delay in execution of the Contract, the time schedule for completion of the respective Stage shall be suspended under the provision of Art. 6a for the time of delay due to these inaccuracies.

**(3)** In the event that additional works are required as a result of inaccurate or incomplete data for the networks of the Technical infrastructure, specified in the Investment project, they shall be performed on the account of the **CONTRACTING AUTHORITY** and shall be assigned under the PPL.

**Art. 39. (1)** In the event of discovering archeological sites the **CONTRACTOR** shall take all the necessary measures for these sites not to be moved, damaged or taken by the construction staff or third parties, and shall immediately infor:

1. The **CONTRACTING AUTHORITY** and the CONSULTANT;

2. The competent bodies in compliance with the legislation.

**(2)** The **CONTRACTOR** shall stop CIWs in this section until receiving instructions from the competent bodies regarding whether the finding constitutes a monument.

**(3)** The deadline for completion of the respective Stage shall be suspended under the provisions of Art. 6a for the time, for which the construction is delayed due to archeological surveys.

**Art. 40.** The **CONTRACTING AUTHORITY** has the right to order to the **CONTRACTOR** temporary suspension of works on the construction, if they find inaccurate performance, using Construction products with poor quality or non-compliance with the Investment project and the Technical requirements.

**Art. 41. (1)** In the events under Art. 20d, Art. 22, Art.38, 38a, Art. 39, and Art. 40, within 3 days from notification for occurrence of such event, dully sent under Art. 6a, respectively from the order

of the **CONTRACTING AUTHORITY**, the Parties prepare an Act for determining the construction state by sample No 10 from Art. 7, Para 3, s. 10 from Ordinance No 3.

(2) The **CONTRACTOR** may continue the suspended works, after performing the measures, recommended by the competent bodies.

(3) For the purposes of continuing the suspended works both Parties prepare Act for determining the construction state for resuming the implementation of construction by sample No 11 to Art. 7, Para 3, s. 10 from Ordinance No 3.

(4) Simultaneously with preparing the Act under Art. 1, sentence two, the Parties shall prepare and Act of findings, in which:

1. to reflect the directions of the competent bodies;
2. to state the time period, for which the work has been suspended; and
3. to justify the necessity of suspending the deadline for completion of Stage, specified in the Time schedule for completion.

**Art. 42.** For the period of suspension of works the **CONTRACTOR** shall protect the executed CIWs from damage or destruction at their own account.

**Art. 43. (1)** If during the process of execution of Contract it is being found that the actual progress of works retards (or shall retard) from the Interim deadlines as in the Time schedule for execution, than the **CONTRACTING AUTHORITY** undertakes activities for overcoming the retard in the following order:

1. Issuing a warning to the **CONTRACTOR** and requesting from him to repair and accelerate the works;

2. If, after being warned, the **CONTRACTOR** keeps retarding the Interim deadlines of the Time schedule for execution and has serious grounds for not being able to follow the deadlines for execution, the **CONTRACTING AUTHORITY** may request from the **CONTRACTOR** to provide a revised Technology construction program and an accompanying report, describing the revised methods, which the **CONTRACTOR** proposes to undertake in order to accelerate the progress and the complete the CIWs within the Time schedule for execution or by the Date of completion.

(2) If the **CONTRACTING AUTHORITY** does not approve of the revised program, they can provide a different recommendation, and the **CONTRACTOR** shall accept these revised methods, subject of the description, which are different from the initial proposal of the **CONTRACTOR** in their revised Technology construction program for overcoming the retard in execution of CIWs.

(3) The **CONTRACTOR** shall undertake on their own account all the expenses in relation to the implementation of the revised Technology construction program under Art.1 and 2 for acceleration of the Activities under the Contract.

**Art. 44. (1)** When performing the construction the **CONTRACTOR** shall maintain the Construction site and the other part of the construction clean by clearing them from construction wastes and transporting the wastes to the respective dumps.

(2) After completion of construction the **CONTRACTOR** shall remove from the Construction and the whole construction all their equipment, facilities, surplus materials and construction wastes and shall leave the site in a condition that satisfies the **CONTRACTING AUTHORITY**.

(3) THE CONTRACTOR is obliged to do the dismantling, transportation, sorting and storage of materials from the existing railway and Dimitrovgrad – Podkova railway track and their subsequent delivering to the National Railway Infrastructure Company (NRIC)

(4) THE CONTRACTOR is obliged at its own expense to remove the existing ballast section of Dimitrovgrad – Podkova railway track, to transport the ballast and wherever applicable – to clean/recycle, store and deliver it to the National Railway Infrastructure Company (NRIC) for further usage

(5) THE CONTRACTOR is obliged to observe the applicable statutory provisions, including all prescriptions regarding the environmental protection at the construction site and surrounding sites.

(6) THE CONTRACTOR is obliged to recultivate and/ or restore in their initial state all temporary roads and terrains, used during the contract fulfillment at its own expenses. .

**Art. 44a** The **CONTRACTOR** shall provide access to the Construction site and shall fully cooperate all the persons, to which the **CONTRACTING AUTHORITY** has assigned performing activities, related to the Construction.

### **XIII. REPORTING THE PROGRESS OF EXECUTION OF CONTRACT**

**Art. 45. (1)** By the 5<sup>th</sup> of each month the **CONTRACTOR** provides to the **CONTRACTING AUTHORITY** and the **CONSULTANT** of the construction a report on the progress of execution of the Activities for the Contract for the previous month for approval. The report also contains information for the impact of the performed works on the Time schedule for the remaining works, including all the changes in the sequence of their performance, as well as information regarding events, expected for the month to come, that could have an adverse impact on the quality and quantity of the work or delay the execution of CIWs.

(2) The reports under Para 1 shall be prepared by the **CONTRACTOR** and shall be submitted to the **CONTRACTING AUTHORITY** and the **CONSULTANT** for the construction in four copies – two for each receiver. The first report shall cover the period by the end of the first calendar month after the Beginning of construction. The reporting shall continue, until the **CONTRACTOR** performs all the works, necessary for preparation of Certificate for final completion of works.

(3) Each report shall include:

1. Diagrams and tables and detailed progress description.
2. Pictures, illustrating the state of performance and progress of CIWs;
3. For the production of each main unit of Construction products – name of the producer, place of production, certificates and/or declarations of conformity of the producer, as well as the expected date for:
  - a) Beginning of production;
  - b) inspections by the **CONTRACTOR**;
  - b) samples, expedition and arrival at construction site;
4. Reports for the personnel and mechanization of the **CONTRACTOR**;
5. Statistical safety data, including dangerous accidents and activities, related to environment protection and public relations; and
6. Comparisons between the actual and planned progress, by types of works and sections, together with a detailed description of all the circumstances, which can endanger the completion of Contract, and measures that are (or shall be) taken for overcoming the delay.
7. Copies of the acts and protocols, prepared during the construction from the previous month.



#### **XIV. ORDER BOOK OF THE CONSTRUCTION**

**Art. 46. (1)** All the recommendations and orders, required for the execution of CIWs, issued by the authorized persons and the control bodies in compliance with Territory Planning Act, shall be entered into the Order book of the Construction, which is stored at the constructions by **CONTRACTOR**. The persons that have issued the recommendations, respectively the orders, shall have signed and dated them.

**(2)** The recommendations and orders, entered into the Order book, are obligatory for the **CONTRACTOR**.

**(3)** If the **CONTRACTOR** does not want to perform a recommendation or order of the **CONTRACTING AUTHORITY** or the **CONSULTANT**, he has the right, within 3 days from the date of issue, to write a well grounded refusal in the Order book.

**(4)** In the event that within 7 days from entering the well grounded refusal the **CONTRACTING AUTHORITY** or the **CONSULTANT** does not cancel in writing their recommendation or order, than the **CONTRACTOR** within 3 days, may submit an objection to the bodies of NCSO, and the construction shall be suspended until receiving the opinion of the authority. After making an inspection, the bodies of NCSO shall issue obligatory recommendations.

**(5)** The suspension of construction does not result in suspension of deadline for the respective Stage, if NCSO provides a decision in favor of the **CONTRACTING AUTHORITY** or the **CONSULTANT**.

#### **XV. QUALITY CONTROL**

**Art. 47. (1)** The activities under the Contract shall be executed in full correspondence with the Project documentation, the building permit, Technical specifications, as well as the applicable legislation.

**(2)** If the **CONTRACTOR** does not comply to the requirements of the Project documentation, the building permit, Technical specifications, as well as the applicable legislation, concerning the standards and quality of Construction works, as well as the performed CIWs, this shld be considered as non-performance of this Contract, which if being systematic and essential non-performance, shall give grounds for unilateral termination of Contract by the **CONTRACTING AUTHORITY** in compliance with Art. 80, Para 2, s. 1 or s. 2 of this Contract.

**Art. 48. (1)** The quality of the performed CIWs, as well as the Construction materials, shall be established by the following documents:

1. Acts and protocols under Art. 7, Para 3 from Ordinance No 3;
2. Other documents, provided in the present Contract and the legislation, giving an assessment of the quality of performed CIWs;
3. Testing protocols in compliance with the requirements of the Project documentation and the building permit.
4. The protocols from inspections, performed by representatives of the **CONTRACTING AUTHORITY**.

**(2)** The quality control of the performed CIWs and Construction products shall be performed:

1. by the **CONSULTANT** when performing the continuous supervision during the performance of CIWs and correspondence to the protocols and acts under Art. 7, Para 3 of Ordinance No 3.

2. by the **CONTRACTING AUTHORITY** – through their directorate “Operating control and risk management” and the Central institute for road technologies ,, national and European norm and standards.

**Art. 49.** At any time during the construction works the **CONTRACTING AUTHORITY** and the **CONSULTANT** has the right of access to the Construction site and the construction for control of the quality and progress of the CIWs, as well as to require:

1. Written and oral explanations from the **CONTRACTOR** and their employees and/or subcontractors on matters, related to the performance of the Activities under the Contract;
2. All data and documents, on hard or soft copy, for the purposes of exercising control on the activity of the **CONTRACTOR**.

**Art. 50. (1)** The **CONTRACTING AUTHORITY** and the **CONSULTANT** has the right to inspect the performed by the **CONTRACTOR** works and to notify them for all the Faults, found on the CIWs, as well as to specify deadline for Fault removal.

**(2)** The **CONTRACTOR** shall remove the Fault with the time limits, specified in notification. In the event of non-performance of duty for Fault removal, the provisions of Art. 66, Para 3, or Art. 67, Para 2, or Art. 80, Para 2, s. 1 or s. 2 from the Contract shall be applied – depending on the specific case of non-performance.

**(3)** The **CONTRACTOR** shall be liable for Faults in CIWs, which, due to their nature, could not have been found as to the date of preparing the respective certificate for payment for performed works and appear later.

**(4)** The **CONTRACTING AUTHORITY** has the right to request Fault removal and to exercise their right to request Warranty liability from the **CONTRACTOR** within the Warranty periods in compliance with the Technical Offer, in compliance with Art. 265 of law on Obligations and Contracts /LOC/.

**Art. 51. (1)** The **CONTRACTOR** shall perform all the testing during the construction and after its completion, while conforming with the deadline for completion and periodicity in compliance with the requirement of the Technical specification.

**(2)** The precise place of Construction, where the respective testing will be performed, shall be determined by the **CONSULTANT** by written request from the **CONTRACTOR**. In the event that the **CONSULTANT** does not specify such place in writing within cпок or 24 hours from receiving the request, the **CONTRACTOR** determines the place for testing on their own and notifies the **CONSULTANT** about that.

**(3)** The **CONTRACTOR** shall notify in writing the **CONSULTANT** for the time of conducting the testing at least 24 hours in advance and shall provide a chance for the **CONSULTANT** to attend the testing.

**(4)** The expenditures on testing shall be on the account of the **CONTRACTOR** and are included in the price for execution of Contract.

**(5)** The **CONSULTANT** has the right to request from the **CONTRACTOR** to perform additional testing, which is not provided for, in order to verify whether the quality corresponds to the respective construction category according to the Technical specifications.

**(6)** The expenditures on testing under Para 5 shall be at the account of the **CONTRACTING AUTHORITY**, except for the cases in Art. 28, s.8 from this Contract.

## **XVI. COMPLETION OF CONSTRUCTION. USE PERMIT**

**Art. 52.** After performing any part of Construction to Stage Actual completion of CIWs, including the respective stage, the **CONTRACTOR** shall:

1. Prepare as-built documentation in compliance with Territory Planning Law, reflecting the non-essential modifications from the coordinated and agreed upon Investment project, if any. The expenditure on preparing the as-built documentation is included in the Price for execution of Contract.

2. Perform its recording in compliance with the requirements of the Cadastre Agency, and the expenditures on this shall be included in the Price for execution of Contract.

**Art. 53. (1)** If the Actual completion of the whole Construction is performed by the **CONTRACTOR** and the latter has completed all his duties under the Contract, the **CONTRACTOR** shall notify in writing the **CONTRACTING AUTHORITY** for their readiness for hand-over of Construction.

(2) Within 14 days as from receiving the notification under Para 1 the **CONTRACTING AUTHORITY** shall appoint and acceptance commissions, which shall attend the testing at the construction. A protocol shall be prepared, reflecting the results from testing. When the testing is unsuccessful, the construction shall be considered not finished.

(3) After completion of Construction and successfully conducting the testing, an Act of findings shall be prepared, in compliance with the requirements of Art. 176, Para 1 of TPA for determining the fitness of Construction for Acceptance, by which the Construction is handed over from the **CONTRACTOR** to the **CONTRACTING AUTHORITY** (Act of findings by sample 15, in compliance with Ordinance No 3)

(4) Within 7 days from preparing the Act of findings by sample No 15 the **CONTRACTOR** provides to the CONSULTANT the prepared by the **CONTRACTOR** Certificate for completed CIWs („**Certificate for Actual Completion**”).

(5) The CONSULTANT verifies the performed works, certified by the Certificate for Actual Completion and offers it to the **CONTRACTING AUTHORITY** for approval.

**Art. 54. (1)** If the **CONTRACTOR** has not reached the Actual completion for the whole construction, found out by the Acceptance commission under Art. 53, Para 2, the **CONTRACTING AUTHORITY** or the CONSULTANT shall issue recommendations for предписание the works, quantity and deadline for performance in the form of „**Protocol for non-completed or partially completed construction-installation works**”.

(2) The **CONTRACTOR** shall perform the recommended works within the specified time period.

(3) The **CONTRACTOR** shall, after completion of recommended works, notify the **CONTRACTING AUTHORITY** and the CONSULTANT for their readiness for had over of the works under Art. 52 and 53.

**Art. 55. (1)** Within 30 days from preparing the Act of findings by sample No 15, the CONSULTANT shall prepare and provide to the **CONTRACTING AUTHORITY** Final report for performed CIWs.

(2) Within 7 days from receiving the Final report under Para 1 the **CONTRACTING AUTHORITY** shall submit a written request to NCSД for appointment of State Acceptance Commission in compliance with Ordinance No 2, by providing for the expenses for this.

**Art. 56. (1)** In case of finding dully performed Construction in compliance with the active building permit, Project documentation, certified as-built documentation and the active legislation, the State

Acceptance Commission prepares and signs Protocol by sample No 16 for establishing the fitness for use of the Construction, under Ordinance No 3.

(2) On the basis of Protocol by sample No 16 NCSД shall issue a use permit for the construction.

(3) On the basis of the use permit for the Construction the **CONTRACTING AUTHORITY** sends an invitation to the **CONTRACTOR** and the **CONSULTANT** for signing a Certificate for final completion of works, which certifies that the works, provided for in the Contract, have been performed, incl. the recommended ones by Protocol by sample No 16.

## **XVII. PLAN FOR ENSURING “MEASURES FOR INFORMATION AND PUBLICITY”**

**Art. 57 (1)** The **CONTRACTOR** shall perform the requirements related to the information and publicity, provided in Chapter II, Art. 6, Art. 8, and Art. 9 of Regulation (EC) No 1828/2006 of the Commission from 8 December 2006 concerning the provision and method of performing Regulation (EC) NО 1083/2006 of the Council lying down general provisions for the European Regional Development Fund, the European Social Fund and the Cohesion Fund and Regulation 1080/2006 of the European Parliament and the Council on the European Regional Development Fund, as well as the Guide for the Information and Publicity OP Transport.

(2) Within 1 month as from the date of signing the Contract, the **CONTRACTOR** shall provide to the **CONTRACTING AUTHORITY** for approval a Communication plan for implementation of measures for information and publicity, which, after being approved by the **CONTRACTING AUTHORITY** and the Management Board of OP Transport, shall be applied to this Contract as Appendix No ... .

(3) The Communication plan shall have the following minimum contents:

1. Purpose – main and specific;
2. Target groups;
3. Action plan:
  - 3.1. Description of communication channels;
  - 3.2. Description of the communication instruments;
  - 3.3. Planned measures for information and publicity as a required minimum:
    - Organization of official ceremony “Groundbreaking”;
    - Organization of official ceremony for the official opening of site;
    - Preparation and installation of informational billboards for the period of execution of construction;
    - Preparation and installation of permanent commemorative plaques after completion of construction.
    - Preparation and distribution of information materials
4. Mass media plan.
5. Rules for admission to the Construction site of representatives of the mass media.
6. Quantitative indicators for performance of the Communication plan.
7. Indicative budget.
8. Monitoring and reporting the performance.
9. Specifying an administrative unit / expert for completion of the communication plan /

(4) The **CONTRACTOR** shall coordinate in advance with the **CONTRACTING AUTHORITY** and the Management Board of OP Transport the preparation and organization of public events, the messages to the mass media in relation with the Construction, the information materials, the layout of the billboards and commemorative plaques etc., which the **CONTRACTOR** plans to distribute and use.

**Art. 58 (1)** The **CONTRACTOR** shall put on the Construction information plaques, containing the full information for the performed CIWs, in compliance with TPA.

(2) During execution of construction, the **CONTRACTOR** shall place, on well visible locations, advertizing informational billboards of suitable size on the construction site for each site,

(3) The billboard shall contain the visualized logo of the EU, the name of the fund for financing the project, the logo and slogan of OPT „Closer distance, closer people...”, and these elements shall occupy at least 25% of the billboard.

(4) The logo of the National strategic reference framework of the Republic of Bulgaria shall be placed on a suitable location on the billboard.

(5) The name and logo of the **CONTRACTING AUTHORITY** shall be indicated on a suitable location on the billboard.

(6) The **CONTRACTOR** shall place permanent commemorative plaques on well visible places and of suitable size not later than 3 months after completion of works.

(7) The informational commemorative plaques shall indicate the name and value of the project, as well as to comply with the requirements of sub Art. 1 and 2 from Art. 4.

(8) The **CONTRACTOR** shall comply with the rules, concerning the technical features, related to the information and publicity, and all the materials for information and publicity, directed to various target groups, shall include the following:

(9). The European symbol, according to the graphic standards, specified in Annex I of the Regulation (EC) No 1828/2006 of the Commission since 8 December, 2006, concerning the provision and method of performing Regulation (EC) NO 1083/2006 of the Council lying down general provisions for the European Regional Development Fund, the European Social Fund and the Cohesion Fund and Regulation 1080/2006 of the European Parliament and the Council on the European Regional Development Fund and the inscription of the text “European Union”;

1 Specifying the Cohesion Fund as financing fund;

2 The logo and slogan of OP Transport and the National strategic reference framework of the Republic of Bulgaria, in compliance with the Directions of visual identity of the Central Informational Office.

3. The technical requirements regarding the graphical representation of the European symbol, the logo of NSRF and the logo and slogan of OP Transport can be found at [www.optransport.bg](http://www.optransport.bg), under the Documents tab.

**Art. 59(1).** The **CONTRACTOR** shall report to the **CONTRACTING AUTHORITY** the implementation of the Communication plan for implementation of measures for information and publicity every three months, up to the fifth of the next three months.

(2) The **CONTRACTOR** shall publish on their main page of their site banner the link to OP Transport [www.optransport.bg](http://www.optransport.bg).

## **XVIII. PERFORMANCE BOND FOR THE CONTRACT.**

**Art. 60. (1)** At signing this Contract, a warranty for good performance of the duties under the Contract, including duties for Warranty service, the **CONTRACTOR** shall represent to the **CONTRACTING AUTHORITY** documents, certifying The Performance Bond.

(2) The Performance Bond shall amount to [BGN] without VAT, being three percent of the Price for execution of Contract, without VAT. This warranty shall be in the currency, specified in the announcement.

(3) The service expenses for the Performance Bond shall be on the account of the **CONTRACTOR**.

**Variant one<sup>8</sup>**

**Art. 61. (1)** The Performance Bond for execution of Contract shall be in the form of cash deposit, transferred to the escrow account of the **CONTRACTING AUTHORITY**.

**(2)** The **CONTRACTING AUTHORITY** shall restore to the **CONTRACTOR** the amount of the Performance Bond, reduced by the amounts, used under Art. 62 (unless these amounts are restored under Art. 65), after the expiration of 60 (sixty) months as from the date of issuing the use permit for the whole Construction.

**(3)** The Performance Bond shall be restored to the bank account, specified by the **CONTRACTOR**.

**Variant two**

**Art. 61. (1)** The Performance Bond shall be in the form of Ban Warranty, issued by a first class bank, coordinated with the **CONTRACTING AUTHORITY** before signing this Contract and by the sample, provided in the bidding documentation for the Public Procurement Procedure (or another sample, including the same or better conditions for the **CONTRACTING AUTHORITY**).

**(2)** The validity period of the Bank Warranty under Para 1 is 60 (sixty) months as from the date of issuing the use permit for the whole Construction;

**Art. 62. (1)** The **CONTRACTING AUTHORITY** has the right to use part of or the whole Warranty for execution of Contract in the event of inaccurate performance of duties under the Contract by the **CONTRACTOR**, including unilateral termination of Contract by the **CONTRACTING AUTHORITY**, due to guilty non-performance of duties by the **CONTRACTOR** under the Contract;

**(2)** The **CONTRACTING AUTHORITY** has the right to use such a part of the warranty, that covers the liability if the **CONTRACTOR** for non-performance, including the amount of accrued forfeits.

**(3)** In the event of unilateral termination of Contract by the **CONTRACTING AUTHORITY** due to guilty non-performance of duties by the **CONTRACTOR** under the Contract, the amount of the Performance Bond shall be completely used as an indemnification for termination of Contract.

**(4)** In the event that the liability for non-performance of duties under the Contract by the **CONTRACTOR** surpasses the amount of the Performance Bond and the **CONTRACTOR** does not perform their duties for restoration of warranty under Art.65 , the **CONTRACTING AUTHORITY** has no right to terminate the Contract under Art. 80, Para 1, s. 3.

**Art. 63. (1)** The **CONTRACTOR** shall, within the warranty period, remove all the Faults that occurred in the Construction, in order to maintain the quality and its continuous operation in compliance with the building permit and the Technical specification.

**(2)** The warranty periods shall be as follows<sup>9</sup>:

- for CIWs without road facilities - 5 years;
- for road facilities - 10 years.

**(3)** The warranty periods start as from the date of receiving the use permit for the Construction.

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<sup>8</sup> At signing the Contract the variant, chosen by the **CONTRACTOR**, shall be left out.

<sup>9</sup> The description and duration of warranty periods shall correspond to those specified in the Technical Offer, as well as Art. 20, Para1, 2, and 3 from Ordinance No 2 from 31.07.2003 for commissioning of constructions in the Republic of Bulgarian and the minimum warranty periods for executed construction and installation works, facilities and construction sites (promulgated, SG, 72 from 2003, modified and supplemented in No49 from 2005).

(4) The warranty periods shall be suspended for the time, during which the Construction has a Fault, until its removal.

(5) The warranty liability shall not be applicable when the Faults appear as a result of a Force Majeure circumstance.

**Art. 64. (1)** In the event that the bank, that have issued the Warranty for performance of Contract, has declared bankruptcy or enters into insolvency/over-indebthness or its license it taken or refuses to pay the requested amount by the **CONTRACTING AUTHORITY** within 3 days, **CONTRACTING AUTHORITY** has the right to request, and the **CONTRACTOR** shall provide, within 5 working days as from the request, the respective replacement warranty from another bank institution, coordinated with the **CONTRACTING AUTHORITY**.

(2) The **CONTRACTING AUTHORITY** does not owe any interest for the amounts of the Warranty for execution of Contract.

**Art. 65. (1)** In the events of using the amounts under the Warranty for performance of Contract the **CONTRACTOR** shall, within 5 working days, restore the amount of the warranty.

(2) If the **CONTRACTOR** does not restore the warranty in the cases under Para 1 the **CONTRACTING AUTHORITY** has the right to terminate this Contract after providing a long enough period for execution of duty, but not longer than 30 days.

## **XIX. LIABILITY FOR NON-PERFORMANCE**

**Art. 66. (1)** In the event that the **CONTRACTOR** has not completed the respective Stage to **Actual completion** within the deadlines, specified in the Time schedule for completion, and the retard is not due to a Force majeure circumstance or a reason, attributable to the **CONTRACTING AUTHORITY**, the **CONTRACTOR** shall pay forfeit to the **CONTRACTING AUTHORITY**, amounting to 0,2% (zero point two percent) per day from the price for the respective stage for each day of delay, but not more than 15% (fifty percent) from the price for the respective Stage.

(2) If the **CONTRACTOR** manages to catch up the delay of the Activities under the Contract until the date of completion in some of the next Stages in compliance with the Time schedule for completion (by achieving the Actual completion of all Stages, due for execution by this time) or by the time for completion for the whole Construction under Art. 5, he has the right of recovery of the withheld amounts for delay forfeits for the previous Stages.

(3) In the event of immediate performance of every other duty under this Contract by the **CONTRACTOR**, the latter owes to the **CONTRACTING AUTHORITY** a forfeit amounting to 5000 (five thousand) BGN per day for each day of delay, but not more than 200 000 (two hundred thousand) BGN.

**Art. 67. (1)** In the event of poor or partial CIWs the **CONTRACTOR** owes a forfeit, amounting to 10 percent of the amount of CIWs, which were not accurately performed.

(2) In the event of poor or partial performance of every other duty under the Contract by the **CONTRACTOR**, the latter shall owe to the **CONTRACTING AUTHORITY** a forfeit, amounting to 10 000 BGN for each obligation, which should have been accurately performed.

**Art. 68.** The **CONTRACTING AUTHORITY** has the right to deduct/use the forfeit under the above Art. /Art. 66 and Art.67/ from the Price for execution of Contract, the Warranty for execution of Contract or any other amount, due to the **CONTRACTOR** under this Contract.

## **XX. LIABILITY FOR DAMAGES. INSURANCES.**

**Art. 69. (1)** The **CONTRACTOR** shall be liable for damages and shall indemnify the **CONTRACTING AUTHORITY** for all claims and expenditures, arisen with relation to material and non-material damages, caused by participants in the construction and/or third parties, incl. Injury or death, at or in relation to performance of the duties of the **CONTRACTOR** under this Contract.

(2) The **CONTRACTOR** is liable and shall indemnify the **CONTRACTING AUTHORITY** for all claims and expenses, arisen in relation to material damages, caused to the property of other participants in the construction and/or third parties, at or in relation to performance of the duties under this Contract.

**Art. 70. (1)** ) On the grounds of Art. 173, Para 1 from TPA, on the date of signing this Contract the **CONTRACTOR** provides to the **CONTRACTING AUTHORITY** valid insurance policies, ensuring their professional liability a) in their capacity as designer; and b) in their capacity as constructor, to the following amounts:

a) of insurance in their capacity as a designer for the minimum insurance amount for construction from category one;

б) of insurance in their capacity as a constructor for the minimum insurance amount not less than 5 (five) percent from the Price of execution of Contract, with limited liability for each event, amounting to not less than 25 (twenty five) percent of the total insurance amount.

(2) The **CONTRACTING AUTHORITY** shall be specified as third beneficiary in the insurances.

(3) The insurances under no Para 1 shall cover only the risks, related to the implementation of the Construction, and cannot be used for ensuring the liability of the **CONTRACTOR** under a different contract.

(4) The insurances under this Article shall be made with an insurer, who is a local person or located in a member country of EU, or in a country, that is a party in the Agreement on the European Economic Area or the Swiss Confederation, or other insurers, which can exercise insurance activity on the territory of the Republic of Bulgaria in compliance with the legislation.

**Art. 71.** The services expenses for the insurances shall be at the account of the **CONTRACTOR**, and the insurance premiums shall be completely paid to the insurer at signing the insurance contract.

**Art. 72. (1)** The **CONTRACTOR** shall withhold the insurance limit for the whole period of insurance, including to pay additional premiums, in the event that during the insurance period some events occur, that will decrease the insurance coverage.

(2) The **CONTRACTING AUTHORITY** has the right to request from the **CONTRACTOR** to provide the insurance policies and payment documents, certifying the payment of insurance premiums for the due insurances, and the **CONTRACTOR** shall provide them to the **CONTRACTING AUTHORITY** within 7 days from receiving the request.

(3) If the **CONTRACTING AUTHORITY** finds out non-performance of duties of the **CONTRACTOR** for concluding and maintaining the insurances under this section, he has the right to stop payments of the Price for execution of Contract until removal of the found infringement.

(4) The insurance policies and the documents for payment of premiums under them for compulsory insurances of the **CONTRACTOR** under Art. 173 from TPA, described in Appendix E<sup>10</sup> of this Contractp.

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<sup>10</sup> Попълва се при сключване на договора.



## **XXI. REMOVAL OF HIDDEN DEFECTS WITHIN THE WARRANTY PERIODS**

**Art. 73. (1)** In the event that Defects arise within the Warranty periods, but no later than 14 days after the completion of the period, the **CONTRACTING AUTHORITY** shall send a notification of the **CONTRACTOR Notification for Defect**, which shall specify a reasonable period for removing the defect.

(2) Within 3 days from receiving the Notification for defect, the **CONTRACTOR** informs in writing the **CONTRACTING AUTHORITY** for their consent or refusal to remove the defect.

(3) In the event that the **CONTRACTOR** refuses or does not remove the defect within the period, determined in the Notification for defect, the **CONTRACTING AUTHORITY** has the right to use such an amount of the Warranty for execution of Contract, despite the form under which it is provided, which covers the expenses, made by the **CONTRACTING AUTHORITY** for removing the hidden defect.

(4) In the event that the non-performance of duty by the **CONTRACTOR** for removal of the hidden defect within the Warranty period exceeds the amount of warranty, the **CONTRACTING AUTHORITY** has the right to request indemnification by general procedures.

## **XXII. ARCHIVE DOCUMENTATION. AUDIT AND CONTROL.**

**Art. 74. (1)** For the time, for which the Contract is in force, as well as for a period, not less than 5 years as from the expiration of the last Warranty period under the Contract, the **CONTRACTOR** shall maintain an Archive for all the services, provided under the Contract.

(2) The **CONTRACTING AUTHORITY**, through their representatives, may at any time request documentation or any other information for the performed CIWs and may review and check the specified documentation, without thus hampering the activity of the **CONTRACTOR**.

(3) The **CONTRACTOR** has no right to search for or accept instructions from any other persons or institutions except for the **CONTRACTING AUTHORITY** and those, specified in the Contract in relation with their duties under it.

(4) The **CONTRACTOR** shall refrain from any activities, that may have unfavorable effect for the **CONTRACTING AUTHORITY** and shall perform all his duties, by fully complying with the interests of the **CONTRACTING AUTHORITY**.

## **XXIII. SUSPENSION OF EXECUTION DUE TO FORCE MAJEURE CIRCUMSTANCES. MODIFICATION, ADDITION OR TERMINATION OF CONTRACT**

**Art. 75. (1)** In the event of occurrence of force majeure circumstance the execution of Contract and the respective opposite duties shall be temporarily suspended for the duration of the Force Majeure circumstance. In the event that the Force Majeure circumstance hinders the work of the **CONTRACTOR** only for a separate Stage, the **CONTRACTOR** shall continue their activities under the other Stages.

(2) The time period for performance of the duty shall be extended in compliance with the period, for which the Force Majeure circumstance has stopped it.

(3) The Party, which cannot perform her duties under this Contract due to Force Majeure circumstances, is not liable.

(4) The occurrence of a Force Majeure circumstance does not release the Parties from performing their duties, that should have been performed before the occurrence of the event.

(5) The Party, affected by the Force Majeure circumstance, shall within the shortest possible period, but not later than finding out about the event, notify in writing the other Party of the Force Majeure circumstance. The notification shall contain information about:

- a. the expected impact of Force Majeure circumstance on the progress of CIWs and/or the chance of completion on time under Art. 5, as well as
- б. proposal for avoiding or reducing the effect of such event, respectively circumstance.
- в. the supposed period of duration and termination of the Force Majeure circumstance; and
- г. possible consequences on the execution of Contract.

(6) In the event that the Party, affected by the Force Majeure circumstance, does not send a written notification, it owes to the other Party an indemnification for the damages, suffered from this.

(7) Certifying the arisen Force majeure circumstance shall be performed by a Force Majeure Certificate, issued by the Bulgarian Chamber of Commerce.

**Art. 76. (1)** From the date of occurrence of a Force Majeure circumstance to the date of the end of its impact, the Parties shall undertake all the necessary activities to avoid or mitigate its impact and to continue performing their duties under the Contract, which are not hindered by the Force Majeure circumstance.

(2) As long as the Force Majeure circumstance is a risk, covered by the provisions of the insurance coverage, the **CONTRACTOR** shall immediately request the respective claims under the insurance policy.

**Art. 77.** Modification of the Contract are only possible at the provisions of the Public Procurement Law.

**Art. 78.** The Contract shall be terminated by:

1. Completion of duties by both Parties under the Contract;
2. Notification by one Party to the Other, when the performance of CIWs is suspended for more than 120 /a hundred and twenty/ days due to the presence of Force Majeure circumstances;
3. Submitting a one-month notification from one Party to the other, in the event an non-truthness of statement or declaration, granted by the Party under the Section II from the Contract, and if, as a result of this non-truthness unfavorable sequences occur for the righteous Party of he execution of the Contract;
4. Terminating it by the righteous Party due to guilty non-performance of the other Party.

**Art. 79.** The Contract shall be terminated by the **CONTRACTING AUTHORITY** by:

1. Written notification to the **CONTRACTOR**, if as a result of circumstances, having arisen after the conclusion of Contract, the **CONTRACTOR** is not able to continue performing their duties. In this case the **CONTRACTING AUTHORITY** shall owe to the **CONTRACTOR** indemnification for the suffered damages from the conclusion;

2. A one month written notification by the **CONTRACTING AUTHORITY** to the **CONTRACTOR**:

a) in case of violation of the requirements to avoiding conflicts of interests by the **CONTRACTOR**;

b) in cases of found by the competent bodies fraud or irregularities, by which the **CONTRACTOR** has affected the interests of the European communities and the Bulgarian state and for which the **CONTRACTOR** is liable under the Contract;

c) in the event of effective objectionable judicial decision under an act of defalcation by the **CONTRACTOR**, created by the Agency of State Financial Inspection;

d) at launching a procedure on liquidation of the **CONTRACTOR**;

e) at launching proceeding of bankruptcy of the **CONTRACTOR**;

f) against a person with majority ownership in the capital of the **CONTRACTOR**'s company, against a member of the Management Board of the **CONTRACTOR**, and in the event that the member of the Management Board is a legal entity – against their representative in the respective

Management Body<sup>11</sup>, there is an effective judgment for crime against property, against economy, against the financial, tax or social security system (money laundering or fraud), for abuse of office or bribery (corruption), as well as crimes, related to participation in a criminal organization;

g) Against the **CONTRACTOR** a circumstance under Art. 47, Para 5 from PPL has been found.

**Art. 80. (1)** The **CONTRACTING AUTHORITY** has the right to terminate the Contract by sending a written notification to the **CONTRACTOR** with the warning, that after expiration of additionally provided in the notification suitable deadline for execution, the Contract shall be considered terminated in the following cases:

1. At delay of the **CONTRACTOR** for execution of the Interim deadlines in the Time Schedule for execution;

2. At delay by the **CONTRACTOR** in execution of duties for removing Faults for more than 30 (thirty) days;

3. At non-performance of duty under Art. 65, Para 2 within the deadline, specified by the **CONTRACTING AUTHORITY**.

**(2)** The **CONTRACTING AUTHORITY** has the right to terminate the Contract by submitting a written notification to the **CONTRACTOR**, without providing to the **CONTRACTOR** additional suitable deadline for execution of the respective contract obligation in the following cases:

1. In the event systematic non-performance by the **CONTRACTOR** was found.

2. In the event an essential non-performance by the **CONTRACTOR** was found.

**(3)** In all the other cases of termination of Contract, attributable to the **CONTRACTOR**, the **CONTRACTING AUTHORITY** uses as a forfeit the whole Warranty for execution of Contract.

**Art. 81.** The **CONTRACTOR** has the right to terminate the Contract by notification for termination to the **CONTRACTING AUTHORITY**, containing a suitable deadline for execution of obligation for payment, but not more than 30 (thirty) days, in the event that:

a) the **CONTRACTING AUTHORITY** delays the due payments by more than 90 (ninety) days as from expiration of deadline under Art. 10, Para 5. In this case the **CONTRACTOR** has the right to request indemnification by the **CONTRACTING AUTHORITY** for suffered damages from termination of Contract;

b) the beginning of construction has not occurred within the deadline, specified in Art. 21. In this case the **CONTRACTOR** shall return to the **CONTRACTING AUTHORITY** the received advance payment. In this case the **CONTRACTING AUTHORITY** shall owe to the **CONTRACTOR** indemnification for suffered damages from concluding the Contract.

## **XXIV. CONFIDENTIALITY**

**Art. 82. (1)** Each of the Parties under this Contract shall not distribute information about the other Party, that became known to her in relation to concluding the Contract, including during the Public Procurement Procedure, which Party, for which the information refers, has specified in writing that this information is confidential.

**(2)** All the maps, drawings, sketches, pictures, plans, reports, recommendations, assessments, notes, documents and other data, despite of their media (paper, magnetic or other), despite of their form (text, graphical, sound, visual, analog or digital format), gathered or received by the **CONTRACTOR** in relation to conclusion of Contract, shall be considered as **confidential information**.

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<sup>11</sup> To be specified, depending on the legal form of the **CONTRACTOR**

(3) Non-confidential shall be considered the information, that the **CONTRACTING AUTHORITY** has to provide to the Public Procurement Agency in compliance with the Public Procurement Law.

**Art. 83. (1)** The **CONTRACTOR** shall use the confidential information, granted by the **CONTRACTING AUTHORITY**, related to the execution of Contract, only for the purpose of executing their duties under this Contract.

(2) The **CONTRACTOR** cannot provide confidential information to third parties and cannot participate in media coverage in relation to execution of the Contract without the preliminary written consent of the **CONTRACTING AUTHORITY**.

(3) The **CONTRACTOR** has no right to use, disclose, grant, distribute any unpublished or confidential information, received in the process of audition, unless being preliminary allowed by the **CONTRACTING AUTHORITY**.

(4) The confidential information may only be provided to other persons, that are authorized in writing to receive it by the **CONTRACTING AUTHORITY**.

(5) Before the beginning of execution of Contract the **CONTRACTOR** shall submit to the **CONTRACTING AUTHORITY** a list of persons, representing the **CONTRACTOR** in the process of performance of Contract, as well as of all the representatives of its Subcontractors. Only the persons, specified in the list, shall have access to confidential information.

(6) The persons, included in the lists in the previous Paragraph, shall sign a Confidentiality declaration, as well as that they are aware of the respective legal liability, in two originals – one of them shall be submitted to the **CONTRACTING AUTHORITY**, together with the list under Para 5.

(7) All the materials provided, despite of their media and form, cannot be copied without the preliminary written consent of the **CONTRACTING AUTHORITY**.

(8) At completion of the Contract or at request from the **CONTRACTING AUTHORITY**, all granted materials, containing confidential information, shall be returned to the **CONTRACTING AUTHORITY**.

(9) Granting confidential information to dully authorized representatives of the **CONTRACTING AUTHORITY**, the **CONSULTANT**, the Designer, **OLAF**, as well as the Ministry of Finance, the managing bodies of Operating program Regional Development and Operatin Program Transport, the Management Board of the Cohesion Fund (Regulation 1164/94), the Implementing Agency under the PHARE program to the MRDPW, respectively the international financial institutions, the Court of Auditors, the audition bodies of the European Union, respectively the audition bodies of the international financial institution, shall not be considered as a violation under Para 1- 9 incl.

**Art. 84. (1)** Hiring Subcontractors does not release the **CONTRACTOR** from their duties under this Contract.

(2) Granting confidential information to the representatives of Subcontractors shall not be considered a violation of Art. 82, Para 1 from this Contract.

(3) The provisions of the contracts with the Subcontractors shall not contradict to the requirements of this Contract.

## **XXV. CONFLICT OF INTERESTS**

**Art. 85.** The **CONTRACTOR** warrants, that no official of the **CONTRACTING AUTHORITY** has received and shall not be offered by the **CONTRACTOR** direct or indirect benefit, resulting from this Contract.

**Art. 86. (1)** The **CONTRACTOR** shall undertake all the necessary precautions for avoiding conflict of interests, as well as to immediately inform the **CONTRACTING AUTHORITY** concerning the circumstance, which causes or may cause similar conflict.

(2) The conflict of interests is the event when the impartial and objective execution of functions in relation with the bidding in the Public Procurement Procedure and/or performing the Contract by any person is endangered due to reasons, related to the family, emotional life, political or national affinity, economic interests or other common interests, that this person has with the **CONTRACTING AUTHORITY** or the **CONTRACTOR**, in compliance with Art. 52 from Regulation (EC, Euratom) 1605/2002, concerning the financial regulations, applicable to the common budget of the European Community, modified by a Regulation of the Union (EC, Euratom) No 1995/2006 г.

**Art. 87.** The **CONTRACTOR** shall undertake all the necessary precautions for not allowing irregularities and fraud, which have or would have as a consequence causing harm to the common budget of the European Union and/or the national budget, as well as to immediately inform the **CONTRACTING AUTHORITY** regarding a circumstance, which causes or may cause irregularity or fraud.

**Art. 88.** The **CONTRACTOR** explicitly undertakes not to attract employees of the **CONTRACTING AUTHORITY** with managerial functions and/or experts, as well as member of the project management team to work under labor contract, civil contract, management contract for them personally or for another legal entity, in which they are or shall become което той е или стане partner, auctioneer, manager, director, consultant or in other way be related under § 1 from the Additional provisions of the Commerce Act for one year after termination of labor relationships with the **CONTRACTING AUTHORITY**, but not later than expiration of Contract, despite of the grounds for termination. In the event of non-performance of this provision the **CONTRACTOR** shall owe a forfeit to the **CONTRACTING AUTHORITY**, amounting to 1% /one percent/ from the price for execution of Contract.

## **XXVI. OTHER PROVISIONS**

**Art. 89. (1)** The Contract was concluded with a view to the economical and financial state, technical abilities and professional qualification of the **CONTRACTOR**;

(2) In case of conversion without termination, the change of name, legal form, central office, management address, subject of activities and purpose, time frame for existence, management and representative bodies, type and membership of the collective management body of the **CONTRACTOR**, the **CONTRACTOR** shall inform the **CONTRACTING AUTHORITY** about the change within 7 days from entering it into the respective register.

(3) The parties have no right to transfer, partially or completely, their rights and obligations under the Contract, unless in the conditions of universal succession.

**Art. 90.** When provisioned in the Contract that the Parties shall perform certain action “immediately”, this action shall be performed immediately after appearance or occurrence or getting to know about an event, which causes liability, but not later than 3 days.

**Art. 91. (1)** If no other has been provided, the days in this Contract shall be considered as calendar days.

(2) The deadlines under this Contract shall be counted as provided in the Law on Obligations and Contracts.

**Art. 92. (1)** The **CONTRACTING AUTHORITY** issues a recommendation for good performance for the **CONTRACTOR**, when the latter has performed the Contract with the required quality and within the contracted deadline, has not been sanctioned with forfeits, unless the forfeits are restored under Art. 66, Para 2 and does not owe an indemnification for non-performance to the **CONTRACTING AUTHORITY**.

(2) In all the other case the **CONTRACTING AUTHORITY** may refuse to provide a good recommendation.

**Art. 93.** When this Contract provides that certain activity or liability is at the account of the **CONTRACTOR**, then the expenses for this activity or liability cannot be requested by the **CONTRACTING AUTHORITY** additionally to the Price for execution of Contract.

**Art. 94. (1)** All the messages between the Parties and in relation to the present Contract shall be in writing. The messages shall be exchanged to the following addresses:

1. For the **CONTRACTING AUTHORITY**: .....
2. For the **CONTRACTOR**: .....

(2) In the event of change of the data, specified in the previous Paragraph, each of the parties shall inform the other Party in writing within 3 days from the change.

**Art. 95.** The nullity of any provision under this Contract does not lead to nullity of any other provision or he Contract as a whole.

**Art. 96.** All the arguments, arisen from this Contract or in relation to it, including the arguments, arisen from or related to its interpretation, invalidity, execution or termination, as well s the arguments for filling gaps in the Contract or its adaptation to newly appeared circumstances, shall be taken to the competent Bulgarian Court.

**Art. 99.** An inseparable part of this Contract are the following Appendices

- Appendix A – Bidding documentation for the Public Procurement Procedure and its appendices;
- Appendix B – The Proposal of the на **CONTRACTOR**;
- Appendix C - Technology construction program;
- Appendix D – Insurance policies

This Contract was prepared and signed in three originals – one for the **CONTRACTOR** and two for the **CONTRACTING AUTHORITY**.

.....  
**FOR THE CONTRACTING AUTHORITY:**

.....  
**FOR THE CONTRACTOR**