

**MISCELLANEOUS****Contractor's obligations:**

- to carry out the ordered works professionally correct in accordance with the presented user requirements, within the conditional scope and quality and taking into account the applicable rules and standards. The Contractor shall obtain a written consent from the Project Manager for each substitution of material and equipment from the inventory lists of the Project Engineer otherwise the Mandator shall not be obliged to pay for the material and equipment;
- to obtain consents from the Project Manager and the supervisory service of the Mandator for any modifications of particular technical solutions;
- to arrange the site in accordance with the safety plan and organize the works on the (construction) site so as not to pose a threat to the safety of the structure, to the lives and health of people, to traffic, to neighbouring objects or the environment;
- to make regular entries in the construction logbook and to keep a logbook on the execution of works;
- to deliver the equipment, elements, spare parts, etc., as specified in the offer. All delivered and installed equipment, elements, spare parts, etc., shall be completely new, manufactured in line with state-of-the-art technology and the latest specialized industrial know-how, and in conformity with the applicable rules and standards, the Contractor shall also be obliged to provide adequate certificates of attestation;
- to supply and assemble the equipment manufactured pursuant to the Technical Requirements for Products and Conformity Assessment Act (Official Gazette of RS, No. 17/2011) and the Machinery Safety Rules (Official Gazette of RS, No. 75/2008 et seq.), and to certify the conformity with essential occupational health and safety requirements with adequate markings on the machinery/device at takeover or at the latest prior to putting the equipment into service, to submit an adequate declaration of conformity in Slovene language and a CE Declaration of Conformity (European CE Mark Directives);
- to supply and assemble the equipment manufactured in line with the following directives: the Electromagnetic Compatibility (EMC) Directive 2004/108/EC, Directive 2006/95/EC relating to electrical equipment designed for use within certain voltage limits, the Machinery Directive 2006/42/EC;
- to bring own work methods and activities into line with the requirements of ISO 14001 standard for environmental management systems (Requirements with instructions for use), and OHSAS 18001 standard for occupational health and safety management (Requirements). If the Contractor does not possess the mentioned certificates, he shall be obliged to satisfy the environmental protection requirements and the occupational health and safety rules according to his own programme;
- to submit to the Mandator the diagrams and plans of executed works (Project of implemented works – PID) in hard copy (four copies) and electronic form;
- to submit to the Mandator, upon completion of works, all technical and other documentation required for technical inspection of the structure, and for subsequent operation and maintenance of the equipment installed by the Contractor. The Contractor shall be obliged to submit to the Mandator all required certificates, approvals, measurements, instructions for use and maintenance relating to the supplied and installed equipment, as well as any agreed performance guarantees and warranties against defects during the warranty period, etc.;
- to draft and submit instructions for operation and maintenance;
- to organise trainings for working with the system or with the supplied equipment prior to takeover;
- to submit warranty certificates for installed elements and ensure spare parts for 10 more years after the takeover;
- to protect his works and objects on the site against damage and destruction until they have been handed over to the Mandator;
- to regularly settle his obligations towards his Subcontractors. In case of late payment, the Contractor shall be obliged to conclude a suitable assignment agreement with the Mandator and the Subcontractor;
- to satisfy other obligations defined in the tender documentation and in the offer or arising from mutual arrangements;
- to only hire such workers for rendering the agreed services who are duly registered and possess adequate work permits. The Contractor shall indemnify the Mandator for any damage whatsoever caused by hiring workers without work permits;
- to inform his workers about the smoking ban in business premises and in open areas if works are being carried out on the site of the Mandator or investor, as well as about the rules and work conditions on the site of the Mandator or investor, i.e. the traffic order, smoking ban, rules on safety at work, fire escape, list of workers present on the site, etc. The Contractor shall be obliged to take such rules into

account, to respect them and to follow all instructions issued by the mandated workers of the Mandator and the investor to ensure that such rules and instructions shall be consistently applied. Furthermore, the Contractor's workers and the workers of his Subcontractors shall also be obliged to take all of the above into account. If the Contractor's workers violate the smoking ban rule, this could constitute a ground for withdrawal of the order without any notice, and in the case of workers of external contractors, result in their immediate removal from the site of the Mandator or the investor and the prohibition of further work;

- to ensure that the construction site and its surroundings are regularly cleaned and to regularly dispose waste in the containers available for that purpose. If the site is only cleaned poorly and sporadically, cleaning will be arranged by the Mandator whereby the costs shall be charged to the Contractor.

### **Payment of executed works**

The Mandator shall be obliged to pay for the executed works based on an invoice issued by the Contractor at the latest within 5 days after the takeover. A specification of executed works and record on takeover shall be integral parts of the invoice. The Mandator shall confirm the sent invoice within 10 days upon receipt and settle it within 60 days upon approval. Unless the parties have explicitly agreed otherwise, the payment shall also be conditional upon successful takeover and the submission of complete documentation mentioned in the offer and order, as well as the presentation of all agreed instruments of security (guarantees, bills of exchange, etc.) save where the parties have agreed in writing that this shall not be required.

If the Mandator challenges a part of the specification, he shall notify the Contractor thereof in writing within the period of approval and shall settle the undisputed part in accordance with the first paragraph of this article. The Contractor shall be obliged to issue a credit note for the disputed part.

In case of late payment, the Contractor shall be entitled to request default interest from the Mandator as stipulated by the Statutory Default Interest Rate Act (Official Gazette of RS, No. 11/2007). No default interest shall be charged for delay of one day.

### **Takeover**

After the Contractor has completed his works, he shall notify the Mandator thereof in writing. The parties shall effect the takeover of executed works within 8 days upon such notification by drawing up and signing a record on takeover which lays down *inter alia* the period for rectification of any lesser deficiencies. In case of major deficiencies, takeover shall not take place but a new time limit shall be set. The record on takeover shall constitute an integral part of the final account of the construction situation and invoice.

If the Contractor fails to rectify the discovered defects and deficiencies within reasonable time limits or fails to do away with them during the warranty period, he shall be obliged to carry all costs incurred by the Mandator in this regard or the costs claimed by the investor from the Mandator (costs of substitutional performance, any price differences of substitute providers, administrative costs related to the remediation of defects, the costs of court and administrative proceedings, etc.).

### **Performance period**

The Contractor shall be obliged to render the ordered works/services until the date mentioned in the order. Deviation from the agreed periods of performance shall only be possible upon written consent by the representative of the Mandator or Project Manager.

Timely execution of works shall mean such execution complying with the period of performance in terms of quantity and quality. If the Contractor fails to execute the ordered works within the agreed period or fails to execute them at all, the Mandator shall be entitled to engage another contractor with full or partial execution of works and, in both instances, charge an extra payment of 5% to cover his overheads. Moreover, any cost increases (differences in prices of the other contractor) including the penalty and damage incurred thereby shall be borne by the Contractor. The Mandator shall be entitled to take the same action if the Contractor unjustifiably discontinues or stops the execution of works.

**Penalty for delay in the execution of works**

If the Contractor fails to execute the works within the agreed time periods, he shall be obliged to pay to the Mandator a penalty amounting to 0.5% of the sum from this order for each calendar day of default, which may not exceed 10% of the sum from this order.

If default under this contract causes damage to the Mandator which exceeds the amount of the penalty, the latter shall request from the Contractor also the difference between the damage incurred and the charged penalty.

Any penalty shall be charged on a special invoice to be issued by the Mandator to the Contractor and set off with the invoice issued by the Contractor.

**Performance warranty**

The Contractor is obliged to deliver to the Mandator within 8 days from order a blank bill of exchange without protest amounting to 10% of the value of ordered works as a performance warranty with the period of validity of 30 days after takeover. The Mandator shall call on the bill of exchange if the Contractor fails to execute the commissioned works in the agreed quality, quantity and time limits.

**Warranty period and warranty for defects within the warranty period**

According to the Slovenian Obligations Code (OZ), the Contractor shall guarantee the solidity and the quality of executed works (latent defects), as well as the quality of in-built elements for **two years** after the effected takeover except for installed industrial products and equipment, for which their Subcontractors shall be liable within the time limits as laid down in their warranty certificates. The equipment supplied by the Contractor from his Subsuppliers shall be subject to their warranty terms.

In case of defect during the warranty period, the Contractor shall ensure a repair or delivery and replacement of the defective element free of charge. For each part replaced during the warranty period, a new warranty period shall begin anew after installation. The Contractor may authorise an expert of the Mandator to eliminate the defective element during the warranty period. If an element breaks down three times, the Contractor shall replace it with a new one. The Mandator may issue an invoice to the Contractor for the value of non-executed warranty repairs.

The Contractor shall also guarantee that the technical documentation is accurate and comprehensive, and shall assume liability for all mistakes and shortcomings in the technical documentation. The Contractor shall be obliged to carry out at his own expense all modifications and corrections of the technical documentation, as well as on the supplied and installed equipment, should it be discovered that they result from mistakes and shortcomings in the technical documentation.

Upon issue of the final invoice/account of the construction situation, the Contractor shall be obliged to deliver to the Mandator a blank bill of exchange without protest amounting to 10% of the calculated value of works as a performance guarantee during in the warranty period. The Mandator shall be entitled to write out the bill of exchange in the amount of costs incurred during the elimination of defects which arose during the warranty period, or correction of the technical documentation, which were not remedied in due time on demand of the Mandator. The Mandator shall be obliged to return an undrawn bill of exchange to the Contractor within 30 days after the expiration of the warranty period.

**Construction waste**

The Contractor shall be obliged to handle the waste material and other construction waste in accordance with the Rules on the Management of Construction Waste and instructions on waste management of the investor at the site of which the works are being carried out. Waste shall be properly separated and disposed of in the investor's waste management system or to authorized collectors and processors of waste. A copy of certified waste management sheets shall be submitted to the Mandator and the investor. If the Contractor violates the provisions under this indent of the order as regards waste management, he shall be obliged to reimburse all direct and indirect costs incurred due to improper waste management (inspection measures, costs of unsuccessful technical inspections, elimination of after-effects of improper waste management, etc.).

**Confidentiality**

The Contractor and the Mandator are obliged to treat all information and data obtained in the process of realisation of this order as a business secret of the other party, and shall not be entitled to disclose such information and data to third legal or natural persons without prior written consent of the other party. Such information or data may be used exclusively for the purpose of carrying out their obligations, duties and rights under this order. In case of default, the violating party shall pay to the other party 0.5% of the value of this order for each infringement.

**Labour protection**

All works shall be carried out pursuant to:

- the Occupational Health and Safety Act ZVZD-1 (Official Gazette of RS, No. 43/2011 et seq.);
- the Fire Protection Act (Official Gazette of RS, No. 3/2007, 9/2011 et seq.);
- the Decree on the Implementation of Safety and Health Requirements at Temporary and Mobile Construction Sites (Official Gazette of RS, No. 83/2005 et seq.);
- the Construction Act ZGO-1 (Official Gazette of RS No. 102/2004-UPB1 et seq.);
- the house rules, internal rules and procedures of the Mandator and of the investor at the site of which the works are being carried out;
- the safety plan of the construction site or facility where the works are being carried out;
- the requirements of a written agreement pursuant to Article 39 of the Occupational Health and Safety Act ZVZD-1 (Official Gazette of RS, No. 43/2011 et seq.).

**Insurance**

The Contractor shall be obliged to insure his liability for any possible damage inflicted to the Mandator or third persons in carrying out of his activity (Article 33 of the Construction Act – ZGO) and to neighbouring objects with the minimum insured sum of EUR 41,000.

The Contractor shall prove the existence and adequacy of insurances by providing the Mandator with a copy of the insurance policy or a certificate of the insurance company.

**Termination of an Order by the Mandator**

The Mandator shall have the right to terminate the order at any time without a notice, especially in the following cases:

- if the Contractor is in delay with delivery times under this order and fails to execute the agreed works even within the grace period of 8 days;
- immediately after the Contractor runs behind schedule in the execution of works if it can be concluded from the Contractor's conduct that he will not fulfil his obligations even in the grace period;
- if the Contractor becomes incapable of rendering fulfilment;
- if the Contractor is prepared to fulfil only one part of the order without a justified reason, and the Mandator has no interest in such fulfilment;
- if it is obvious that the Contractor will not fulfil his obligations;
- if the Contractor fails to respect the provisions and obligations from the order and offer or seriously violates them.

If the Mandator withdraws from the order, he shall pay to the Contractor for all material delivered to that point and have the right to request from the Contractor a compensation for damage incurred, the costs of substitutional performance and administrative costs as a result of withdrawal. The Mandator shall charge the

previously incurred costs on a special invoice to be issued to the Contractor and set off with the invoice issued by the Contractor.

**Termination of an Order by the Contractor**

The Contractor shall also have the right to terminate the order but only in case of force majeure or due to failure of the Mandator to meet its obligations (default of payment...). In this case the Contractor shall be entitled to receive payment for the executed and approved works and the compensation for damage suffered due to failure of the Mandator to meet its obligations.

**Disputes (law and jurisdiction)**

Any disputes arising out of this order that cannot be settled amicably, shall be resolved by the competent court of subject matter jurisdiction in Ljubljana. Slovenian law shall be applied to the settlement of disputes.