

# **CONTRACT**

**FOR AWARD OF PUBLIC PROCUREMENT FOR  
FULFILMENT OF ADDITIONAL DESIGN AND  
CONSTRUCTION OF SITE:“HEMUS” MOTORWAY, /A2/  
SOFIA RING ROAD (SRR) – YANA ROAD JUNCTION, FROM  
KM 0+000 TO KM 8+460**

**CONTRACTING AUTHORITY:**

.....

**CONTRACTOR:**

.....

**Sofia, 2011**

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Today, ..... 2011 г. (..... Two thousand and ten), in the town of Sofia,

1. Road Infrastructure Agency, with headquarters and registered address in Sofia 1606, 3 Macedonia Blvd., with unique identification code (UIC) ....., represented by ..... – Chairman of the Management Board, hereinafter referred to as **CONTRACTING AUTHORITY**, и
2. ...., with headquarters and registered address .....  
....., registered under company case № ..... / ....., at .....,  
with unique identification code (UIC) / BULSTAT [*for foreign person/entity – the appropriate identification data under the law of the State of its registration*], represented by ..... -  
..... [*title of the representative*], hereinafter referred to as **CONTRACTOR**<sup>1</sup>,

On the grounds of Art. 41 in conjunction with art. 74<sup>2</sup> of the Public Procurement Act, entered into this contract for the following, and in pursuance of the decision of the Management Board ..... and the decision of the Chairman of the Management Board ..... on the selection of contractor:

## I. DEFINITIONS

**Art. 1.** Unless the context shall provide for otherwise, all words and expressions listed in this Art. 1 in alphabetical order and written hereinafter in this Contract with capital letters shall have the following meaning:

1. **"Archaeological findings"** has the meaning, given in art.146, para. 1 of the Cultural Heritage Act;

2. **"Goodwill bank"** shall be a bank awarded the credit rating / financial stability of at least BBB- according to the evaluation system of Standard & Poor's and Fitch IBCA or at least Baa3 under according to the evaluation system of Moody's Investors Service;

3. **"Contracting Authority"**, "Road Infrastructure Agency" – shall mean the Road Infrastructure Agency - represented by the chairman of the Management Board and/or his representative;

4. **"Contract performance guarantee"** – shall mean a cash deposit in the escrow account or an irrevocable and unconditional bank guarantee which **THE CONTRACTOR** shall provide for the performance of its obligations under this Contract, which is presented under the provisions of art. 60 and subsequent provisions in the contract.

5. **"Security Guarantee for a down payment"** shall mean an irrevocable and unconditional bank guarantee, which **THE CONTRACTOR** shall provide under its obligation to refund the amount of down payment received from **THE CONTRACTING AUTHORITY**, which is presented under the provisions of art. 8, para. 3 of the contract<sup>3</sup>;

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<sup>1</sup> Whenever the Tenderer is an union, the text of paragraph 2 shall be completed by stating explicitly that THE CONTRACTOR is a grouping and data for each Tenderer in it shall be inserted in addition. It shall also add the person, who in accordance with the document verifying the formation of the union and under the Offering Bid is vested in powers to sign this Contract.

<sup>2</sup> Upon conclusion of the contract the applicable paragraph of Article 74 of the Public Procurement Act shall be added.

<sup>3</sup> The definition shall be excluded from the contract, unless in its Technical Bid, the CONTRACTOR states that no down payment is required.

6. **"Guarantee obligations"** shall mean any obligation to remedy the defects within the relevant warranty period in accordance with Ordinance № 2 of 31.07.2003 for commissioning of Construction and Assembly Works in the Republic of Bulgaria and the minimum warranty periods for completed construction and assembly works, facilities and construction sites (promulgated in the State Gazette, issue 72, 2003, amended and supplemented, issue 49/2005);

7. „**Warranty period**" - shall mean a total warranty period for the completed Construction and Assembly Works on the construction site, including facilities as proposed in the Technical Bid;

8. „**Construction schedule**" – shall mean a linear schedule for completion of different types of additional design and CAW, which **THE CONTRACTOR** has offered in its Technical Bid, which describes the sequence and time duration of all activities within the scope of the Contract

9. **"Date of completion"** - shall mean the date of drafting Statement of Findings (SOF) form №15 for under Ordinance № 3 for the entire construction site;

10. **"Contract Activities"** - shall mean the activities as set forth under art 4, para. 2 of this Contract;

11. **"Defect"** - shall mean any non-compliance in the accomplished works with the provisions of this Contract, the Investment Project and the Technical Specifications;

12. **"Contract"** - shall mean this Contract, including its preamble and appendices;

13. **"Additional works"** shall mean all activities that are necessary for the actual completion of construction and that are not part of the obligations of **THE CONTRACTOR** under this Contract and its appendices;

14. **"Additional design"** shall mean any amendment and supplement of the Investment Project, executed by **THE CONTRACTOR** and approved by **THE CONTRACTING AUTHORITY** under the terms and conditions of this Contract and Appendix 10 to the bidding documentation in the public procurement procedure;

15. **"Executive Documentation"** shall mean documentation to be compiled immediately after the execution of any part of the Construction and Assembly Works in breach of the Investment Project;

16. **"Stage"** – shall mean a part of the construction , stated in art. 7 para. 1 of the Contract, which has to be executed by the **CONTRACTOR** under the provisions of Actual completion in accordance with the interim period, stipulated in the Construction schedule.

17. **"Team"** - shall mean the designers and those persons carrying out the technical supervision of construction (management staff) and workers and employees (experts and technical qualified staff) that **THE CONTRACTOR**, in accordance with the Technical Bid, must employ for the execution of the construction works;

18. **"Statutory provisions"** - shall mean the Constitution of the Republic of Bulgaria, international treaties as ratified, promulgated and entered into force, to which Bulgaria is a party, acts of EU institutions with binding effect, legislation and subordinate legislation, passed by competent institution in the Republic of Bulgaria;

19. **"Public Procurement Act (PPA)"** shall mean the law, promulgated in the State Gazette, issue 28 of 2004, as subsequently amended and supplemented;

20. **"Cultural Heritage Act"** shall mean the law promulgated in the State Gazette, issue 19 of 13.03.2009 as subsequently amended and supplemented;

21. **"Spatial Planning Act (TDA)"** - shall mean the Spatial Planning Act (promulgated in the State Gazette, issue 1 of 2001 as subsequently amended and supplemented);

22. „**Notice of defects**" - shall mean a written message from **THE CONTRACTING AUTHORITY** to **THE CONTRACTOR** for a defect appearing within the warranty periods;

23. **"Fraud"** shall mean any intentional act and/or omission to act, which harms the financial interests of the European Community, including the Republic of Bulgaria, and consists of:.

a) in respect of costs - any wilful act and/or omission to act relating to:

aa) use or submission of false, inaccurate or incomplete reports or documents, resulting in incorrect utilization or retention of funds from the national budget and/or the general budget of the European Community or budgets managed by the State or the European Community, or on their behalf thereof;

bb) any failure to disclose information in violation of a specific obligation, with the same effect as under letter "aa" hereinabove;

cc) any unauthorised use of such funds for purposes other than the purposes for which they have been granted

**b)** in respect of revenues - any wilful act and/or omission to act relating to:

aa) use or submission of false, incorrect or incomplete reports or documents, resulting in illegal reduction of general budget resources of the European Community or budgets managed by or on behalf of the European Community communities;

bb) any failure to disclose information in violation of a specific obligation, with the same effect as under letter "aa" hereinabove";

cc) any illegal use of legally obtained benefit with the same effect as under letter "aa".

24. **"Investment Project"** shall mean the project presented as Appendix № 1 to the bidding documentation in the public procurement procedure and its amendments (including additional design and operating design) elaborated after the conclusion of this Contract;

25. **"Consultant"**, shall mean the person with whom **THE CONTRACTING AUTHORITY** has entered into a contract for consultancy services to implement the obligations under Article 166, paragraph 1 of the Spatial Planning Act, and all other duties assigned under this contract or the consultancy contract;

26. **"Poor performance"** shall occur whenever a Party hereunder has fulfilled its obligation with a poorer quality than required;

27. **"Interim certificate for completed design and Construction and Assembly Works(CAW)"** - shall mean a certificate of actual completion of a stage, which shall serve as the basis for making interim payments;

28. **"Interim payment"** shall mean payment made by **THE CONTRACTING AUTHORITY** to **THE CONTRACTOR** of a part of the contract price, representing (a) the value of the respective stage, (b) reduced by deducting the amounts for refunding the down payment as per art. 8 para.2;

29. **"Escrow account"** shall mean an account [please, insert the bank account details], opened in the name of **THE CONTRACTING AUTHORITY**, where **THE CONTRACTOR** shall deposit / has deposited amounts representing a performance guarantee for the contract's execution when they are in the form of cash deposits;

30. **"Ordinance № 3"** shall mean Ordinance № 3 dated 31.07.2003 for drawing up acts and protocols during construction (promulgated in State Gazette, iss. 72, dated August 15<sup>th</sup> 2003 with the subsequent amendments and supplements);

31. **"Start of Construction"** - shall mean the date of drafting and signing of Protocol form № 2a under Ordinance № 3 for permit to begin construction work and level for any part of the construction site.

32. **"Nonfulfillment"** of **THE CONTRACTOR** shall be any of its or its officers, employees, representatives, co-agents, agents and/or Subcontractors' wrongful act or omission to act in breach of the provisions of this Contract or the applicable statutory provisions;

33. **"Irregularity"** shall mean any violation of a provision of the European Community law and/or the Bulgarian legislation resulting from an act or omission to act of **THE CONTRACTOR**, or would have the effect of prejudicing the general budget of the European Union and/or the national budget, accounting for unjustifiable expenses.

34. **"Inaccurate performance"** - shall mean any fault other than due under the contractual or statutory provisions, including any delayed, poor, incomplete or partial performance;

35. „**Public procurement title**” shall mean the execution of additional design and construction of “Maritsa” Motorway /A-1/ Orizovo – Kapitan Andreevo, section: Lot 1 “Orizovo - Dimitrovgrad”, from 5<sup>+000</sup> to km 36<sup>+400</sup>.

36. “**Notice**” shall mean the public procurement notice under art. 25, para. 2 of the Public Procurement Act, as published in the website of the State Gazette under № [registration №] of [date] and in the Official Journal of the European Union under № [registration №] dated[...];

37. “**Equipment**” - shall mean construction machinery, manufacturing equipment and facilities, including the technical equipment for testing and examination, thereby ensuring quality control of completed Construction and Assembly Works as listed in Appendix B to this Contract, which **THE CONTRACTOR** in accordance with the Technical Bid must provide and maintain for the construction and completion of construction works for each of the stages;

38. “**Public procurement**” - shall mean the open procedure for awarding the public works contract held under the provisions of the Public Procurement Act;

39. “**Final completion**” of the Construction and Assembly Works - shall mean the issue of use permit for entire construction site;

40. “**Tender bid**” shall mean the tender bid submitted by **THE CONTRACTOR** dated....., comprising the Technical Bid and the Price Bid and the other documents, stated in the documentation for award of public procurement on the basis of which **THE CONTRACTING AUTHORITY** has made a decision for the selection of public procurement **CONTRACTOR** and which is an integral part of this Contract (Appendix B);

41. “**Plot plan**” - shall mean the detailed territory structure plan for the technical infrastructure components, located beyond the urban areas under the Spatial Planning Act;

42. “**Safety and Health Plan**” shall mean the Safety and Health Plan under Ordinance № 2 of 2004 for the minimum requirements for health and safety at work when carrying out Construction and Assembly Works (promulgated in the State Gazette, issue 37 of 2004 as subsequently amended and supplemented);

43. “**Sub-contractor**” - shall mean a person referred to in Technical Bid, which is involved in the execution of the Construction and Assembly Works and/or design work under the contract on the basis of a valid contract with **THE CONTRACTOR**;

44. “**Applied Plot Plan (APP)**” shall mean the plot plan being effective, by virtue of which the expropriation of lands for state’s needs has been completed.

45. “**Project Documentation**” shall mean the agreed and approved investment projects, plans and drawings and described in Appendix A attached to this Contract and additional projects prepared by **THE CONTRACTOR** and approved by **THE CONTRACTING AUTHORITY** under the stipulations of this Contract and the Bulgarian;

46. “**Protocol for uncompleted or partially completed CAW**” shall mean the Protocol, as laid down in Article 54, paragraph 1 of this Contract;

47. “**Detailed Land Estate Plan**” - shall mean the detailed land estate plan, including the parcel plan, under the Spatial Planning Act;

48. “**Complete failure**” shall occur whenever the party liable under the contract has failed to meet any of the specific obligations under this Contract within the prescribed period or wherever it has done something contrary to what it has undertaken not to do or has done everything according to its liabilities, but so much delayed or in such a poor quality that the performance thereof is useless for the other contracting party.

49. “**Road facilities**” shall have the meaning, as stipulated in §1, item 3 of the Supplementary provisions of the Traffic law;

50. “**Certificate**” - shall mean protocol for completed works under every stage or for the entire construction site, prepared and approved under the provisions of the Contract;

51. **"Payment Certificate"** - shall mean any interim certificate for completed design work and Construction and Assembly Works, which shall be grounds for payment of part of the Contract price by the **CONTRACTING AUTHORITY**;

52. **"Certificate of final completion of the work"** - shall mean a certificate drawn up after the issue of a use permit of the entire construction site;

53. **"Certificate of actual completion"** - shall mean a certificate as laid down in art. 53, para. 4 of this Contract, issued after completion of Statement of Findings, form blank 15 for the entire construction site, enabling **THE CONTRACTING AUTHORITY** to request the National Construction Supervision Authority to appoint State Acceptance Commission to draw Pac (Provisional acceptance certificate, form blank 16 (PAC), according to art. 176, para. 1 of the Spatial Planning Act;

54. **"Repeated failure"** shall occur whenever for the same obligation under the Contract inadequate performance is found three or more times, regardless of the time between different failures.

55. **"Construction site"** - shall mean the territory where construction works shall be done and terrains, required for the preparation and execution of CAW ;

56. **"Construction and Assembly Works (CAW)"** - shall mean the activities to be carried out under the provisions of this Contract for the implementation of the construction works;

57. **"Construction products"** shall mean the products, which are used in the construction process: construction site materials, including concrete and asphalt mixes, products, components, parts, kits, etc

58. **"Construction components / details"** - shall mean structural parts of the road equipment produced in industrial conditions at the construction site or supplied by a specialised manufacturer;

59. **"Parties"** - shall mean collectively **THE CONTRACTING AUTHORITY** and **THE CONTRACTOR** under this Contract;

60. **"Party"** - shall mean either **THE CONTRACTOR**, or **THE CONTRACTING AUTHORITY** under this Contract;

61. **"Construction site"** – shall mean “Maritsa” motorway /A-1/ Orizovo – Kapitan Andreevo, section: Lot 1 “Orizovo - Dimitrovgrad”, from km 5<sup>+000</sup> to km 36<sup>+400</sup>, representing the result of CAW, executed by the **CONTRACTOR** under the provisions of this Contract;

62. **"Serious breach"** shall mean any improper execution of any Construction and Assembly Works whose cost equals or exceeds 3% (three percent) of the contract price.

63. **"Technical infrastructure"** shall have the meaning under § 5, item 31 of the Additional Provisions of the Spatial Planning Act;

64. **"Technical Bid"** shall mean the part of **THE CONTRACTOR's** tender bid submitted in the public procurement procedure by which **THE CONTRACTOR** has made a binding proposals for the implementation of this Contract and which is part of Appendix B to this Contract;

65. **"Technical passport"** shall have the meaning under § 5, item 64 from the Supplementary provisions of Spatial Planning Act

66. **"Technical Specifications"** shall mean all the technical requirements provided for in laws, regulations, standards and technical approvals, which set out the requirements for construction products in such a way as to meet the use and exploitation intended by **THE CONTRACTING AUTHORITY**. These rules include requirements for design, testing, supervision and acceptance conditions for Construction and Assembly Works, methods or techniques of construction and all other technical conditions related to construction site construction. Part of the Technical Specifications shall be the technical specification of **THE CONTRACTING AUTHORITY** submitted along with the bidding documentation in the public procurement procedure;

67. **"Technical and Construction Programme"** - shall mean **THE CONTRACTOR's** programme for implementing the Construction and Assembly Works corresponding to the

Construction Schedule, which includes: linear schedule, location of the equipment including terms for delivery, installation and commissioning of the production equipment and facilities, organisation of production or supply of construction details, delivery or manufacture of construction products, organisation of quality control including a construction laboratory; the organisation of the Construction and Assembly Works, the sequence of execution of the Construction and Assembly Works on the construction site; technological stages of the construction activities, organisation of guarantee maintenance of the construction site;

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

(a) in respect of the entire construction site - completion of these Construction and Assembly Works allowing the entire construction site handing over by **THE CONTRACTOR** via Statement of Findings form 15 ;

(b) for the different stages - the full completion of all works included in this stage, and their acceptance by **THE CONSULTANT** under the terms and conditions of this Contract;

69. "**Financial risk**" – shall mean a risk, which occurs individually or cumulatively in the following varieties:

a) currency risk - the risk arising from changes in exchange rates;

b) interest rate risk - the risk arising from changes in interest rates;

c) market risk - the risk arising from changes in market price.

70. "**Force majeure**" shall mean an irresistible force and/or unforeseen circumstances as per § 1, 14 of the Additional Provisions of the Public Procurement Act

71. „**Contract price**” – shall mean the amount under art.. 7, para.1 of this contract;

72. "**Price Bid**" – shall mean the contract price, which **THE CONTRACTOR** has offered as a part of its tender bid submitted for participation in the public procurement procedure, which is part of Appendix B to this Contract.

73. "**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 performance.

## II. STATEMENTS AND DECLARATIONS OF THE PARTIES

**Art. 2.** With this Contract **THE CONTRACTING AUTHORITY** shall state and declare that:

1. any of the statements, facts and circumstances contained in this Article 2 is true, correct in all respects and not misleading;

2. shall immediately notify **THE CONTRACTOR** in writing in case of receive of any information about any circumstance, which is relevant to the subject of this Contract affecting the rights and obligations of the parties after the signing of this Contract;

3. the conclusion of this Contract does not conflict with the laws prevailing at the date of signature thereof;

4. the terms and conditions of this Contract establish valid and binding obligations on **THE CONTRACTING AUTHORITY**;

5. there is no conflict of interests of persons in management positions, or **THE CONTRACTING AUTHORITY** employees, participating in the preparation and implementation and will participate in the execution of the public procurement.



**Art. 3. THE CONTRACTOR** shall state and declare that:

1. any of the statements, facts and circumstances contained in this art. 3 is true, correct in all respects and not misleading;

2. it is a valid and duly incorporated and existing legal entity under the laws of [jurisdiction in which the person is]<sup>4</sup>, which meets the requirements of art. 47, para. 1 of the Public Procurement Act and art. 47, para. 2 of the Public Procurement Act. To verify the same, upon signing this Contract **THE CONTRACTOR** has provided **THE CONTRACTING AUTHORITY** documents issued by the competent authorities:

a) a copy of the registration document or unique identification code in accordance with Article 23 of the Commercial Register Act<sup>5</sup>;

b) documents certifying the non-existence of the circumstances under art. 47, para. 1 para. 2 of the Public Procurement Act

aa) ☐

bb) ☐ <sup>11</sup>

3. person(s) signing this contract shall have the appropriate [legal / contractual] powers to sign this Contract, which is verified by [*please, specify the document vesting the person(s) with the powers of attorney*].

4. the conclusion and implementation of this Contract in all respects shall not contradict or be in breach or violation of any other contract to which **THE CONTRACTOR** is a party or by which **THE CONTRACTOR** or its assets are bound, which would materially affect **THE CONTRACTOR**'s performance of its obligations under this Contract;

5. there are no pending lawsuits, judgments or acts of administrative authorities, claims or investigations against **THE CONTRACTOR** or there is no existing threat thereof against **THE CONTRACTOR**, which may materially affect adversely the performance of its obligations under this Contract.

6. for signing of this contract **THE CONTRACTOR** shall not be required any agreement or any permit, license, notification or presentation of a government or administrative body, or if such are requested, they shall be provided in due time by **THE CONTRACTOR**, who has submitted them to **THE CONTRACTING AUTHORITY** by the date of signing of this Contract;

7. has received all the information about the public procurement subject, earlier provided by **THE CONTRACTING AUTHORITY** for the purposes of this Contract and this information has been at **THE CONTRACTOR**'s availability. **THE CONTRACTOR** shall declare to commit its own preliminary check referring the public procurement subject as well as an inspection of the construction area and that he has neither relied nor relies solely on a declaration or guarantee, provided by **THE CONTRACTING AUTHORITY** on the information thereon;

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<sup>4</sup> This and subsequent statements will be adjusted accordingly, according to the status of THE CONTRACTOR (natural person or a consortium/unification). If the Contractor is an union, by signing this Contract Article 3 shall be supplemented with the following: "Tenderers in the union of THE CONTRACTOR shall be jointly responsible for implementing this Contract.»

<sup>5</sup> Delete as appropriate. It should be taken into consideration that according to Article 47, paragraph 10 of the Public Procurement Act in connection with Article 23, paragraph 4 of the Commercial Register Act, if in its tender bid the Tenderer has stated UIC, the Contracting Authority may not require "proof of the circumstances listed in the commercial register, and the presentation of the acts announced in the Commercial Register."

<sup>11</sup> In the number of entries the relevant documents certifying the absence of the circumstances under Article 47, paragraph 1 and 2 of the Public Procurement Act shall be inserted.

8. has taken into account all the circumstances of any kind which may affect the term for execution of this Contract and/or the Contract price during the preparation of the tender bid;

9. shall carry out the execution of the construction works in compliance with the applicable laws and the provisions of this Contract;

10. shall notify **THE CONTRACTING AUTHORITY** immediately in writing if it receives any information about any circumstance which is relevant to the subject of this Contract, which may affect the rights and obligations of the parties after the conclusion of this Contract.

11. **THE CONTRACTOR** has not offered or provided, or will not offer or provide direct or indirect benefit arising from the award and/or implementation of this Contract to persons in managerial positions or other **CONTRACTING AUTHORITY** employees.

### **III. SUBJECT OF THE CONTRACT**

**Art. 4. (1) THE CONTRACTING AUTHORITY** assigns, and **THE CONTRACTOR** agrees in return of payment of the Contract price to perform the public procurement subject.

**(2) THE CONTRACTOR** shall undertake the following activities related to the the construction works execution:

1. implementation of the Construction and Assembly Works according to the Investment Project and Technical and Construction Programme, the prescriptions and orders in the order book

2. supply and use of Construction products necessary and complying with the technical specifications and the Investment project in construction;

3. production and/or delivery of Construction details / components and their utilization in the construction site;

4. provision of terrains for construction needs - for temporary structures for construction, for production grounds (bases) for the purposes of construction, for storage of materials and equipment and for other needs in connection with the execution of the construction works as set out in the Safety and Health Plan (in cases when they are outside the territory of the construction site);

5. additional design or design activities, which are not included in the initial Investment project, part of the bidding documentation for participation in public procurement.

6. carrying out activities for shifting underground and ground networks and facilities during the construction process;

7. carrying out the necessary tests and laboratory tests;

8. organising the activities of collection, transportation, disposal and recycling of construction and other wastes, resulting from the implementation of activities under this para. 2 in accordance with the provisions of Bulgarian legislation.

9. drawing up of construction documents, preparation of executive documentation of any construction and assembly works forming part of the construction site, which deviates from the Investment Project;

10. participation in the construction site commissioning;

11. remedy of any defects found during the construction site handing over and its commissioning thereof at its own expenses;

12. warranty maintenance of the construction site (remedy of defects within the warranty period).

13. all other actions assigned to THE CONTRACTOR under the terms and conditions of this contract, including the activities under Section XVII PLAN FOR THE PROVISION OF INFORMATION AND PUBLICITY MEASURES”

14. all other activities necessary to fulfil the public procurement subject to guarantee the maintenance of the construction site unless this contract or the Bulgarian legislation explicitly assigns them within the responsibilities of **THE CONTRACTING AUTHORITY, THE CONSULTANT** or a third party.

#### **IV. TERM OF IMPLEMENTATION OF ADDITIONAL DESIGN AND CONSTRUCTION AND ASSEMBLY WORKS UNDER THE CONTRACT**

**Art. 5. (1) Article 5. (1)** The period for implementation of additional design and Construction and Assembly Works under the Contract is set at ..... (.....)<sup>6</sup> months, starting from the Start of construction and until the Completion of construction. For avoidance of any doubt, additional design works may begin immediately after the signing of this Contract, as the term for its implementation shall remain the date of completion.

(2) Within the term under para. 1 **THE CONTRACTOR** will fulfil the additional design and Construction and Assembly Works essential to the completion of the entire construction site. **THE CONTRACTOR** must comply with the interim terms for the various stages of implementation determined in accordance with the Schedule of the Construction and Assembly Works as presented in the Technical Bid

**Art. 6. (1)** The term for implementation under art. 5 of the contract may be extended only under force majeure circumstances, which make it impossible to complete the entire construction site or any of its Stages.

(2) In case **THE CONTRACTOR** considers to be entitled to extend the contract’s term, **THE CONTRACTOR** shall make a written request to **THE CONTRACTING AUTHORITY** to extend the term under the contract as per the stipulation of art. 75.

(3) In case any circumstances under para. 1 occur, **THE CONTRACTING AUTHORITY**, after receiving the **THE CONSULTANT**’s opinion, shall have either of the following options:

1. to extend the contract term if there is a request from **THE CONTRACTOR** under para. 2;  
or

2. to exercise its right to terminate this Contract as per art. 78, para.2 of this Contract. **THE CONTRACTOR** has the same right.

(4) In the cases under para. 3, item 1, **THE CONTRACTING AUTHORITY** shall notify **THE CONTRACTOR** in writing within 14 (fourteen) days of receipt of the request. The parties shall sign an addendum to this Contract extending the term for implementation thereof, which extends the term for implementation of this Contract is in accordance with the duration of force majeure circumstance under para. 1.

(5) **THE CONTRACTOR** shall not be entitled to ask for an extension to fulfil the contract because of force majeure circumstance if this circumstance affects only certain stages and **THE CONTRACTOR** may accelerate its work under other stages within the contract price, including by transferring members of its team and equipment of the stages affected by such delay in a manner essential to allow completion of all construction works within the term as specified in this Contract.

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<sup>6</sup> To be completed as specified in the **THE CONTRACTOR** tender bid. The maximum term could not be more than 25 months.

**Art. 6a. (1)** In all cases where this Contract or its appendices indicate that upon the occurrence of certain risks encumbering **THE CONTRACTOR**, the term for implementation at some stage shall be suspended for the duration of the delay in implementing this stage, the period for implementation shall not be suspended if the risk occurred only affects certain activities of this Stage and **THE CONTRACTOR** can accelerate its work on other activities involved in the Stage, within the proposed contract price, including by transferring members of its team and equipment from he operations affected by such a delay, so as to allow actual completion of stages within the period specified in the schedule for implementation. For avoidance of any doubt, the suspension of the term for implementing the various stages shall not change the term for implementing the remaining stages.

(2) **THE CONTRACTOR's** right as per para. 1 shall be exercised as stipulated in art. 6, para. 2.

**Art 6b.** The Contract shall enter into force after the provision of the financing of the construction and the notification of the **CONTRACTOR** on the part of the **CONTRACTING AUTHORITY** about that.

## **V. CONTRACT PRICE. PAYMENT OF THE COST FOR THE CONTRACT IMPLEMENTATION. COST CONTROL**

Art. 7. (1) The Contract price, due by **THE CONTRACTING AUTHORITY** to **THE CONTRACTOR** shall amount [please, indicate in accordance with the Price Bid] VAT excluded. namely..

**1.1 Stage I comprising .....** at the amount of [BGN<sup>1</sup>] VAT excluded

**1.2 Stage II comprising.....** at the amount of [BGN<sup>1</sup>] VAT excluded

**1.3 Stage III comprising.....** at the amount of [BGN<sup>1</sup>] VAT excluded

etc

(2) **THE CONTRACTOR** confirms that the Contract price is the only remuneration for implementation of this Contract activities and **THE CONTRACTING AUTHORITY** shall not be liable to pay **THE CONTRACTOR** any other amounts.

(3) **THE CONTRACTOR** confirms that the Price Bid covers the full cost of implementation of all its obligations under this Contract, including, without limitation, the following costs:

1. costs of additional design and/or Construction and Assembly works to actual completion of the entire Construction site, including those preparing for the construction of the temporary works to ensure the transport of machinery and wages, temporary traffic organisation, disposal of unsuitable soils and construction waste, changes in the organisation of construction, labour safety, insurance of the Construction and Assembly Works and professional responsibility, and other inherent costs not specified herein.

2. price of financial risk;

3. purchase costs of utilized construction materials;

4. costs associated with any unforeseen geological conditions or any other unforeseen circumstances which do not constitute Force Majeure circumstance.

5.costs for carrying out the testing and commissioning of the construction site to be borne by **THE CONTRACTOR**;

6. costs for agreement procedures, except of the costs specifically encumbering **THE CONTRACTING AUTHORITY**.

7. any other costs necessary for the implementation of this Contract.

(4) The contract price is final shall not be altered by changes in prices of construction products, equipment, etc. Change in the price for the contract implementation is possible only in cases , stipulated by the Public Procurement Act.

(5) Irregardless the bearer of occurred risks, impeding the implementation of the Contract activities, **THE CONTRACTOR** has no right to increase the Contract price. If additional activities have to be performed, they shall be awarded with procedure, carried out under the PPA stipulations.

(6) All payments under the Contract shall be made in Bulgarian leva (BGN).

(7) If, under the legislation in force value added tax is due, it shall be accrued on the Contract price.

**Art. 8.<sup>7</sup>** (1) Within 30 (thirty) days from the date of signing the contract **CONTRACTING AUTHORITY** shall pay to **THE CONTRACTOR** a down payment [BGN] VAT exclusive, amounting 5 (five) percent of Contract price, excluding VAT. No interest shall be accrued on the down payment.

(2) The down payment shall be repaid by deducting amounts to 5% of payments to **THE CONTRACTOR** as per art. 9 till the full down payment refunding.

(3) The down payment shall be paid only after submission of irrevocable and unconditional bank guarantee issued by a goodwill bank, covering the full amount of the down payment made in the form attached to the bidding documentation in the public procurement procedure (or another form containing the same or better conditions for **THE CONTRACTING AUTHORITY**), valid for 90 (ninety) days after the date of completion. The amount of guarantee to ensure the down payment shall be automatically deducted with the amount of each deduction made under para. 2

**Art. 9.** Interim payments shall be made based on:

1. Actual completion of any Stage.
2. Report for Construction and Assembly Works, which also contains information as per art. 45 of this Contract, with attached proofs for the quality of completed CAW;
3. Interim certificate for performed design work and Construction and Assembly Works prepared by **THE CONTRACTOR**, checked and agreed by **THE CONSULTANT** and approved by **THE CONTRACTING AUTHORITY** under the terms and conditions of this Contract;
4. tax invoice issued by **THE CONTRACTOR** after approval of the certificate by **THE CONTRACTING AUTHORITY**.

**Art. 10.** (1) **THE CONSULTANT**, within 10 working days after receipt of the documents under art 9, para. 1, item 1 and 2 from **THE CONTRACTOR**, shall verify and agree the amount to be paid to **THE CONTRACTOR** and in case of existence of conditions for payment, it shall submit to **THE CONTRACTOR** the Interim certificate for performed design work and Construction and Assembly Works for approval. In case **THE CONSULTANT** declines to issue an Interim certificate, it shall provide **THE CONTRACTOR** with a written statement with its arguments for waiver to do so within the term under the previous sentence.

(2) **THE CONTRACTING AUTHORITY** shall approve or reject the certificate submitted for approval within 10 (ten) working days of receiving the statement by **THE CONSULTANT**, and shall notify both **THE CONTRACTOR** and **THE CONSULTANT** thereof. If **THE CONTRACTING AUTHORITY** refuses to approve the Interim certificate, he shall submit to **THE CONTRACTOR** and **THE CONSULTANT** a written statement with its arguments for the rejection.

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<sup>7</sup> The text will be excluded from the contract if the Contractor has indicated in its technical bid that no down payment is required.

(3) If **THE CONSULTANT**, respectively **THE CONTRACTING AUTHORITY** refuses to agree / approve the Interim certificate for performed design and Construction and Assembly Works under the terms and conditions of this article, **THE CONTRACTOR** shall undertake actions to eliminate the reasons for this rejection by complying with the prescriptions of **THE CONSULTANT** and **CONTRACTING AUTHORITY**.

(4) **THE CONTRACTING AUTHORITY** shall deduct the amount under art 8, para. 2 from the amounts under the Interim Certificate till the final refunding of the down payment under art 8, para. 1, and the amount of any penalties or claims, payable by **THE CONTRACTOR**.

(5) The balance of the amounts in the Interim Certificate shall be paid to **THE CONTRACTOR** within 60 (sixty) days from date of invoice.

(6) In case of delay in payments due by **THE CONTRACTING AUTHORITY** with more than 30 days following the term as set under para. 5, **THE CONTRACTOR** shall be entitled to receive indemnification for delayed payment of statutory interest on arrears.

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

Bank:

IBAN:

BIC:

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

**Art. 11. (1) THE CONTRACTOR** shall provide by himself the equipment as referred to in the Technical Bid, which is necessary for the proper implementation of this Contract.

(2) Upon execution of the activities under the contract **THE CONTRACTOR** shall use the equipment as referred to in the Technical Bid.

(3) **THE CONTRACTOR** shall provide quality control of the production of construction products and components and the completed Construction and Assembly Works by providing, at its own expense, the equipment for testing and examination, and the services of an accredited construction laboratory approved by **THE CONTRACTING AUTHORITY** for the purpose of the tests as required under this Contract, the technical specifications and the statutory provisions.

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

**Art. 12. (1)** In order to implement the activities under the contract and as long as this contract is in force, **THE CONTRACTOR** shall have a team available to implement additional design and construction: qualified designers and individuals to carry out the technical management of construction works, including in the provision of quality control (management staff) and workers and employees (qualified professionals and technical staff) in accordance with the Technical Bid, as specified in Appendix № 11 and Appendix № 12 to the bidding documentation in the public procurement procedure (Appendix A).

(2) Any substitution of management staff is permitted upon prior written consent of **CONTRACTING AUTHORITY**, only in case of unforeseen circumstances occurring after submission of **THE CONTRACTOR's** tender bid, which prevent the relevant officers to perform fully their obligations and provided that the education, qualifications and skills of the new management staff are equivalent to or better than those of the previous ones.

(3) **THE CONTRACTOR** shall have the right to modify at its own risk the number and qualifications of employees in accordance with the applicable quantities and technology of the activities under the contract only in case of unforeseen circumstances occurring after submission of

**THE CONTRACTOR's** tender bid, which require such a change after having sent previously a written notification to **THE CONTRACTING AUTHORITY**.

(4) **THE CONTRACTING AUTHORITY** may require **THE CONTRACTOR** to remove from carrying out his activities under the contract a manager or worker, who breaches the statutory provisions or shows incompetence or negligence in the performance of its duties. The removed person must leave the construction site within 3 (three) days from receipt of the request by **THE CONTRACTOR**. After the removal, that same person can not be assigned the performance of any activity under the contract.

(5) All costs incurred due to leave, resignation or replacement of **CONTRACTOR's** manager or employee of shall be borne by **THE CONTRACTOR**.

## **VIII. SUB-CONTRACTORS**

**Art. 13. (1) THE CONTRACTOR** may subcontract the activities as referred to in Technical Bid in order to carry out the activities under the contract. No change in the declared circumstances is allowed, unless objective circumstances, hampering the sub-contractor's participation in the contract fulfillment are present

(2) The Subcontractors participation of percentage in the Contract price shall be the same as in the Bid /Appendix № 3/..

(3) **THE CONTRACTOR** is obliged to submit a copy of the contract with the Sub-contractor to **THE CONTRACTING AUTHORITY** within 10 (ten) days after the conclusion of this contract.

(4) The conclusion of a contract with a Sub-contractor shall not alter the obligations of **THE CONTRACTOR**.

(5) **THE CONTRACTOR** shall be liable for the actions of the Sub-contractor as for its own actions.

**Art. 14.** Upon conclusion of contracts with Sub-contractors, **THE CONTRACTOR** shall be obliged to provide for guarantees that:

1. the applicable provisions of this Contract are mandatory for the Sub-contractors;
2. the Sub-contractors' actions shall not lead directly or indirectly to non fulfilment of this Contract;
3. while implementing its supervisory functions under this Contract **THE CONTRACTING AUTHORITY** shall be able to check freely the Sub-contractors' activities and the documentation.

## **IX. CONSTRUCTION PRODUCTS**

**Art. 15. (1)** The risk of damage or destruction of all construction site products which shall be used for execution of the construction works shall be borne by **THE CONTRACTOR**.

**Art. 16. (1) THE CONTRACTOR** is obliged to ensure regular supplies of Construction products necessary for finishing the construction site in a manner to provide timely, quality and efficient execution of Construction and Assembly Works (CAW) and compliance with the Construction schedule.

(2) Upon written request of **THE CONTRACTING AUTHORITY**, **THE CONTRACTOR** shall submit to **THE CONTRACTING AUTHORITY** a copy of the supply contracts for Construction products within 7(seven) days of receipt of the request thereof.

**Art. 17. (1)** At the construction site **THE CONTRACTOR** shall use Construction products as stated in the Technical Bid in terms of type, origin, quality, standard and technical and technological parameters in accordance with the project documentation, the construction permit, the technical specifications and in accordance with all applicable statutory provisions;

**(2)** The Construction products, whether produced by **THE CONTRACTOR** and/or its Sub-contractors or delivered by a supplier, shall be accompanied by documents proving their origin, conformity to a standard or other technical approval and quality.

**Art. 18. (1)** **THE CONTRACTOR** shall have the right to modify the Construction products, that shall be used at the Construction site at its own risk. The change may applied just in case the Construction products conform to the technical regulations or approvals, required by the standard, provided for in the project documentation, construction permit and technical specifications, and in case **THE CONTRACTOR** submits reliable evidence of compliance (declarations of conformity, quality certificates, etc.) about them and that they are of the same or better quality than the quality of replaced products at the construction site, and **THE CONTRACTING AUTHORITY** and **THE CONSULTANT** are notified in advance in writing about the change.

**(2)** In the cases under para. 1 the change shall be made after approval of the **THE CONSULTANT** entered in the order book.

**(3)** All costs associated with the change of Construction products shall be borne by **THE CONTRACTOR**.

**(4)** If as a consequence from the replacement of Construction products the quality of Construction and Assembly Works deteriorates, then the responsibility for this shall be entirely with **THE CONTRACTOR**.

**Art. 19. (1)** If it turns out that a Construction site product is not specified in the Project documentation, construction permit and technical specifications, then it should be approved in advance by **THE CONSULTANT**. Construction products that do not conform to standards or for which there are no technical approvals shall not be subjected to approval.

**(2)** **THE CONTRACTOR** is obliged to submit to **THE CONSULTANT** reliable proofs for compliance of the products, proposed for approval with the standards, Project documentation, construction permit and technical specification..

## **X. ORGANISATION OF ADDITIONAL DESIGN AND CONSTRUCTION AND ASSEMBLY WORKS**

**Art. 20 (1)** **THE CONTRACTOR** shall execute the CAW in accordance with the Investment projects supplemented with the projects developed as a result of additional design.

**(2)** **THE CONTRACTOR** shall correct all errors and imperfections in the Investment projects and shall take into account all the requirements of the Bulgarian legislation.

**(3)** Except for the cases under para. 2, **THE CONTRACTOR** can make changes in the Investment project only under the conditions and limitations of the Terms of Reference (TOR) for additional design (Appendix №10 to the bidding documentation in public procurement procedure) and technical specifications of **THE CONTRACTOR** (Appendix №2 to the bidding documentation in public procurement procedure). Any changes in the investment project shall be prepared and signed by persons with full design capacity in accordance with the statutory provisions.

**(4)** Any changes in the Investment project shall be made at **THE CONTRACTOR's** expenses and included in the Contract price. Notwithstanding the above stated, any changes in Investment project, required as a result of amendment of the laws that occurred after the term for



submitting tender bids, shall be borne by **THE CONTRACTING AUTHORITY** and will be additionally awarded under the Public Procurement Act.

**Art. 20a** (1) Changes in the Investment project may be accomplished with the approval of **CONTRACTING AUTHORITY** only.

(2) **THE CONTRACTING AUTHORITY** is obliged to approve or reject proposed amendments and supplements to the Investment project within 14 days of receipt of the proposal for Additional design, together with a draft decision, prepared under the terms and conditions of Appendix 10 of the documentation for participation in public procurement and in compliance with the statutory provisions and a written statement, proving the need for such Additional design.

(3) **THE CONTRACTING AUTHORITY** may reject the proposal under para. 2 only in case it does not comply with the terms and conditions of this Contract, including but not limited to them, Appendices 2 and 10 to the documentation for participation in the public procurement procedure (Appendix A to this Contract), and the statutory provisions.

(4) If **THE CONTRACTING AUTHORITY** does not submit I writing its statement about the proposal to **THE CONTRACTOR** within the term under para. 2, the proposal is considered approved if it corresponds to the terms and conditions under para. 3.

**Art. 20b** (1) After receipt of f the **CONTRACTING AUTHORITY** approval under art. 20a, **THE CONTRACTOR** shall carry out at his own expense any agreement procedures with the competent authorities and persons in relation to the implementation of the design project and, if in accordance with the statutory provisions' requirements, the design project shall require a new construction permit or amendment of the existing construction permit, **THE CONTRACTOR** shall submit to **THE CONTRACTING AUTHORITY** all documents based on which a new construction permit or to amendment of the existing construction permit shall be obtained.

(2) **THE CONTRACTING AUTHORITY** is obliged to provide ay his own expenses an evaluation of the proposed additional design's conformity with the essential requirements for Construction site as per art. 143 of the Spatial Planning Act and issue a new construction permit or amendment of the existing construction permit within 21 days from receipt of all documents under para.1 from **THE CONTRACTOR**.

(3) If the evaluation of conformity of the Investment project with the essential requirements for Construction site is negative, **THE CONTRACTING AUTHORITY** shall be relieved of its obligation under para. 2; in such case the procedure under Article 20a and 20b shall start from the beginning. **THE CONTRACTOR** shall not be entitled to ask suspension of the term for implementation of certain stages, due to delays incurred as a result of a negative evaluation of the design project's conformity.

(4) If **THE CONTRACTING AUTHORITY** fails to meet its obligation under para. 2 within the agreed term, the time execution of stages concerned shall be suspended for the time of the delay.

**Art. 20c** (1) The period from the signing of this Contract to the commencement of construction works shall be considered a preparatory period for organising the construction process and shall not be part of the period as set under art. 5 of this Contract.

(2) The preparatory period shall include:

1. completion of the expropriation for construction needs (whenever the expropriation is not completed);

2. approval of the Investment project for the execution of works at the Construction site (when the project is not approved by the time of signing the contract);

3. issuance of construction permit (if it is not issued by the time of the conclusion of this Contract);

4. undertaking the necessary actions for drawing up Protocol form № 1 under Ordinance № 3, taking over the approved Investment project and valid construction permit for the execution of the construction works;

5. undertaking the necessary actions for drawing up Protocol form № 2a under Ordinance № 3 for opening of the Construction site;

**Art. 20d** Providing 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)** Construction shall begin no later than 120 days after the date of the Contract signing.

(2) The term under para. 1 is agreed in favour of **THE CONTRACTING AUTHORITY**.

(3) In case **THE CONTRACTING AUTHORITY** has sent a written invitation to **THE CONTRACTOR** for drawing up and signing Protocol form 2a and **THE CONTRACTOR ИЗПЪЛНИТЕЛЯТ** fails to appear at the specified place and time or denied to sign this protocol without a valid reason, the date, stated in **THE CONTRACTING AUTHORITY's** invitation shall be considered as Start of construction.

**Art. 22. (1)** In case the geological conditions actually differ from the geological conditions in the areas of study (boreholes, testing pits, etc.) as listed in the Investment project, prepared by **THE CONTRACTING AUTHORITY** and being a part of the documentation for award of public procurement, and this has delayed the implementation of this Contract, the term for execution of the relevant Stage stops running under the conditions of art. 6a for the time during which the execution was delayed as a result these discrepancies. For avoidance of any doubt, the stipulations of the previous sentence do not apply for the Additional design.

(2) In case additional activities are demanded as a result from incorrect data, stated in the Investment project, they shall be made at the expenses of **THE CONTRACTING AUTHORITY** and shall be awarded separately under the stipulations of the Public Procurement Act.

(3) **THE CONTRACTING AUTHORITY** shall not be liable for geological conditions beyond the areas of study. The discovery of such geological conditions by **THE CONTRACTOR** shall not be grounds for increasing the Contract price or to extending or suspending the term for the relevant Stage.

**Art. 23. (1)** **THE CONTRACTOR** is obliged to submit Technical and Construction Programme to **THE CONTRACTING AUTHORITY** for approval within 30 days from signing of this Contract, (Appendix C to this Contract).

(2) The initial Technical and Construction Programme shall not contradict with the Construction schedule. In case of delay in the actual activities of **THE CONTRACTOR** to the Construction schedule, **THE CONTRACTOR** shall immediately propose for approval by **THE CONTRACTING AUTHORITY** the changes in the Technical and Construction Programme, reflecting the actual progress and the measures needed to catch up with the delay.

**Art. 24. (1) THE CONTRACTOR** is obliged to submit on a weekly basis to **THE CONSULTANT** a report on the real work done during the latest week and comparison with the Construction schedule and the Technical and Construction Programme. In cases where there are discrepancies between the actual progress of activities under the contract and the terms specified in the Construction schedule and the Technical and Construction Programme, **THE CONTRACTOR** is obliged to submit a written explanation about the cause of delay, and specific measures to catch up with the schedule.

(2) **THE CONTRACTOR** shall notify **THE CONSULTANT** 24 hours in advance of any activity which is subject to finishing or acceptance by **THE CONSULTANT**.

**Art. 25. (1)** At least once a month **THE CONSULTANT** and **THE CONTRACTOR** shall hold coordination meetings to discuss the sequence of execution, the CAW progress and their fulfilment in accordance with the provisions of this Contract. For such meetings and discussions minutes shall be made drawn up and signed.

(2) **THE CONTRACTING AUTHORITY** shall be entitled to attend the meetings under para. 1.

(3) **THE CONTRACTING AUTHORITY** or **THE CONSULTANT** has the right to call extraordinary meeting under para.1 as well.

## **XI. RELATIONSHIPS BETWEEN THE CONTRACTOR, THE CONTRACTING AUTHORITY AND THE CONSULTANT IN THE COURSE OF THE CONSTRUCTION AND ASSEMBLY WORKS (CAW)**

**Art. 26. (1) THE CONSULTANT** shall evaluate the conformity of the Additional design with the essential requirements to the construction site and construction supervision and shall represent **THE CONTRACTING AUTHORITY** in performing the activities, stipulated in this contract and the contract between the CONSULTANT and **THE CONTRACTING AUTHORITY**;

(2) **THE CONSULTANT** has the right to access the construction site at any time in the course of the Construction and Assembly Works.

**Art. 27. THE CONTRACTOR** guarantees that he shall have at his disposal a competent person at the construction site, at any time whatsoever to receive all kind of directions and/or orders given by **THE CONSULTANT** in relation to CAW under this contract on behalf of **THE CONTRACTOR**.

**Art. 28. THE CONTRACTOR** is obliged to observe by all directions, orders and instructions of **THE CONSULTANT** concerning the CAWs execution at the construction site according to the Project documentation, construction permit, Technical specifications, provisions of this Contract and statutory provisions, including but not limited to:

1. lawful commencement of construction;
2. completeness and proper drawing up of acts and protocols during construction;
3. requirements for health and safety labour conditions at the construction site;
4. prevention of harm to third party and property as a result of construction works;
5. suitability of the construction site for commissioning;
6. amendment of approved investment projects, after receiving the preliminary consent of

**THE CONTRACTING AUTHORITY**;

7. change in **THE CONTRACTOR's** Technical and Construction programme in cases under art.. 43, para. 1 of this Contract;

8. carrying out further inspections of any of the CAWs quality or carrying out of additional quality inspection (test) of used Construction products at the construction site, requested under the stipulations of art. 51 para. 5. The costs associated with such examinations (tests) and inspection shall be borne by **THE CONTRACTING AUTHORITY**, unless it is found that the CAW and

Construction products do not comply with the provisions of this Contract. In this case, **THE CONTRACTOR** shall indemnify **THE CONTRACTING AUTHORITY** for the costs incurred by it in connection with tests and inspections.

9. removal of any **CONTRACTOR**'s employee from the construction site under the terms and conditions of art. 12, para. 4.

**Art. 29. (1) THE CONSULTANT** shall supervise the implementation of the Additional design and Construction and Assembly Works under the provisions of this Contract.

**(2)** Based on the evaluation of the documentation under art. 9, para.1 of this Contract, and after inspection and/or carrying out of inspection of the completed construction and assembly works, **THE CONSULTANT** shall confirm or refuse to confirm the payment of amounts as specified in Interim certificates of completed Construction and Assembly Works.

**Art. 30.** Regardless of **THE CONSULTANT**'s liability to **THE CONTRACTING AUTHORITY** under this Contract or the contract between **THE CONSULTANT** and **THE CONTRACTING AUTHORITY**, **THE CONTRACTOR** shall be unconditionally and fully liable for the implementation of Additional design and Construction and Assembly Works under this Contract.

**Art. 31. (1)** In exercising its rights and obligations under the Contract or applicable statutory provisions, **THE CONTRACTING AUTHORITY** shall be represented by the Chairman of the Management Board of the Road Infrastructure Agency, who follows the decisions of the Management Board of the Road Infrastructure Agency, or other person, authorised by him; **THE CONTRACTOR** and **CONSULTANT** shall be notified about that person in writing. . In the cases, stipulated by this Contract, **THE CONSULTANT** acts as **THE CONTRACTING AUTHORITY** representative.

**(2)** If **THE CONTRACTING AUTHORITY** forms a team to manage this Contract (Team Project Management), he shall notify **THE CONTRACTOR** and **THE CONSULTANT** in writing for the scope of representative powers of the Team Leader.

## **XII. CARRYING OUT OF ADDITIONAL DESIGN AND CONSTRUCTION WORKS**

**Art. 32.** In fulfilment of his obligations **THE CONTRACTOR** shall:

1. bear the full responsibility for quality and timely execution of the Contract activities;
2. be liable about labour safety;
3. execute the Contract activities in a manner, not impairing the good name and reputation of **THE CONTRACTING AUTHORITY**.
4. bear the full responsibility for preservation of roads, used by him during construction and for the safety of the existing road traffic;
5. organize the solving of all occurring issues during the construction related to temporary road traffic organisation and coordination with other stakeholders;
6. provide and maintain at his expensed the total surveillance and security of Construction site 24 hours a day.
7. coordinate all necessary changes in its Technical and Construction programme during construction works with **THE CONTRACTING AUTHORITY** and **THE CONSULTANT**.
8. provide opportunity for control and acceptance of accomplished activities.
9. carry out laboratory control with accredited construction laboratory upon observing the statutory provisions in force and **THE CONTRACTING AUTHORITY**'s Technical specification.

10. maintain the temporary roads and sites, needed for construction in normal conditions for movement at his expenses.

11. use Construction products, complying with the requirements of the Project documentation and Statutory provisions and accompanying by the corresponding quality documents.

**Art. 33. (1) THE CONTRACTOR** shall comply with the statutory provisions, governing hiring of employees and ensuring safe and healthy working conditions.

**(2) THE CONTRACTING AUTHORITY** is entitled to make checks and require relevant documents from **THE CONTRACTOR** verifying the performance of his duties under paragraph 1

**Art. 34. (1) THE CONTRACTOR** bears the responsibility for safety of all activities in the implementation of the construction works

**Art. 35. THE CONTRACTOR** is liable for damages from an work accident suffered by an employee during or related to the implementation of the construction works, irregardless the fact his representative or other employee is guilty for their occurrence.

**Art. 36. (1) THE CONTRACTOR** shall execute the construction works in accordance with the Project documentation, Construction permit, Technical specifications and Safety and Health Plan..

**(2)** In case of contradiction or non conformity between the texts of the Technical specifications, the documents priority in applying and interpreting them shall be in the following sequence:

1. laws;
2. subordinate legislation;
3. technical regulations, standards and regulations 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 requirements of the Investment Project to the execution of the Construction and Assembly Works and the construction products used in the construction site .

**Art. 37. (1)** The CAW shall be carried out in a way to prevent creation of obstacles to access to or use of roads, sidewalks or property owned by **THE CONTRACTING AUTHORITY** or third parties. All costs relating to implementation of this obligation are borne by **THE CONTRACTOR**.

**(2) THE CONTRACTOR** is obliged prior to execution of any work in construction till its completion, at his own expense to take the necessary measures to ensure people's safety by placing warning signs, instructions for exiting traffic, appropriate lighting, etc. in compliance with statutory provisions.

**Art. 38. THE CONTRACTOR** shall immediately notify the competent authorities and the relevant operating company for:

1. underground and ground technical infrastructure networks and facilities, not designated in the specialized maps and records, found during construction works and to take necessary measures to prevent damaging and displacement.
2. potential damage of networks and facilities, resulting from CAW, and to bear the expenses for recovery of damages at his own expenses.

**Art. 38a (1)** All technical infrastructure components that have to be removed and/or restored by **THE CONTRACTOR** during the Construction and Assembly Works are listed in the Investment Project .

(2) In case the data for technical infrastructure components, specified in the Investment project should prove to be inaccurate or incomplete, and this results into delays in implementing this Contract, the period for the relevant stage execution shall be suspended under the terms and conditions of art. 6a for the time the execution was delayed as a result these inaccuracies.

(3) If it is necessary to conduct additional works resulting from inaccurate or incomplete data about technical infrastructure networks, specified in the Investment project, they shall be carried out at the expenses of **THE CONTRACTING AUTHORITY** and shall be awarded under the provisions of Public Procurement Act.

**Art. 39. (1)** Upon finding of archaeological sites, **THE CONTRACTOR** shall take necessary measures that they are not moved, damaged or carried out by construction site workers or third persons, and shall immediately notify:

1. **THE CONTRACTING AUTHORITY** and **THE CONSULTANT**;
2. competent authorities under applicable statutory provisions.

(2) **THE CONTRACTOR** is obliged to stop construction and assembly works in this area until instructed by the relevant authorities if the finding represents a cultural monument .

(3) The period for the relevant stage execution shall be suspended under the terms and conditions of art. 6a for the time the execution was delayed as a result of archaeological studies.

**Art. 40. THE CONTRACTING AUTHORITY** has the right to order **THE CONTRACTOR** temporary suspension the construction work, if improper execution, use of poor Construction materials, non-compliance with the Investment project and Technical specifications has been found.

**Art. 41. (1)** In cases under art, 20d, art. 22, 38, 38a, art.39 and art. 40, the parties draw a statement for construction site at the time the construction was stopped /form 10 under art. 7 para.3 item 10 from Ordinance № 3) within in 3 (three) days from the notification of the occurrence of the event, made under art. 6a, or from **CONTRACTING AUTHORITY**'s order.

(2) **THE CONTRACTOR** may continue work after implementing the measures set by competent authorities.

(3) The parties draw a statement for construction site at the time the construction was restored /form 11 under art. 7 para.3 item 10 from Ordinance № 3) before continuation of stopped activities.

(4) Simultaneously with the statement under paragraph 1, second sentence, the Parties shall draw a statement of findings, where:

1. describe the implementation of the competent authorities instructions;
2. indicate the period for which work was suspended
3. justify the needfor suspending the period for execution of the relevant stage, indicated in the construction schedule.

**Art. 42.** For the period of suspension, **THE CONTRACTOR** shall protect at his expenses the completed Construction and Assembly Works against damage or destruction.

**Art. 43. (1)** If in the process of implementation of this Contract it is found that the real progress is lagging behind (or will lag) from the interim periods in the construction schedule, **THE CONTRACTING AUTHORITY** shall take action to overcome the delay in the following order:

1. warns **THE CONTRACTOR** and requires correction and speeding up the activities;
2. if after being warned **THE CONTRACTOR** remains in delay from the interim terms according to the construction schedule and there are serious reasons for believing that the completion term shall not be kept, **THE CONTRACTING AUTHORITY** may order **THE CONTRACTOR** to submit a revised Technical and Construction Programme and the accompanying report describing the revised methods which **THE CONTRACTOR** proposes to take to accelerate progress and to complete the CAW within the interim periods in the construction schedule until the date of completion.

**(2)** If **THE CONTRACTING AUTHORITY** does not approve the revised programme, he may give it another prescription, and **THE CONTRACTOR** shall adopt these revised methods, subject to the prescription, other than those initially proposed by **THE CONTRACTOR** in its revised Technical and Construction Programme to overcome delays in execution of the construction and assembly works.

**(3)** **THE CONTRACTOR** shall bear all costs relating to implementation of the revised Technical and Construction Programme under paragraph 1 and 2 to accelerate the contract works .

**Art. 44. (1)** During construction **THE CONTRACTOR** shall keep construction site and its zones clean by removing the construction wastes and organising their transportation to the appropriate waste depot.

**(2)** After completion of the construction **THE CONTRACTOR** shall take from the construction site all construction installations, equipment, surplus materials and construction wastes, and shall leave the site in a satisfactory condition for **THE CONTRACTING AUTHORITY**.

**(3)** **THE CONTRACTOR** is obliged to implement the statutory provisions, including all provisions related to environmental protection of construction site and its neighbouring sites .

**(4)** **THE CONTRACTOR** is obliged at his own expense to carry out reclamation and/or restore to their initial status all temporary roads and lands used during the implementation of this Contract.

**Art. 44a** **THE CONTRACTOR** shall be obliged to provide access to the construction site and to render full assistance to any other persons, awarded by **CONTRACTING AUTHORITY** to perform activities, related to construction.

**Art. 44b** Upon making audits by OLAF investigating officers, the **CONTRACTOR** is obliged to render full assistance, to provide the entire information and to follow the instructions, given by OLAF officers

### **XIII. REPORTING THE CONTRACT IMPLEMENTATION**

**Art. 45. (1)** Till the 5<sup>th</sup> day of each calendar month, **THE CONTRACTOR** shall submit for approval to **THE CONTRACTING AUTHORITY** and **THE CONSULTANT** a report for the contract's implementation, including and works carried out during the previous month. The report contains information on the impact of the Construction and Assembly Works on schedule for the remaining activities, including any changes in the sequence of their implementation, as well as information on events that are expected to occur during the current month and that may adversely affect the quality or quantity of work or delay the execution of the Construction and Assembly Works.

**(2)** Reports under paragraph 1 will be prepared by **THE CONTRACTOR** and submitted to **THE CONTRACTING AUTHORITY** and **THE CONSULTANT** in construction in four copies,

two for each of them. The first report will cover the period until the end of the first calendar month after the start of construction. Recording will continue until **THE CONTRACTOR** shall perform all work necessary for the preparation of Certificate of final completion of the Construction and Assembly Works.

(3) Each report shall contain:

1. charts and detailed description of progress.
2. photographs showing the status of construction and progress of the CAW;
3. for production of each major unit of Construction products - the manufacturer's name, place of production, certification and/or declarations of conformity by the manufacturer and the actual or expected date for:
  - a) start of production;
  - b) inspections by **THE CONTRACTOR**;
  - c) samples, dispatch and delivery at site;
4. reports for **CONTRACTOR**'s personnel and machinery;
5. safety statistics, including data for hazardous incidents and activities relating to environmental protection and public relations, and
6. comparisons between actual and planned progress, for different kinds of activities and sectors, together with a detailed description of any events or circumstances that may endanger the completion under this Contract and the measures that are (or shall be) taken to overcome the delays.
7. copies from statements and protocols, drawn up during the construction for the month.

#### **XIV. CONSTRUCTION SITE ORDER BOOK**

**Art. 46. (1)** All stipulations and orders relating to the execution of the Construction and Assembly Works issued by authorised persons and specialized control authorities under the Law on Spatial Planning, are entered in the construction site order book, which is kept by **THE CONTRACTOR** at site. Persons issued the stipulation, respectively orders obligatory sign and date them.

(2) The instructions and orders entered in the Order Book shall be binding on **CONTRACTOR**.

(3) If **THE CONTRACTOR** does not want to implement a stipulation or order of **CONTRACTING AUTHORITY** or **CONSULTANT**, he shall be entitled to write a grounded refusal in the order book within 3 days period of their issue.

(4) If, within 7 days period of recording or motivated refusal **THE CONTRACTING AUTHORITY** or **THE CONSULTANT** do not cancel the stipulation or order, **THE CONTRACTOR** may appeal within 3 days period to the Directorate for National Construction Supervision (DNCS), and until their ruling, the construction be suspended. After checking DNCS officials issue mandatory instructions.

(5) The suspension of construction does not lead to suspension of the period for the relevant stage, if DNCS rules in favour of **THE CONTRACTOR** or **THE CONSULTANT**.

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

**Art. 47. (1)** Contract activities shall be implemented in full compliance with the Project documentation, Construction permit, Technical specifications and applicable statutory provisions.

(2) Non-observance by **THE CONTRACTOR** of the requirements the Project documentation, Construction permit, Technical specifications and applicable statutory provisions related to standards and quality of Construction products as well as the completed construction and assembly works, shall be considered breach of this Contract, and in case it is regular or a fundamental



breach is grounds for unilateral termination of the contract by **THE CONTRACTING AUTHORITY** under art. 80, para. 2, item 1 or item 2 of this Contract.

**Art. 48. (1)** Quality of completed Construction and Assembly Works and Construction products is established by:

1. statements and protocols under art. 7, para. 3 of Ordinance № 3;
2. other documents provided for in this Contract and statutory provisions which assess the quality of completed CAW;
3. testing protocols in accordance with the requirements of the Project documentation and construction permit.
4. reports of inspections, done by **THE CONTRACTING AUTHORITY** representatives.

**(2)** Quality control of CAW and Construction products is performed:

1. by THE CONSULTANT by conducting permanent supervision during the execution of the Construction and Assembly Works and preparing the protocols and statements as per art. 7 para. 3 Ordinance № 3.

2. by **THE CONTRACTING AUTHORITY** - by Directorate “Operational Control and Risk Management” and the Central Institute of Road Technologies, the national and European norms and standards.

**Art. 49.** At any time during the construction **THE CONTRACTING AUTHORITY** and/or THE CONSULTANT have the right to access construction site to control the progress and quality of the Construction and Assembly Works, as well as to require:

1. written and spoken explanations by **THE CONTRACTOR** and his employees and/or sub-contractors on matters relating to the execution of Contract activities;
2. all data and documents, both paper and electronic versions for the purpose of exercising control over **THE CONTRACTOR** 's activities.

**Art. 50. (1)** **THE CONTRACTING AUTHORITY** and/or THE CONSULTANT have the right to check **THE CONTRACTOR**'s work and inform him about any defects found at CAW, as well as to indicate the term for their elimination.

**(2)** **THE CONTRACTOR** is obliged to remedy the defects within the period specified in the notice. In the case of its failure to remedy the defects, the relevant provisions of art. 66, para. 3 or art. 67, para. 3 and/or art. 80, para. 2, item 1 or item 2 of this Contract apply- depending on the specific default.

**(3)** **THE CONTRACTOR** is liable for the defects of the Construction and Assembly Works, which by their nature could not be found to date of the relevant certificate for payment of work, or occur later.

**(4)** **THE CONTRACTING AUTHORITY** is entitled to request remedy of defects and to exercise its right to seek Warranty liability of **THE CONTRACTOR** under the warranty terms in the Technical Bid, according to art. 265 of the Obligations and Contracts Act .

**Art. 51. (1)** **THE CONTRACTOR** shall perform all tests during construction and after its completion, keeping the schedule for performance and their frequency in accordance with Technical specifications.

**(2)** The exact location at the construction site, where the corresponding testing shall be performed is determined by THE CONSULTANT under a the written request of **CONTRACTOR**. In case **THE CONSULTANT** do not designate a place in writing within 24 hours after receiving the

request, **THE CONTRACTOR** shall himself determine the location of testing and shall inform **THE CONSULTANT** in writing.

(3) **THE CONTRACTOR** shall give written notice to **THE CONSULTANT** for the timing of each test at least 24 hours in advance and to provide him an opportunity to attend the test.

(4) The cost of tests shall be borne by **THE CONTRACTOR** and included in the price for the Contract price.

(5) **THE CONSULTANT** shall be entitled to require **THE CONTRACTOR** to perform additional tests, not anticipated thereof in order to verify if the quality of any construction activity complies with requirements of the Technical specifications.

(6) The costs for testing under paragraph 5 are at the expenses of **THE CONTRACTING AUTHORITY**, unless art. 28, para. 8 of this Contract provides for otherwise.

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

**Art. 52.** After finishing of any of construction parts to extend of "Actual completion of CAW" **THE CONTRACTOR** shall:

1. prepare the executive documentation in accordance with the Spatial Planning Act reflecting insubstantial deviations from the agreed and approved Investment project, if any. The cost of preparation of executive documents is included in the Contract price.

2. geodetic measurement in accordance with the Cadastre Agency requirements, the costs are included in the Contract price.

**Art. 53. (1)** If a the "Actual completion of entire construction site" by **THE CONTRACTOR** is a fact and he has fulfilled all other obligations under the contract, **THE CONTRACTOR** shall notify **THE CONTRACTING AUTHORITY** for his readiness to hand over the construction works.

(2) Within 14 (fourteen) days after notification under paragraph 1 **THE CONTRACTING AUTHORITY** shall appoint his own Acceptance committee to attend the testing and inspection at site. Testing protocol with the testing results shall be drawn up. In case testing is not, construction is not considered complete.

(3) Upon completion of construction site and successful testing and inspection a statement of finding shall be drawn up in accordance with art.176, para, 1 of the Spatial Planning Act, stating the construction compliance. This statement serves for handing over the Construction site by the **THE CONTRACTOR** to **THE CONTRACTING AUTHORITY** (Statement of Findings form 15 under Ordinance № 3)

(4) Within 7 days from the drawing Statement of findings form 15 **THE CONTRACTOR** shall submit to **THE CONSULTANT** s certificate for completion of CAW ("Actual completion certificate" prepared by **THE CONTRACTOR**.

(5) **THE CONSULTANT** shall verify the activities, as stated in "Actual completion certificate" and shall submit it to **THE CONTRACTING AUTHORITY** for approval.

**Art. 54. (1)** If **THE CONTRACTOR** does not reach Actual completion of entire construction site and this is found by the committee under art. 53, para.2 **THE CONTRACTING AUTHORITY** or **THE CONSULTANT** shall draw up a description of works, quantity and time for execution in "**Report for non-completed or partially completed construction and assembly works**"

(2) **THE CONTRACTOR** is obliged to complete the prescribed activities within the stipulated terms.

(3) **THE CONTRACTOR**, after completion of the prescribed activities, shall notify **THE CONTRACTING AUTHORITY** and **THE CONSULTANT** for its readiness to hand over the activities under art.52 and art.53.

**Art. 55. (1)** Within 30 days after the Statement of Findings, form 15, **THE CONSULTANT** shall prepare and submit to **THE CONTRACTING AUTHORITY** final report of the Construction and Assembly Works.

**(2)** Within 7 days after receiving the final report under paragraph 1, **THE CONTRACTING AUTHORITY** requested Directorate for National Construction Supervision (DNCS) for appointing State Acceptance Commission in accordance with the requirements of Ordinance № 2, providing for its expenditures.

**Art. 56. (1)** In case it is found that the constructions works are duly completed in compliance with the issued construction permit, Project documentation, verified executive documentation and statutory provisions in force, the State Acceptance Commission issues Provisional Acceptance Certificate (PAC) form 16 certifying the Construction site compliance for use as per Ordinance № 3..

**(2)** On the grounds of Provisional Acceptance Certificate (PAC) form 16 DNCS issued an Use permit for construction site.

**(3)** On the grounds of Use permit for construction site, **THE CONTRACTING AUTHORITY** invites **THE CONTRACTOR** and **THE CONSULTANT** for signing the Certificate of final completion of the works, which certifies that the works provided under the contract are completed, including the ones, stipulated by Provisional Acceptance Certificate (PAC) 16.

## **XVII. PLAN FOR PROVISION OF „INFORMATION AND PUBLICITY MEASURES”**

**Art. 57 (1)** **THE CONTRACTOR** is obliged to meet requirements for information and publicity set out in Chapter II, Article 6, Article 8 and Article 9 of Regulation (EC) № 1828/2006 of 8 December 2006 regarding the provisions and rules for implementation of Regulation (EC) № 1083/2006 of the Council for determining of general provisions on the European Regional Development Fund, European Social Fund and the Cohesion Fund and of Regulation 1080/2006 of the European Parliament and the Council on the European Regional Development Fund, as well as a Guidance for the information and publicity measures of OP “Transport”.

**(2)** Within 1-month period from the date of signing the contract, **THE CONTRACTOR** shall submit for approval of **THE CONTRACTING AUTHORITY** Communication Plan for the implementation of the information and publicity measures, which is applied as Appendix № ... to this Contract after approval by **THE CONTRACTING AUTHORITY** and the Managing Authority of OP Transport ”.

**(3)** The communication plan shall contain as minimum the following:

1. Objective - main and specific;
2. Target groups;
3. Action plan:
  - 3.1.description of the communication channels;
  - 3.2.description of the communication channels;
  - 3.3.information and publicity measures to be implemented, including as a mandatory minimum:
    - Organising a Ground Breaking Ceremony”;
    - Organising a ceremony for official opening of the site;
    - Making and mounting of information billboard for the period of construction works;
    - Making and mounting of permanent reference board after completion of the site;.
    - Producing and dissemination of information materials
4. Media plan.
5. Rules for admission to the mass media representatives to the construction site.
6. Quantitative indicators of the communication plan implementation.

7. Indicative budget.
8. Monitoring and reporting performance.
9. Appointing and administrative division / expert responsible for implementation of communication plan

**(4) THE CONTRACTOR** is obliged to agree in advance the preparation and organisation of public events, announcements to mass media related to construction site, information materials, layout of billboards and indicative signs etc, which he is planning to distribute and use with **THE CONTRACTING AUTHORITY** and the Managing Authority of OP Transport.

**Art. 58 (1) THE CONTRACTOR** is obliged to place the construction information boards containing full information about the CAW, in accordance with the Spatial Planning Act.

**(2)** During project implementation, **THE CONTRACTOR** shall place promotional billboards with appropriate dimensions at well visible location at the construction site,

**(3)** EC emblem, name of the fund, financing the project, logo and OPT slogan "the nearer, the closer ...", shall be displayed on the billboard; the above mentioned components shall constitute 25% from the billboard area at minimum.

**(4)** The logo of National Strategic Reference Framework of Bulgaria shall be visualized on appropriate place on the billboard.

**(5).** **THE CONTRACTING AUTHORITY** name and logo shall be visualized on appropriate place on the billboard.

**(6) THE CONTRACTOR** shall place permanent reference information boards at a visible location and with appropriate dimensions, not later than 3 months after completion of site works.

**(7)** Reference information boards shall inform about the project title and value and shall comply with the requirements of sub-clauses 1 and 2 in item 4.

**(8) THE CONTRACTOR** is obliged to comply with rules on the technical characteristics concerning information and publicity, all information and publicity materials, oriented to different target groups should include the following:

**(9).** European symbol according to the graphical standards set out in Appendix I of Regulation (EC) № 1828/2006 of 8 December 2006, regarding the provisions and rules for implementation of Regulation (EC) № 1083/2006 laying down general provisions the European Regional Development Fund, European Social Fund and the Cohesion Fund and of Regulation 1080/2006 of the European Parliament and the Council on the European Regional Development Fund and the spelling of the words "European Union";

**1** Indicating Cohesion Fund as financing fund;

**2** Logo and slogan of the OP Transport and the National Strategic Reference Framework of Bulgaria, according to the guidelines for visual identity of the Central Information Office.

**3.** The technical requirements for graphic representations of an European symbol, NSRF logo and OP Transport logo and slogan of the can be found at [www.optransport.bg](http://www.optransport.bg) , under "Documents" heading.

**Art.59(1). THE CONTRACTOR** reports to **THE CONTRACTING AUTHORITY** the Communication Plan and information and publicity measures' implementation in every three months not later than the fifth day of the month, following the quarter period.

**(2) THE CONTRACTOR** shall publish a banner on the front page of its website, with a link to the OP "Transport" [www.optransport.bg](http://www.optransport.bg).

## **XVIII. CONTRACT PERFORMANCE GUARANTEE.**

**Art. 60. (1)** Upon signing of this contract as a guarantee for correct implementation of Contract obligations, including obligations for warranty service, **THE CONTRACTOR** has submitted to **THE CONTRACTING AUTHORITY** documents, evidencing that Performance Guarantee has been submitted .

**(2)** The performance guarantee for the contract amounts [BGN]. VAT excluded, representing three percent from the Contract price, VAT excluded. The guarantee is issued in the currency, indicated in the notice.

**(3)** The cost of servicing of performance guarantee shall be borne by **THE CONTRACTOR**.

#### **First option<sup>8</sup>**

**Art. 61. (1)** Performance guarantee as cash deposit, transferred to **THE CONTRACTING AUTHORITY** escrow account.

**(2)** **THE CONTRACTING AUTHORITY** shall be obliged to reimburse **THE CONTRACTOR** the amount of security reduced by the amounts used under Article 62 (unless they are reimbursed in accordance with Article 65) within 60 (sixty months) from date of issue of use permit for the entire Construction site.

**(3)** The performance guarantee of the contract shall be reimbursed to the account, indicated by **THE CONTRACTOR**.

#### **Second option**

**Art. 61. (1)** The performance guarantee of the contract in the form of bank guarantee issued by a goodwill bank, agreed with **THE CONTRACTING AUTHORITY** prior of contract signing and in accordance with the form blank in the bidding documentation of the public procurement procedure (or another form having the same or better conditions for **THE CONTRACTING AUTHORITY**).

**(2)** The validity period of the bank guarantee as per para. 1 shall be 60 (sixty) months after the date of the use permit issue;

**Art. 62. (1)** **THE CONTRACTING AUTHORITY** has the right to be paid off all or part of performance guarantee in case of incorrect fulfilment of contractual obligations by **THE CONTRACTOR**, including unilateral termination of the contract by **THE CONTRACTING AUTHORITY**, due to willful default of contractual obligations by **THE CONTRACTOR**;

**(2)** **THE CONTRACTING AUTHORITY** has the right to be paid off part of the guarantee, covering **THE CONTRACTOR**'s liability under the contract, including amount of accrued penalties.

**(3)** In case of unilateral termination of the contract by **THE CONTRACTING AUTHORITY**, due to willful default of contractual obligations by **THE CONTRACTOR**, the performance guarantee amount is paid off in total as a compensation for the contract's termination.

**(4)** In case the liability for breaching contractual obligations by **THE CONTRACTOR** exceed the amount of the Performance guarantee and **THE CONTRACTOR** fails to perform his obligation for reimbursement of guarantee as per art. 65 , **THE CONTRACTING AUTHORITY** has the right to terminate the contract as stipulated in art. 80, para. 1, i. 3.

**Art. 63. (1)** **THE CONTRACTOR** is obliged to remedy all found defects at the construction site within the warranty periods, to maintain quality and continuous operation in accordance with Project documentation, construction permit and Technical specifications.

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<sup>8</sup> Upon signing the contract, the option selected by the Contractor remains in the text.

(2) Warranty period shall be as follows<sup>9</sup>:

- for CAW, excluding road facilities-5 years.
- road facilities -10 years

(3) Warranty periods start running after the date of receiving the Use permit for construction site.

(4) Warranty period are suspended for the time of defect occurrence at construction site, till its elimination.

(5) The warranty liability is excluded, in case the occurred defect are result of Force majeure.

**Art. 64. (1)** In case the bank issued the Performance guarantee of the contract, declare bankruptcy or insolvency / over-indebtedness, or its license is revoked or refuse to pay the amount alleged by **THE CONTRACTING AUTHORITY** in 3 days period, **THE CONTRACTING AUTHORITY** may request and **THE CONTRACTOR** shall provide, within 5 working days of the appeal, the replacement guarantee from another bank agreed with **CONTRACTING AUTHORITY**.

(2) No interest is due by **THE CONTRACTING AUTHORITY** on the amounts Performance Guarantee.

**Art. 65. (1)** In the case of sums, paid off from the Performance guarantee, **THE CONTRACTOR** shall within 5 working days to restore the guarantee amount.

(2) If **THE CONTRACTOR** does not restore the guarantee amount as stipulated under paragraph 1 **THE CONTRACTING AUTHORITY** may terminate this Contract after providing sufficient time for fulfilment of the payment obligation, but not more than 30 days.

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

**Art. 66. (1)** In case **THE CONTRACTOR** has not completed a relevant stage to the extent of the **actual completion** within the terms, stated in the construction Schedule and the delay is not due to force majeure or to a reason **THE CONTRACTING AUTHORITY** is liable for, **THE CONTRACTOR** shall pay **THE CONTRACTING AUTHORITY** penalty amounting to 0.2% (zero point two percent) per day of the corresponding Stage price for each delayed day, but not more than 15% (fifteen percent) of the corresponding Stage price.

(2) If **THE CONTRACTOR** catches up with the delay of activities under the Contract until the end of any subsequent stage in accordance with the Construction Schedule (by achieving an Actual completion of all stages, that should be completed for the time being), or meets the completion date for the entire construction site as per art. 5, he it shall be entitled to reimbursement of all hold penalties for delay of the previous stages.

(3) In delayed performance of any obligation under this Contract by **THE CONTRACTOR**, is obliged to pay **THE CONTRACTING AUTHORITY** liquidated damages amounting 5000 (five thousand) BGN per day for each day of delay but not more than 200,000 (two hundred thousand) BGN..

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<sup>9</sup> Warranty periods description and duration shall correspond to the Technical bid, as well as to art. 20, para.1, 2 and 3 of Ordinance № 2 dated 31.07.2003 for commissioning of construction in the Republic of Bulgaria and minimum warranty periods for completed construction and assembly works, facilities and construction sites (promulgated in SG, 72 / 2003, amended and supplemented., iss.49 / 2005 ).

**Art. 67. (1)** In case of poor or partial execution of the Construction and Assembly Works **THE CONTRACTOR** penalty of 10 per cent of the value of the Construction and Assembly Works, supposed to be executed correctly

**(2)** In case of poor or partial performance of any obligation under the Contract by **THE CONTRACTOR**, the latter is obliged to pay **THE CONTRACTING AUTHORITY** liquidated damages amounting to BGN 10 000 for each obligation that should be met exactly.

**Art. 68. THE CONTRACTING AUTHORITY** shall be entitled to deduct/obtain the penalty, accrued under the above articles / art.66 and art. 67 from the Contract price, Performance guarantee or any other amount, due to **THE CONTRACTOR** under this Contract.

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

**Art. 69. (1) THE CONTRACTOR** shall be liable and shall indemnify **THE CONTRACTING AUTHORITY** for any claims or expenditure, incurred in connection with material and non material damages, caused to other persons, engaged in construction and/or third parties, including physical injury or death, or in regard to the fulfillment of **THE CONTRACTOR** obligations under this Contract.

**(2) THE CONTRACTOR** shall be liable and shall indemnify **THE CONTRACTING AUTHORITY** for any claims or expenditure, incurred in connection with material damages, caused to property of to other persons, engaged in construction and/or third parties during or in regard to , the fulfillment of **THE CONTRACTOR** obligations under this Contract.

**Art. 70. (1) )** Under art. 173, paragraph 1 of the Spatial Planning Act, at the date of conclusion of this contract **THE CONTRACTOR** shall submit to **THE CONTRACTING AUTHORITY** valid insurance policies covering his professional liability a) in his capacity of designer and b) in his capacity of a builder with the following values:

a) insurance of the Contractor as a designer - minimum insurance amount for the first category of construction;

b) insurance of the Contractor as a builder - insurance amount of not less than five (5) percent of the price for the performance of the contract to the minimum limit of liability for individual event at the rate of not less than 25 (twenty five) percent of the total sum insured

**(2) THE CONTRACTING AUTHORITY** should be appointed as a third beneficiary of the insurance policy.

**(3)** Insurances under section paragraph 1 shall cover solely the risks associated with the execution of construction works at site and can not be used to ensure the liability of **THE CONTRACTOR** under other contract.

**(4)** Insurances under this article shall cover the **CONTRACTOR** responsibility for meeting all its obligations as a builder and designer under this contract

**(5)** The insurances under this article shall be concluded with local insurance company or is established in a EU member state or state – party in the agreement for European Economic area or in Confederation of Switzerland or any other insurer, who is entitles to conduct insurance activities at the territory of Republic of Bulgaria in accordance with the statutory provisions.

**Art. 71.** The cost of servicing the insurance are borne by **THE CONTRACTOR**, as insurance premiums shall be paid entirely to the insurance company at signing the insurance contract.

**Art. 72. (1) THE CONTRACTOR** shall maintain insurance limit for the total the period of validity of insurances, as well as to pay additional premiums, if during the period of insurance events, reducing the insurance coverage occur.

**(2) THE CONTRACTING AUTHORITY** has the right to require the submission of insurance policies and payment documents evidencing payment of insurance premiums due on insurance by **THE CONTRACTOR**; the latter is obliged to submit them to **THE CONTRACTING AUTHORITY** within 7 days term from receiving the request.

**(3) If THE CONTRACTING AUTHORITY** finds non-fulfillment of **THE CONTRACTOR's** obligation to conclude and keep the insurances under this chapter, he has the right to suspend the payment of the contract until the default is eliminated.

**(4)** The insurance policies and documents for payment of their premiums on mandatory insurances of **THE CONTRACTOR** under art 173 of the Spatial Planning Act are described in Appendix E<sup>10</sup> to this Contract .

## **XXI. REMEDY OF HIDDEN DEFECTS WITHIN THE WARRANTY TERMS**

**Art. 73. (1) (1)** If defects occur within the term of the respective warranty periods, but not later than 14 (fourteen) days after the term, **THE CONTRACTING AUTHORITY** shall send **Notification for Defect** to **THE CONTRACTOR** stating a reasonable term for elimination of the hidden defect.

**(2)** Within 3-days term from receipt of **Notification for Defect**, **THE CONTRACTOR** informs in writing **THE CONTRACTING AUTHORITY** about his consent or refusal to eliminate the hidden defect.

**(3)** In case **THE CONTRACTOR** refuses or fails to remedy the defect within the period specified in the **Notification for Defect**, **THE CONTRACTING AUTHORITY** shall be entitled to be paid off an amount of the Guarantee for implementing the warranty obligations , irregardless the for, under which it is submitted, covering the costs for elimination of hidden defect, borne by the **CONTRACTING AUTHORITY**.

**(4)** In **THE CONTRACTOR's** non-fulfilment of obligations to eliminate the hidden defect within the Warranty terms exceeds the value of the Guarantee, the **CONTRACTING AUTHORITY** shall be entitled to seek compensation by referring to the respective court jurisdiction..

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

**Art. 74. (1)** For the period this contract is in force as well as for a period not less than 5 years following the expiry of the last warranty term under the contract, **THE CONTRACTOR** shall be obliged to keep records of all services provided under the Contract.

**(2) THE CONTRACTING AUTHORITY**, through his representatives, may at any time request any other documentation or any other information for the executed CAW and may review and verify the stated documentation, without impeding the **CONTRACTOR's** activities.

**(3) THE CONTRACTOR** shall neither seek nor accept instructions from any persons or institutions, different from **THE CONTRACTING AUTHORITY** and those, indicated in the Contract and related to fulfillment of its obligations.

**(4) THE CONTRACTOR** shall refrain from any actions which may have adverse effects on **THE CONTRACTING AUTHORITY** and shall fulfil its obligations with full regard to the interests of **THE CONTRACTING AUTHORITY**.

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<sup>10</sup> To be completed upon contract signing.



### **XXIII. SUSPENSION OF IMPLEMENTATION DUE TO FORCE MAJEURE. AMENDMENT, SUPPLEMENT AND TERMINATION OF THE CONTRACT**

**Art. 75. (1)** In cases of force majeure the fulfilment of obligations under this Contract and the corresponding cross actions are suspended for the duration of force majeure. In case the force majeure prevents **THE CONTRACTOR**'s activities for a particular stage, **THE CONTRACTOR** shall undertake to continue its activities under the rest of the stages.

**(2)** The term of the obligation's fulfilment is extended by the period for suspension of execution by the force majeure circumstance accordingly.

**(3)** The party failing to fulfil its obligations under this Contract due to force majeure is not liable.

**(4)** Occurrence of force majeure circumstance does not relieve the parties from fulfilment of obligations, that had to be fulfilled prior the event.

**(5)** Any party affected by force majeure shall in short term, but not later than being aware of the event notify in writing to the other party about the force majeure circumstance. The notice shall mandatory include information about:

- a. the expected impact of force majeure circumstance on the progress of the Construction and Assembly Works and/or the possibility of completion in the period under Article 5 as well as
- b. proposals how the impact of such an event, respectively. circumstance shall be avoided or reduced.
- c. the estimated duration and cessation of force majeure and
- d. the potential consequences on the implementation of this Contract.

**(6)** In case the party affected by force majeure does not send any notification, the other party shall be indemnified for the damages, suffered by the abovementioned.

**(7)** The verification of force majeure circumstance occurrence shall be done by a certificate of force majeure issued by the Bulgarian Chamber of Commerce and Industry.

**Art. 76. (1)** As from the date of occurrence of force majeure till the date of its cessation, the parties shall undertake all necessary actions to avoid or mitigate the impact of force majeure and continue to fulfil the obligations under this Contract, not impeded by the force majeure circumstance.

**(2)** As far as the force majeure is considered a risk is covered by the terms and conditions of insurance coverage, **THE CONTRACTOR** shall immediately claim damages under the policy.

**Art. 77.** Amendments to this Contract are only possible under the provisions of the Public Procurement Act.

**Art. 78.** The contract shall be terminated with:

1. fulfilment of obligations under this Contract by the parties;
2. notification from one party to the other, provided the execution of the Construction and Assembly Works has been suspended for a period greater than 120 / one hundred and twenty-days/ due to force majeure circumstance;
3. sending one-month written notice from one to the other, if a false statement or declaration have been found, given by the party in Section II of this Contract, and if as a result of this infidelity adverse effects occur for the right party or for the implementation of this Contract;
4. breaching from the right party due to willful default of the other party.

**Art. 79.** The contract shall be terminated by **THE CONTRACTING AUTHORITY** with:

1. written notice to **THE CONTRACTOR**, if the latter, due to circumstances arising after the conclusion of this Contract, is unable to fulfil its obligations. In such case **THE CONTRACTING AUTHORITY** shall be obliged to indemnify **THE CONTRACTOR** for the suffered damages;

2. one month written notice by **CONTRACTING AUTHORITY** to **CONTRACTOR**:
  - a) for breaches of requirements to avoid conflicts of interest by **THE CONTRACTOR**;
  - б) upon fraud or indecencies of **THE CONTRACTOR**, found by the competent authorities, affecting the interests of European communities or Bulgarian state for which **THE CONTRACTOR** is liable under the Contract;
  - в) upon presence of conviction by effective sentence under court ruling for **CONTRACTOR**'s deficit, found by the Agency for State Financial Control;
  - г) **THE CONTRACTOR**'s entering into procedure for liquidation;
  - д) upon instituting bankruptcy proceeding for **THE CONTRACTOR** ;
  - е) a person with majority of share capital in the company of **THE CONTRACTOR** or a member of the governing body of the executive, and if a member of **THE CONTRACTOR** Governing Body; and in case the Governing body is a legal entity - its representative in the respective governing body<sup>11</sup>, has been convicted by effective sentence for criminal offence against property, against economy, against the financial, tax or social security system (money laundering or fraud), for abuse of trust or bribery (corruption) as well as criminal offence associated with participation in a criminal organization;
  - ж) a circumstance under art. 47 para.5 of PPA has been proved for **THE CONTRACTOR**.

**Art. 80. (1) THE CONTRACTING AUTHORITY** shall be entitled to terminate this Contract by giving written notice to **THE CONTRACTOR** with a warning that after expiration of the appropriate additional term for implementation, stated in the warning notice the contract shall be considered terminated in the following cases:

1. upon **CONTRACTOR**'s delay in completion of interim terms in the construction schedule;
2. upon **CONTRACTOR**'s delay in fulfilling the obligations to remedy the defects by more than 30 (thirty) days;
3. in case of failing to fulfil the obligation under art. 65, paragraph 2 within the term set by **THE CONTRACTING AUTHORITY**.

**(2) THE CONTRACTING AUTHORITY** shall be entitled to terminate this Contract by giving written notice to **THE CONTRACTOR** without rendering of appropriate additional term for implementation of the corresponding contractual obligation in the following cases :

1. in case of regular non- fulfilment by **THE CONTRACTOR** .
2. in case of essential non- fulfilment by **THE CONTRACTOR** .

**(3)** In all cases of termination /breaking of contract by **CONTRACTOR**'s fault **THE CONTRACTING AUTHORITY** is entitles to be paid off the total Performance Guarantee amount.

**Art. 81. THE CONTRACTOR** is entitled to break the contract with a notification for termination, sent to **THE CONTRACTING AUTHORITY** and stipulation an appropriate period for fulfillment of payment obligation, but no more than 30 (thirty) days in case that:

- a) **THE CONTRACTING AUTHORITY** delay due payments for more than 90 (ninety) days after the expiry of art. 10, paragraph 4. In this case, **THE CONTRACTOR** shall be entitled to ask indemnification from **CONTRACTING AUTHORITY** for damages from the termination of this Contract;
- b) Commencement of construction was not within the period under art. 21. In this case the **THE CONTRACTOR** is obliged to return the down payment received. **THE CONTRACTING AUTHORITY** is obliged to indemnify **THE CONTRACTOR** for damages from the Contract conclusion.

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<sup>11</sup> To be specified depending on the contractor's legal status

## XXIV. CONFIDENTIALITY

**Art. 82. (1)** Each of the Parties to this Contract shall be obliged not to disclose information for the other party, which the latter is aware of during or related to the conclusion of the contract and during the public procurement progress, which the party, the above stated information refers to declared in writing as confidential..

**(2)** All maps, drawings, sketches, photographs, plans, reports, recommendations, assessments, notes, documents, contracts, and other data regardless of bearer (paper, CDs and other), regardless of the format (text, graphic, sound , visual, analogue or digital format) collected or received by **THE CONTRACTOR** in connection with the implementation of this Contract, have the status of **confidential information**.

**(3)** The information **THE CONTRACTING AUTHORITY** shall submit to the Public Procurement Agency in implementing the Public Procurement Act is not confidential.

**Art. 83. (1)** **THE CONTRACTOR** will use the confidential information provided by **THE CONTRACTING AUTHORITY** and referring to activities in connection with the execution of this Contract for the exclusive objecting to fulfil its obligations under this Contract.

**(2)** **THE CONTRACTOR** shall not provide confidential information to third parties and to participate in mass media events in connection with the Contract's implementation without the prior written consent of **CONTRACTING AUTHORITY**.

**(3)** **THE CONTRACTOR** shall not use, disclose, provide, distribute or publish any confidential information obtained during the audit process, unless he had preliminary written consent of **CONTRACTING AUTHORITY** .

**(4)** Confidential information may be disclosed only to persons explicitly authorized in writing by **THE CONTRACTING AUTHORITY** to receive it .

**(5)** Prior the commencement of the contract's implementation **THE CONTRACTOR** shall submit to **CONTRACTING AUTHORITY** a list of persons representing **THE CONTRACTOR** in the implementation of this Contract, as well as representatives of all Sub-contractors . Persons, indicated in this list only shall be given access to confidential information.

**(6)** The persons listed in the preceding paragraph sign a declaration of confidentiality and state they are aware the legal responsibility, in two originals, one original is submitted to **THE CONTRACTING AUTHORITY** together with a list under paragraph 5.

**(7)** All materials provided, regardless of the bearer and format can not be copied without the prior explicit written consent of .

**(8)** On completion of the contract or at the **CONTRACTING AUTHORITY's** request, all submitted materials containing confidential information shall be returned to **THE CONTRACTING AUTHORITY**.

**(9)** Providing confidential information to duly authorised representatives of **THE CONTRACTING AUTHORITY**, the Consultant , the designer, OLAF and the Ministry of Finance, Managing Authority of Operational Programme "Regional Development and Operational Programme Transport, the ruling Cohesion Fund Authority (COUNCIL REGULATION (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund), the executive agency in Works by Phare, respectively, international financial institutions, the Court of Auditors, the audit authorities of the European Union, respectively the audit authorities of the international financial institution shall not be considered violation of paragraph 1 to 9 inclusive

**Art. 84. (1)** Hiring Sub-contracting does not relieve **THE CONTRACTOR** of its obligations.

**(2)** The provision of confidential information to Sub-contractors representatives shall not be considered a breach of art. 82, paragraph 1 of this Contract .

(3) The provisions of the contracts with Sub-contractors shall not contradict the terms and conditions of this Contract .

## XXV. CONFLICT OF INTEREST

**Art. 85. THE CONTRACTOR** guarantees that no **THE CONTRACTING AUTHORITY** official has received and shall be offered direct or indirect benefit arising from this Contract or its awarding thereof by **THE CONTRACTOR** .

**Art. 86. (1) THE CONTRACTOR** shall undertake all necessary measures to avoid conflicts of interest, and immediately notify **CONTRACTING AUTHORITY** of any circumstance, that causes or may cause such a conflict.

(2) conflict of interest exists when an impartial and objective performance of the functions in connection with participation in the procedure for award of public procurement and/or implementation of contract by of any person, is risked for reasons involving family , emotional life, political or national affinity, economic interest or other common interests, provide that that person has with **THE CONTRACTING AUTHORITY** or **THE CONTRACTOR** in accordance with art. 52 of Regulation (EC, Euratom) № 1605/2002 on the Financial provisions applicable to the general budget of European Community, as amended by Council Regulation (EO, Euratom) № 1995/2006.

**Art. 87. THE CONTRACTOR** is obliged to undertake all necessary measures to prevent indecencies and fraud which have or would have the effect of prejudicing the general budget of the European Union and/or national budget, as well as to notify immediately **THE CONTRACTING AUTHORITY** of any circumstance, that causes or may cause irregularity or fraud.

**Art. 88. THE CONTRACTOR** shall explicitly undertake not to involve **CONTRACTING AUTHORITY**'s staff in management positions and/or experts, we well as members of the management team to work on an employment relationship, a civil contract, a management contract for him personally or for another legal entity in which he is or will become a partner, shareholder, manager, director or consultant or is otherwise related in the sense of § 1 of the Additional Provision of the Commercial Act for a period of one year after termination of the employment relationship with **THE CONTRACTING AUTHORITY**, regardless of the reason for termination thereof, but not later than the Contract term. In case of non-fulfilment of this obligation of **THE CONTRACTOR** has to pay penalty to **CONTRACTING AUTHORITY** amounting to 1 % / one percent/ of the Contract price.

## XXVI. OTHER PROVISIONS

**Art. 89. (1)** This contract is concluded with a view to the economic and financial situation, technical capabilities and professional qualifications of **THE CONTRACTOR**;

(2) Upon transformation without termination, change of name, legal form, seat, registered office, object or purpose, period of existence, the authorities of management and representation, the nature and members of the collective body of management of **THE CONTRACTOR**, **THE CONTRACTOR** obliged to notify **THE CONTRACTING AUTHORITY** of the change within 7-days period of entry into the relevant register.

(3) The parties are not entitled to render all or part of their rights and obligations under this Contract, except under conditions of universal succession.

**Art. 90.** When this Contract provides that Parties shall carry out an action "immediately", the latter shall be done immediately after creating or occurrence or knowledge of the event or action, generating liability, but not later than 3 days.

**Art. 91. (1)** Unless otherwise specified, the days in this Contract shall be construed as calendar days.

**(2)** The contract terms are counted under the Obligations and Contracts Act .

**Art. 92. (1) THE CONTRACTING AUTHORITY** shall issue a recommendation for the performance of **THE CONTRACTOR** provided the latter has fulfilled the contract with the required quality in the contract period, has not been sanctioned with penalties, unless the penalties have been reimbursed under the stipulations of art. 66, para. 2 and has not recompensed **THE CONTRACTING AUTHORITY** for non-fulfilment.

**(2)** In all other cases **CONTRACTING AUTHORITY** may deny to give a recommendation for good performance.

**Art. 93.** Where this Contract shall provide that an action or liability shall be borne by **CONTRACTOR**, the cost of such action or liability shall not be requested by **CONTRACTING AUTHORITY**, as addition to the Contract price.

**Art. 94. (1)** All communications between the parties in connection with this Contract shall be in writing. Messages shall be received at the following addresses:

1. for **CONTRACTING AUTHORITY**: .....
2. for **CONTRACTOR**: .....

**(2)** In case of changing the data referred to in the preceding paragraph, each Party shall notify the other in writing within 3-days period of the change.

**Art. 95.** Any void provision of this Contract shall not make null and void other provision or entire Contract.

**Art. 96.** All disputes arising from this Contract or relating thereto, including disputes arising out of or related to its interpretation, invalidity, performance or termination, and disputes for filling blanks in the contract or its adaptation to emerging circumstances will be resolved by competent Bulgarian court .

**Art. 99.** The following Appendices shall be integral part of this Contract:

Appendix A – Bidding documentation in the public procurement procedure and its appendices;

Appendix B – Tender bid of **THE CONTRACTOR**;

Appendix C – Technical and Construction programme;

Appendix E - Insurance policies

This Contract is drawn up and signed in three copies - one for **THE CONTRACTOR** and two for **THE CONTRACTING AUTHORITY**

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Draft

**FOR CONTRACTING AUTHORITY:**

**FOR CONTRACTOR:**