Maintenance and Service Agreement\_Premium

N°

as of 2020

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| between | **Nordex Energy SE & Co. KG**  A German private limited partnership having its registered office at Langenhorner Chaussee 600, 22419 Hamburg, Germany, registered at the Hamburg local court under HRA 126373;  represented by the general partner Nordex SE, having its registered office at Langenhorner Chaussee 600, 22419 Hamburg, Germany, registered at the Rostock local court under HRB 11500.  - hereinafter called „CONTRACTOR“ – |
| and | **UAB „VVP Investment”**  Žvejų gatvė 14  09310 Vilnius  Lithuania a Lithuanian private limited liability company having its registered office in Žvejų gatvė 14, 09310 Vilnius, entered into the Registry of Legal Persons of Republic of Lithuania under company code 302661590, VAT payer ID LT100007781113 - hereinafter called „OWNER“ - |
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|  | - the CONTRACTOR and the OWNER hereinafter referred to together as the “Parties” or individually as a “Party” |
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| concerning | the **maintenance and service of eight (8) N149/4500 TS155 and six (6) N149/4500 TS145** **wind turbine generators** (hereinafter called „WTG“) **located in Mažeikiai, Lithuania, as well as the warranty of the WTG’s production-based availability** |

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# Preamble

*Whereas*, the CONTRACTOR is identical to the Nordex Energy GmbH and has been transformed by way of a change in legal form from the previous Nordex Energy GmbH. The CONTRACTOR is represented by the general partner, Nordex SE, having its registered office at Langenhorner Chaussee 600, 22419 Hamburg, Germany, registered at the Rostock local court under HRB 11500.

*Whereas*, OWNER is developing and will own a wind energy generating facility in Mažeikiai, Lithuania;

*Whereas*, OWNER has purchased fourteen (14) WTG under a Supply and Installation Agreement dated as of \_\_\_\_\_\_\_\_\_\_\_ 2020 from CONTRACTOR;

*Whereas*, OWNER wishes to retain CONTRACTOR to maintain and service the WTG including all associated work and services as set forth in the Scope of Work, all as more particularly set forth in this Agreement;

*Whereas*, CONTRACTOR wishes to provide and perform maintenance and service in respect to the WTG on the terms and conditions set forth in this Agreement.

*Now, therefore*, the Parties hereto agree as follows:

1. Definitions

Whenever used in this Agreement with an initial capital letter, the following terms shall have the following respective meanings:

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| “Acceptance” |  | OWNER's acknowledgement of the Work to be performed by CONTRACTOR under this Agreement in accordance with Section 7. |
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| “Affiliate” |  | Any person, enterprise or other entity which, directly or indirectly, controls, or is controlled by, or is under common control with a Party; for the purposes of this definition, the term “control” means ownership of fifty percent (50%) plus one share of the registered capital and/or assets or the power to appoint or direct the management of such person, enterprise or other entity or to appoint or elect the majority of the directors of a company. |
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| “Agreement” |  | This agreement, including all Exhibits, appendices and schedules attached hereto, as the same may be amended from time to time. |
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| “Annual Fee” |  | The annual price payable by OWNER for the maintenance, service and repair of the WTG by CONTRACTOR under this Agreement as defined in Section 8.1 and 8.2. |
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| “Calendar Day” |  | Every day including Saturdays, Sundays and Holidays. |
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| “Condition Monitoring System” |  | The computer based system (either installed in the WTG by CONTRACTOR under the Supply and Installation Agreement or yet to be installed pursuant to Section 2.1) employed by CONTRACTOR for the continuous remote analysis of the condition of the WTG’s drive train. |
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| “Confidential Information” |  | All confidential information as defined in Section 16.1. |
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| “Effective Date” |  | The date on which this Agreement becomes effective as indicated in Section 22.9. |
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| “Event of Default” |  | A breach of contractual obligations from the either side of CONTRACTOR or OWNER as defined in Sections 14.1 and 14.2. |
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| “Financing Party” |  | Any and all lenders providing senior or subordinated construction, interim or long-term debt financing for the Project, any and all equity investors providing leveraged lease-financing for the Project as well as any trustee or agent acting on their behalf. |
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| “Force Majeure Event” |  | Any event as defined in Section 12.1. |
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| “Independent Expert” |  | An independent expert appointed in accordance to Section 19.2. |
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| “Intellectual Property” |  | The Licensed Materials, patents, proprietary rights, trademarks and other rights protecting the intellectual property of CONTRACTOR as defined in Section 15. |
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| “Licensed Materials” |  | Software, rights and other materials licensed from CONTRACTOR to OWNER as set out in Section 15.1. |
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| “Measurement Period” |  | Shall have the meaning ascribed to that term in Exhibit II. |
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| “Operation & Maintenance Instructions” |  | The technical specifications and requirements in respect to the operation and maintenance of the WTG and Remote Monitoring System to be respected and followed by OWNER. |
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| “Project” |  | The integrated wind-powered electricity generating plant or the location where the WTG are going to be operated. |
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| “Project Site” |  | All those parcels of land subject to the real property rights in favour of OWNER on which the Project is located. |
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| “Remote Monitoring System” |  | The system (including software) used by CONTRACTOR to monitor the WTG during operation according Section 3.3. |
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| “Scope of Work” |  | All Work to be performed by CONTRACTOR in accordance with Section 3. |
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| “Substantial Completion” |  | The date of the fulfilment of all material criteria set out in the Substantial Completion requirements in accordance with Section 7.2 of the Supply and Installation Agreement. |
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| “Substantial Completion Date” |  | The date of Substantial Completion of all WTG comprising the Project. |
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| “Supply and Installation Agreement” |  | The supply and installation agreement between OWNER as employer and CONTRACTOR as contractor concerning the supply of the WTG and additional work to be performed by CONTRACTOR in respect to the commissioning of the WTG. |
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| “Utility” |  | The utility to which the Project will deliver electrical power produced by the WTG. |
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| “Warranty and Defects Liability Period” |  | The period for which CONTRACTOR shall assume responsibility for the performance of the Work as specified in Section 9.1. |
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| “Work” |  | The work to be performed by CONTRACTOR within the Scope of Work. |
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| “WTG” |  | The wind turbine generator(s) purchased by OWNER and supplied by CONTRACTOR under the Supply and Installation Agreement. |
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| “WTG Control System” |  | The supervisory control and data acquisition computer system which monitors the operation of the WTG including any interface access to OWNER, if such interface has been part of the scope of supply of CONTRACTOR under the Supply and Installation Agreement. |

1. Condition Precedent
   1. CONTRACTOR’s and OWNER’s obligations under this Agreement shall be subject to the condition precedent that OWNER shall have fulfilled all conditions precedent under Section 2 of the Supply and Installation Agreement or – if OWNER and CONTRACTOR did not enter into a Supply and Installation Agreement in connection herewith – CONTRACTOR’s obligations shall be subject to the condition precedent that OWNER has paid to CONTRACTOR the first instalment of the Annual Fee.
   2. This Agreement is further subject to the WTG being equipped with a Condition Monitoring System. Should this not be the case, OWNER herewith orders from CONTRACTOR with the execution of this Agreement that the WTG be equipped with such system. The remuneration for such equipping is determined by the corresponding offer of CONTRACTOR and, if such offer has not been submitted, in accordance with Section 8.3. Following its installation the Condition Monitoring System becomes a part of the WTG covered by this Agreement.
2. Scope of Work

CONTRACTOR hereby agrees to perform, or cause to be performed, the following works and services, subject to the terms and conditions of this Agreement, furthermore, CONTRACTOR shall warrant the availability of the WTG as hereinafter provided.

* 1. Service, Maintenance and Repair Work

CONTRACTOR’s Scope of Work shall include the service, maintenance and repair of the WTG, including its components, the low/medium voltage WTG-transformer (if supplied by CONTRACTOR under the Supply and Installation Agreement) and the Remote Monitoring System as hereinafter described.

Unless otherwise indicated in Exhibit III, the inspection, service, maintenance, repair, certification or provision by CONTRACTOR (as the case may be) of any of the following items, as well as the cleaning of the rotor blades of the WTG are not included in the Scope of Work:

* + 1. Service and Maintenance

CONTRACTOR shall inspect and service the WTG regularly as required by and in accordance with CONTRACTOR’s or, as appropriate, the WTG manufacturer’s specifications and instructions, including in particular the Operation & Maintenance Instructions attached hereto as Exhibit I and as the same may be amended by CONTRACTOR or manufacturer from time to time or, in the absence of specifications or instructions, in accordance with common wind industry standards. CONTRACTOR shall inform OWNER of any material amendments of the Operation & Maintenance Instructions.

* + 1. CONTRACTOR shall inspect the WTG at regular maintenance intervals according to DIN 31051 or any subsequent DIN standards in order to identify any deviation of the actual state from the desired and correct state in order to propose, respectively initiate necessary measures to be taken to restore the WTG to its desired and correct state. Scheduled maintenance includes the types of necessary actions and maintenance operations for keeping the WTGs in the desired and correct state, as indicated in Exhibit I.

The Scope of Work shall include in particular:

* service of the Remote Monitoring System of the WTG;
* checking of all components including tubular tower and blades;
* check of bolts torque and, if necessary, tightening of bolted connections;
* checking of oil levels;
* taking oil samples including oil analysis;
* oil change including the oil based on result of oil analysis or if necessary, according to the applicable technical specifications, as often as necessary;
* lubrication / greasing work as necessary;
* checking and, as necessary, adjusting the brakes;
* checking all devices of the WTG ensuring the safe operation including the lightning protection system, if any, and the earthing;
* evaluation of Condition Monitoring System data;
* necessary unscheduled service interventions due to alarms from the WTG;
* checking of the Service lift in accordance with the requirements of the Directives 2006/42/EC, 2004/108/EC and 2006/95/EC;
* checking all devices of the wind turbine, ensuring the safe operation including the lightning protection systems.

All safety equipment (including the service lift) of the WTG shall be supervised and maintained respectively to the requirements of applicable Lithuanian legislation and EU standards and regulations (standards EN 1496, EN 795, EN 18799-1, EN ISO 14122-4, EN 131, EN353-1, LST EN-3, EN 1866, EN 1866-1, Directives 2006/45/EC, 2006/42/EC and others).

Materials and consumables as well as wear and tear parts which are necessary for the performance of the Work will be provided by CONTRACTOR at its own expense. Any waste material resulting from the performance of the Work will be disposed of by CONTRACTOR at its own expense.

* + 1. Repair Work

CONTRACTOR shall carry out any necessary repairs of the WTG.

Unscheduled maintenance or repair works which are necessary due to the following events or actions, however, are not included in the Scope of Work:

a) Force Majeure Events ;

b) damage or contamination caused by third parties; or

c)

Insofar as unscheduled maintenance or repair works are necessary for any of the foregoing reasons, CONTRACTOR shall inform OWNER without delay. CONTRACTOR shall only carry out unscheduled maintenance or repair works in such cases on written request of OWNER. The costs shall be invoiced separately to and be for the account of OWNER.

* 1. Availability

From the Substantial Completion Date CONTRACTOR warrants for the term of this Agreement the availability of all WTG in accordance with Exhibit II to this Agreement.

* 1. Remote Monitoring and Reporting
     1. CONTRACTOR will monitor the operating status of the WTG via remote control on a 24 hours per day, 7 day per week basis using the Remote Monitoring System provided by CONTRACTOR and the data communication line provided by OWNER. CONTRACTOR and OWNER (via the WTG Control System) shall be permitted continuous and unobstructed access to the information generated by such installed Remote Monitoring System needed for the calculation of availability and power production of the WTG. CONTRACTOR shall be permitted access to all possible data or reports from the Remote Monitoring System, and to control the remote operation of the WTG, at its discretion. Neither CONTRACTOR nor OWNER shall take any action which would alter the data stored by the Remote Monitoring System, and neither Party shall inhibit the other Party's remote access to the Remote Monitoring System. In case of any dysfunction or error which cannot be dealt with remote via the Remote Monitoring System but requires the local intervention of a service team CONTRACTOR will inform OWNER without undue delay in writing via fax, by email or by SMS and will initiate any appropriate measures.
     2. CONTRACTOR shall provide to OWNER regularly the following reports:

1. Monthly reports in the form of Exhibit VI sent to OWNER by regular post or electronic mail
2. Continuous documentation of the Work performed comprising

* copies of service, maintenance and repair reports as well as on any other works, including a list of the exchanged parts;
* copies of manufacturer’s report on oil analysis; and
* evaluation of data from the Condition Monitoring System (if installed).
  + 1. Reasonable access to the complete WTG documentation shall be provided to OWNER in the offices of CONTRACTOR during normal business hours. CONTRACTOR shall provide OWNER on demand within a period of 15 Calendar Days, copies of the detailed historical service reports.

In the case of a replacement of a major component (blades, gearbox, main bearing, main shaft, generator), CONTRACTOR shall notify OWNER without undue delay, in any case not later than 15 Calendar Days following the completion of the repair or replacement.

1. Term
   1. The term of this Agreement shall be fifteen (15) years as from the Substantial Completion Date or the date of the transfer of the risk of loss for all WTG under the Supply and Installation Agreement, which ever date is the earlier.
2. General Obligations of CONTRACTOR
   1. In connection with the provision of services hereunder, CONTRACTOR shall only use qualified personnel and is entitled to carry out works on a 24 hours a day, seven day a week basis. .
   2. CONTRACTOR provides OWNER with a specific service hotline which is available on a 24 hours per day, 7 days per week basis:

Telephone:

* 1. CONTRACTOR shall comply with all applicable laws at the Project Site and in respect to the Work. This obligation of CONTRACTOR, however, shall not modify the Scope of Work.
  2. CONTRACTOR shall be responsible for its and its subcontractors’ employees’ actions, especially with regard to compliance with all applicable safety and security regulations. During the lifetime of the Agreement CONTRACTOR shall be entitled to hire subcontractors for implementation of the Contract in accordance with a list of already accepted subcontractors attached as Exhibit IX.

Substitution of the subcontractor or hiring of a new subcontractor is allowed when the CONTRACTOR gives a prior written notice to the OWNER about substitution of the subcontractor or hiring of new one for the part of the contractual obligations of this Agreement. If the OWNER did not express an objection, based on reasonable grounds, within 5 (five) business days in writing, it shall be deemed that the subcontractor has been substituted or a new one has been hired.

* 1. CONTRACTOR shall remain solely responsible for obligations and duties hereunder performed by subcontractors of CONTRACTOR.
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1. Obligations of OWNER
   1. OWNER shall be solely responsible for all public and private permits required for the operation of the WTG and for the performance of the Work hereunder. OWNER shall provide CONTRACTOR with full and free access at all times during the term of this Agreement to the Project Site and shall maintain a crane staging area next to the WTG in accordance with CONTRACTOR’s requirements as specified in Section 6.2 of the Supply and Installation Agreement.
   2. CONTRACTOR’s responsibility for the safety of the performance of his Work notwithstanding, OWNER shall be solely responsible towards third parties for the safety and security on the Project Site to the extend admissible under the Applicable Law.
   3. OWNER shall provide to CONTRACTOR at its own expense a data connection in accordance with CONTRACTOR`s requirements as specified in the Supply and Installation Agreement, for continuous remote access to the WTG required by CONTRACTOR for monitoring the WTG.
   4. OWNER shall provide and uphold the interconnection of the WTG to the electrical grid of as well as for any power purchase agreement with the Utility.
   5. Unless expressly otherwise agreed in this Agreement, OWNER shall be solely responsible for the installed transmission facilities, transformers, substations, any other type of interconnection facilities, internal park cabling, WTG foundations, crane area, roads and fences about the Project Site, communication cables and equipment and for the grid connection between the WTG at the Project Site and the Utility.
   7. OWNER shall provide to CONTRACTOR all documentation and information reasonably requested by CONTRACTOR in respect to the Project Site and to the WTG. In particular, OWNER shall provide CONTRACTOR with copies of any documents relevant for the performance of the Work hereunder. In particular, OWNER shall hand over to CONTRACTOR copies of any building and operational permit.

The documents required by CONTRACTOR shall be mutually agreed between OWNER and CONTRACTOR.

1. Acceptance of CONTRACTOR’s Work
   1. CONTRACTOR’s Work to be performed hereunder shall be acknowledged by OWNER to have been delivered and performed under this Agreement by way of and upon receipt from CONTRACTOR of a report describing the work performed and any repair made by CONTRACTOR in sufficient detail.
   2. If OWNER upon receipt of the respective report by CONTRACTOR reasonably believes that the Work performed does not fulfil the aforementioned requirements for Acceptance, OWNER shall execute and deliver to CONTRACTOR a written notice of alleged deficiencies within Calendar Days of receipt of the respective report by CONTRACTOR. OWNER’s notice shall state the alleged deficiencies in reasonable detail. CONTRACTOR shall then take any action it deems necessary to correct the alleged deficiencies, at CONTRACTOR’s sole cost and expense, and shall request Acceptance upon completion of the appropriate measures. OWNER will have Calendar Days after each subsequent request for Acceptance to advise CONTRACTOR, in writing, of any remaining alleged deficiencies to be corrected by CONTRACTOR as a condition for Acceptance of the Work performed. OWNER’s failure to provide a timely written notice of alleged deficiencies or any subsequent notification of remaining deficiencies shall be deemed acknowledgement that Acceptance in respect of the Work performed has occurred. In the event that OWNER and CONTRACTOR are unable to agree regarding the existence or correction of any alleged deficiency, upon request of either of the two Parties an Independent Expert shall analyse and decide with binding effect on both Parties if the Work has been performed in accordance with the aforementioned requirements or not.
2. Annual Fee and Payment Terms
   1. During the term of this Agreement, CONTRACTOR shall be paid by OWNER an Annual Fee for the services under this Agreement in the net amount as indicated in Exhibit III. The minimum amount indicated in Exhibit III as well as the price for all options selected under Exhibit III shall be payable in advance.
   2. The Annual Fee and the option prices stipulated in Exhibit III shall be subject to annual review.
   3. Where and when necessary CONTRACTOR shall provide a quotation offer to OWNER for all additional services related to the scope of this Agreement, but which are not included in the Scope of Work set out in Section 3.
   4. All fees and prices set out above are net and shall be subject to applicable Value Added Tax applicable at the invoice date.
   5. All payments due to CONTRACTOR hereunder shall be made within of the date of the invoice to CONTRACTOR’s bank account as stated on the respective invoice.
   6. Any amount owed to either Party hereof beyond the date that such amount first becomes due and payable under this Agreement shall accrue interest

from the date that it first became due and payable until the date that it is paid without any notice for delay of payment being required.

1. Warranties
   1. With respect to the Work performed hereunder and for a Warranty and Defects Liability Period of , CONTRACTOR warrants that the Work shall be performed in a workmanlike manner using good quality components and materials, respecting the common wind industry practices and in accordance with the technical requirements of CONTRACTOR or manufacturer and with CONTRACTOR’s or manufacturer’s Operation & Maintenance Instructions. During this Warranty and Defects Liability Period the Work performed hereunder shall be and remain free from defects in materials and workmanship.
   2. If CONTRACTOR is in breach of any warranty in accordance with this Section 9, then OWNER shall give written notice of the breach with reasonable promptness following OWNER’s discovery thereof and in no event later than the expiration of the Warranty and Defects Liability Period, and CONTRACTOR shall without undue delay take all remedial action necessary or appropriate to repair or replace the defective materials, equipment, parts or defective workmanship, including any damage to the surrounding work, at the cost and expense of CONTRACTOR.
   3. CONTRACTOR is not and shall not be held liable for any alleged or actual breach of the warranties given in this Section 9 to the extent caused by or arising out of:
2. ordinary wear and tear in the operation of the WTG;

5. the use of materials, equipment, specifications, or designs, supplied or required by any party other than CONTRACTOR, its subcontractors or suppliers;
6. any delay in remedying a breach of CONTRACTOR’s warranty hereunder due to the act, or failure to act, by OWNER or a third party, or a Force Majeure Event;
7. damage to the WTG caused by third parties;
8. the operation of the WTG outside the scope of the recommended use as set forth in the Operation & Maintenance Instructions and the technical specifications;

9.4 The warranties set forth in this Agreement are exclusive and in lieu of all warranties, expressed or implied, of performance, merchantability, fitness for a particular purpose, customer, usage or otherwise. Except as set forth in this Section 9, there are no other warranties, agreements or understandings with respect to the Work and no other warranty, oral or written, which might have been given by an employee, agent or representative of CONTRACTOR authorised by CONTRACTOR. CONTRACTOR’s liability for any further damages resulting from the non-compliance of the Work and any further rights of OWNER due to such non-compliance shall be limited pursuant to the stipulations of Section 11.

1. Indemnification
2. Liability
3. Force Majeure
   1. Force Majeure Event shall mean any event beyond the control and without the fault or negligence of the Party or Parties whose performance hereunder is delayed in consequence of such events, including, but not limited to, acts of God, expropriation or confiscation of facilities, acts of war, rebellion or sabotage, fires, floods, explosions, riots, strikes, unavoidable delays in delivery or transportation (including unusual or unforeseeable ocean conditions), terrorism, unavoidable casualties, lightning or unusual inclement weather.
   2. If OWNER or CONTRACTOR is rendered wholly or partially unable to perform its obligations (other than any payment obligations) under this Agreement because of the occurrence of a Force Majeure Event, that Party will be excused from whatever obligations (other than payment obligations) that are affected by the Force Majeure Event to the extent so affected, provided that:
4. the affected Party gives the other Party written notice, within describing the particulars of the occurrence known to such affected Party and as soon as reasonably possible provide an estimation of its expected duration and probable impact on the performance of such Party’s obligations hereunder;
5. the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event taking into consideration intervening causes such as shipping availability and production slot scheduling;
6. the affected Party shall use all reasonable efforts to continue to perform its obligations hereunder to the extent that performance is not excused; and
7. when the affected Party is able to resume performance of the affected obligations under this Agreement, that Party shall give the other Party written notice to that effect and the affected Party promptly shall resume performance under this Agreement.
   1. The Party affected by the occurrence of a Force Majeure Event shall exercise all reasonable efforts to mitigate or limit damages to the other Party.
8. Insurance
   1. During the term of this Agreement, CONTRACTOR shall procure and maintain, or cause to be procured and maintained, the insurance policies set out in Exhibit IV hereto with one or more insurance carrier(s) of good standing.
   2. . During the term of this Agreement, OWNER shall procure and maintain, or cause to be procured and maintained, the insurance policies set out in Exhibit V hereto with one or more insurance carrier(s) of good standing.
   3. Each Party hereto shall, deliver to the other Party certificates of insurance evidencing the coverages specified in Sections 13.1 and 13.2 and the Exhibits thereto.
9. Default and Termination
   1. CONTRACTOR Defaults

The occurrence of any one or more of the following events shall constitute an Event of Default by CONTRACTOR hereunder:

2. CONTRACTOR is in material breach of its obligations under this Agreement and such breach continues for 30 Calendar Days after receipt of written notice of such breach from OWNER;
3. CONTRACTOR voluntarily commences bankruptcy, insolvency, moratorium or similar debtor-relief proceedings, or shall have become insolvent or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts and such default condition is not cured within 60 Calendar Days;
4. Insolvency, bankruptcy, or similar proceedings shall have been commenced against CONTRACTOR and such proceeding are not dismissed or stayed within a period of 60 Calendar Days; or
5. Any material representation made by CONTRACTOR herein shall have been false or misleading in any material respect when made, unless the fact, circumstance or condition that is the subject of such representation is made true within 30 Calendar Days after OWNER has given CONTRACTOR written notice thereof.
   1. OWNER Defaults

The occurrence of any one or more of the following events shall constitute an Event of Default by OWNER hereunder:

1. OWNER fails, for any reason, to make to CONTRACTOR any required payments hereunder when due, and such failure continues for 30 Calendar Days after receipt of written notice of such breach from CONTRACTOR;
2. OWNER is in material breach of its obligations under this Agreement and such failure continues for 30 Calendar Days after receipt of written notice of such breach from CONTRACTOR;
3. OWNER voluntarily commences bankruptcy, insolvency, moratorium or similar debtor-relief proceedings, or shall have become insolvent or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts and such default condition is not cured within 60 Calendar Days;
4. Insolvency, bankruptcy, or similar proceedings shall have been commenced against OWNER and such proceeding are not dismissed or stayed within a period of 60 Calendar Days;
5. Any material representation made by OWNER herein shall have been false or misleading in any material respect when made, unless the fact, circumstance or condition that is the subject of such representation is made true within 30 Calendar Days after CONTRACTOR has given OWNER written notice thereof.

   2. Event of Default Remedies
   3. Termination or expiration of this Agreement shall not:
6. relieve either Party of its obligations with respect to the confidentiality of the other Party’s information as set forth in Sections 15 and 16 hereunder and with respect to the dispute settlement regulations set forth in Section 19;
7. relieve either Party of any obligation in this Agreement which expressly or by implication survives termination hereof; and
8. shall not relieve either CONTRACTOR or OWNER of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination subject to the indemnification and liability provisions as well as to the limitation of liability set forth in this Agreement.
9. Intellectual Property Rights
10. Confidentiality
    1. CONTRACTOR may disclose to OWNER certain non-public information including without limitation technical, product, marketing, financial, personnel, planning, and other information to be considered as Confidential Information. Confidential Information may either be marked “Confidential”, “Proprietary”, or such similar language may be used, or it may be orally so designated without written marking or may not be marked or designated but is nevertheless confidential, non-public information of CONTRACTOR.

OWNER shall use Confidential Information only as expressly permitted by this Agreement, and shall limit the disclosure of Confidential Information to employees or agents of OWNER who have a need to know such Confidential Information for purposes expressly authorised by this Agreement, and who are bound in writing by confidentiality terms no less restrictive than those contained herein. OWNER may to the extent unavoidably necessary disclose confidential information where and when such disclosure is mandatory under Applicable Law. OWNER shall notify CONTRACTOR immediately if OWNER learns of any misappropriation or misuse of the Confidential Information (including mandatory disclosure), and shall cooperate with CONTRACTOR to prevent such misappropriation or misuse. OWNER shall return to CONTRACTOR or destroy all Confidential Information upon written request or upon expiration of this Agreement and shall certify in writing that it has done so.

* 1. The Party in breach of the obligation regarding confidentiality established in the Agreement, based on a reasonable claim of the other Party, shall compensate all direct losses incurred by the other Party due to the breach of confidentiality.
  2. Upon CONTRACTOR’s request the Purchaser shall have a right to give a written permission not to apply the requirements for certain confidential information or a part thereof.
  3. Sections 16.1 to 16.3 shall apply accordingly to all Confidential Information of OWNER disclosed to CONTRACTOR.

1. Assignment
2. Notice

Any notice, demand, offer, or other written instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be hand delivered or sent by letter or facsimile transmission to the other Parties at such address set forth below. Notices required to be delivered to the Financing Party shall be delivered at such address as OWNER may specify from time to time by notice delivered pursuant to this Section 18.

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Each Party shall have the right to change the place to which notice shall be sent or delivered by similar notice sent to the other Party. The effective date of any notice issued pursuant to this Agreement shall be at the time of delivery if delivered in person, at the time of successful transmission is received if sent by facsimile transmission, or 5 Calendar Days after mailing (postage prepaid) if sent by mail.

1. Dispute Resolution and Place of Jurisdiction
   1. In the event a dispute arises between OWNER and CONTRACTOR regarding the application or interpretation of, or in any way relating to this Agreement, OWNER and CONTRACTOR shall use reasonable efforts to reach a reasonable and equitable resolution of the matter on an expedited basis. In the event such efforts do not result in the resolution of the dispute, either Party may by notice request the other Party to designate an officer of its management to meet at the Project Site, or at any other mutually agreed location, to resolve the dispute. The designated officers shall meet within 5 Calendar Days following the notice date unless another date is mutually agreed, to resolve the dispute. The Parties shall be free to agree to an impartial mediator to aid with the resolution of the dispute. Should they agree, the mediator will have forty-five (45) calendar days to render a decision.
   2. Wherever the Agreement provides for appointment of an Independent Expert by one Party, that Party shall be entitle to choose an Independent Expert from the list of Independent Experts attached as Exhibit VII hereto. The list of Independent Experts may be amended by the Parties in mutual agreement.
   3. If the procedure referenced in Section 19.1 above does not result in resolution of the dispute within 5 Calendar Days after commencement of the referenced officers’ meeting or should one Party not send an officer of its management to meeting, each Party, without further delay,
2. Applicable Law

This Agreement shall be construed, enforced and performed in accordance with the laws of the Republic of Lithuania without reference to conflict of laws principles. The rights and obligations of the Parties in connection with this Agreement and any purchase of parts, components or other goods delivered shall not be governed by the provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods.

1. Public Announcements

CONTRACTOR shall obtain OWNER’s prior written approval, not to be unreasonably withheld, of the content of any external announcement, publication, or other type of public communication concerning the Work to be performed under this Agreement prior to the release of the same by CONTRACTOR and vice versa.

1. Miscellaneous
   1. This Agreement shall be construed in the English language. All documents or Documentation to be prepared pursuant to this Agreement shall be in the English language. Any correspondence between the Parties shall be in English unless otherwise agreed.
   2. All Exhibits, annexes and appendices attached to this Agreement are incorporated by reference herein or in the Exhibits made a part hereof for all purposes. In the event of any inconsistency between this Agreement (exclusive of the Exhibits) and any of the Exhibits, or among the Exhibits, the interpretations set forth in this Agreement (exclusive of the Exhibits) shall prevail over any of the Exhibits.
   3. The invalidity of one or more phrases, sentences, clauses, sections or Sections contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated. Any invalid provision hereof or any lack of provision shall be deemed replaced by a valid provision the Parties hereto would have stipulated if they had been aware of such invalidity or lack at the date hereof.
   4. Each Party, in its sole discretion, shall have the right, but shall have no obligation, to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however, that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. A Party’s exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified.

A delay or failure to enforce at any time any of the provisions of this Agreement, or to require at any time performance by the other Party of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions or to affect either the validity of this Agreement or any part hereof or the right of either Party thereafter to enforce each and every provisions in accordance with the terms of this Agreement.

* 1. The headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained herein.
  2. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other. Any rule of construction that ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement, or any amendments or Exhibits hereto. References to Sections, clauses, sub-clauses or sub-paragraphs in this Agreement are references to Sections, clauses, sub-clauses or sub-paragraphs of this Agreement unless the context requires otherwise.
  3. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions and neither Party has relied upon any representation, express or implied, not contained in this Agreement.
  4. This Agreement may be modified or amended only by an instrument in writing signed by all of the Parties hereto.
  5. This Agreement shall be effective on, and shall be binding upon, the Parties hereto upon the full execution and delivery of this Agreement as of the date and year hereof.