

## GENERAL CONDITIONS OF THE SALES-PURCHASE CONTRACT FOR GOODS WITH SERVICES

### 1. CONCEPTS OF THE CONTRACT AND THEIR INTERPRETATION

1.1. **European Electronic Invoicing Standard** means the European Electronic Invoicing Standard, the reference of which was published in Commission Implementing Decision (EU) 2017/1870 of 16 October 2017 on the publication of the reference of the European standard on electronic invoicing and the list of its syntaxes pursuant to Directive 2014/55/EU of the European Parliament and of the Council (OJ 2017 L 266, p. 19).

1.2. **Information System 'E-Invoice'** is a state information system for the preparation, submission and storage of Invoices for goods, services and works by means of information technology, as well as for the obtaining of information on the payment of Invoices submitted (Website of the electronic service 'E-Invoice' is available at [www.esaskaita.eu](http://www.esaskaita.eu)).

1.3. **Requirement** – written or verbal requirement of any form (which must be subsequently confirmed in writing) issued by the Employer or its representative to the Executor for the performance of the Contract.

1.4. **Procurement** – acquisition of goods performed by the Employer under the sales-purchase contract signed with the selected supplier (-s).

1.5. **Goods and / or Services** – Goods and / or Services described in the Special conditions of the Contract and annexes hereto to be supplied by the Executor to the Employer under the Contract and requirements of legal acts in force. The term 'Goods' / 'Services' used in the Contract includes all the activities related to the supply of Goods specified in the terms and conditions of the procurement, their explanations and / or revisions.

1.6. **Invoice** – a value added tax (hereinafter – **VAT**) Invoice, Invoice, credit and debit documents and advance Invoices.

1.7. **Contract** – the Special Terms and conditions of the Contract, General Terms and conditions of the Contract and annexes hereto.

1.8. **Employer** – Limited Liability Company LTG Link, hereinafter also referred to as the **Party**.

1.9. **Executor** – an economic entity supplying Goods and / or providing Services referred to in the Contract, hereinafter also referred to as the **Party**.

1.10. **Detailed report** – a free-form written document provided by the Executor to the Employer. The exact content of which will be determined during the performance of the Contract, by the authorized representatives of the Parties.

1.11. Unless the context requires otherwise, words importing the singular include the plural and vice versa.

1.12. If the amount in figures does not match the sum in words, words are considered to be the correct amount. If currency abbreviation does not comply with the payment currency in words, words are considered to be the correct amount.

1.13. Unless otherwise provided in the Special conditions of the Contract and / or annexes hereto, the duration of the Contract and other terms are calculated in calendar days.

### 2. REPRESENTATIONS AND WARRANTIES OF THE PARTIES

2.1. Each Party shall represent and warrant the following:

2.1.1. They have concluded this Contract with a view to giving effect to the provisions contained herein, and they have a real capacity to fulfil the obligations provided for in this Contract;

2.1.2. This Contract neither infringes, nor is intended to infringe any legal acts of the Republic of Lithuania or other instruments or contractual obligations governing the activities of the Parties;

2.1.3. it is solvent, its activities are not restricted and there are no pending or prospective restructuring or liquidation proceedings in respect of the Parties; it has not suspended or limited its activities and there are no pending bankruptcy proceedings in respect of the Parties.

2.2. The Executor hereby represents and warrants that:

2.2.1. has fully familiarised itself with all information related to the subject matter of the Contract and other documentation provided by the Employer at its request for the fulfilment of obligations under the Contract; and this documentation, and the information contained therein, is sufficient and complete enough to enable the Executor to ensure the proper and full fulfilment of all contractual obligations and their quality;

2.2.2. has all licenses, permits, certificates, qualification certificates as well as any other required qualifications and competence to supply the Goods and provide Services to fulfil the obligations provided for in this Contract;

2.2.3. has all the technical, intellectual, physical and any other capabilities and qualities required to enable it to properly perform the terms of the Contract;

2.2.4. has no indebtedness or liability to any third party that would impede the proper performance of its obligations under this Contract and undertakes not to assume such obligations during the entire term of this Contract;

2.2.5. Taxes and charges for the Goods and / or Services to be sold applicable at the country of the Executor are properly paid and settled.

2.3. In case of changes in circumstances referred to in Clauses 2.1.3, 2.2.2, 2.2.4, 2.2.5 of the General conditions, the Party undertakes to notify the other Party in writing no later than within three (3) calendar days.

2.4. The Parties hereto represent and warrant that each of the representations made in Clauses 2.1 to 2.2 of the Contract are true and fair on the date of entering into this Contract.

### **3. RIGHTS AND OBLIGATIONS OF THE EXECUTOR**

3.1. The Executor undertakes to:

3.1.1. Consistently fulfil the obligations under the Contract contained in the Contract and the Technical Specification, including the elimination of defects / deficiencies in the Goods and / or Services. The Executor shall arrange all necessary equipment, ensure work safety and workforce required for performance of the Contract;

3.1.2. supply Goods and provide Services that meet the requirements of the Contract and its annexes;

3.1.3. Assume all the risk of accidental loss of or damage to the Goods before signing of the Goods handover certificate, unless otherwise agreed in the Special conditions of the Contract;

3.1.4. Comply with the provisions of applicable legal acts and laws of the Republic of Lithuania and ensure that its employees and employees of its subcontractors (*if applicable*) comply with them as well. The Executor shall indemnify the Employer and / or a third party for damages if the Executor or its employees or employees of its subcontractors (*if applicable*) fails to comply with the requirements of laws, regulations and legal acts, and as a result any requirements or procedural steps are brought;

3.1.5. Ensure the confidentiality and protection of the information received from the Employer during the execution of the Contract and related to the performance of the Contract. At the end of the Contract period, upon request of the Employer in writing, return all documents received from the Employer to perform the Contract (if such documents have been provided to Executor);

3.1.6. Submit to the Employer all the required documentation, including Goods use and maintenance instructions along with the Goods;

3.1.7. Not to use trademarks or name of the Employer for advertising, publishing, etc., without preliminary written consent of the Employer;

3.1.8. Reimburse to the Employer, within the time limit set by the Employer, any direct loss or damage caused by the Executor's improper performance or failure to perform the Contract. The limitation of liability shall not apply when the loss (damage) was caused by the Executor's intent or gross negligence, also in the cases set out in other laws;

3.1.9. In case of Contract termination due to the fault of the Executor to reimburse all direct loss and damages sustained by the Employer (the limitation of liability shall not apply when the loss (damage) was caused by the Executor's intent or gross

negligence, also in the cases set out in other laws), including, but not limited to the price difference resulting from the acquisition of missing Goods or non-provided Services from third parties performed by the Employer;

3.1.10. the Executor shall ensure that the Contract will be performed by the entities having the right to be engaged in the required activity.

3.1.11. Properly fulfil other obligations established in the Contract, annexes hereto and in the valid legal acts of the Republic of Lithuania.

3.2. The Executor shall have a right to receive a payment for the Goods and / or Services providing that it has fulfilled the Contract properly.

3.3. The Executor shall have all other rights established in the Contract and in the valid legal acts of the Republic of Lithuania.

#### **4. RIGHTS AND OBLIGATIONS OF THE EMPLOYER**

4.1. The Employer undertakes to:

4.1.1. Accept Goods delivered and / or Services provided at the time agreed by the Parties, provided that they comply with this Contract;

4.1.2. Inspect Goods delivered and / or Services provided at the moment of their acceptance (if this is acceptable considering nature of the Services) and document the inspection results;

4.1.3. Pay the Contract price in accordance with the terms and conditions stipulated in the Special conditions of the Contract;

4.1.4. Provide the Executor with information and/or documents required for execution of the Contract (*if applicable*);

4.1.5. Properly fulfil other obligations established in the Contract.

4.2. The Employer shall have the right to unilaterally set off the calculated penalties from the amounts due to the Executor.

4.3. The Employer shall have the right to suspend payments to the Executor if the Executor fails to perform or improperly performs any contractual or statutory obligations until such obligations have been properly discharged.

4.4. The Employer shall have the right not to settle Invoices non-compliant with the European electronic Invoice standard, if the Executor submits them by means other than of information system 'E-Invoice'.

4.5. The Employer shall have all other rights established in the Contract and in the valid legal acts of the Republic of Lithuania.

#### **5. CONTRACT PRICE (PRICING RULES), PAYMENT CONDITIONS**

5.1. Contract price or Pricing rules shall be set forth in the Special Terms and Conditions of the Contract.

5.2. The Contract Price or the Maximum Price of the Contract / Goods / Services Rates shall include all taxes and fees applicable to the Goods / Services in Lithuania / other country that may arise in the performance of this Contracts, including, but not limited to any customs duties and charges, transportation costs before the Employer's packaging, loading, transit, inspection, insurance and other costs related to the supply of the Goods and provision of Services. The VAT on importation, if any, shall be paid by the Executor (*unless the Executor is registered outside Lithuania, in which case the provision shall be coordinated with the Executor and may be included to the Special Conditions of the Contract*). If, in case of the Executor's obligation to pay the VAT on importation, the VAT is paid by the Employer, the Executor shall reimburse such expenses of the Employer within ten (10) calendar days according to the separate invoice.

5.3. The Contract Price and the Maximum Price of the Contract or the Goods / Services Rates excluding VAT quoted in the tender of the Executor is final and does not change during the entire term of the Contract, except in the cases provided in the Contract. The Executor bears all the risk of a possible increase in the Contract Price / Goods / Service Rate, except in the cases provided in the Contract.

5.4. The Parties agree and agree that the Contract Price / Maximum Price of the Contract / Prices of the Goods / Services (depending on the chosen pricing method in the Special Terms and Conditions

of the Contract) without VAT may not be changed due to a change in legislation, including changes in taxes, that is to say the Executor shall bear all risk due to a possible increase in the Contract Price / Maximum Price of the Contract / Goods / Services (except for the change in the VAT rate). VAT, if applicable to the Contract, shall be payable in accordance with binding legislation. If the legal acts regulating the application of VAT change during the validity of the Contract, the Contract Price / Maximum Price of the Contract / Prices of the Goods / Services without VAT will not be changed as a result, that is to say the Employer will pay the Executor for the Goods and / or the Services properly supplied under the Contract, the Contract Price / Maximum Price of the Contract / Goods / Services, which will be equal to the amount received to the Contract Price / Maximum Price of the Contract / Goods / Services without VAT, calculated according to the newly approved tax rate, unless otherwise provided by the adopted legislation. The recalculated Contract Price / Maximum Price of the Contract / Prices of the Goods / Services shall be formalized by an agreement signed by the Parties and shall be applied from the date of introduction of new VAT (regardless of when the agreement was signed).

5.5. During the implementation of the Contract, all Invoices are provided only in electronic way. Advance Invoices can be submitted by the Service Provider to the person, responsible for the implementation of the Contract or with the help of measures of the information system "E-Invoice". Electronic Invoices – compliant with the European electronic Invoice standard, are provided through the means, chosen by the Service Provider. Electronic Invoices, that are non-compliant with the European electronic Invoice standard, are provided only with the help of measures of the information system "E-Invoice". The Goods / Services transfer-acceptance acts and other additional documents can be submitted together with them. After both Parties will sign the Goods / Services transfer-acceptance act, the Service Provider undertakes to provide the Invoice no longer than in 2 (two) calendar days. The Executor shall submit all issued Invoices, invoices, credit documents, imprest accounts to the Employer only through the information system 'E-Invoice' managed by the Centre of Registers. The Goods and / or the Service handover certificates, Detailed report and other additional documents could also be provided.

5.6. Invoice issued by the Executor shall comply with the requirements established by laws. In addition, the Invoice issued by the Executor must additionally contain the Executor's VAT number, Contract number, number and date of the signed goods / services handover certificate, contacts of the responsible persons of the Parties. If the date of delivery of the Goods / provision of Services does not coincide with the date of issue of the Invoice, the Invoice to be issued shall indicate the number and date of the Contract.

5.7. In case the Invoice submitted by the Executor does not comply with the requirements of Clause 5.6 of the General conditions of the Contract, the Employer shall submit such Invoice to the Executor for specification and require the prompt submission of the Invoice complying with the requirements of Clause 5.6 of the General conditions of the Contract.

5.8. The Parties bear the full risk of possible exchange rate fluctuations (if any).

5.9. Payment for the duly delivered and accepted Goods and / or provided Services shall be made after signing the handover certificate and the Invoice complying with the terms and conditions of the Contract submitted by the Executor on the basis thereof by bank transfer to the Executor's bank account specified in this Contract or another bank account specified by the Executor in writing, if the Executor has transferred its monetary claim arising from the Agreement to a third party (financier) and has notified the Employer thereof after the acceptance of the Invoice via 'E-Invoice'.

## **6. CONTRACT PERFORMANCE GUARANTEE**

6.1. Amount and type of the Contract performance guarantee is established by the Special conditions of the Contract.

6.2. Contract performance can only be guaranteed by:

6.2.1. Stipulated damages – penalty / fines, the amount of which is specified in the Special conditions of the Contract.

6.2.2. Payable on first demand bank guarantee letter / surety insurance letter.

Bank / insurance company issuing the bank guarantee letter / surety insurance letter on the date of issue shall be provided with at least 'BB +' granted by Fitch Ratings or Standart & Poors or 'Ba1' granted by Moody long-term borrowing rating. If a financial group bank, insurance company or branch does not

have a separate borrowing rating, then the main (parent or controlling) bank / insurance company on the date of issue of the bank guarantee letter / surety insurance letter must have at least the above ratings (*this provision applies if the value of the intended part of the procurement / part of the procurement object exceeds EUR 1,500,000.00 (one million five hundred thousand) excluding VAT, and the first demand bank guarantee letter / surety insurance letter is provided to secure the Contract*).

Bank / insurance company issuing the bank guarantee letter / guarantee on the date of issue shall be provided with at least 'A-' granted by Fitch Ratings or Standart & Poors or 'A3' granted by Moody long-term borrowing rating. If a financial group bank, insurance company or branch does not have a separate borrowing rating, then the main (parent or controlling) bank / insurance company on the date of issue of the bank guarantee letter / guarantee must have at least the above ratings. (*this provision applies if the value of the intended part of the procurement / part of the procurement object exceeds EUR 10,000,000.00 (ten million) excluding VAT, and the first demand bank guarantee letter / guarantee / guarantee letter of the insurance company is provided to secure the Contract*).

Upon request of the Employer, the Executor shall provide the relevant document proving that the bank / insurance company issuing the guarantee / guarantee letter / surety letter has relevant ratings on the date of submission of the guarantee. The guarantee / guarantee letter / surety letter issued by the bank / insurance company shall be subject to the laws of the Republic of Lithuania and Rules approved by the International Chamber of Commerce – 'The ICC Uniform Rules for Demand Guarantees' (Journal No. 758). Text of the guarantee / guarantee letter / surety letter issued by the bank / insurance company shall include a provision that disputes between the Parties shall be settled in compliance with the procedure prescribed by the laws of the Republic of Lithuania before the court of the Republic of Lithuania. (*this provision applies if the guarantee / guarantee letter / surety letter issued by the bank / insurance company is provided to secure the Contract*).

Bank guarantee letter / surety insurance letter shall be signed by qualified electronic signature of the entity issued the letter complying with the requirements stipulated in points 2 and 3 of part 11 of Article 34 (or amending them) of the Law on the procurement procedures of entities operating in the water, energy, transport and postal services sectors of the Republic of Lithuania.

6.2.3. By a payment order made to the Employer's account.

6.2.4. Documents substantiating the fulfilment of the performance guarantee provisions shall be submitted to the Employer only electronically.

6.3. Ways other than ones declared in Clauses 6.2.1 to 6.2.3 of the General Terms and Conditions of the Contract are not acceptable.

6.4. Documents substantiating the fulfilment of the performance guarantee provisions shall be submitted to the Employer only electronically. Other means of proof of fulfilment of obligations may be provided only if the bank or the insurance company fails to issue the documents signed by a qualified electronic signature and confirms it itself.

6.5. If the Executor fails to enter the Contract under the prescribed conditions or submit the Performance Guarantee within ten (10) calendar days after the conclusion of the Contract, the Contract is deemed not concluded and the Employer is entitled to compensation for costs and losses incurred under the Contract performance guarantee. The Executor will be returned with the Contract performance guarantee within ten (10) calendar days, providing the proper execution of the Contract.

6.6. Upon receipt of the information that the bank / insurance company has no longer complied with the requirements set out in the Contract upon the issuance of the guarantee letter / surety letter, the Executor undertakes to provide the Employer with the guarantee letter / surety letter issued by the bank / insurance company complying with the requirements of the Contract within ten (10) calendar days. If the Executor fails to do so, the Executor shall be deemed to have substantially breached the Contract and the Employer shall have the right to unilaterally terminate the Contract and claim all direct damages.

6.7. The Employer shall have a right to use the Contract performance guarantee in any of the following circumstances:

6.7.1. The Executor fails to fulfil or improperly fulfils contractual obligations;

6.7.2. The Executor fails to remedy Service / Goods defects within the reasonable term required by the Employer;

6.7.3. The Executor is subject to bankrupt or liquidation procedures or suspends its economic activities;

6.7.4. If the Employer has suffered losses (including, but not limited to, additional costs, loss of earnings or other direct and indirect losses, penalties and / or fines) due to any of the Executor's actions (actions or omissions);

6.7.5. The Executor terminates the Contract unilaterally without a justifiable reason.

6.8. The Contract performance guarantee shall be returned to the Executor within ten (10) calendar days from the fulfilment of contractual obligations in full.

6.9. The Contract performance guarantee is intended to ensure the fulfilment of all contractual obligations of the Executor, including, but not limited to, the payment of penalties. If the Contract is terminated for any reason, the Contract performance guarantee may be used to recover any amount of money belonging to the Employer from the Executor. The Employer shall have a right to use the Contract performance guarantee regardless of termination of the Contract.

## **7. DELIVERY OF GOODS, PROVISION OF SERVICES, HANDOVER / ACCEPTANCE**

7.1. The Executor undertakes to deliver the Goods and/or provide Services at the place (-s) of delivery specified in the Special conditions of the Contract at the expense of the Executor in due time, and the Employer undertakes to accept the Goods delivered / Service provided in due and timely manner and to pay to the Executor for the agreed Goods and/ or Services at the price stipulated in the Contract, terms and conditions provided in the Contract.

7.2. Amendment of the Schedule / term for the supply of Goods and / or provision of Services (if there is such) could not be implemented without written consent of the Employer.

7.3. The Goods are delivered to the Employer with the manufacturer's markings and labels. The packaging of the Goods shall comply with the requirements for loading and unloading operations, protection against the influence of meteorological factors during transportation and storage of the Products. The cost of supplying the Goods and the risk of accidental loss of the Goods prior to their delivery to the Employer shall be the assumed by the Executor. If the Employer incurs any costs related to the transportation of the Goods to the Republic of Lithuania or delivery thereof to the Recipient, the Executor shall reimburse such expenses no later than within ten (10) calendar days according to the separate invoice.

7.4. The date of delivery of the Goods and/or provision of Services is the date of signing the handover certificate. The handover certificate is signed by authorised representatives of the Executor and the Employer.

7.5. The Employer must sign the Goods and/or Services handover certificate within five (5) calendar days from the actual receipt of the Goods, and, upon finding that the Goods / Services have defects / deficiencies, do not comply with the requirements of the Contract, send a notice of non-acceptance to the Executor, specifying the reasons for not accepting the Goods and/or Services, and inviting the Executor to participate in the preparation of the deficiency / defect statement. If the Employer fails to sign the handover certificate within the term specified in the Contract no later than the next day, a reasoned written refusal to accept the Goods and/or Services shall be sent to the Executor, specifying the term within which the Executor is invited to participate in the preparation of the defect statement.

7.6. Upon written notice of the Executor stating the unwillingness to take part in the preparation of the deficiencies statement, or if the Executor does not appear after the written invitation is sent, the Employer shall unilaterally draw up a deficiencies statement and in such case the Executor shall be deemed to have accepted the defect/deficiency. If the Executor fails to acknowledge the defects indicated by the Employer, the Parties shall agree on the appointment of an independent expert in the manner specified in Chapter 8 of the General conditions of the Contract.

7.7. Upon the preparation of the deficiencies statement or in case of independent inspection, all the Goods shall be accepted for storage under the Goods storage statement until the Executor picks up the Goods or the Employer signs the Goods handover certificate. The Goods storage statement shall name all the documents delivered along with the Goods, as well as the data about stored Goods, their storage conditions and protective means.

7.8. If the Executor fails to take back, replace the Goods or eliminate the defects of the Goods / Services within the time limit set by the Employer, the Employer shall have the right not to accept the Goods and/or Services later and not to pay for them and to submit a notice of non-acceptance to the Executor. The Executor shall reimburse the Employer for all storage costs of such Goods. In the event

that the Invoice has already been issued without the signature of the handover certificate, the Executor shall issue a credit invoice and provide other documents necessary for the completion of customs procedures (*if any*).

7.9. The Employer shall assume all the risk of accidental loss of the Goods and the ownership rights from the very moment of signing the handover certificate. When the Goods are delivered to the Employer, from the delivery of the Goods to the signature of the handover certificate, the Employer will take all reasonable steps to protect the Goods from loss or damage.

## **8. QUALITY OF THE GOODS AND SERVICES AND WARRANTY OBLIGATIONS**

8.1. The Executor shall guarantee quality of the Goods and/or Services and the absence of concealed defects. Quality of the Goods and/or Services shall comply with the requirements of the Technical Specifications and terms and conditions of the Contract as well as delivered Goods shall comply with previously provided specimens, models and descriptions, size / weight of the Goods and the requirements of documents regulating the quality of goods (if applicable). If it is determined that the Goods are of a poor quality, the Executor shall eliminate deficiencies within ten (10) calendar days from the moment when the Employer notifies him of the failure to comply with the quality requirements.

8.2. The guarantee period for the Goods and/or Services is stipulated in the Special conditions of the Contract and / or annexes hereto. The guarantee period for all replaced or reconditioned Goods or parts hereof shall come into force from the date of transfer of properly changed or repaired Goods or parts hereof to the Employer. The guarantee period for all replaced or reconditioned Goods or parts hereof shall come into force from the date of transfer of properly changed or repaired Goods or parts hereof to the Employer.

8.3. Warranties are void if defects/deficiencies are caused by the Employer's failure to comply with the service, maintenance and operating instructions.

8.4. In case of any defects / deficiencies in Goods and/or Services detected, the Employer may, at any time during the warranty period, claim the Executor for the quality of the Goods and/or Services. The Employer shall draw up a defect statement and send it to the Executor by fax or post, requiring the Executor to sign it and send it to the Employer within three (3) calendar days by fax. If the Executor fails to send a defect statement or motivated refusal to accept them, the Executor shall be deemed to have accepted the defect/deficiency. If the Executor fails to acknowledge the defects indicated by the Employer, the Parties shall agree on the appointment of an independent expert or in case of failure to reach an agreement within three (3) calendar days, the Employer shall make the examination of its choice. Examination costs shall be covered:

By the Employer when the Goods and/or Services comply with the requirements of the Contract. In this case the storage costs shall be covered by the Employer as well;

By the Executor when the Goods and/or Services do not comply with the requirements of the Contract. In this case the storage costs shall be covered by the Executor.

8.5. Costs of expert examination of the Goods are binding to the Parties. The Executor shall provide all the documents required for the examination of the Goods and/or Services for the defects of which has not been acknowledged by the Executor within ten (10) calendar days upon signing the defect statement. If the Executor fails to submit the required documentation in due time, it is considered that it has acknowledged the defects identified by the Employer.

8.6. The Executor undertakes to eliminate the deficiencies occurred during the warranty period, at its own expense, within twenty (20) calendar days from the date of dispatch of the deficiencies statement or expert report, and in case of its failure to eliminate identified deficiencies to replace defective Goods and/or Services with new ones, as well as to reimburse all expenses and losses incurred by the Employer for this within forty (40) calendar days from the date of dispatch of the deficiencies statement or expert report. The Employer shall have a right not to accept Goods and/or Services if the Executor delivers them later than forty (40) calendar days. Newly delivered Goods and/or provided Services shall be subject to the same warranty terms and conditions as described in the Contract and / or its Annexes. If the Executor fails to replace the Goods and/or Services within the specified time period, it must return the Employer the price of these Goods and/or Services within five (5) calendar days and provide a credit Invoice.

## **9. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS**

9.1. Unless otherwise stipulated in the Contract, the Executor in accordance with the procedure established in the Contract undertakes to indemnify the Employer for any claims arising from the patent, trademark, industrial (user) rights (registered or not), rights arising from applications for registration of any of the above rights, copyright, databases producers (sui generis) rights, firms, companies, organisations, business names or proprietors, and other similar rights or obligations, whether or not they are registered in Lithuania or other countries, or are not subject to registration, as provided in the Contract such violation occurs due to the fault of the Employer.

## **10. LIABILITY OF THE PARTIES**

10.1. The liability of the Parties is determined in accordance with the applicable legal acts of the Republic of Lithuania and this Contract. The Parties undertake to execute their obligations undertaken under this Contract and refrain from any action that might cause harm to another Party or make it difficult for the other Party to fulfil its obligations.

10.2. Amount of penalties (fees) and payment order thereof are provided in the Special conditions of the Contract.

10.3. If the Executor fails to comply with the requirements of the applicable legislation when performing the Contract, and therefore the competent authorised public authorities apply fines or other sanctions to the Employer, the Executor shall be obliged to indemnify the Employer for all direct losses or damages incurred as well as other additional costs. The limitation of liability shall not apply when the loss (damage) was caused by the Executor's intent or gross negligence, also in the cases set out in other laws.

10.4. Payment of penalties shall not release the Contract parties to the Contract from their obligation to fulfil all obligations assumed under this Contract.

10.5. The Executor undertakes to inform the Employer immediately in writing about the circumstances arising during the performance of the Contract, which prevent timely supply of the Goods and / or elimination of defects / deficiencies of the Goods and/or provide Services or eliminate their deficiencies, indicating the causes of the circumstances and the expected duration. The existence of such circumstances does not release the Executor from the obligation to fulfil its contractual obligations within the terms specified in the Contract.

10.6. The Executor shall in all cases be liable for any loss or damage caused by the persons involved in the delivery of the Goods and/or Services, regardless of whether such loss or damage would be caused to the Employer, its employees or any third parties and their property.

10.7. If the Executor fails to fulfil any of the terms and conditions of the Contract, which he is obliged to perform, refuses or disregards any requirement to which the Employer is entitled and to which the Executor is subject under the terms of the Contract, the Employer may notify the Executor in writing of the non-fulfilment of such requirement and request the Executor to correct the reported violations. If the Executor fails to fulfil the requirement of the Employer within a reasonable period of time, the Employer shall have the right to unilaterally terminate the Contract in accordance with the procedure prescribed by Clause 16 of the General conditions of the Contract. Termination of the Contract shall not release the parties to the Contract from paying a penalty due before the termination of the Contract.

10.8. In the event of improper performance of its contractual obligations by the Executor, the Employer shall have the right, without prejudice to other remedies provided for in the Contract and in the legal acts, to apply unilateral deduction from any amount due to the Executor under the Contract for failure to perform its obligations (by informing the Executor in writing) and, if it is insufficient, to cover the obligations of the Executor (by informing the Executor in writing), and the penalties specified in the Contract, and any losses incurred by the Executor by using the performance Guarantee. This provision shall apply notwithstanding termination of the Contract and application of other sanctions.

## **11. FORCE MAJEURE CIRCUMSTANCES**

11.1. Regarding the application of force majeure circumstances:

11.1.1. During the term of the Agreement, a Party may be fully or partially exempted from fulfilling of its obligations and civil liability (outcomes) if it proves that the Agreement was not been followed in whole or in part due to force majeure.

11.1.2. The Parties will distinguish the circumstances of force majeure as defined in Article 6.212 of the Republics of Lithuania Civil Code and the Republics of Lithuania Government's July's 15th, 1996 resolution no. 840 "Exemptions in case of Force Majeure". Force majeure conditions must be determined on a case-by-case basis and the Party invoking force majeure must demonstrate that the force majeure circumstances have a direct and immediate effect on the execution of the Agreement and prove all of the following:

11.1.2.1. The circumstances invoked by the Party were not at the time of the compilation of the Agreement and could not have been reasonably foreseen;

11.1.2.2. Due to the circumstances, the Agreement cannot be objectively carried out;

11.1.2.3. The party failing, to perform the agreement could was unable to control or prevent these circumstances;

11.1.2.4. The party has not accounted for the risk of those circumstances or their consequences.

11.1.3. A Party requesting full or partial relief from Agreement obligations and / or civil liability on the basis of force majeure must notify the other Party in a written form right away, but not later than 5 (five) calendar days from the discovery of these circumstances / impediments which are limiting proper performance of the Agreement, by presenting or providing the following:

11.1.3.1. Objective and detailed evidence with written explanations of any unforeseen circumstances / impediments, also their effects and risks for the proper performance of the Party's contractual obligations, and that it has taken all reasonable precautions and efforts to minimize costs or potential adverse consequences to the proper performance of the Agreement;

11.1.3.2. The approximate date for performance of the obligation, if the circumstances, which make it impossible to perform the Agreement, are temporary.

11.1.4. In the event of force majeure exceeding 3 (three) months, either Party shall have the right to terminate this Agreement unilaterally by giving written notice to the other Party 5 (five) calendar days in advance.

11.1.5. In the event of all of the conditions mentioned above, but force majeure circumstances being temporally, the Party shall be relieved of liability only for such period which seems reasonable, taking into account the effect of these circumstance have on the performance of the Agreement. Upon change of at least one of the above conditions, the force majeure status of the Parties shall cease to apply and the obligations of the Parties will be automatically reinstated. In any event, a Party, that has been wholly or partially released from its obligations under this Agreement and from its civil liability(outcome) for the reason of not performing / improper performance of the Agreement, must immediately notify the other Party in written form if at least one of the above conditions changes.

11.1.6. The Parties must be aware that circumstances where the contractual obligations cannot be performed due to lack of goods on the market, lack of funds or violations of their obligations by the co-contractors will not be considered as force majeure.

11.1.7. The parties are aware that when determining the existence of force majeure, a certificate issued by the Chamber of Commerce and Industry, does not create any material legal effect in itself, since the existence of force majeure is the basis for exemption of civil liability, but not the issuance of a certificate. A certificate of force majeure is purely procedural in nature, since it is to be viewed only as evidence in civil proceedings concerning the performance of contractual obligations or the imposing of civil liability. To the extent that it contains a legal assessment of certain circumstances, a certificate of force majeure shall not be regarded as prima facie evidence within the measures of Code of Civil Procedure, Article 197, since legal assessment of facts is a prerogative of the court and it is not bound by the legal assessment and qualifications by other individuals.

11.1.8. The provisions of this Agreement relating to the use of force majeure does not exclude the right of the other Party to terminate or suspend this Agreement and / or to claim damages.

11.1.9. If a Party fails to notify the other Party of the occurrence of force majeure and its impact on the performance of the Agreement within the agreed time period, it must compensate all direct and indirect losses from not performing / improper performance of the Agreement.

**11.2. Exemption or partial waiver of civil liability in full or partial respect to State's actions regarding COVID-19 situation:**

11.2.1. During the term of the Agreement, a Party may be fully or partially released from liability for non-performance of the Agreement due to mandatory and unforeseeable actions (acts) of State authorities arising due to situation with coronavirus (COVID-19) or its variants, which renders fulfilling the obligations impossible and which the Party was unable to contest (Article 6.253 (3) of Civil Codecs). The impact of actions (acts) of State authorities on the performance of contractual obligations must be determined on a case-by-case basis and the Party relying on this fact must demonstrate (i) that the grounds for partial or total exclusion from contractual obligations is solely due to actions (acts) of State authorities, which have a direct impact on the performance of the Agreement and to prove that (ii) in each case there is a collection of all the following conditions:

11.2.1.1. These actions (acts) must be unforeseeable and obligatory for the Party - could not have been foreseen by the Party in advance (At the moment of compiling the Agreement);

11.2.1.2. The actions (acts) must be such, that would render the obligations impossible to perform;

11.2.1.3. The party did not have the right to challenge the actions / acts in court or administrative proceedings.

11.2.2. A Party, requesting full or partial relief from its responsibilities for its breach of this Agreement, due to mandatory and unforeseeable actions (acts) of a State authority, arising from coronavirus (COVID-19) or its variety, must notify the other Party in written form immediately, but not later than 5 (five) calendar days from the occurrence or discovery of such circumstances that impede proper performance of the Agreement, by submitting:

11.2.2.1. objective and detailed evidence with written explanations of any unforeseen circumstances / impediments, also their effects and risks for the proper performance of the Party's contractual obligations, and that it has taken all reasonable precautions and efforts to minimize costs or potential adverse consequences to the proper performance of the Agreement;

11.2.2.2. the preliminary deadline for performance of the obligations, if the actions (acts) of the State, which render it impossible to perform the Agreement, are temporary.

11.2.3. In the event that a Party is unable to perform its contractual obligations due to mandatory and unforeseeable actions (acts) of public authorities arising from the Coronavirus (COVID-19) situation or its variants for more than 3 (three) months, either Party shall have the right to terminate this Agreement unilaterally by informing the other Party in a written form 5 (five) calendar days in advance.

11.2.4. In the event of all the circumstances, but binding and unforeseeable acts (acts) of State authorities being temporal, the Party will be relieved of liability only for such period which seems reasonable, taking into account the effect of that circumstance on the performance of the Agreement. If at least one of the above conditions changes, the provisions of Article 6.253 (3) of the Civil Code will no longer apply to the Parties of the Agreement and the obligations under the Agreement shall be automatically reapplied to the Parties. In any event, a Party, that has been wholly or partially exempted from its obligations under this Agreement and from its civil liability for the not performing / improper performance of the Agreement must immediately notify the other Party in written form in case of change in at least last one of the above conditions.

11.2.5. These provisions relating to the application of State actions (acts) do not deprive the other Party of the right to terminate or suspend the Agreement and / or to claim contractual penalties.

11.2.6. If a Party fails to send notice in accordance with the procedures set forth in the Agreement, or does not inform the other Party at all, it must compensate the other Party for any damage it has suffered as a result of the failure to notify in time or due to not informing at all.

## **12. CONFIDENTIALITY OBLIGATIONS**

12.1. The Parties agree to comply with the terms and conditions of the Contract, all the documents and information to be provided by another Party to the Contract in the course Contract execution, treat it as being confidential and do not disclose it to the third parties without preliminary written consent, except cases, when such disclosure is required by the legal acts of the Republic of Lithuania. In case of the disclosure of confidential information, the Party at fault shall reimburse all the damages in full.

12.2. Public disclosure of information about the Employer shall not be treated as a breach of confidentiality obligations when the Employer violates payment terms, and disclosure of information about the Executor when the Executor violates Goods supply and/or Service provision terms.

12.3. Confidentiality Obligations shall remain upon the completion of the Contract.

## **13. VALIDITY OF THE CONTRACT**

13.1. Validity of the Contract is set forth in the Special conditions of the Contract.

13.2. If any provision of this Contract becomes or is deemed wholly or partially void, this shall not affect the validity of the other provisions of the Contract.

13.3. In case of Contract termination or completion all the provisions related to the liability and payments of the Parties under the Contract shall remain valid, as well as all other provisions of this Contract which, as expressly stated, remain valid beyond the termination of the Contract or must remain in force in order to comply with this Contract in full.

13.4. Warranties are valid until their completion in full.

## **14. CONTRACT CHANGES**

14.1. The Contract could be amended in accordance with the order prescribed by the laws of the Republic of Lithuania. Amendments shall be effective as of the date on which they are made in writing and signed by the authorised representatives of the Parties.

## **15. SAFETY OF THE EMPLOYEES**

15.1. The Executor shall ensure that his employees, or the staff of the subcontractors employed by him, fulfil the requirements of the legislation on occupational safety and health, fire safety, environmental protection, electrical safety and hygiene when providing the Services described in the Contract, and ensure legal and safe work.

## **16. CONTRACT TERMINATION**

16.1. The Contract may be terminated under the written agreement of the Parties or unilaterally under the conditions described by the Contract. The Agreement shall specify the reasons for termination of the Contract, the date of termination and the agreement on payment for the Goods delivered and accepted and / or Services provided and accepted before the termination of the Contract, as well as for the application of liability provisions.

16.2. If the Contract shall be terminated on the grounds provided for in Clause 16.3 of the General Terms and Conditions of the Contract, the Executor acquires the right to unilaterally terminate the Contract without reimbursing the Executor for any expenses or losses related to termination of the Contract and acquires the right to the contract performance guarantee.

16.3. The Employer shall have the right to unilaterally terminate the Contract by giving a written notice to the Executor less than fourteen (14) calendar days in the following cases:

16.3.1. When the Executor goes bankrupt or is subject to liquidation procedures or suspends his activities or an analogous situation arises in the manner prescribed by laws and other legal acts;

16.3.2. When organisational structure of the Executor changes – legal status, nature or management structure and this may affect the proper performance of the Contract (this case is considered a material breach of the Contract).

16.3.3. When the Executor has been found guilty of a professional misconduct by a valid authority or court decision;

16.3.4. It was revealed that the Executor should have been removed from the procurement procedure *mutatis mutandis* in accordance with Article 46(1) of the Law on Public Procurement

applicable along with the provisions of Article 59(1) of the Law on the procurement procedures of entities operating in the water, energy, transport and postal services sectors of the Republic of Lithuania (hereinafter referred to as the Law on the procurement in public sector) (this case is considered a material breach of the Contract).

16.3.5. When the Executor fails to meet Contract execution terms (this case is considered a material breach of the Contract);

16.3.6. When the Executor fails to fulfil other contractual obligation and in accordance with 2 part of the Article of 6.217 of Civil Code such non-fulfilment could be deemed as a material breach of the Contract (this case is considered a material breach of the Contract);

16.3.7. If a legal entity which has issued a Contract performance guarantee (guarantor) fails to perform its obligations and the Executor fails to submit a new Contract performance guarantee under the same terms and conditions as the previous one not later than within ten (10) calendar days at the written request of the Employer;

16.3.8. The Contract was amended in violation of Article 97 of the Law on the procurement in public sector;

16.3.9. It was revealed that the Contract should not have been concluded with the Executor due to the fact that the Court of Justice of the European Union in the process in accordance with Article 258 of the Treaty on the Functioning of the European Union, acknowledged the failure to fulfil its obligations under the founding treaties of the European Union and Directive 2014/25/EU<sup>1</sup>;

16.3.10. For any other failure to comply with the Contract and in other cases specified in the Contract.

16.4. The Executor shall have the right to unilaterally terminate the Contract by giving a written notice to the Employer less than thirty (30) calendar days in the following cases:

16.4.1. When the Employer fails to pay to the Executor and the Employer's debt exceeds the calculated amount of the interest specified in the Special Conditions of the Contract;

16.4.2. When the Employer goes bankrupt or is subject to liquidation procedures or suspends his activities or an analogous situation arises in the manner prescribed by laws and other legal acts and there is a reasonable risk that the Executor will not be paid in accordance with the procedure and terms provided in the Contract and the Executor may prove this;

16.4.3. When organisational structure of the Employer changes – legal status, nature or management structure and this may affect the proper performance of the Contract.

16.5. If the Contract is terminated at the initiative of the Employer due to the fault of the Executor, the losses or expenses incurred by the Employer may be deducted from the amounts due to the Executor or by using the Contract performance guarantee provided by the Executor.

16.6. Contract termination shall not deprive the Employer of the right to claim for damages resulting from the failure to fulfil the Contract and penalties.

16.7. Termination of the Contract shall not release the parties to the Contract from paying a penalty due before the termination of the Contract.

16.8. If the Executor terminates the Contract unilaterally without a justifiable reason, the Employer shall use the Contract performance guarantee.

16.9. Termination of the Contract shall relieve the Parties to the Contract from the obligation to execute the Contract.

16.10. Termination of the Contract shall not affect the validity of the Contract terms and conditions establishing the dispute settlement procedure as well other terms and conditions of the Contract provided that these conditions remain in force in their substance upon termination of the Contract.

16.11. The Contract may also be terminated in other cases stipulated in the Contract and in accordance with the terms and conditions set forth in the Civil Code.

16.12. If the Employer terminates the Contract on any of the grounds specified in Clause 16.3 of the General Terms and Conditions of the Contract, the Executor shall pay to the Client a penalty of 1 (one) per cent of the Maximum Contract Price (including VAT). In such a case, the Employer shall also acquire

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<sup>1</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on entities operating in the water, energy, transport and postal services sectors, repealed by Directive 2004/17/EC

the right to claim from the Executor the interest on arrears under the present Contract as well as indemnification against other losses of the Employer that are not covered by such interest on arrears.

16.13. In case of termination of the Contract, the Employer shall pay the Executor for the Services properly provided and accepted by the Employer.

### **17. CONTRACT SUSPENSION / RENEWAL**

17.1. If, in the course of the Executor's supply of the Goods and/or the provision of the Services, there are any interferences or other obstacles to the proper delivery of the Goods and/or the provision of the Services under the Contract, he must inform the Employer in writing without delay, but no later than 1 (one) calendar day, by providing evidence of the existence of the said circumstances. In this case, the Executor shall have the right to request the Employer to suspend the supply of Goods and/or the provision of Services until the specified obstacles or interferences are removed. With the consent of the Employer, the supply of Goods and/or the provision of Services may be suspended only for the period of existence of the said circumstances, and upon their elimination, the Executor must immediately resume the supply of Goods and/or the provision of Services. In this case, the Executor shall not be paid for the suspended period of supply of Goods and/or provision of Services.

17.2. Of Suspension of the supply of Goods and/or Services is possible only if the supply of Goods and/or Services is not possible in full and the Executor, being a professional in his field, could not objectively foresee the obstacles or disruptions that caused it. The circumstances on the basis of which it is necessary to suspend extent the supply of Goods and/or the provision of Services may in no case depend on the Executor. In each such case, the Executor shall immediately, but not later than within 1 (one) calendar day, notify the Employer thereof in writing, providing evidence of the existence of the said circumstances. The Employer shall assess the specified circumstances and inform the Executor in writing about the decision to suspend or not to suspend the supply of Goods and/or the provision of Services. After the Employer informs the Executor in writing about the resumption of the supply of Goods and/or Services, the Executor undertakes to resume the supply of Goods and/or the provision of Services within 7 (seven) days from the moment of receipt of information from the Employer.

### **18. DISPUTE SETTLEMENT PROCEDURE**

18.1. This Contract and all rights and obligations arising from this Contract shall be governed by the laws of the Republic of Lithuania and other legal acts. This Contract is made and shall be construed in accordance with the law of the Republic of Lithuania.

18.2. Any controversy or dispute between the Parties in connection with this Contract shall be resolved by mutual agreement/negotiations. If the Parties fail to reach the agreement, any dispute, controversy or requirements arising from the Contract or related thereto, or any breach, termination or invalidity hereof unresolved by the Parties' agreement, shall be resolved in compliance with the procedure prescribed by the laws of the Republic of Lithuania before the court of the Republic of Lithuania.

### **19. CORRESPONDENCE**

19.1. The Parties to the Contract shall communicate in the Lithuanian language (if the Contracting Party is a foreign entity - Russian or English). All messages, agreements and other notices to be sent by the Parties to the Contract shall be considered as valid and properly delivered when they are personally delivered to the other Party and there is an acknowledgement of the receipt, or when they are sent by registered mail or email or fax to the provided addresses or fax numbers, or other addresses and fax numbers indicated by the Party at the moment of notice submission.

19.2. The Parties shall inform each other in case of any changes in the provided addresses and /or other data not later than within three (3) calendar days. If either Party fails to comply with the above requirements, it shall not have the right to raise any claims or feedback that any action of the other Party for which it used the last-known requisites of the other Party is inconsistent with the terms and conditions of the Contract, or that it failed to receive notices sent using those requisites.

## 20. FINAL PROVISIONS

20.1. None of the Parties shall have a right to transfer all or part of the rights and obligations under this Contract to the third party without preliminary written consent of the other Party, except for the assignment of a monetary claim under a factoring agreement with a third party (financier). The Parties agree that the transfer of a pecuniary claim arising from the Contract to a third party (financier) does not change the other rights and obligations of the Parties established in the Contract and legal acts

20.2. The following order for attraction and (or) replacement of specialists and (or) subcontractors involved in the Contract execution shall apply when the Executor relies on the capacities of other economic entities for the execution of the Contract in order to comply with the qualification requirements:

20.2.1. In performing the Contract, the Executor shall not change the economic entity specified in its tender whose capacity has been used to meet the qualification requirements (hereinafter - the entity) and / or the specialist specified in its tender without the consent of the Employer. Economic entity and (or) specialist replacing the previous one shall have a qualification not lower than the one stipulated in the Tender. Economic entity and (or) specialist of the Executor could be replaced in the following cases:

20.2.1.1. When economic entity of the Executor goes bankrupt or an analogous situation arises;

20.2.1.2. When economic entity and (or) specialist of the Executor can no longer participate in the execution of the Contract (for instance when an economic entity and / or specialist refuses to participate in the performance of the Contract, in case of illness, injury, termination of legal relationship with the Executor, etc.).

20.2.2. In order to change the economic entity and / or specialist, the Executor shall inform the Employer in writing at least three (3) calendar days in advance and obtain the Employer's written consent. Upon the Employer's consent to the change of the economic entity and / or specialist, the Employer shall enter into an agreement with the Executor in writing regarding the change of the economic entity and / or specialist, which shall be signed by the Parties. This agreement constitutes an integral part of the Contract;

20.2.3. The Executor, in order to attract subcontractors who are not economic entities, shall notify the Employer of the names, contact details and representatives of the known subcontractors at the latest, as well as of any changes in the above information during the performance of the Contract and the new Subcontractors which the Executor intends to attract later. Subcontractors may not participate in the performance of the Contract without prior notice to the Employer. Subcontractors may be attracted only for those parts of the Contract for which the Executor has intended to attract subcontractors in its tender, unless the Executor justifies the use of a sub-contractor for an unforeseen part of the Contract to ensure proper performance of the Contract;

20.2.4. The Employer will not verify qualification of the subcontractors who are not economic entities;

20.2.5. Upon request of subcontractors, the Employer will pay them directly. The Employer will inform the subcontractor of this possibility by a separate notice within three (3) calendar days from the date of receipt of the information from the Executor about the subcontractor being used. In order to apply the direct settlement procedure, the Subcontractor must inform the Employer about this in writing no later than within two (2) calendar days. In such a case, a trilateral agreement will be concluded with the Employer, the Executor and the subcontractor, including the procedure for direct settlement with the subcontractor, providing the right for the Executor to oppose unjustified payments. Signing of a trilateral agreement for direct settlement with the subcontractor does not change the Executor's responsibility for performance of the Contract.

20.3. Invalidity or contradiction of any provision to the laws of the Republic of Lithuania or other normative legal acts in this Contract does not relieve the Parties from fulfilling their obligations. In this case, such a provision must be amended to the extent complying with the requirements of the law and as close to the objective of the Contract and its other provisions as possible.

20.4. All other issues not covered by the Contract are regulated by the legal acts of the Republic of Lithuania.

20.5. The Parties shall, when amending the provisions of the General conditions of the Contract, state this in the Special conditions of the Contract.

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