**Annex 2 DRAFT CONTRACT FOR WORK**

In the contract for the work, the applicant only completes the missing data, which are marked in blue. Other modifications of the Work Contract are not permissible.

The contracting authority is entitled to exclude from the selection process a candidate who makes inadmissible changes to the contract for the work.

**C****ONTRACT FOR WORK**

**NO. [●]**

between

**AL INVEST Břidličná, a.s.**

as Customer

and

**[business name of the Contractor][[1]](#footnote-2)**

as Contractor

concluded on [●]

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**Contract for work**

concluded pursuant to the Section 2586 et seq. of the Act No. 89/2012 Sb., the Civil Code, as amended

(the “**Contract**”)

**Parties to the Contract**

1. **AL INVEST Břidličná, a.s.**

company incorporated and existing under the laws of the Czech Republic, with its registered office at Bruntálská 167, 793 51 Břidličná, Identification No. 273 76 184, registered in the Commercial Register maintained by the Regional Court in Ostrava under File No. B 3040

(the “**Customer**”)

and

1. **[business name of the Contractor]**

company incorporated and existing under the laws of [●], with its registered office at [●], Identification No.: [●], registered in [●] maintained by [●] under File No. [●]

(the “**Contractor**”)

(the Customer and the Contractor jointly as the “**Parties**”, and individually as a “**Party**”)

Preamble

1. The Customer is a major European producer of packaging materials and rolled aluminium semi-finished products; the Customer is a member of MTX Group.
2. The Customer intends to modernize its production line for aluminium products within its business premises located at Bruntálská 167, Břidličná, Postal Code: 793 51 Czech Republic, within the subsidy program of the European Union named “*ALFAGEN – Modernizace technologie tavení a lití*”, reg. No. 722 2200 001.
3. The Contractor is a renowned business company operating in the domain of production, supply of wide range of complex industrial equipment and materials used for manufacturing of, among others, aluminium products.
4. The Contractor is interested in supply of the equipment as a part of the production line to the Customer following a tender procedure held by the Customer; the Contractor was selected as a contractor and supplier of the respective works as specified hereunder.
5. The Contractor shall adjust fulfilment of its obligations under this Contract to the extent necessary for successful completion, proper and timely start-up and operation of the Customer’s production line and cooperate with other suppliers and the Customer as specified hereunder.
6. Considering the above, the Parties wish to enter into this Contract and stipulate their mutual rights and obligations related to production, supply and assembly of the equipment and other works and services.

# Definitions

* 1. For the purpose of this Contract, the following terms in capital letters shall have the meaning set forth below:

|  |  |
| --- | --- |
| “Affiliate Company” | means any member of the MTX Group and any other entity outside the MTX Group, which is directly or indirectly controlled by, in direct or indirect control of, or under common control with the Customer. |
| “Applicable law” | means the law applicable to this Contract as defined in Clause xxx. |
| “Cold Commissioning” | has the meaning ascribed to this term in Clause 23.1(b). |
| “Completion of the Work” | the date when the Customer issues to the Contractor the Project Closing Certificate, after the complete Equipment has been fully commissioned, the required Initial Operation Tests and the required Performance Tests have been successfully carried out in accordance with the relevant Clauses hereof. |
| “Contract Implementation Schedule” | has the meaning ascribed to this term in Clause 19.2(a). |
| “Contract Price” | means the price payable to the Contractor under Clause 27.1 hereof for the full and proper performance of its contractual obligations. |
| “Contract” | means this Contract, entered into by the Customer and the Contractor, including all Annexes thereto. |
| “Contractor” | has the meaning given in the introductory part of this Contract. |
| “Contractual Completion Date” | means the target date of provisional acceptance as per the Project Closing Certificate contained in the Project Time Schedule. |
| “Customer’s Representative” | means such person, company or companies as the Customer shall designate by written notice to the Contractor. |
| “Customer” | has the meaning given in the introductory part of this Contract. |
| “Engineering” | means data collection and evaluation, design, procurement, managing and supervising of the Work, the issue of instructions or orders in technical matters, reporting, project control and management, the project documentation as specified in detail in the Contract, and all such other obligations of the Contractor according to the Contract. |
| “Equipment” | means technological equipment for casting billets from aluminium and its alloys, including all items, machinery, equipment, apparatus, materials and instruments to be designed, delivered, installation-supervised, commissioned and tested by the Contractor.  Detailed specifications of the Equipment are contained in the Contractor’s offer in the tender and must be fully compliant to the Customer’s requirements specified in the Customer’s tender documentation. For the avoidance of doubt, in accordance with Clause 1.2(d), in case of any discrepancies between the specifications contained (i) in the Contractor’s offer in the tender and (ii) the Customer’s tender documentation, the specifications contained in the Customer’s tender documentation and Customer’s requirements specified therein shall always prevail. |
| “Force Majeure” | means an event beyond the reasonable control of the affected Party which could not be foreseen by the affected Party at the Contract signature date and which directly hamper the affected Party’s ability to perform its contractual obligations hereunder and is solely limited to following event:   * + 1. civil war, rebellion, revolution, insurrection, mutiny, riot, civil commotion or terrorist acts or any similar event;     2. confiscation, nationalization, expropriation or compulsory acquisition, embargo or orders, restraints or prohibitions, seizure of the Work by any government or the de jure or de facto authority, acts of any government or public authority or any representative thereof whether or not legally valid or any similar event;     3. epidemics, quarantine, plague or any similar event;     4. fire, flood, serious atmospheric disturbance, maritime, terrestrial or aerial disaster, earthquake, or epidemics, landslide, volcanic activity, tidal wave, typhoon or cyclone, hurricane, storm, lightning, unusually severe or inclement weather, nuclear and pressure waves or other natural or physical disaster or similar acts of God;     5. contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosives, or other hazardous properties of any explosive nuclear assembly or nuclear components thereof.     6. strike, lock-out, industrial dispute, national, regional or provincial strikes or any similar event   In order to avoid any doubts and without affecting the Force Majeure definition above, the following events shall not be considered a Force Majeure:   * + 1. ;     2. the Russian invasion of Ukraine in 2022 and any existing or future related emergency measures, other measures, regulations, administrative acts or interventions by public authorities of the European union, the Czech Republic or other states, as well as direct or indirect impacts of the above acts on the economic or political situation, especially supply chains (e.g. deficiencies in supplies by subcontractors); shortages of labour or material, lack of financial liquidity or other impacts;     3. disruption in raw material supplies, production and distribution breakdowns caused due to impacts of an epidemic of coronavirus known as SARS CoV-2, causing COVID-19 disease, as the virus may sometimes be called in practice, and the related applicable emergency or other measures, administrative acts, regulations and/or other interventions by public authorities of the Czech Republic, the state of the Contractor’s registered office and/or other states, as well as the fact that such measures, acts, regulations and/or interventions may evolve in the future, including potential direct or indirect impacts on the economic or political situation, in particular supply chains (deficiencies in supplies by subcontractors, etc.), lack of financial liquidity, shortages of labour or material or other impacts;     4. sabotage, shipwreck, or any similar event;     5. property crimes especially theft at Site;     6. change of the affected Party’s financial position or its position on the market;   business opportunity motivating any Party not to perform its duties and/or obligations under this Contract. |
| “General Warranty Bond” | has the meaning ascribed to this term in Clause 26.2 hereof. |
| “Hot Commissioning” | has the meaning ascribed to this term in Clause 23.1(c). |
| “Information” | has the meaning ascribed to this term in Clause 20.1. |
| “Initial Operation Tests” | means operation of the Equipment as per Clause 23.1(d) hereof. |
| “Materials” | means the equipment, apparatus, machinery, materials and things of all kinds to be provided and incorporated into the Equipment under the Contract (including spare parts). |
| “MTX Group” | means all companies and corporations controlled, directly or indirectly by MTX Group a.s., company incorporated and existing under the laws of the Czech Republic, with its registered office at Štěpánská 621/34, Praha 1, PSČ 110 00, Identification No. 274 41 261, registered in the Commercial Register maintained by the Municipal Court in Prague under File No. B 10649. |
| “OEE parameters” | means the “overall equipment effectiveness” performance indicators including (i) availability, (ii) performance, (iii) quality and (iv) “overall OEE” with numerical values to be complied with by the Equipment in each phase of commissioning, testing and operation contained in Annex 3 (*Parameters of Testing and Operation*). |
| “Party” | has the meaning given in the introductory part of this Contract. |
| “Parties” | has the meaning given in the introductory part of this Contract. |
| “Performance Security” | has the meaning ascribed to this term in Clause 26.1 hereof. |
| “Performance Tests” | means tests held pursuant to Clause 23.1(e) hereof to ascertain whether the Contractor has fulfilled its obligations under this Contract, including compliance with Annex 3 (*Parameters of Testing and Operation*). |
| “Post-Warranty Control Certificate” | means certificate issued by the Customer in compliance with Clause 23.2(b) hereof. |
| “Price Schedule” | means the payments summary sheet in Clause 27.2. |
| “Production Line” | means a complex automated system for horizontal and continuous casting of aluminium products and products of aluminium alloys in the Customer’s business premises located at Bruntálská 167, Břidličná, Postal Code: 793 51, Czech Republic. |
| “Project Closing Certificate” | means certificate issued by the Customer in compliance with Clause 23.1(f) hereof. |
| “Project Time Schedule” | shall mean the time schedule attached as Annex 1 (*Project Time Schedule*). |
| “Public Procurement Act” | shall mean the Act No. 134/2016 Sb., Czech Public Procurement Act, as amended. |
| “Punch List” | has the meaning ascribed to this term in Clause 23.1(f) hereof. |
| “Services” | means services and works ancillary to the supply of the subject of the Work, such as Engineering, transportation and insurance, studies, design, supervision of construction, supervision of commissioning, technical assistance, assistance provided to the Customer’s representatives, training and such other obligations of the Contractor as are subject of the Contract. |
| “Site” | means production plant of the Customer at Bruntálská 167, Břidličná, Postal Code: 793 51, Czech Republic |
| “Source Code” | means writing of the code of a computer program (software) in a programming language that is stored in one (1) or more editable files, readable, with comments explaining its individual parts at least in the standard common to open source projects and processes, in an executable format corresponding to the programming language and environment in which the software of the Equipment shall be operated, including a proven and detailed procedure necessary to generate a fully functional machine code, and in such a way that it can be compiled into the machine code without the need for modifications other than compilation in accordance with the generation procedure; detailed properties of the Source Code are laid down in Clause 45 (*Source Code*). |
| “Specifications” | means the specifications referred to in the Contract and any modifications thereof or additions thereto as may from time to time be furnished or approved in writing by the Customer. |
| “Start-up” | means the date on which the operating media or utility is introduced in the Equipment. |
| “Subsidy Program” | means the subsidy program of the European Union named “ALFAGEN – Modernization of melting and casting technologies” (in Czech: “*ALFAGEN – Modernizace technologie tavení a lití*”), reg. No. 722 2200 001. |
| “Withdrawal Notice” | shall mean a written notice by one Party to the other Party stating that the entitled Party withdraws from this Contract. |
| “Work” | has the meaning ascribed to this term in Clause 2.1 hereof. |

* 1. For the interpretation of the Contract, the following rules apply:
     1. Unless a contrary indication appears, a reference in this Contract to:
        1. “**day**” means any day of the week, from Monday to Sunday, both inclusive, unless otherwise expressly established; whereas “business day” means any day of the week (excluding Saturday, Sunday and public holidays in the Czech Republic or Austria);
        2. “**month**” means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, provided, however, if there is no such day in the month of expiry, the period shall expire on the last day of the month;
        3. word “**approved**” means approved in writing, including subsequent written confirmation of previous verbal approval; “**approval**” means approval in writing, including as aforesaid;
        4. words “**include**”, “**includes**” and “**including**” shall be deemed to be followed by the phrase “**without limitation**”;
        5. “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
        6. “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self‑regulatory or other authority or organization;
        7. a provision of law is a reference to that provision as amended or re‑enacted; and
        8. a time of day is a reference to Central European time (CET).
     2. Section, Clause and Annex headings are for ease of reference only. References to “Clause” and “Annex” shall be construed, interpreted and understood as references to the relevant clauses and annexes of the Contract. Annexes form an integral part of this Contract.
     3. Words in singular may take the plural and vice versa when the text or the interpretation of the Contract so requires; each gender shall include all genders.
     4. The contractual relationship between the Parties hereunder (including but not limited to the conditions of performance of the Work, delivery of the Equipment and provision of the Services) shall further be governed by (i) the Customer’s tender documentation used in the tender for the best offer in connection with the Subsidy Program and (ii) the Contractor’s offer submitted in the tender. In case of any discrepancies between the Contract and other documents, following precedence shall apply:
        1. Body of this Contract;
        2. Annexes to this Contract;
        3. Customer’s tender documentation used in the tender in connection with the Subsidy Program; and
        4. Contractor’s offer submitted in the tender.
  2. Currency symbols and definitions:
     1. “**EUR**” and “**euro**” denote the single currency of the Participating Member States.

# Subject of the contract

* 1. The subject of the Contract is the Contractor’s obligation to deliver to the Customer the complete project which shall become an integral part of the Production Line:
     1. the functional Equipment built-up in Site, connected to the Production Line and/or existing facilities of the Customer, put into operation, tested and fulfilling all requirements, properties, parameters and functions as set forth in the Contract and its Annexes, including its design, delivery supervision of installation, commissioning, testing and acceptance thereof;
     2. any and all services, works, supplies, installations described in the Contract which the Contractor must carry out as per the Contract, put into operation, tested and fulfilling all requirements, properties, parameters and functions as set forth in the Contract, including a set of things, works, Materials, Services and Engineering to be performed, provided and delivered by the Contractor in compliance with the conditions of this Contract and its Annexes;

(all together hereinafter referred to as the “**Work**”).

* 1. The Customer shall pay the Contract Price to the Contractor in consideration for the Work carried out duly in compliance with the Contract and fulfil other obligations set out in this Contract.

# Major principles of execution of the work

* 1. The Contractor undertakes to carry out the Work in dates set out in the Project Time Schedule, on its own behalf and responsibility. The Contractor shall achieve the Completion of the Work until the Contractual Completion Date.
  2. The Contractor hereby declares that it is aware that the Production Line shall constitute multiple technological inputs and complex parts (technological solutions) provided to the Customer by other contractors, and that the Equipment is one such part. It is therefore crucial not only that the Contractor performs the Work on time within the deadlines according to the Project Time Schedule, but also needs to provide all necessary cooperation and support:
     1. to the Customer and/or general designer of the Production Line appointed by the Customer; and
     2. other contractors of the Customer or persons engaged or appointed by the Customer for the design, delivery, assembly, installation, commissioning and acceptance of any part of the Production Line;

to the extent required by the Customer.

* 1. The Contractor is further aware of the terms and due dates of the Subsidy Program and represents to enter this Contract with such knowledge. The Contractor undertakes to comply with the conditions of the Subsidy Program and to carry out the Work in accordance with the conditions of the Subsidy Program.
  2. The Contractor has acquired knowledge of the Site and local conditions at Site and has reached the conclusion that the Site and local conditions of Customer are appropriate to implement the Equipment which constitutes the subject matter of this Contract. The Contractor represents and confirms that it is able to perform the Work, that all necessary information and data is available to it and that, if some of the information/data need to be changed or amended it shall effect such changes or procure the information/data without any cost of the Customer or any impacts on the delivery terms and/or fulfilment of any other terms and conditions of this Contract.
  3. When carrying out the Work, the Contractor and its subcontractors and vendors shall proceed with professional diligence and care and in accordance with all relevant generally binding legal regulations. All the Work, Materials, Engineering, Services as well as industrial and intellectual property rights that are subject to this Contract shall be provided and executed by the Contractor in such a scope and quality as to achieve the complete, continuously and reliably functioning Work that corresponds to the terms and conditions of this Contract and to the purpose of use.
  4. The Customer shall obtain building permit and operation permit and other related building and site permits related directly thereto in due time and at its own expense. The Contractor shall only obtain permits if this has been explicitly set out in this Contract. The Parties shall provide each other support during this process as required. The costs and risk involved in the obtaining of such permits shall be borne by the Party responsible for it.

# Standards

* 1. The Contractor undertakes to comply with laws, generally binding regulations, technical standards valid in the Czech Republic, valid regulations of the Customer set forth in the Contract, the terms and conditions of this Contract and the terms and conditions of the Subsidy Program. Alternative international standards may be applied (after the prior written Customer’s approval) as long as they meet or are stricter than the requirements of Czech standards. The Contractor shall also follow the Customer’s instructions (provided that they do not collide with applicable legal regulations) in compliance with Customer’s interests and with the decisions of the respective Czech authorities which may affect the execution of the Contract and bind the Contractor and its subcontractors and vendors.
  2. The Work shall conform to the mandatory standards and mandatory regulations valid in the Czech Republic, including those on operation safety, labour safety, hygiene, health protection and the environmental protection. The Work shall also conform to the standards, including Customer’s standards and Specifications.
  3. Wherever a reference is made in the Contract to specific standards and regulations to be met by parts of the Work to be delivered, for Work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stipulated in the Contract or agreed upon between the Parties during performance of the Contract.
  4. If after signature of the Contract there occur in the Czech Republic changes to any statute, decree or other law or any regulation of duly constituted authority which cause additional or reduced costs or affect the time schedule in execution of the Work, such additional or reduced cost and/or change of the time schedule shall be certified by the Customer, in justifiable cases, and the Contract Price and/or time schedule shall be adjusted accordingly in an amendment to the Contract.
  5. However, the Contractor shall communicate discovery of any circumstance pursuant to Clause 4.4 to the Customer without undue delay, but in no case later than within fourteen (14) days after they have, or should or could have been first discovered by a reasonably acting contractor exercising due professional care. For the avoidance of doubt, should the Contractor fail to notify the Customer as specified above, the entitlements of the Contractor to any extension of time and/or increase in the Contract Price, as well as to payment of all reasonably incurred costs and expenses, shall expire and not be applicable, unless expressly agreed by the Parties otherwise.
  6. The Customer shall use its best efforts to monitor the changes under Clause 4.4 and communicate discovery of such changes to the Contractor within fourteen (14) days from the moment they are discovered, but shall not be liable to the Contractor in relation thereto.

# Packing

* 1. In due time before the delivery of the Equipment and Materials, the Parties shall mutually agree upon detailed parameters for the packing, marking, shipping, handling and storing of the Equipment. Such parameters shall be binding for the Parties.
  2. The Contractor shall provide such packing of the Equipment and Materials as is required to prevent their damage or deterioration during transit to their final destination, storage and Site manipulation, as indicated in the Contract. In case of overseas shipping, the packing shall further be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Equipment and Materials’ final destination and the absence of heavy lifting and handling facilities at all points in transit.
  3. The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract and in international standards where applicable and, subject to Clause 30 (*Changes*), in any subsequent instructions ordered by the Customer.
  4. The Contractor shall adequately in advance prior to the dispatch of each shipment, notify the Customer by e-mail of the contents of cargo shipped and the expected date of arrival. The correspondence must contain the dimensions of the load, weight and method of folding. Without delay after completion of each shipment, the Contractor shall send copies of shipping documents (i.e. commercial invoice, packing list, bill of lading etc.).

# Delivery to Site

* 1. The Equipment shall be delivered: DDP (INCOTERMS 2020), Bruntálská 167, Břidličná, Czech Republic, in accordance with Project Time Schedule. The Contractor is entitled to deliver the Equipment to the Customer before the date specified in the Project Time Schedule only with the prior written consent of the Customer.
  2. If the Customer is not able to take possession of any of the equipment when it is ready to ship according to the Project Time Schedule, the Contractor will charge a reasonable surcharge for storage of equipment. If this amount exceeds 14 days, then respective milestone payment will be due.
  3. The delivery of the Materials to the Site shall be made by the Contractor in accordance with Project Time Schedule and in compliance with the terms and conditions of the Contract. The procedures and documents related to the deliveries to the Site (customs, insurance, transport, tax, etc.) shall be provided, arranged and recorded by the Contractor.

# Transportation

* 1. All operations necessary for the execution of the Work shall, so far as compliance with the requirements of the Contract permits, be carried on so as not to unreasonably interfere with the convenience of the public, or the access to, use and occupation of public or private roads and footpaths to or of properties whether in the possession of the Customer or of any other person. The Contractor shall hold harmless and indemnify the Customer in respect of all claims, proceedings, damages, costs, charges and expenses whatsoever arising out of, or in relation to, any such matters insofar as this Clause is applicable and for which the Contractor is responsible.
  2. The Contractor shall use all reasonable means to prevent any of the highways or bridges communicating with or on the routes to the Site from being damaged or injured by any traffic of the Contractor or any of its subcontractors and vendors and, in particular, shall select routes, obtain permissions for the transport of oversized loads, and/or any other special transport choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic shall be limited, as far as reasonably possible, and so that no unnecessary damage or injury may be occasioned to such highways and bridges. The Contractor itself, within the Contract Price, shall provide all necessary permissions for transportation of oversized shipments and/or any other special transport as well as to take all necessary measures required for performance for such transportation.

# Insurance

* 1. The Work supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, delivery and construction, dismantling, erection and operation in the manner specified herein below.
  2. The Contractor shall at its own expense take out and maintain in effect, or cause to be taken out and maintained in effect, until issuance of the Project Closing Certificate insurance set forth below:
     1. Cargo transit insurance

covering loss or damage occurring whilst in transit from the Contractor’s or manufacturer’s works or stores until the arrival at the Site, to Materials (including spare parts thereof) to be provided by the Contractor or its subcontractors and vendors.

* + 1. Contractor’s all risks insurance

covering physical loss or damage to the Work, including the Equipment, for full replacement value of the Works.

* 1. The Contractor shall at its own expense take out and maintain in effect, or cause to be taken out and maintained in effect, until issuance of the Post-Warranty Control Certificate (with extended coverage also for the warranty period as per Clause 25 (*Liability for Defects of Work and Warranty*) hereof) insurance set forth below:
     1. Third party liability insurance

covering bodily injury or the death suffered by third parties (including the Customer’s personnel) and loss of or damage to property (including the Customer’s property and any parts of the Work which has been accepted by the Customer or being property of the Customer) occurring in connection with the execution of the Work.

* + 1. Such other insurance as may be specifically agreed upon by the Parties.
  1. Such insurance shall be conducted between the Contractor and the insurer under the terms as approved by the Customer, which approval shall not be unreasonably withheld, and the Contractor shall, whenever required, produce to the Customer a copy of the insurance policy or policies as well as the insurer’s certificate confirming due payment of the premiums.
  2. The minimum amount of insurance given under Clause 8.2(b) (Contractor’s all risk insurance) shall be till the moment of issue of the Project Closing Certificate of the complete Work by the Customer an amount corresponding to the Contract Price.
  3. The minimum amount of insurance given under Clause 8.3(a) (Third party liability insurance) shall be till the moment of issue of the Post-Warranty Control Certificate an amount corresponding to EUR 10,000,000.
  4. The Contractor will be the policyholder under the above-mentioned insurances. The Customer must be explicitly listed as an additional insured in the insurance contracts pursuant to Clause 8.2 and 8.3, and the Contractor as policyholder must expressly waive all rights of subrogation against the Customer as an additional insured for any losses or claims arising from the execution of this Contract under all the above-mentioned insurances.
  5. Not later than thirty (30) days after signing the Contract, the Contractor shall furnish to the Customer a valid and effective insurance certificate complying to the insurance conditions stipulated in this Clause 8 (*Insurance*). Failure of the Contractor to furnish the insurance certificate to the Customer within the period according to the previous sentence of this Clause shall be considered a material breach as per Clause 40.1(e).
  6. The Contractor shall ensure, where applicable, that its subcontractors and vendors shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for the Work executed by them under the Contract, unless such subcontractors and vendors are covered under the policies taken out by the Contractor.
  7. If the Contractor fails to take out and/or maintain in effect the insurance referred to in Clause 8.2 and 8.3 above, the Customer may take out and maintain in effect any such insurance and may from time to time deduct from any amount due to the Contractor under the Contract any premium which the Customer shall have paid to the insurer, or otherwise recover such amount as a debt due from the Contractor.
  8. Unless stipulated otherwise in the Contract, the Contractor shall prepare and conduct any and all claims made under the policies effected pursuant to this Clause 8 (*Insurance*) and all money payable by any insurers shall be paid to the Customer. Upon the request of the Contractor, the Customer shall give to the Contractor reasonable assistance. With respect to insurance claims in which the Customer’s interest is involved, the Contractor shall not give any release to or make any compromise with the insurer without the prior written consent of the Customer.
  9. The Contractor shall indemnify the Customer for any loss which it suffers as a result of not being able to recover under the insurance as per this Clause 8 (*Insurance*) as a result of misrepresentation, non-disclosure, lack of due diligence or breach of any declaration, condition or warranty contained in the relevant insurance policy which is a deliberate act or omission, in each case by the management or managers of the Contractor, and, provided this inability to recover is a result of gross negligence and/or wilful misconduct of the Contractor, , this indemnity shall apply subject to any exclusion or limitation of liability in Contract. Contractor’s obligation to be insured as per this Clause 8 (*Insurance*) and the exemptions from payment of insurance which are agreed between Contractor and particular insurance company shall not affect the Customer’s right to claim damages caused by the Contractor or its subcontractors/vendors or other rights under the Contract.

# Services and other Deliverables

* 1. Under this Contract the Contractor shall further provide to the Customer Materials, Services, Engineering and other works, services and deliverables specified in Annex 2 (*Scope of Work*) and their cost is included in the Contract Price.

# Examination, inspection and Tests

* 1. The Customer or Customer’s Representative shall have the right at any time to examine the Work as it is performed (more specifically without limitation any item of Materials and Services whether or not during fabrication thereof). No such examination shall relieve the Contractor of any of its obligations, responsibilities and/or liabilities under the Contract.
  2. The Customer or its representative shall have the right to reject any item of the Work (more specifically without limitation any item of Materials and Services whether or not during fabrication thereof) found not to be in accordance with the Contract.
  3. Any work to be performed by the Contractor (including the replacement or remedy of any item of the Contractor’s Materials and Services) resulting from examination or rejection as referred to in Clauses 10.1 and 10.2 shall not be regarded as a change in the Work and shall not entitle the Contractor to any revision of the time schedule. Any costs involved in such work shall be for the Contractor’s account. If examination shows that items are not defective, or if re-examination proves that items previously rejected are in fact not defective, any time spent on examination and temporary rejection of non-defective items shall entitle the Contractor to extend the time schedule. Any costs incurred due to this shall be borne by the Customer, including an appropriate surcharge of 50 % to cover the Contractor's overheads.
  4. The Customer, Customer’s representative or an authorized third-party auditor shall have the right to inspect and/or to test the Work to confirm its conformity to the Contract, any Contractor’s and/or subcontractor’s manufacturing sites, in order to verify whether Contractor fulfils or is capable to fulfil its obligations arising from this Contract, in particular whether Contractor is capable to manufacture the Equipment in compliance with the conditions of this Contract, within seven (7) days from the Customer’s request. Based on the request of the Customer, the Contractor shall inform the Customer about the exact locations of all Contractor’s and/or subcontractor’s manufacturing sites. Inspections described hereunder shall occur twice (2×) or thrice (3×) during the performance of the Work as necessary according to sole discretion of the Customer. Costs for inspections, except costs described in clause 10.5., shall be for Customer’s account.
  5. The inspections and tests may be conducted in the premises of the Contractor or its subcontractor(s) and vendor(s), at the point of delivery and/or at the place where the Work is constructed. When conducted in the premises of the Contractor or its subcontractor(s) and vendor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no cost of the Customer.
  6. During any such audit, the Contractor shall:
     1. grant to the Customer, Customer’s representative or its authorized third-party auditor full access to the audited manufacturing site and allow it to examine, in particular,
        1. any manufacturing procedures leading to the manufacture of the Equipment;
        2. any components or materials used for the manufacture of the Equipment; and
        3. any documentation relating to the manufacture of the Equipment.
     2. provide the Customer, Customer’s Representative or its authorized third-party inspector with necessary assistance so that a due audit can be carried out.
  7. Should any inspected or tested Work and/or its part fail to conform to the Specifications, the Customer may reject it and the Contractor shall either replace the rejected Work and/or its part or make all alterations necessary to meet the specification requirements at no cost of the Customer.
  8. The Customer’s right to inspect, test and, where necessary, reject the Work or its part, shall in no way be limited or waived for the reason of the Work or its part having been previously inspected and/or tested by the Customer or Customer’s Representative.
  9. Nothing in this Clause 10 (*Examination, inspection and tests*) shall in any way release the Contractor from any warranty or other obligations under the Contract.
  10. The Contractor shall maintain adequate Contractor’s quality assurance and quality control program covering the inspections and testing of all the Work to be performed under this Contract, whether at the Site or elsewhere. The quality assurance and quality control program shall be prepared in two parts covering the off-Site and on-Site activities, respectively, and shall be based on the Contract Implementation Schedule. The quality assurance and quality control program shall include, but shall not be limited to, a detailed description of each item or part of the Work to be inspected or tested, the nature and frequency of the inspection and testing, the type and size of samples to be taken, if any, the means of recording the inspection and testing data, the name and specific responsibility of any proposed testing or inspection agency and all other information necessary or required to describe fully the inspection and testing to be performed under this Contract.
  11. The results, protocols and/or certificates evidencing the performance of inspection and testing shall make a part of the “test book” which shall be submitted for the corresponding part of the Work to the Customer.
  12. The Contractor shall furnish at its own costs and risks, either by itself or through respective authorized inspection bodies or through authorized qualified inspection company and submit to the Customer all necessary certificates, attests, homologations, certificates of conformity, revisions, revision books, revision reports and further similar documents which evidence that the designed, manufactured, procured, tested and performed Work is in compliance with the technical standards, labour safety and other legislation valid in the Czech Republic and which are necessary according to the generally binding legal regulations and standards valid in the Czech Republic for the approval of putting the Work into operation and for its operation. The charges payable to the Czech authorities (institutions) and/or specialized companies for the above approvals, certificates, certificates of compliance, etc. are included in the Contract Price. The costs incurred by replacing the parts damaged during the tests will be borne by the Contractor. For the avoidance of doubt, the provision of a CE-Certificate by the Contractor shall be deemed sufficient evidence that the Work is in compliance with all applicable legislation and standards of the Czech Republic.
  13. N.A.
  14. The Contractor shall secure that all Materials used for performance of the Work are in compliance with the provisions of the Act No. 22/1997 Sb., on technical requirements on products, as amended or if the international certification or requirements (such a CE mark) of Works should be required the Contractor is obliged to secure that all Materials are in compliance with such international certification and requirements. The Contractor shall deliver to the Customer all necessary documents, certificates, statements about the compliance of the Materials with the above Act and the related generally binding legal regulations valid in the Czech Republic. Where it is required by the Act or regulations the Materials shall directly bear the mark of such compliance.
  15. The Customer shall be entitled to attend the aforesaid tests and/or inspections through its own duly authorized and designated inspector provided that the Customer bears all costs and expenses incurred in connection with such attendance, including, but not limited to, all traveling and board and lodging expenses. The Contractor is not allowed to ship any Materials without the prior successful completion of inspections and tests defined for the respective material and without the confirmation by the Customer’s Representative of the successful completion thereof, unless otherwise approved by the Customer.
  16. Whenever the Contractor is ready to carry out any such test and/or inspection, the Contractor shall give reasonable advance notice of no less than ten (10) days in advance of such test and/or inspection and of the place and time thereof. The Contractor shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Customer’s inspector to attend the test and/or inspection.
  17. The Contractor shall provide to the Customer a certified report on the results of any such test and/or inspection performed in accordance with Contractor’s quality assurance and quality control program as per Clause 10.10 hereof.
  18. The Customer may require the Contractor to carry out any test and/or inspection not described in this Contract and the Contractor’s quality assurance and quality control program furnished and accepted pursuant to Clause 10.10 and in applicable standards, provided that such test and/or inspection does not impede the progress of the Work and/or the Contractor’s performance of its other obligations under the Contract, and provided further that the Contractor’s reasonable ; costs and expenses incurred in the carrying out of such test and/or inspection shall be reimbursed to the Contractor by the Customer.

# Labour

* 1. The Contractor shall make its own arrangements for the engagement of all labour, local or otherwise, and save insofar as the Contract otherwise provides, for the transport, housing, feeding and payment thereof.
  2. The Contractor shall be responsible for observance by its sub-contractors of the foregoing provisions.

# Care of Work

* 1. The Contractor shall be responsible for the care and custody of the Work or any part thereof until the date of provisional acceptance of the Equipment as per the Project Closing Certificate and shall make good at its own cost any loss or damage that may occur to the Work or any part thereof from any cause whatsoever during such period.
  2. The Contractor shall be responsible for any loss or damage to the Work caused by the Contractor or its sub-contractors in the course of any work carried out.

# Transfer of ownership and risk of loss

* 1. The ownership of Services and Engineering which are the subject matter of this Contract shall be transferred to the Customer upon their delivery to the Site or upon provision of such Services and Engineering, whichever of these two conditions occurs earlier.
  2. The ownership of the Equipment as well as the risk of loss shall be transferred to the Customer upon the Project Closing Certificate is issued.
  3. The ownership of any Materials in excess of the requirements for the Work shall revert to the Contractor upon the Project Closing Certificate is issued or at such earlier time when the Customer and the Contractor agree that the Materials in question are no longer required for the Work. This shall not apply to spare parts.

# Contractor’s responsibilities

* 1. The Contractor shall execute and complete the Work with professional care and diligence in accordance with the Contract.
  2. The Contractor shall obtain at its own risk and expense any import and export license and other official authorization and carry out all customs formalities for the import and export of the Materials, where necessary for their transit through another country, under the Contract.
  3. The Contractor has inspected the Site and undertakes to familiarize itself with all data and other documents that forming part of the Contract.
  4. Whenever any data furnished by the Customer as a part of the Contract, are not sufficient or not complete to allow the performance of the Contract, it will then be the Contractor’s responsibility to collect the missing data within the Contract Price.
  5. The Contractor shall be obliged to carry out all import and export customs procedures related with the performance of the Contract in compliance with Czech regulations.
  6. The Contractor shall comply with all laws in force in the Customer’s country whether national, regional, municipal or otherwise, affecting the performance of the Contract and binding upon the Contractor. The Contractor shall hold the Customer harmless from and against any and all liabilities, damages, claims, penalties and expenses of whatever nature arising out of or resulting from the violation of such laws by the Contractor or its personnel, including the sub-contractors and their personnel.
  7. .
  8. The Contractor is obliged to provide all necessary cooperation to the Customer in the event of an inspection carried out by any public authority, especially in the case of inspections pursuant to Section 2(e) of Act No. 320/2001 Sb., on financial inspection in public administration and on the amendment of certain acts (Financial Control Act).

# Customer’s responsibilities // see also comments

Clarification of all TOP’s and coordination of all suppliers

Workfoce for installation, commissioning, cold-, hot ; operation of line after training; workforce during performance test; personal qualifications of worker; Contractor has right to request replacement, if skills are not sufficient; if a delay is caused by workforce; Contractor shall be held harmless and reimbursed the spent time according the daily rates plus a surcharge of 50 % for his overhead.

* 1. The Customer shall assist and facilitate in every possible way the Contractor's personnel to organize and plan the activities to be performed in such a way that these activities can start immediately upon arrival of the Contractor's personnel "on-site" and that no interruption or delay will arise until their final completion.
  2. Furthermore, it is hereby understood and agreed in any case that the assembly, commissioning, and start-up activities shall not commence until all preparatory work to be carried out by the Customer has been completed, which the Customer hereby undertakes to perform in a timely and orderly manner.
  3. This preliminary work includes, in particular, without limitation:
     1. The foundations (construction work), which must be completed and cleared and freed of unnecessary material and cleaned properly.
     2. All equipment and installations (light, electricity, water, gas, etc.) and all necessary equipment (including any lifting devices, hoists, gantry crane, mobile crane and mobile working platforms etc.) that must be installed or provided and must function perfectly.
  4. The Customer shall also provide the Contractor's personnel free of charge “on-site”:
     1. An office and any other necessary premises.
     2. An internet connection.
     3. c) Local transport between the accommodation and the site.
  5. Agreed Conditions:
     1. In the event of delays that occur during the installation and/or commissioning and/or start-up phase due to the fault of the Customer, the Customer will be charged for the time required to solve the resulting problems. The valid document lists the daily rates for the supervisors in the document "Contractor’s Daily Rates" plus a surcharge of 50 % for his overhead. In addition to these costs, further expenses (travel, board and lodging, etc.) will be invoiced according to actual expenditure.
     2. If, during the installation and/or start-up and/or commissioning phase, a delay occurs through the fault of the Contractor, the time necessary to resolve all matters arising therefrom shall be at the expense of the Contractor, without additional costs and/or expenses for the Customer.

# Engineering, operability and safety audits

* 1. In the course of the performance of the design, engineering and procurement work executed under this Contract, the Customer’s Representative will conduct engineering, operability and safety audits to assist the Contractor in performance of its responsibilities and obligations hereunder. The engineering, operability and safety audits will address, but will not necessarily be limited to, the quality and completion status of engineering, procurement and delivery of Materials, equipment and works, and the construction and operating plant safety. The audits will be conducted at the office location(s) where the Contractor performs the relevant design, engineering and procurement work and/or at the Site. The engineering, operability and safety audits shall not relieve the Contractor of any of the responsibilities and obligations under this Contract.

# Personnel

* 1. The Contractor shall prepare and submit to the Customer an updated list of personnel responsible for provision of services and works on Site to be provided in the course of performance of the Work within forty-five (45) days after the date of signing of the Contract. Such list shall contain identification and contact details for each person provided.
  2. During the performance under the Contract, the Contractor shall update the personnel list and provide its updated version to the Customer without undue delay.
  3. All members of the Contractor’s personnel responsible for supervising the installation, commissioning a testing of the Equipment shall demonstrably have experience with at least two (2) projects similar to the supervision of construction and testing of equipment hereunder.
  4. The Customer is responsible for providing workforce as specified in chapter 15.

# Site-related obligations and performance

* 1. The Contractor shall inform the Customer adequately in advance of any temporary facilities required to produce energy, gas, liquids and/or materials which are not made available on Site by the Customer, but which are necessary for the construction, erection, tie-ins and/or putting the Equipment into operation.
  2. Should the Contractor use equipment, tools, areas and/or other facilities provided to it by the Customer based on or in relation to this Contract, the Contractor shall do so at its own risk and responsibility.
  3. The Contractor shall bear all communication expenses, to be paid due to the Contractor’s actions on the Site, based on the costs according to the valid local communication tariff.
  4. The Contractor shall bear the full costs of all the appropriate provisions related to its and/or subcontractors’ on-Site labour, such as, but not limited to accommodation and transport.
  5. The Contractor shall secure and shall be fully responsible for observance of on-Site safety regulations by all its employees as well as of its sub-contractors. For this purpose, the Contractor shall perform regular training related to on-Site safety regulations. The Customer shall, upon the Contractor’s request, provide support and assistance to the Contractor only with respect to the initial training.

# Site regulations

* 1. The Contractor shall dispatch for the supervision of installation, commissioning and testing of the Equipment and any other activities only qualified and skilled personnel. The Contractor is obliged to secure at its own expense all protective work equipment and means prescribed for the activity being carried out, to use such equipment properly and to maintain the work tools in a condition corresponding to the relevant regulations governing the protection and safety of work, fire protection, waste management and environmental protection.
  2. The Contractor hereby acknowledges that operating at the Site during performance of the Work is inherently connected to potential risks generally described in Annex 7 (*Risks at the Site*). The Contractor shall ensure that all persons fulfilling the Contract on its behalf are familiar with contents of the Annex 7 (*Risks at the Site*). The Contractor is fully responsible for the safety and health protection of its personnel and will ensure protective work equipment to all of its personnel and those of its subcontractors. Furthermore, the Contractor undertakes to comply with the relevant hygiene and fire regulations.
  3. The Contractor shall secure and shall be fully responsible for observance of Site safety and other regulations by all its personnel as well as of personnel of its vendors. For this purpose the Contractor’s experts shall become acquainted during initial instructions training provided by the Customer with regulations relating to work safety, safety protection of health in work, registration of injuries and accidents, fire protection and environmental protection, security, gate control, sanitation, medical care, etc. and shall confirm in writing to have been acquainted with such regulations.
  4. Regarding the safety, health and fire protection, beside meeting of basic requirements given by the generally valid regulations and regulations for Site as referred in Clauses 18.1 and 18.2 above the Contractor shall assure fulfilment especially of the following requirements within performance of its services on Site:
     1. assure the meeting of rules/regulations given on working permissions issued by Customer for works on Site (where required);
     2. assure that the works on electrical equipment are managed by person with corresponding knowledge and qualification corresponding to requirements of applicable regulations;
     3. inspect and require the observance of regulations valid for the working places in the Customer’s area;
     4. assure investigations of work injuries of its personnel and personnel of its vendors, notify such injuries to the Customer, who reserves the right to participate on their investigation;
     5. abide by traffic rules for vehicles on special roads in the Customer’s area;
     6. allow authorized persons of the Customer to inspect the fulfilment of the above-mentioned obligations.
  5. The Contractor shall meet regulations referred in Clause 18.1, namely it shall:
     1. file a list of Contractor’s personnel for the Customer to approve their entry to the Site;
     2. enter the area of the Site and move within it only on agreed upon routes and at a determined workplace during determined working hours;
     3. assure registration of its personnel and its vendors’ personnel entering the Site area;
     4. file a properly filled-out application for permission for its vehicles and its vendors’ vehicles to enter the Site;
     5. submit documents on the load of vehicles;
     6. abide by rules of the handling of keys;
     7. accept the checking system of persons, vehicles and things;
     8. abide by rules governing entry of persons to Site areas with authorized access;
     9. secure property protection in provided rooms and at the handed over work place,
     10. on completion of work activities at the Site area, return any possibly issued Site-entry documents of its personnel to the Customer.
  6. The Contractor shall be responsible for observance by its vendors/subcontractors of the foregoing provisions.

# Contract schedules

* 1. In the course of the Contractor’s performance under the Contract, the Contractor shall prepare and submit for review and approval of the Customer’s Representative detailed schedules as required by this Clause. These schedules shall illustrate the Contractor’s and its subcontractor’s/vendor’s plans for performance of the Work under this Contract.
  2. The schedules submitted by the Contractor as required hereunder shall exhibit mutual interrelationship and consistency from one schedule to another.
     1. **Contract Implementation Schedule (CIS)**

The Contractor shall submit thirty (30) days after signing of the Contract to the Customer for approval detailed contract implementation schedule which shall be based on the Project Time Schedule and shall show the interrelationship between the various elements of the Work required under this Contract („**Contract Implementation Schedule**”).

The Contractor will be permitted reasonable variation in the sequence of activities shown in the Contract Implementation Schedule and will be permitted to update the approved Contract Implementation Schedule, provided that:

* + - 1. such variation does not affect negatively the Contractual Completion Date (or separate completion dates of individual facilities), or milestones under the Project Time Schedule;
      2. no interference with the activities of others performing work for the project is caused thereby;
      3. such variation shall be subject to the prior approval of the Customer.

The Contract Implementation Schedule shall include detailed activities and sequence of all activities needed for the orderly performance and completion of every separable part of the Work in order to meet the milestones stipulated for each major event as well as the activities listed in the Price Schedule. Contractor shall be responsible for utilizing all available information as required to establish the availability of Materials and equipment to support scheduled activities. Contractor shall issue status reports and identify potential schedule problems to the Customer’s Representative. Such problem identification shall be accomplished sufficiently well in advance to minimize the impact of the problem and to allow for alternative courses of action to be planned and implemented. The Contractor shall assure that all scheduled activities can be supported with the required Materials and equipment.

* + 1. **Commissioning schedule**

The Contractor shall prepare and submit a schedule for performance of Cold Commissioning and Hot Commissioning activities for the Customer’s review ninety (90) days prior to the contractor’s performance of any commissioning activity.

Such schedule shall also include the Initial Operation Test and Performance Tests and shall identify all systems and subsystems to be subject to such activities, timetable for conducting the same and shall list major items of equipment and vendor representative services to be utilized.

The schedule shall be based on the Contract Implementation Schedule.

* + 1. **Testing schedule**

The Contractor shall prepare and submit for the Customer’s review the testing schedule for performance of any tests of systems, Equipment and/or Materials installed hereunder. The schedule shall identify all systems, subsystems, Equipment and Materials to be subject to tests, the timetable for conducting same and shall list major items of testing equipment to be utilized. The testing schedule shall be based on the Contract Implementation Schedule.

The testing activities shall be witnessed and co-signed by the Contractor’s and the Customer’s Representatives.

* 1. None of the schedules or any change thereto according to this Clause 19 (*Contract Schedules*), shall be considered an amendment to this Contract. Any corresponding change of the Contract relating to the schedules is to be executed in the form of written amendment in accordance with Clause 31.1 and in compliance with respective limitations pursuant to the Public Procurement Act.

# Information to the Customer

* 1. All drawings, diagrams, specifications, calculations, pamphlets, catalogues, literature, samples, data, printouts, certificates, parts lists, equipment lists, manuals, procedures, schedules, charts, reports and all like documents (herein referred to as “**Information**”) prepared by the Contractor hereunder shall be available for review by the Customer’s Representative at all reasonable times during development and be submitted promptly upon completion. In the Contractor’s preparation of Information, the Contractor shall apply such skill, care and diligence as necessary to engineer the Equipment so as to minimize engineering and construction rework (and thereby to avoid attendant costs and delays) and so as to produce Information which will lead to the construction of the Equipment which will be capable of Start-up, operation and maintenance.
  2. All such information required to be submitted by the Contractor for review by the Customer’s Representative shall be prepared by and at the expense of the Contractor and shall be processed in accordance with the requirements set forth herein; the Customer’s Representative’s review of such Information submitted by the Contractor shall not relieve the Contractor of its responsibility for the correctness thereof or of its obligation to meet all the requirements under this Contract. The Contractor shall not modify or deviate from Information reviewed by the Customer’s Representative without the prior review of such modification or deviation. The Contractor shall submit Information at the time, in the format and with the degree of adequacy and correctness which are in accordance with the Contract. All Information submitted by the Contractor shall be certified by the Contractor to be correct and representative of Materials and equipment to be furnished and the work to be performed by the Contractor.
  3. The Contractor shall maintain a register showing the current status of all Information submittals made to the Customer’s Representative and the status of all Information necessary for the successful execution of this Contract. Copies of the register shall be provided to the Customer’s Representative on a monthly basis.
     1. **Kick-off meeting**

No later than within fourteen (14) days after signing of the Contract the Contractor shall, at time and place proposed by the Customer, arrange a kick-off meeting to discuss all relevant topics related to the start of Work performance by the Contractor, and to agree upon further Progress meetings (times, places, matters to solve, etc.).

At the kick-off meeting the Parties shall define EPLAN for electric drawings to the Equipment.

* + 1. **Progress meetings**

The Customer and the Contractor shall meet at times specified in the Contract Implementation Schedule and times scheduled by the Customer on the basis agreed at the kick-off meeting to discuss the status of the Contractor’s performance of this Contract. The progress meetings shall be attended by the contractor’s representative and other Contractor’s personnel.

The agenda for such meetings shall cover a review of progress attained during preceding period, a review of schedules and plans for future activities, the status of staffing, engineering, safety, equipment, material supply, current and anticipated difficulties, interface with other contractors, claims for extras, and other pertinent topics. The minutes of the meetings shall be prepared by the Contractor, and it shall be reviewed and approved by the Customer.

If appropriate, the regular progress meetings may be held via teleconference. Further irregular meetings will be held, if needed. Time and place of these meetings shall be mutually agreed taking into consideration the subjects to be discussed.

* + 1. **Drawings**

For the purpose of this Clause, the term “drawings“ shall include but shall not be limited to Process Flow Diagrams (PFD), Process and Instrumentation Diagrams (PID), design, detail, fabrication, assembly, dismantling, erection, setting, working, schedule and manufacturer’s drawings, plot plans, piping, wiring and control diagrams, specifications, equipment lists, parts lists, printouts, cuts from or entire catalogues, pamphlets and as-built drawings required under this Contract or required by the Customer’s Representative to demonstrate the Contractor’s plans for the engineering, procurement, manufacture, dismantling and erection, construction, and commissioning of Materials and equipment or where required to demonstrate the Contractor’s plans for the performance under this Contract.

The Contractor shall submit to the Customer documentation specified in Annex 2 (*Scope of Work*) within the dates specified therein. Drawings, which have to be delivered in accordance with Annex 2, shall be complete and detailed and shall be checked and coordinated by the Contractor in all disciplines involved before they are submitted to the Customer’s Representative. Each drawing shall bear the Contractor’s stamp of approval as evidence of such checking and co-ordination and those drawings submitted without such stamp of approval may be returned to the Contractor for re-submission.

The drawings, forms and tables, that are frequently repeated, shall have bilingual title block and/or captions (English and Czech). Respective Czech translation shall be performed by the Contractor and approved by the Customer. For the other drawings and tables, the Contractor shall let a free space enough to implement additionally respective expressions in the Czech language.

The Contractor shall maintain at the Site and other places where the Work is being performed, at all times when the Work is in progress, a complete set of relevant drawings kept current with all changes and modifications. The Contractor shall grant the Customer’s Representative free access thereto, at all reasonable times, for purposes of inspection and review.

# Obligations and assistance by the Customer

* 1. The Customer shall supply the Contractor with all written information at its disposal and any documentation in its possession which may be available concerning the subject matter of the Contract and shall as far as possible provide to the Contractor with any assistance that the latter may reasonably request in order to perform the Contract.
  2. Upon written request of the Contractor, the Customer shall enable the Contractor access to all operating data “as-they-are” which the Customer will have at its disposal pertaining to the Equipment.
  3. The Customer shall:
     1. ensure the correctness and exactitude of all information and/or data to be supplied by the Customer except when otherwise stated in the Contract. The stipulation of this Clause does not relieve the Contractor of its duty to inspect, check and control data correctness and convenience for the performance of Contract;
     2. be responsible for acquiring and providing the legal and physical possession of the Site and access thereto and for providing possession and use of and access to all other areas determined for the Work including all requisite rights of way;
     3. provide full possession of and accord rights of access to the Site, with limitation given in internal regulations of the Customer and needs of operation of the existing facilities;
     4. provide properly operating and maintenance personnel to enable the Contractor to properly carry out the erection, Cold Commissioning and Hot Commissioning operating of the Equipment;
     5. unless otherwise expressly provided elsewhere in this Contract, provide the feedstock, consumables and/or utilities necessary for construction, , Cold Commissioning, Hot Commissioning, Start-up, Initial Operation Tests and Performance Tests, whereas the Contractor is obliged to use them as economically as possible;
     6. furnish to the Contractor technical data, specifications and drawings specified by the Contract. Technical data, specifications and drawings exceeding those specified by the Contract shall be furnished, in reasonable extent, by the Customer on the basis of the Contractor’s requirement to the Contractor “as-they-are”, provided that they are at disposal of the Customer; and
     7. notify to the Contractor any outage of the Equipment affecting the Equipment’s performance during the period described in Clause 25.7.
     8. provide the personnel for the erection.
  4. The Customer has no other obligations, responsibilities and liabilities except for those explicitly and unequivocally stipulated in the Contract.

# Suspension

* 1. The Customer shall be entitled to suspend the Work, either in whole or in part, by written notice to the Contractor, effective upon delivery to the Contractor, if any of the following events occurs:
     1. the Contractor materially violates the applicable generally binding legal regulations, the administrative authority’s decision or instructions or the specifications of the Contract and its appendices, or carries out the Work in a manner which endangers its safe execution, or in any way does not fulfil any of the material obligations under the Contract; or
     2. the Contractor is objectively unable to complete the Work due to a lack of Materials; or
     3. .
  2. The Contractor shall be entitled to suspend the Work in the event of Customer’s delay with payment of undisputed invoice only, provided that the delayed payment amount corresponds at least to twenty percent (20%) of the Contract Price. In such a case, the Contractor shall deliver a notice to the Customer, clearly stating its intent to suspend performance of Work in thirty (30) days unless the delayed payment is remedied by the Customer. Following expiry of thirty (30) days after delivery of Contractor’s notice and if no remedial action is taken by the Customer or the Parties do not agree otherwise, the Contractor may suspend the Work in accordance with its notice.
  3. Any notice of suspension shall specify which part of the Work is to be suspended, the effective date of the suspension and the date when the Work is expected to recommence, provided this can be specified. When this notice is issued by the Contractor, he shall establish a preservation plan for the time of the suspension of the Work and a mobilization plan for the restart of the Work, provided this can be specified.
  4. When the circumstances set out in Clause 22.1(a) arise, the Customer may immediately suspend the Work by written notice to the Contractor, which suspension may last until the circumstances that led to the suspension are remedied. This situation does not entitle the Contractor to claim any costs, variations of Work or extension of time for completion of the Work. Notwithstanding the foregoing, except for suspension according to Clause 22.1(c), entitlement of the Customer to contractual penalties is not affected.
  5. When the circumstances set out in Clause 22.1(b) take effect, the Contractor shall notify the Customer in writing, giving an indication of the period that said circumstances are likely to continue delaying the Work. This delay shall not prejudice any of the rights of the Parties and the Contractor shall not be able to claim any costs, variations of Work or extension of time for completion of the Work related to the cause of the suspension.
  6. In all cases of suspension of the Work or part thereof, the Contractor shall comply with the complementary instructions that are reasonably issued by the Customer with regard to the protection, securing, surveillance and preservation of the Work.
  7. If, in case of suspension of the Work pursuant to Clauses 22.1(a) or 22.1(b), the Customer shall not grant its permission to the Contractor to resume the Work within ninety (90) days of such suspension, it shall have the same effect as receipt of the Withdrawal Notice of the Customer by the Contractor under Clause 40.1 below.
  8. Before any resumption of the Work, the Customer and the Contractor shall mutually negotiate in good faith an amendment to the Contract adjusting the Contract for the effects of the suspension and the resumption of the Work by the Contractor.

# Completion of Work

* 1. Completion of the Work shall be preceded especially by:
     1. **Construction and erection**
        1. The Contractor shall have provided the Customer with detailed overview of the equipment and any tools necessary for the construction and erection of the Equipment that the Customer is requested to secure.
        2. The Equipment shall have been completely constructed and erected by the Customer and/or selected by the Customer third-party contractor, while the Contractor shall provide full supervision to all works related thereto and assist the Customer and the said third party contractor to the extent necessary.
        3. Records of inspections and tests carried out by the Contractor during the performance of this stage of Work shall have been submitted to the Customer.
        4. The prescribed documentation and certificates of the Contractor and the relevant authorities for all equipment and works shall have been submitted to the Customer.
        5. All systems and equipment shall have been checked for correct erection.
        6. A protocol shall have been signed by the Contractor and by the Customer, evidencing the successful completion of erection, compliance of erection with technical specification, design and the Contract. This protocol shall be deemed an official confirmation of the Contractor, that the Equipment was constructed and erected correctly by the Customer and its third-party contractor(s) under the Contractor’s supervision.
        7. Minor outstanding items related to engineering and execution of contractual agreed works, that do not hinder the Cold Commissioning and Hot Commissioning activities shall be solved and removed and/or remedied by the Contractor latest until the date of the provisional acceptance as per the Project Closing Certificate.
     2. **Cold Commissioning**

The Cold Commissioning may commence once the construction and erection of (i) the Equipment and (ii) Production Line are completed. Successful conduct of Cold Commissioning is a precondition to Hot Commissioning. The purpose of Cold Commissioning is that below completion of no-load checks, the Equipment is run without load to certify that the Production Line is complete in all respects prior to the introduction of any media. The Cold Commissioning verifies that the signals and actions will be performed on demand, in particular, the communication of the tilting furnace integration must be fully functional and the control of the tilting furnaces from the casting equipment must be functional.

Through the course of the Cold Commissioning:

* + - 1. All systems and Equipment shall have been tested mechanically, and hydrostatically so as to confirm their tightness and absence of leakage. Where practical, leaks, splashing or spillage, and any other adverse operating features shall have been eliminated.
      2. All systems and Equipment shall have been filled with lubricant.
      3. All systems and Equipment shall have undergone levelling indication tests.
      4. All systems and Equipment shall have been checked for correct adjustment, sealing and for correct assembly of all safety equipment.
      5. All systems shall have been cleaned, purged internally to permit operation without fouling and/or damaging mechanical equipment or contaminating the product. Flushing and cleaning of all construction rubbish from the systems shall have been conducted.
      6. All mechanical equipment, instruments, control panels, electrical equipment and lifting and handling equipment, including auxiliaries and control systems, including all firefighting and fire-safety equipment, shall have been serviced, adjusted, calibrated and set for normal operation. Checking, calibration and rectification where necessary of all instrumentation such as level, pressure and flow switches shall have been performed.
      7. The functionality of the safety units of the Equipment, in particular the checking of emergency stops, safety detectors and sensors, protective barriers and enclosures, safety optical barriers and other safety features located on the Equipment shall have been verified.
      8. Accident and emergency simulations to observe how the Equipment and personnel respond to these unexpected events shall have been conducted.
      9. Records of inspections and tests carried out during the performance of Cold Commissioning shall have been submitted to the Customer.
      10. Where safe and practical, provided the Production Line is not endangered, all equipment shall be run individually or in groups, for short periods under the supervision of the Contractor’s commissioning engineers and suppliers.
      11. Should any part of the Equipment, such as drive units, not behave as predicted, it is essential for the Contractor prior to carrying out any modifications, to establish that the Equipment’s behaviour will not differ when operated with feedstock.
      12. Any unacceptable vibrations in structures have been eliminated.

Following completion of the Cold Commissioning, the Equipment shall be considered ready for Start-up and the Hot Commissioning; i.e. ready for the initial operation with feedstock introduced. The Contractor shall report to the Customer that the respective milestone was achieved, and the Parties shall sign a written protocol as a confirmation thereof. On completion of the Cold Commissioning, the Equipment must be ready for the introduction of feedstock and fulfil all the aforementioned conditions under this Clause 23.1(b). The protocol shall clearly state according to the Contractor, the Equipment is ready for Start-Up and the Hot Commissioning in compliance with Contract. Only at this stage shall the Cold Commissioning written protocol be signed by Parties.

For the avoidance of doubt and unless otherwise agreed, all requisite activities with respect to Cold Commissioning shall be performed by the Contractor.

* + 1. **Start-up and Hot Commissioning**

The Contractor shall achieve completion of Hot Commissioning on the date when the protocol is signed by the Contractor and by the Customer evidencing successful completion of Hot Commissioning. As soon as Contractor has completed all works associated with Hot Commissioning and as soon as Equipment is safe and ready for Initial Operation Tests, Contractor shall so notify the Customer and request the Customer to execute the respective protocol. After receipt of such protocol signed by the Contractor, the Customer shall either countersign the protocol or notify the Contractor of its objections in writing (in which case, the Contractor shall remedy all deficiencies and repeat this procedure). The protocol shall clearly state that Equipment is ready for Initial Operation Tests in compliance with the Contract. Successful completion of Hot Commissioning shall be deemed to have been achieved when:

* + - 1. All equipment and systems shall have been purged and pressurized with air, water and/or other relevant material.
      2. Feedstock, process materials, utilities shall have been introduced into the facilities at sustained flow conditions.
      3. All rotating machinery, such as turbines, pumps, fans, compressors, electric motors, engines, etc., and auxiliary systems shall have been load tested both under manual and automatic control, at full operating conditions with process material in the systems, if applicable.
      4. A document confirming inspection of the functioning of the safety valves system, including accessories, for the whole Equipment shall have been issued by the Contractor, if applicable.
      5. All field instrumentation, instrument and control panels shall have been tested for control/alarm functions, at minimum, normal and maximum operating conditions with process fluids in the systems.
      6. All shutdown, relief and emergency systems shall have been tested for proper functioning at the set values in the course of a complete system test.
      7. All tests and activities to be performed during Hot Commissioning and Start-up shall have been completed successfully, to the satisfaction of the Customer, which fact to be expressly mentioned in the protocol signed by both Parties.

For the avoidance of doubt and unless otherwise agreed, all requisite activities with respect to Start-up and Hot Commissioning shall be performed by the Contractor.

All necessary utilities such as energy, packaging materials and sufficient product to process shall be provided by the Customer to the Contractor adequately in advance prior to commencement of the Start-Up.

* + 1. **Initial Operation Tests**

Initial Operation Tests shall be successfully completed by the Contractor before the Performance Tests. The Initial Operation Tests may only be commenced with the prior approval of the Customer, which may not be withheld unreasonably, and not later within the timeframe according to Project Time Schedule.

The Initial Operation Tests shall be carried out in continuous uninterrupted operation of the Equipment without material malfunction or material failure of equipment or components of equipment for a period of twenty-four (24) hours. The conditions of the Initial Operation Tests, including operating conditions, measuring methods, evaluation procedure, etc., are further specified in Clause 3 of Annex 3 (*Parameters of Testing and Operation*).

The Initial Operation Tests shall be considered successful, if (i) the OEE parameters specified for Initial Operation Tests in Clause 3.3(d) of Annex 3 (*Parameters of Testing and Operation*) are met, (ii) the Equipment has been operated in continuous uninterrupted operation under conditions described in this Clause 23.1(d), Clause 3 (*Initial Operation Tests parameters*) of Annex 3 (*Parameters of Testing and Operation*) and in compliance with other provisions of this Contract. Non-compliance with these requirements results in failed Initial Operation Tests by the Contractor.

If, at any time during the Initial Operation Tests, any of the OEE parameters drop by more than 10% below the required value described in Clause 3.3(d) of Annex 3 (*Parameters of Testing and Operation*), the Initial Operation Tests will be terminated immediately as non-compliant and considered failed.

If any of the following situations shall occur, the Initial Operation Tests shall be repeated after the Contractor’s removal of the deficiency:

* + - 1. any defect or interruption of the Equipment operation or parts thereof due to imperfect design, delivered Materials, fabrication or installation or for other reasons, to an extent preventing permanent use of the Equipment;
      2. the Equipment or its part shall be out of the operation due to the removal of defects uninterruptedly for the time exceeding 8 hours.

In the event that the Initial Operation Tests result failed, the Contractor is required to prepare an analysis summarizing and describing the reasons why the Initial Operation Tests failed and the corrective measures taken (to meet the requirements). The analysis must be submitted to and approved by the Customer before the start of a remedial test.

In the event of failed Initial Operation Tests, the Contractor shall have one (1) remedial test, the cost of which (regarding operational resources and necessary utilities) shall be borne by the Customer. This first (1.) remedial test must be started no later than five (5) days after the previous unsuccessful Initial Operation Tests. If the first (1.) remedial test is unsuccessful, the Contractor has the right to perform second (2.) remedial tests, for which the Contractor shall bear the full costs of appropriately trained operating personnel and all necessary utilities such as energy, packaging materials and sufficient product (to process). Each remedial test must be started no later than five (5) days after the previous failed test.

* + 1. **Performance Tests**

After the successful completion of the Initial Operation Tests, the Contractor shall subject the Equipment to the Performance Tests.

The Performance Tests shall be carried out under standard industrial conditions of commercial casting in continuous uninterrupted operation of the Equipment (24 hours / 7 days a week) for a period of five (5) consecutive days. The purpose of the Performance Tests is to ascertain whether the Contractor has fulfilled its obligations under this Contract. The conditions of the Performance Tests, including operating conditions, measuring methods, evaluation procedure, etc., are further specified in Clause 4 of Annex 3 (*Parameters of Testing and Operation*)

Performance Tests shall be performed by the Contractor and may start only when approved by the Customer and such approval may not be withheld unreasonably. The Contractor shall fully cooperate with the Customer during performance of Performance Tests and ensure the safe operation of the Equipment.

The Contractor shall for the purposes of Performance Tests provide the following at least seven (7) days before the Performance Tests are held:

* + - 1. Performance Tests plan;
      2. full test data of the Equipment;
      3. the list of operating resources, materials and products required for the operation of the Equipment during the Performance Tests;
      4. list of trained personnel for the operation of the Equipment during testing.

The required operational resources communicated sufficiently in advance, such as, but not limited to, operating personnel shall be made available free of costs to Contractor by the Customer with sufficient time before the Performance Tests shall commence. All necessary utilities such as energy, packaging materials and sufficient product (to process) shall be provided by the Customer free of charge to the Contractor not less prior to commencement of the Performance Tests.

The Performance Tests shall be considered successful, if (i) the OEE parameters specified for Performance Tests in Clause 4.3(d) of Annex 3 (*Parameters of Testing and Operation*) are met, (ii) the Equipment has been operated in continuous uninterrupted operation under conditions described in this Clause 23.1(e), Clause 4 of Annex 3 (*Parameters of Testing and Operation*) and in compliance with other provisions of this Contract. Non-compliance with these requirements results in failed Performance Tests by the Contractor.

If, at any time during the Performance Test, any of the OEE parameters drop by more than 10% below the required value described in Clause 4.3(d) of Annex 3 (*Parameters of Testing and Operation*), the Performance Tests will be terminated immediately as non-compliant and considered failed.

If the Performance Tests result as failed, the Contractor is required to prepare an analysis summarizing and describing the reasons why the Performance Tests failed and the corrective measures to be taken (to meet the monitored requirements). The analysis must be submitted to and approved by the Customer before the start of corrective Performance Tests.

If Performance Tests reveal any defects, defaults or deficiencies in the Contractor’s performance of this Contract (e. g. in the course of the Performance Tests pursuant the results not be satisfactory according to the requirements of the Contract, e.g. the Equipment fails to meet the OEE parameters in compliance with Annex 3 (*Parameters of Testing and Operation*) or other provisions of the Contract occur during the Performance Tests; malfunction of components, wrong readings, etc.), the Contractor, at its costs and expense, shall promptly correct such defects, defaults or deficiencies whether or not notified specifically by the Customer. The Contractor is bound by this Contract to make the necessary rectification of the Work until such defects are remedied. No deteriorating deviations are permitted.

For the purpose of rectification, the Contractor shall:

* + - 1. provide a detailed plan to the Customer regarding rectification of all defects and incompliances of the Equipment;
      2. prepare and implement the rectification changes to be effected;
      3. repeat the Performance Tests.

Such period of rectification cannot be understood as prolongation of any of contractual terms for completion of the Work and nothing relieves the Contractor from its obligation to pay to the Customer the contractual penalties pursuant to Clause 37.1 of this Contract.

Following the Contractor’s corrections, the Contractor shall subject the Equipment to the repeated Performance Tests as originally conducted. Maximum of two (2) repetitions of the Performance Tests are allowed. The costs of appropriately trained operating personnel and all necessary utilities such as energy, packaging materials and sufficient product (to process) shall be borne by the Customer regarding the first (1.) repetition and by the Contractor regarding the potential second (2.) repetition of the Performance Tests.

Performance Tests have to be performed successfully in accordance with the Project Time Schedule and before the Project Closing Certificate shall be issued.

* + 1. **Issue of the Project Closing Certificate**

Any operation of the Equipment or parts thereof until issue of the Project Closing Certificate shall be performed by the Contractor and with prior approval of the Customer, which may not be withheld unreasonably.

When the Equipment has been successfully commissioned and successful Performance Tests have been performed, training of the Customer’s personnel has been completed in accordance hereunder, and:

* + - 1. all certificates of Materials, structures and equipment;
      2. records of inspections and tests carried out during performance of the Work;
      3. all closed Site logbooks;
      4. the respective manuals, including the Equipment operating and maintenance manuals, shall have been completed and submitted by the Contractor to the Customer.
      5. the prescribed documentation and certificates of the Contractor and relevant authorities for the Equipment;
      6. documents proving the fulfilment of the requirements stipulated in decisions of building and other specialized regulatory authorities, provided such requirements concern the Contractor’s scope of supply;
      7. a draft time schedule of the final Site clean-up and proposal for the final arrangement of cleaned Site;

have been submitted to and approved by the Customer (such approval may not be withheld unreasonably), the Contractor shall so notify the Customer, giving list of the works which have not been performed by that date and the Contractor’s plans for performing it.

The Customer shall provide draft of the Project Closing Certificate stating the date of provisional acceptance. After receiving the Contractor’s notice, the Customer shall verify whether all the relevant obligations of the Contractor under this Contract have been duly performed, the Customer:

* + - 1. will sign the Project Closing Certificate drafted by the Customer and deliver it to the Contractor; or
      2. notify the Contractor of any unperformed works (pursuant to the above provisions of this Clause) or other obligations of the Contractor under the Contract which must be performed before the Customer will sign a Project Closing Certificate. In order to avoid any doubts, following the remedy of unperformed works and fulfilment of other obligations the Contractor shall propose the Customer a new date of provisional acceptance (such date cannot be earlier than the date of delivery of this Contractor’s notification to the Customer).

In the latter case, upon the Contractor’s completion of any such unperformed Work, the Contractor shall notify the Customer of the completion without delay. If the Customer finds such Work to be performed in accordance with this Contract, the Customer will sign the Project Closing Certificate.

On the date of provisional acceptance as per the Project Closing Certificate co‑signed by the Customer (which date, for the purposes of this Contract, shall be deemed to be the date of issuance of the Project Closing Certificate), the unperformed works by the Contractor shall be limited to:

* + - 1. a list (the “**Punch List**“) of such minor uncompleted details and defects, if any, which do not affect the normal or safe operation of the Works. Punch List shall contain agreed dates for completion or remedy of such items; and
      2. demobilization of the Contractor’s facilities, equipment and personnel.

The agreed warranty period shall start at the date of signing the Project Closing Certificate.

* + 1. **Hand-over**

On the date of provisional acceptance as per the Project Closing Certificate signed by the Customer, the Equipment shall be handed over by the Contractor to the Customer.

The Customer may put into operation any part of the Equipment after its hand-over or after Contractual Completion Date.

* + 1. **Final payment**

The Customer will deliver to the Contractor a co-signed copy of the Project Closing Certificate and the Performance Security against delivery of the General Warranty Bond by the Contractor to the Customer. If nothing else is agreed by the Parties, any remaining payments of the Contract Price due to the Contractor shall thereupon be paid to the Contractor in accordance with the provisions of Clause 28 (*Payment*). Nothing contained in this Clause shall be construed as to extend the time within which the Contractor is obliged to complete the Work, and the Customer’s signature of the Project Closing Certificate shall not be deemed a waiver by the Customer of any hidden defects in Engineering, Materials, Services, workmanship or in the whole Work, discovered afterwards, and shall not be construed as a waiver of the Customer’s rights under the warranties of the Contractor.

The final payment, the issue of the Project Closing Certificate and the release of the Performance Security (unless drawn down in full by the Customer earlier) shall be held by the Customer until all contractual breaches by the Contractor are cleared.

If signing of the Project Closing Certficiate is delayed for reasons beyond Contractor’s responsibility, it shall be deemed to be signed latest 18 months after delivery of the Equipment and the final payment shall be made and the Performance Security shall be released without further delay.

* + 1. **Contractual Completion Date**

The acceptance by the Customer of a part of the Equipment prior to the issue of the Project Closing Certificate shall not be deemed a waiver by the Customer of the Contractual Completion Date and shall not be deemed to affect the Contractual Completion Date.

If such accepted part is used or occupied by the Customer, then the responsibility for care and custody shall be transferred to the Customer upon commencement of such use or occupation.

The actual completion date shall be the actual date of provisional acceptance as per the Project Closing Certificate signed by the Customer.

* 1. Completion of the Work is followed especially by:
     1. **Demobilization**

After provisional acceptance as per the Project Closing Certificate co-signed by the Customer, the Contractor shall have demobilized the Contractor’s facilities, equipment and personnel from the Site, unless agreed otherwise.

The Contractor shall, upon completion of all the work required hereunder, remove all Materials and equipment used for temporary purposes from temporary facilities.

* + 1. **Issuance of the Post-Warranty Control Certificate**

As to the date of expiration of the 24-months general warranty period, taking into account, however, any applicable extensions under Clause 25.12 up to the maximum duration of 48 months after the provisional acceptance as per the Project Closing Certificate co-signed by the Customer), the Contractor shall notify the Customer thereof in writing. After receiving the Contractor’s notice, the Customer shall issue the Post-Warranty Control Certificate. Thereupon the validity of the General Warranty Bond shall end.

For the avoidance of doubt, the Parties agreed that signature of the Post-Warranty Control Certificate shall not comprise evidence of nonexistence of hidden defects, if any.

* 1. Extension of time
     1. In the event of delay, impediment or prevention by the Customer to such an extent having impact on time of fulfilment of the Contractor’s contractual obligations under Project Time Schedule and the Contract Implementation Schedule, the Parties shall meet and agree mutually acceptable conditions of an extension.
     2. The Contractor shall not be entitled to any extension if:
        1. it has failed to notify the Customer immediately of the occurrence of such circumstances, but in no case later than within ten (10) days after such circumstances have, or should or could have been first discovered by a reasonably acting contractor exercising due care, or
        2. within reasonable time as may be agreed by the Customer, after such notification, the Contractor failed to submit to the Customer for investigation particulars of any extension of time to which the Contractor may consider itself to be entitled, or
        3. the Customer’s delay is caused by the Contractor, e.g., but not limited to, late submission of documentation, delay in completion of Work or its parts, defect on the Work section or part already handed over and consequences hereto, late, incomplete or in other way low-quality plans, schedules or information of the Contractor handed over to the Customer etc.

# STABLE Performance Guarantees

* 1. .

# Liability for defects of Work and warranty

* 1. The Contractor warrants to the Customer that the Work, its parts, Materials, Services, Engineering provided by the Contractor under the Contract, are free of any and all defects, including legal defects.
  2. The Work, its parts, Materials, Services, Engineering have defects, if they fail to conform to  their description in the Contract or to the contractually defined purpose of their use or fail to have the properties expressly stipulated in this Contract.
  3. The Contractor shall, at its sole cost and expense, re-engineer and/or make repairs and/or furnish replacement of the Work, its parts, Materials, Services, Engineering as may be necessary to remedy any and all defects.
  4. The Contractor warrants that Materials delivered for the Work will be new and unused. The Contractor warrants that the Work, its parts, Materials, Services, Engineering shall conform to the best quality attained in the international practice and to the requirements further specified in the Customer’s tender documentation.
  5. The Contractor also warrants that the Work, its parts, Materials, Services, Engineering shall conform to the plans, specifications and drawings either:
     1. performed by the Customer and attached to the Contract; or
     2. performed by the Contractor during the performance of the Contract and reviewed and approved by the Customer,

and that the Contractor shall, at its sole cost and expense, make such alterations as may be necessary to effectuate such conformity.

* 1. The Contractor warrants that the Work, its parts, Materials, Services, Engineering shall be CE-certifiable.
  2. The Contractor’s warranty issued pursuant to Clauses 25.1 to 25.6 shall remain valid for the Work for 24 months from the date of issue by the Customer of the Project Closing Certificate of the complete Equipment and may only be extended to extent stipulated under Clause 25.12.
  3. The Customer shall promptly notify the Contractor in writing of any claims arising under this warranty and shall stipulate a reasonable specific time period for its remedy. The Contractor undertakes to remedy any and all defects under the Contract without undue delay, after they have been notified by the Customer. The Contractor shall in writing confirm the receipt of the Customer’s notification. The Contractor shall initiate the on-Site removal of the defects of the Work during the warranty period on the Site within no more than three (3) working days of their notification by the Customer, unless the Parties agree otherwise on a specific action plan.
  4. Defect removal during the warranty period must be documented in a defect removal record; the record must be prepared and signed by the respective representatives of the Parties.
  5. If the Contractor, having been notified, fails to remedy the defect(s) within the time period specified by the Customer according to Clause 25.8, the Customer may proceed with such remedial action as may be necessary, at the Contractor’s risk and expense and without prejudice to any other rights which the Customer may have against the Contractor under the Contract.
  6. The Contractor’s warranty shall, however, not extend to repairs, re-engineering and/or replacement of the Work, if the Contractor proves that such defects are caused by a wilful misconduct or negligence of the Customer and its personnel (excluding, for the avoidance of doubt, the Contractor, its personnel, subcontractors, vendors, affiliates or any persons under the management of the Contractor).
  7. A new warranty period of 24 months shall apply to all the items modified, repaired or newly supplied under the Contractor’s warranty. The warranty period shall start running from the moment of the successful completion of such modification, repair or new delivery. The Contractor shall record every such modification, repair or new delivery under the warranty, and shall submit the record to the Customer for approval. Such extension of the warranty period as specified in this Clause shall not exceed the period of 48 months after the date of issuance of the Project Closing Certificate.
  8. When defective part of the Work was repaired or replaced, the warranty period as per Clause 25.7 shall be extended by a period equal to the period for which such part of the Work could not be operated due to the defect and its removal. If owing to the defect of an individual part or parts the whole section or the whole Equipment could not be operated, such extension of warranty shall apply for the whole section of the Equipment or for the whole Equipment.
  9. The remedy of the defect shall have no effect on the Customer’s rights according to the Contract.
  10. Nothing in this Clause shall relieve the Contractor from any other responsibilities under this Contract.
  11. After expiration of Contractor’s warranty stipulated in Clause 25.7 and extended, if applicable, in accordance with Clause 25.12, the Customer shall have the right to make any modifications of the Equipment at its sole discretion.
  12. Provision of post-warranty services and technical support by the Contractor to the Equipment shall be agreed upon between the Parties in a separate written agreement.
  13. Usual wear and tear shall be except from warranty.

# Bank Guarantees

* 1. Performance Security
     1. Not later than  fourteen (14) days after signing the Contract, the Contractor shall furnish a good performance security to the Customer in the form of an unconditional and irrevocable first demand bank guarantee by a reputable bank authorized to operate in the EU acceptable to the Customer (“**Performance Security**”). The Contractor shall furnish such Performance Security on form attached hereto in Annex 4 (*Templates of Bank Guarantees*) or other form acceptable to the Customer. The amount of the bank guarantee shall be twenty (20) percent of the Contract Price.
     2. The proceeds of the Performance Security shall be payable to the Customer in compensation for any financial claim resulting from the Contractor’s failure to fulfil its obligations in the scope specified under the Contract.
     3. The first-class international bank issuing the Performance Security shall be bound to the Customer, in a sum not exceeding that stated therein. The said bank and the terms of the said Performance Security shall be subject to prior approval of the Customer which may not be withheld or delayed unreasonably. The obtaining of such guarantee, or the execution of such a guarantee, and the cost of the guarantee to be so entered into shall be in all respects at the expense of the Contractor.
     4. The Performance Security shall be denominated in the types and proportions of currencies in which the Contract Price is payable. Such bank guarantee shall have a validity from the date of receipt of a payment of twenty (20) percent of the Contract price on a bank account of the Contractor up the first day following the issuance of the Project Closing Certificate. The Performance Security shall be always prolonged or replaced by a new Performance Security by the Contractor at latest thirty (30) days prior to its expiry, in order to maintain its validity until the issuance of the Post-Warranty Control Certificate (amounts being subject to this Clause).
  2. General Warranty Bond
     1. As of the delivery of a co-signed copy of the Project Closing Certificate to the Contractor co-signed by the Customer, the validity of the Performance Security shall end and a new good performance security shall be delivered by the Contractor, such new good performance security covering all warranties resulting from Clause 25 (*Liability for Defects of Work and Warranty*) of this Contract and being issued in the amount of ten percent (10%) of the Contract Price, whereas the amount shall be denominated in the types and proportions of currencies in which the Contract Price is payable (“**General Warranty Bond**”).
     2. The General Warranty Bond shall be valid from the date of receipt of a payment of ten (10) percent of the Contract price on a bank account of the Contractor at least up to the first day following the issuance of the Post-Warranty Control Certificate. The General Warranty Bond shall be always prolonged or replaced by a new General Warranty Bond by the Contractor at latest thirty (30) days prior to its expiry, in order to maintain its validity until the issuance of the Post-Warranty Control Certificate.
     3. In all other respects, the General Warranty Bond shall be compliant with all terms and conditions of this clause pertinent to Performance Security and shall be issued on form attached hereto in Annex 4 (*Templates of Bank Guarantees*) or other form acceptable to the Customer.
  3. Should the Contractor fail to provide the Customer with a prolonged or a new Performance Security or General Warranty Bond within periods according to the provisions of Clauses 26.1(d) and 26.2(b), the Customer shall be entitled to be paid by the Contractor’s bank the full amount of the remaining Performance Security or the General Warranty Bond and use it as a retainer (security pursuant to Section 2012 et seq. of the Civil Code), and may set off any of its receivables against the Contractor against it.

# Contract Price

* 1. In full consideration for the performance of the Work and the complete performance of the Contractor’s responsibilities under the Contract, the Customer shall pay the lump sum Contract Price to the Contractor in the amount of EUR [to be edited by the Contractor] (in words: [to be edited by the Contractor] Euros) in payments.
  2. Payments of the Contract Price shall be made by the Customer to the Contractor as follows:
     1. **First payment:**

Twenty percent (20%) of the Contract Price shall be paid within fourteen (14) days after receipt of the following documents by the Customer:

* 1. first payment invoice;
  2. Performance Security.
     1. **Partial payments:**

Ten percent (10%) of the Contract Price shall be paid within thirty (30) days after receipt of the following documents by the Customer:

* + - 1. Contractor has delivered to the Customer the documents for construction readiness pursuant to Clause 3.3(a) of Annex 2 (*Scope of Work*).

Ten percent (10%) of the Contract Price shall be paid within thirty (30) days after receipt of the following documents by the Customer:

* + - 1. Contractor has delivered to the Customer the documents for installation of the Equipment pursuant to Clause 3.3(c) of Annex 2 (*Scope of Work*).

Forty percent (40%) of the Contract Price of the Contract Price shall be paid within thirty (30) days after receipt of the following documents by the Customer:

* + - 1. written confirmation by the Customer that the main Equipment was delivered to the Site pursuant to Clause 6.1. (Later delivery of minor parts shall be allowed, provided this does not delay the installation)

Ten percent (10%) of the Contract Price shall be paid within thirty (30) days after receipt of the following documents by the Customer:

* + - 1. written protocol signed by the Customer evidencing successful completion of the Hot Commissioning pursuant to Clause 23.1(c).
    1. **Final payment:**

Ten percent (10%) of the Contract Price shall be paid within thirty (30) days after receipt of the following documents by the Customer:

* + - 1. billing request on final payment;
      2. General Warranty Bond;
      3. Project Closing Certificate signed by both Parties.
  1. The Contract Price is fixed. It shall not be reviewed for any reason or cause and shall not be subject to any escalation or increase due to inflation, adjustments for exchange rates or any other adjustments based on macroeconomic conditions throughout the term of the Contract. The Contractor with due care declares that the Contract Price is sufficient for the fulfilment of the Contract and the Work can be performed for this price and to serve properly its purpose. No bonuses for early completion of the Work shall be applicable.
  2. The Contract Price is to be understood in accordance with the terms and conditions of the Contract and shall be paid by the Customer in accordance with the agreed terms of payment under the Contract, on the Contractor's bank account.
  3. Except where expressly stipulated otherwise herein, any and all sums payable by the Customer to the Contractor under this Contract shall be exclusive of VAT. The Contractor will increase these amounts by applicable VAT in accordance with the respective tax law, if applicable.
  4. In connection with the payments which are to be made by the Customer to the Contractor according to the Contract, the Contractor shall execute and complete the Work for the Customer and rectify all its defects in every respect in accordance with the relevant provisions of the Contract. The Customer is not obliged to pay for works performed by the Contractor beyond the provision of the Contract due its self-inflicted deflection from the contractual conditions (without the previous written consent of the Customer). The Contract Price also includes the works which the Contractor due to its expertise and experiences could and should have known or expected the necessity of such works in order to be able to finish the Work according to the Contract, unless such works have been expressly excluded from the scope of supply.
  5. The Contract Price under this Contract includes the Contractor’s entire performance conducive to the fulfilment of the purpose of this Contract, i.e. the Work specified. Insofar as the Contract Price is modified during the performance of this Contract in accordance with Clause 30 (*Changes*), including, without limitation, by variations, the Contract Price shall be calculated as including such modifications for all purposes under this Contract, unless the Contract expressly states otherwise.

# Payment

* 1. The Contractor’s request(s) for payment shall be made to the Customer in writing, accompanied with an invoice describing, as appropriate, reasonably detailed description of the invoiced deliverables and/or services and, where applicable, a breakdown of the amount invoiced by the Contractor to the Customer or the Work or its part performed, and upon fulfilment of other obligations stipulated in the Contract.
  2. The Contractor is obliged to deliver to the Customer a duly issued invoice in the electronic form (PDF format) within one (1) day from the date of issue at the e-mail address: [faktury@alinvest.cz](mailto:faktury@alinvest.cz). Invoices sent by the Contractor shall not be sent by the Contractor to other e-mail address(es) than the one stated in this Clause 28.2, nor sent by the Contractor in paper form.
  3. Each invoice will also contain a reference to the Subsidy Program. Each invoice will also contain the project registration number “7222200001” and the project name “*ALFAGEN - Modernization of smelting and casting technologies*” / (In Czech: “*ALFAGEN – Modernizace technologie tavení a lití*”).
  4. Dependent on the nature of the defect the Contractor shall rectify the invoice/billing request, including its supplements, or issue new ones. The justifiable return of the invoice/billing request shall cause the running of the original maturity period to stop. The new period of maturity shall start running on the day the Customer receives completed, rectified or newly issued invoice/billing request with respective requirements meeting the terms of this Contract.
  5. Delay of payment by the Customer:

If the Customer is in delay with its payment obligations or is late in providing the Contractor at Contractor’s option may

demand performance of the contract and

postpone the performance of its own obligations until the outstanding payments and other obligations of the Buyer are fulfilled,

extend the delivery period as appropriate, and

impose interest on late payments according to law, however not less than 8% p.a. or

if Customer’s delay exceeds 30 days, terminate the contract in whole or in part and the Customer shall compensate the Contractor for all losses, costs, damages and expenses incurred by the Contractor. In such case the Customer must return to the Contractor at the Contractor’s request, any equipment already delivered.

* 1. In case the Contractor has its registered seat in the Czech Republic, the following rules apply:
     1. the invoices issued by Contractor have to meet requirements of accounting documents pursuant to the Act No. 563/1991 Sb., on Accounting, as amended and effective on the date of the transaction and essentials of the invoice pursuant to the Act on VAT, as of the date of tax return obligation;
     2. the Customer shall settle all financial amounts only on the account of the Contractor published by the tax administrator by remote access and conducted by the payment service provider in the Czech Republic, if applicable. The Contractor is obliged to notify the Customer of the account number that meets the above-mentioned criteria. Until the account number is notified, that is published by the tax administrator by remote access the Customer shall not be in default with payment of invoice;
     3. in case the Contractor becomes an unreliable payer within the meaning of Act No. 235/2004 Sb., on Valued Added Tax, the Contractor agrees with the fact that the Customer will settle part of the Contractor’s invoices corresponding to the amount of VAT directly onto the tax administrator’s account as described in § 109a Act No. 235/2004 Sb., on Value Added Tax; the taxable amount will be settled onto the Contractor’s account.
  2. All payments in favour of the Contractor shall be done by direct bank to bank transfer on its account at the Contractor’s bank.
  3. All expenses and bank charges of the Customer’s bank in the Czech Republic shall be borne by the Customer, all expenses and bank charges of the Contractor’s bank(s), whether located in the Czech Republic or abroad, shall be borne by the Contractor.
  4. The Contractor shall not withhold payments to the subcontractors and vendors without valid reason.
  5. Should any due payment under the Contract be delayed, the Party in default shall pay to the other Party an interest on the outstanding amount of such delayed payment, for the period of delay until payment is received, at the interest rate of zero-point zero five percent (0,05%) per day.

# Taxes and duties

* 1. Foreign Taxes

The Contract Price covers all taxes, fees, custom duties and other expenses imposed outside the Czech Republic on production, manufacturing, procurement and transport of parts of the Work under this Contract and on the performance of services and activities under this Contract.

* 1. Taxes in the Czech Republic

The Contract Price covers all taxes and fees levied under the laws and regulations valid on the date of signing the Contract in the Czech Republic, and, provided the deliveries shall be effected DDP Building Site (Incomters 2020) includes all customs duties and charges levied in the Czech Republic on imports.

* 1. Nothing shall relieve the Contractor from its responsibility to pay the tax that may be levied in the Czech Republic on its income with respect to the Contract.
  2. Wages and salaries of the Contractor’s personnel might be subject to income tax in the Czech Republic. It is the Contractor’s duty to pay or ensure payment of this tax to the relevant financial authority, if applicable.
  3. The Customer shall pay any withholding tax required to be paid on any fees required by the government and authorities within the Czech Republic. The Customer may deduct the amount of any such withholding tax from the sums relating to royalties payable to the Contractor under the Contract. The Contractor will provide the Customer with the statement confirming that the Contractor is a beneficial owner of the income and that the income is in accordance with the tax law of Contractor residency country considered to be its income.
  4. The Contractor shall be responsible for payment of any customs duties on the surplus Materials which the Contractor removes from the Site.
  5. In the event that any customs duty or fee is payable as a result of the failure of the Contractor to carry out the procedures agreed between the Contractor and the Customer in accordance with the Contract, then such customs duty or fee shall be for the account of the Contractor.
  6. In the event that any amounts referred to in this Clause are paid/payable by the Customer but are to be borne by the Contractor, the Customer shall be entitled forthwith to recover the said amounts from the Contractor.
  7. The Parties confirm that in accordance with the Article 44 of Council Directive 2006/112/EC the place of performing the services by the Contractor for the Customer under this Contract is the territory of Czech Republic.
  8. The Customer shall be entitled to notify the Czech tax authorities or any other body of the conclusion of this Contract with the Contractor if so required by Czech law or if in reasonable view of the Customer it may be required by the Czech law.

# Changes

* 1. At any time prior to the completion of the Work, the Customer may, by written notice to the Contractor (in a form specified in Annex 5 (*Template of Change Request*), request changes in the plans, specifications and drawings by way of additions, deletions or other alterations thereto. Upon the receipt of the Customer’s change request, the Contractor shall conduct feasibility checks taking into account technical, financial and scheduling consideration, and if appropriate, submit in due time after receipt such request an alteration to Work for the Customer’s approval, such approval (or disapproval as the case may be) to be provided without undue delay and in any event no later than within thirty (30) days after the submission, which document shall include: (i) the Contractor’s proposals for performing the changes, (ii) a description of the work that needs to be done when making the changes, elaborated in detail according to the project documentation and other documents that the Contractor is guided by during the carrying out the Work; (iii) proposals, if required, for modifying the lump sum Contract Price, including the valuation of the individual items affected by the changes according to the rules of Clause 30.5; and adjustments to the Project Time Schedule, if it requires to be changed as a result of the changes. The Customer’s approval of the alteration to Work and the Customer’s authorization to proceed with the changes, even though there may be no change in the compensation, if so stated in the alteration to Work, shall be:
     1. a written authorization signed by the Customer’s Representative, for which the Contractor shall issue a formal receipt; or
     2. a letter of agreement; and/or
     3. other formal written Contract revision.
  2. Notwithstanding the foregoing, the Contractor shall be entitled at its discretion to also propose an alteration to Work at any time prior to completion of the Work even if not so requested by the Customer, which shall be subject to the same procedure as above.
  3. The Contractor shall prepare and maintain a register recording the nature, cost and status of all changes, whether proposed or authorized. The format of the register and the level of detail shall be subject to agreement between the Customer’s Representative and the Contractor. The Contractor shall provide copies of the register to the Customer on a monthly basis.
  4. Normal design developments and corrections of detailed design work performed or to be performed by the Contractor, which are required to meet the operability, serviceability and safety requirements as well as to achieve compliance with the terms and conditions of the Contract shall not be construed as changes and shall not be subject to the provisions of this Clause.
  5. In the event of any changes authorized by the Customer’s Representative in the manner provided for in this Clause which increase or decrease the cost of performing the Work to the Contractor, there shall be a corresponding increase or decrease in the compensation to the Contractor as herein provided. Where such changes shall require an extra work resulting in an increase of cost and expense to the Contractor, it shall be paid as a lump sum price which had been agreed upon prior to commencement of the extra work based on the alteration to Work as described in Clause 30.1 amongst other circumstances taking into account prices of similar items deliverable under the Contract and fair market prices during the execution of the Work in other cases.
  6. However, if the need for change of Work was caused by a breach of Contractor’s duty, then (i) any additional Contractor’s costs or unnecessarily incurred costs bears the Contractor and the Contract Price will not increase for such costs, or if these costs have already been paid by the Customer, the Customer has the right for its compensation, and (ii) if the result of such changes caused delays in the Project Time Schedule, such delay is considered as a delay by the Contractor in its performance of Works with all the consequences arising therefrom.
  7. The Contractor shall maintain during the course of performance of extra work and retain till the date of issue of the Post-Warranty Control Certificate, but not less than for a period of two (2) years, complete and accurate records of all the Contractor’s costs which may be chargeable to the Customer. For any such change which reduces the cost of Work to the Contractor, the amount to be deducted from the Contract Price for such change shall be agreed upon before the change is made and shall be deducted from the Contract Price.
  8. The Contractor is obliged to provide the Customer with all requested cooperation to ensure the conformity of the processes of negotiation of changes with the Public Procurement Act. The Parties acknowledge that any changes to this Contract must be in accordance with Section 222 of the Public Procurement Act.

# Contract amendments

* 1. Subject to Clause 30 (*Changes*), no variation in or modification of the terms of the Contract shall be made except by a written amendment signed by the Parties.

# Assignment

* 1. The Contractor shall not assign or transfer the Contract, in whole or in part, without prior written consent of the Customer including by means of transfer of enterprise or its part. Any material change to the ownership structure of the Contractor shall also be considered to constitute such assignment.

# SubContractors

* 1. All subcontractors/vendors that the Contractor intends to use for the Work shall be notified in advance to the Customer. The Customer reserves the right to reject subcontractors/vendors that in its reasonable opinion do not have sufficient skills and experience with work of analogous character, or that from its knowledge did not meet their contractual obligations in some cases, or their financial or technical position does not reliably guarantee the meeting of obligations of this Contract. Such refused subcontractors/vendors cannot become subcontractors of any subcontractor and participate directly or indirectly on the Work.
  2. The Customer shall have the right to reject things, works, Materials, Services and Engineering for which the Contractor used a subcontractor/vendor that does not meet the requirements of this Clause 33 (*Subcontractors*), i.e. was not notified and/or was rejected by the Customer.
  3. Subcontracting shall not exonerate the Contractor from any of its contractual responsibilities or obligations. He is also liable vis à vis the Customer for any acts, performance, omissions or negligence of any of its subcontractors or vendors as if the relevant Works were self-performed by the Contractor.
  4. The Contractor shall not withhold payments to the subcontractors and vendors without valid reason. In case the Contractor fails to duly pay to the subcontractors or vendors due to the reasons solely caused by the Contractor, the Customer shall have the right to directly pay any subcontractor or vendor for the Works, in relation to which the Contractor is entitled to payment under this Contract, and to recover as a debt or set off such amount paid to the subcontractor or vendor from any payments due to the Contractor.

# Delays in the contractor’s performance

* 1. Performance of the Work, delivery of Materials, Service and Engineering shall be made by the Contractor in accordance with the Project Time Schedule and Contract Implementation Schedule.
  2. A delay by the Contractor in its performance and/or its delivery obligations shall render the Contractor liable to any or all of the following potential sanctions described in the specific clauses elsewhere in this Contract: usage of its Performance Security, General Warranty Bond, imposition of the contractual penalty provided for in this Contract, compensation of damages, and/or termination of the Contract for default.
  3. In case of a dispute between the Customer and the Contractor and until such dispute is resolved in accordance with the applicable law and according to Clause 46 (*Dispute resolution*), the Contractor shall proceed with performance of the Work in strict compliance with the conditions of the Contract and any deviation shall render the Contractor liable to any and all of the following sanctions: usage of its Performance Security, General Warranty Bond, imposition of contractual penalty provided for in this Contract, compensation of damages, and/or termination of the Contract for default.

# Liability

* 1. Subject to the limitations of liability as described in this Clause 35, the Contractor shall be liable for any damage caused by the Equipment non-compliance with any quality, performance and safety requirements as stipulated in this Contract.
  2. The Contractor shall provide Customer with any necessary assistance if any third party raises any claim against the Customer in any connection with the Equipment or any other Contractor’s activity performed under this Contract.
  3. The Contractor’s maximum aggregate liability for all its obligations and undertakings under the Contract or generally binding legal regulations applicable in connection with this Contract will not exceed fifty percent (50%) of the Contract Price. The said limit of the Contractor’s maximum aggregate liability does not include:
     1. the Contractor’s cost of repair and/or modification and/or replacement of defective parts of the Work, provided that the limit of the Contractor’s maximum liability to pay such costs will not exceed hundert percent (100 %) of the Contract Price;
     2. indemnification for infringement of industrial property rights and other intellectual property rights, committed by the Contractor;
     3. compensation of the Customer from the insurance procured by the Contractor under the Contract (or procured by the Customer in accordance with Clause 8.10 hereof);
     4. liability for loss and damage caused by gross negligence and/or wilful misconduct of the Contractor or the Contractor’s personnel (for the avoidance of doubt, including the Contractor’s subcontractors and their personnel or any other persons under the management of the Contractor),
     5. third party claims related to loss of life and/or personal injuries if and to the extent caused by the Contractor.

# Third party claims

* 1. The Contractor shall perform all performance under this Contract without any defect. If the Contractor produces the Equipment contrary to the provisions set out in this Contract, the Contractor shall be liable for any infringement of third-party intellectual property rights by the Customer as a result of the use of the Equipment according to this Contract. In the event that the Customer is imposed an obligation to perform as a result of the use of the Equipment in accordance with this Contract by a final court decision, the Contractor shall reimburse the Customer for the costs of the legal proceedings, including the costs of legal representation, as well as for the damages incurred by the Customer as a result of the imposition of such obligation.

# contractual penalties

* 1. The Parties have agreed that in case of non-fulfilment by the Contractor of the given milestones within the time period(s) specified in the Project Time Schedule, the Customer has the right to claim, without prejudice to its other remedies under the Contract, as contractual penalty for delay a sum calculated for the period from the scheduled achievement until the actual achievement of the concerned milestone:
     1. zero point one percent (0,1%) of the Contract Price for each commenced day of delay by Contractor with delivery to the Customer of the documents for construction readiness pursuant to Clause 3.3(a) of Annex 2 (*Scope of Work*) in violation of the Project Time Schedule, up to the maximum of three percent (3%) of the  Contract Price;
     2. zero point one percent (0,1%) of the Contract Price for each commenced day of delay by Contractor with delivery to the Customer of the documents for basic engineering pursuant to Clause 3.3(b) of Annex 2 (*Scope of Work*) in violation of the Project Time Schedule, up to the maximum of three percent (3%) of the Contract Price;
     3. zero point zero one percent (0,01%) of the Contract Price for each commenced day of delay by Contractor with  delivery to the Customer of the documents for installation of the Equipment pursuant to Clause 3.3(c) of Annex 2 (*Scope of Work*) in violation of the Project Time Schedule, up to the maximum of two percent (2%) of the Contract Price;
     4. zero point zero one percent (0,01%) of the Contract Price for each commenced day of delay by Contractor with delivery of the Equipment to the Site pursuant to Clause 6.1 in violation of the Project Time Schedule, up to the maximum of two percent (2%) of the Contract Price;
     5. zero point one percent (0,1%) of the Contract Price for each commenced day of delay by Contractor with successful completion of the Hot Commissioning pursuant to Clause 23.1(c) in violation of the Project Time Schedule, up to the maximum of three percent (3%) of the Contract Price;
     6. zero point one percent (0,1%) of the Contract Price for each commenced day of delay by Contractor with successful completion of the Initial Operation Tests pursuant to Clause 23.1(d) in violation of the Project Time Schedule, up to the maximum of three percent (3%) of the Contract Price;
     7. zero point one percent (0,15%) of the Contract Price for each commenced day of delay by Contractor with execution of the Project Closing Certificate and hand-over of the Equipment to the Customer in violation of the Project Time Schedule, up to the maximum of five percent (5%) of the Contract Price.

The Contractor’s maximum aggregate liability for the penalties for delay set out in this Clause shall not exceed the percent (10 %) of the Contract Price. Once the amount of the contractual penalties for delay equivalent to ten percent (10 %) of the Contract Price is reached, the Customer is entitled to withdraw from the Contract in accordance with Clause 40.1.

* 1. If the Contractor meets the deadline of execution of the Project Closing Certificate and hand-over of the Equipment to the Customer in accordance with the Project Time Schedule, the Customer will return the contractual penalties previously paid by the Contractor under Clauses 37.1(d), 37.1(e) and 37.1(f) to the Contractor. In such a case the Customer will do so no later no later than with the final payment in accordance with Clause 23.1(h).
  2. The Customer has the right to claim a contractual penalty of one percent (1%) of the Contract Price in the event that:
     1. the Equipment failed to meet any of the OEE parameters specified for Performance Tests in Clause 4.3(d) of Annex 3 (*Parameters of Testing and Operation*); or
     2. other errors and deficiencies incompliant with Clause 23.1(e), Clause 4 (*Initial Operation Tests parameters*) of Annex 3 (*Parameters of Testing and Operation*) or other provisions of the Contract caused the Performance Tests to fail.

For the avoidance of doubt, this contractual penalty may only be applied in connection with the first Performance Tests.

* 1. The Customer has the right to claim a contractual penalty of three percent (3%) of the Contract Price in the event that:
     1. the Equipment failed to meet any of the OEE parameters specified for Performance Tests in Clause 4.3(d) of Annex 3 (*Parameters of Testing and Operation*); or
     2. other errors and deficiencies incompliant with Clause 23.1(e), Clause 4 (*Initial Operation Tests parameters*) of Annex 3 (*Parameters of Testing and Operation*) or other provisions of the Contract caused the Performance Tests to fail.

For the avoidance of doubt, this contractual penalty may be applied in connection with any repeated Performance Tests.

In addition, the Customer shall have the right to withdraw from the Contract in accordance with Clause 40.1.

* 1. In case of Contractor’s delay in the remedy of defects pursuant to Clause 25 (*Liability for Defects of Work and Warranty*) hereof the Customer has the right to the following contractual penalties:
     1. zero point zero one percent (0,01%) of the Contract Price for each full day of delay in removing each of the defects preventing achievement of the OEE parameters as set forth in Clause 5.1(d) of Annex 3 (*Parameters of Testing and Operation*) and/or preventing by this effect operation of the Equipment as whole or its substantial part;
     2. zero point zero one percent (0,01%) of the Contract Price for each full week of delay in removing each of defects other than those specified under the Clause 37.5(a) above, if and to the extent such defect is relevant and has a material impact on operation of the Equipment in compliance with the Contract, or the safe operation of the Site.

The Contractor shall not be relieved to pay such contractual penalties by remedying the defect and conversely, the right of the Customer to have the defect remedied by the Contractor and other rights in accordance with Clause 25 (*Liability for Defects of Work and Warranty*) hereof shall not be affected. The Contractor’s maximum aggregate liability for the penalties set out in this Clause 37.5 shall not exceed five percent (5%) of the Contract Price.

Without prejudice to other rights of the Customer according to this Contract, if, in the aggregate, the contractual penalties under this Clause 37.5 reaches five percent (5%) of the Contract Price then the Customer has the right to withdraw from the Contract in accordance with Clause 40.1.

* 1. The Customer has the right to claim a contractual penalty of EUR 1,000 for each individual case of breach of any obligation stipulated in Clause 18 (*Site Regulations*) Annex 7 (*Risks at the Site*) by any personnel of the Contractor (including the personnel of the Subcontractor) participating on performance of the Work.
  2. The Customer has the right to claim a contractual penalty of EUR 1,000 for each individual case when any member of personnel of the Contractor (including the personnel of the subcontractor) participating on performance of the Work enters the Site under the influence of alcohol and/or other addictive substances.
  3. The payment of any contractual penalty shall not:
     1. affect other obligations of the Contractor under the Contract, especially as regards the rights to remedy defects or to indemnity proceeds; and
     2. exclude Customer’s right to compensation of damages to the full extent.
  4. The following shall apply to all provisions of this Contract, which concern contractual penalty. If it is not possible to make deduction from the Contract Price, the contractual penalty shall be paid by the Contractor onto the Customer’s account within fourteen (14) days from receipt of the respective debit note.
  5. The Contractor’s maximum aggregate liability for all contractual penalties under the Contract will not exceed fifteen percent (15 %) of the Contract Price. Without prejudice to other rights of the Customer according to this Contract, if, in the aggregate, the contractual penalties under this Contract reach fifteen percent (15%) of the Contract Price, the Customer has the right to withdraw from the Contract in accordance with Clause 40.1.
  6. Payment of the penalty for delay to perform contractual obligations by the Contractor as described in this clause 37 shall be considered full and final settlement of damages due to delay, ruling out further claims for compensation of damages due to delay. Payment by the Contractor of the penalty for non-achievement of technical parameters as described in this clause 37 shall be considered full and final settlement of damages due to non-achievement of technical parameters, ruling out further claims for compensation of such damages. If different project milestones are delayed due to the same reason, the penalty shall be payable only once. If the Customer claims compensation of damages in accordance with this Contract, the penalties paid by the Contractor shall be deducted from the claimed damages.

# Force Majeure

* 1. Either Party of the Contract shall be released from its liability for non-fulfilment of its contractual obligations in part or entirely if and insofar the fulfilment of contractual obligation has been delayed, hindered, interfered with or prevented by Force Majeure, subject to following conditions:
     1. If a Force Majeure situation arises, the Party so affected shall promptly notify the other Party in writing of such condition and the cause thereof and of cease of Force Majeure as well. Unless otherwise directed by the Customer in writing, the Contractor shall continue to perform its obligations under the Contract as far as is reasonably practicable (if possible, at all) and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. At the request of the other Party the affected Party shall prove the occurrence of Force Majeure by certificate of an independent authority, if applicable, or by other means.
     2. In case circumstances of Force Majeure have been continuing for longer than four (4) months, the Customer and the Contractor will meet and strive to agree on a mutually acceptable solution. However, in such case, no Party shall be considered in default of the Contract by simple virtue of four (4) months passing, as long as the Force Majeure event continues.

# WITHDRAWAL FROM the Contract

* 1. To a maximum extent permitted by law, the Parties exclude all rights of withdrawal (in Czech: *odstoupení*) or termination (in Czech: *výpověď*) of this Contract for any and all reasons not specifically stipulated as causes in this Contract.
  2. Withdrawal from the Contract does not affect the duration of the rights and obligations of the Parties under provisions that continue in accordance with their nature, including Clauses 35 (*Liability*), 36 (*Third party claims*), 37 (*Contractual penalties*), 43 (*Use of documents and information*) 46 (*Dispute resolution*) and 48 (*Applicable law*).

# WITHDRAWAL FROM the Contract For Contractor’s default

* 1. If the Contractor:
     1. has assigned or transferred the Contract or any rights or interest therein in violation of the provisions of Clause 32 (*Assignment*) hereof;
     2. has abandoned or repudiated the Contract;
     3. has without valid reason failed to commence the works promptly or has suspended the progress of the works for more than thirty (30) days;
     4. has failed to submit to the Customer the Performance Security or the General Warranty Bond at any time when due; or if the Contractor has allowed any of these bank guarantees to expire prior to their required validity term under Clause 26 (*Bank Guarantees*), without submitting an appropriate replacement bank guarantee or ensuring prolongation of the relevant bank guarantee;
     5. has materially breached his obligations under Clause 8 (*Insurance*);
     6. shall persistently fail to execute the Work in accordance with the Contract or persistently neglect to carry out its obligations under the Contract;
     7. is unable to remove defects preventing or limiting operation and/or use of the Work in compliance with the terms and conditions of the Contract or in compliance with the Project Time Schedule or the Contract Implementation Schedule;
     8. shall fail, neglect, refuse or be unable to provide sufficient Materials, Engineering, Services or labour to execute and complete the Work in the manner specified in the Contract Implementation Schedule at rates that give reasonable assurance to the Customer that the Contractor can attain the completion of the Work in time;
     9. failed any of the repeated Performance Tests;
     10. the maximum aggregate liability limit under Clause 35.3, or Clause 37.1, or Clause 37.4, or Clause 37.5, or Clause 37.10 is reached;

then the Customer may, without prejudice to any other rights it may possess under the Contract, give a written notice to the Contractor stating the nature of the default, and requiring the Contractor to remedy the same.

* 1. If the Contractor fails to remedy or to take steps to remedy the same within thirty (30) days of its receipt of such notice, then the Customer may withdraw from the Contract, partially or fully, forthwith by delivering written notice of withdrawal – the Withdrawal Notice – to the Contractor.
  2. The 30-day notice shall not be required with respect to withdrawal pursuant to Clause 40.1(i) or Clause 40.1(j), in which case, the Customer may withdraw from the Contract by a Withdrawal Notice immediately.
  3. Upon receipt of the Withdrawal Notice under Clause 40.1 above, the Contractor shall either without undue delay or upon such date as is specified in the Withdrawal Notice, cease all further works, except such works as the Customer may specify in the Withdrawal Notice for the sole purpose of protecting the part of the Work already executed. The Customer may in case of withdrawal under this Clause 40 (*Withdrawal* *from the Contract for Contractor Default*) expel the Contractor from the Site.

# Withdrawal FROM the Contract for insolvency

* 1. The Customer may at any time withdraw from the Contract by delivering a written notice to the Contractor, if the Contractor becomes or is declared bankrupt or insolvent, an insolvency petition regarding the Contractor is rejected for lack of its assets or the Contractor becomes subject to liquidation, asset freeze, forced winding-up or similar legal procedure. Such withdrawal will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Customer.
  2. If the Contract is cancelled pursuant to Clause 41.1, then (i) Clause 40 (*Withdrawal from the Contract for Contractor Default*) shall apply mutatis mutandis, in the event of withdrawal by Customer pursuant to Clause 41.1 and (ii) Clause 42.2 shall apply mutatis mutandis in the event of withdrawal by Contractor.

# Withdrawal from the Contract for Customer’s default

* 1. The Contractor shall be entitled to withdraw from the Contract with thirty (30) days prior notice only and solely in the event of:
     1. Customer’s delay with an invoice payment not disputed by the Customer, exceeding at least ninety (90) days, provided the Parties have not agreed otherwise and the Contractor has suspended Work; or
     2. if the Customer has failed to approve any draft invoice or supporting documents in bad faith without reasonable cause, while at the same time, the aggregate amount of draft invoices so unapproved exceeds ten percent (10 %) of the Contract Price; or
     3. if the Customer becomes or is declared bankrupt or insolvent, an insolvency petition regarding the Customer is rejected for lack of its assets or the Customer becomes subject to liquidation, asset freeze, forced winding-up or similar legal procedure
     4. if the Customer does not timely implement any contractually agreed prerequisite, which is necessary for the Contractor to fulfil its contractual obligations, such as but not limited to providing any deliverables which are in the Customer’s scope of supply,
  2. If the Contract is withdrawn pursuant to Clause 42 (*Withdrawal from the Contract for Customer’s Default*), then the Contractor shall without undue delay:
     1. cease all further works; and
     2. repatriate the Contractor’s and its subcontractors’ personnel from the Site and remove from the Site any equipment of the Contractor together with any Contractor’s wreckage, rubbish and debris of any kind.
  3. In case of withdrawal as described in this Clause 42, Customer shall pay the Contract Price for the Works already performed and compensate the Contractor for damages caused
  4. Without prejudice to its other rights as described in this Clause 42, in case of an event described in 42.1. a, b, c or d the Contractor shall be entitled to extend the project time schedule and to charge additional costs caused by the extension.

# Use of documents and information

* 1. The Contractor shall not, without the Customer’s prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample or information furnished by or on behalf of the Customer in connection therewith, to any person other than a person employed by the Contractor in the performance of the Contract on a need-to-know basis. The disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for the purposes of such performance.
  2. Notwithstanding the foregoing provisions, the confidentiality obligations of the Contractor shall not apply to any information which:
     1. now or hereafter becomes a part of the public domain through no fault of the Contractor; or
     2. was already in the possession of the Contractor at the time of disclosure; or
     3. lawfully becomes available to the Contractor through a third party without the confidentiality obligation.
     4. The Contractor shall not, without the Customer’s prior written consent, make use of any document or information enumerated in Clause 43.1 except for the purposes of performing the Contract.
  3. Any document other than the Contract itself, enumerated in Clause 43.1 shall remain the property of the Customer and shall be returned (in all copies) to the Customer on completion of the Contractor’s performance under the Contract, if so required by the Customer.
  4. The Customer shall not, without the Contractor’s prior written consent, disclose any confidential technical information to any person other than its Affiliate Company or a person employed or intended to be employed by the Customer. The disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for the purposes of construction, operation and maintenance of the Equipment.
  5. The Customer shall not, without the Contractor’s prior written consent, make use of any confidential technical information (except for the purposes of performing the Contract) nor make any reproduction or copies of any confidential technical information without the prior written approval of the Contractor, except for the minimum number of copies required for the purposes of construction, operation and maintenance of the Equipment.
  6. Notwithstanding the foregoing provisions, the confidentiality obligations of the Customer shall not apply to any information which:
     1. at the time of disclosure or thereafter becomes a part of the public domain through no fault of the Customer; or
     2. was already in the possession of the Customer at the time of disclosure; or
     3. lawfully becomes available to the Customer through a third party without the confidentiality obligation.
  7. The Parties shall not be limited in disclosing any confidential information as may be required by the applicable laws (including any applicable stock exchange regulations) or as may be requisite in connection with a dispute between the Parties.
  8. Each Party agrees that the other Party will register and process its personal data (and that of its employees and cooperating persons), to the extent necessary for the purpose of performing this Contract, keeping records of the legal relations under this Contract, maintaining any disputes under or in connection with this Contract and for the fulfilment of the tax and other legal obligations of the Parties.
  9. The Parties undertake to comply with all relevant data protection regulations, especially with the Regulation (EU) 2016/679 of the European Parliament and of the Council (GDPR) and shall also impose this obligation on their business partners, where applicable. If the authorities require personal data, this may be transmitted exclusively to these authorities and must subsequently be carefully stored by the Parties.

# Intellectual property rights

* 1. The Contractor hereby grants a non-exclusive and non-transferable license (without the right to sub-license) to the Customer and its legal successor under any and all patents, utility models, industrial designs, trademarks and other intellectual property rights owned by the Contractor or by a third party from whom the Contractor has received the right to grant licenses thereunder, and shall also grant to the Customer a non-exclusive and non-transferable right (without the right to sub-license) to use know-how, software and other technical information disclosed to the Customer under the Contract, in all cases, for the purposes of completion, operation, maintenance, and decommissioning the Work. Nothing contained herein shall be construed as transferring the ownership of any patent, utility model, trademark, design, copyright, know-how, software or another intellectual property right from the Contractor or any third party, to the Customer or its legal successor.
  2. The Contractor shall hold harmless and indemnify the Customer from and against all claims of third parties, and shall hold harmless and indemnify the Customer from and against all claims and demands for or on account of the infringement of any patents, trademarks, industrial designs, know-how, software and rights to intellectual property, and shall indemnify the Customer from and against all claims, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In case that the Work is not completed and finished by the Contractor, the Contractor shall grant the Customer the license as described in Clause 44.1..
  3. All rights under this Clause 44 (*Intellectual property rights*) shall be granted to the Customer for the period of duration of the goods or services that are supplied by the Contractor and lifetime of the Work, whichever is longer. The fully paid license fee for the grant of the licenses and rights as aforesaid is included in Contract Price. The Parties considered the purpose of the authorizations granted, the manner and circumstances of use of respective copyrighted works, the size of the Contractor’s creative contribution and the territorial, quantitative and temporal scope of the authorizations granted, when determining the Contract Price. If for any reason it becomes necessary or expedient to determine the amount of the remuneration for the granting of the authorizations under this Clause 44 (*Intellectual property rights*) hereof, the Contractor undertakes to provide all assistance necessary to determine the amount thereof or its share of the Contract Price.
  4. In the event that:
     1. this Contract is terminated by the Customer’s notice under Clause 40.1(b) or Clause 41 (*Withdrawal from the Contract for Insolvency*); or
     2. a situation arises where the Contractor ceases to provide software application services in relation to the software of the Equipment or to undertake further development of the software of the Equipment and parts thereof.

the licence granted under Clause 44.1 is automatically extended to include the right to change, modify, otherwise interfere with the respective author’s works and databases (including interference with the software parts of the subject matter of the Work), to combine them with other works and to include them in collective works or to complete such unfinished author’s works and databases, all of this also through third parties in all forms of expression, including source and machine code, but only for the internal needs of the Customer and the companies within the MTX group. The transfer of the Source Code shall be made in accordance with Clause 45 (*Source Code*).

* 1. The Contractor hereby grants the Customer the right to:
     1. gain access to the Equipment’s software to the extent necessary to collect production and technical data; and
     2. upon prior notification to the Contractor to adjust the software of the Equipment if required to adjust measurement methods, while

the Contractor shall provide the Customer with any necessary cooperation to enable it to perform such actions, including provision of connection to the functional software interface.

# Source Code

* 1. At latest upon issuance of the Post-Warranty Control Certificate, the Contractor shall deliver to the Customer or deliver to the deposit at attorney-at-law or notary public with registered office in the Czech Republic agreed upon by the Parties (in such case costs of the custody shall be borne by the Contractor in full) in a sealed envelope a data carrier containing Source Code to the critical parts of the software used in the Equipment according to the specifications provided by the Contractor in Annex 6 (*Specification of critical software*). Together with the Source Code, the data carrier shall contain the preparatory and conceptual materials and any other related materials (including complete and comprehensible specifications, reference manuals, working documents, comments, analyses, test reports, etc.) in editable electronic form. Upon handover of the envelope, the Parties shall execute a handover protocol signed by their authorized representatives. The Contractor shall regularly, upon each case of significant change to the software (including its potential actualizations), provide the Customer or the respective attorney-at-law/notary public with an updated version of the Source Code in a format described in this Clause, including all historical versions thereof (in case of doubts regarding the significance of the change/update, the Customer shall have the right to decide whether or not updated version of the Source Code is to be provided by the Contractor); The handover procedure described hereunder shall apply to updates as well. Upon handover of the Source Code on the respective data carrier pursuant hereunder, the Contractor shall demonstrate its completeness and functionality to the Customer.
  2. The Source Code shall be executable in the IT environment in which the software of the Equipment is to be operated and guaranteeing the possibility of verifying that it is complete and in the correct version, i.e. allowing compilation, installation, execution and verification of functionality, including detailed documentation of the Source Code of such part of the software of the Equipment, on the basis of which a normal skilled worker qualified for the position of programmer or software architect will be able to understand and intervene in all the functions and internal links of the software.
  3. In the event that:
     1. this Contract is terminated by the Customer’s notice under Clause 40.1(b) or Clause 41 (*Withdrawal from the Contract for Insolvency*); or
     2. a situation arises where the Contractor ceases to provide software application services in relation to the software of the Equipment or to undertake further development of the software of the Equipment and parts thereof,

the Customer shall be entitled to gain access to the Source Code therein and modify the Source Code and to further operate, develop, change and modify the software of the Equipment for its own purposes and those of the Affiliate Companies, either by itself or through third parties.

# Dispute resolution

* 1. The Customer and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
  2. All disputes arising out of or in connection with the present Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three (3) arbitrators appointed in accordance with the said Rules. The seat of the arbitration shall be inZurich, Switzerland. The Emergency Arbitrator Provisions shall not apply. The Expedited Procedure Provisions shall not apply. No award or procedural order made in the arbitration shall be published.

# Governing language

* 1. The Contract shall be written in the English language. This language shall govern the interpretation of the Contract. All correspondence and other documents pertaining to the Contract which are exchanged by the Parties shall be written in the English language with the exception of cases specified in this Contract and cases agreed by the Parties, when the Czech language will be used. The part of the project documentation, which shall be submitted to the Czech authorities and institutions for their comments, standpoints and / or approval procedures shall be in Czech language.

# Applicable law

* 1. The Contract is subject to the laws of Switzerland with the exclusion of the law of conflicts.
  2. For the avoidance of doubt, the Customer and the Contractor exclude the application of any Czech or international standards of terms and conditions (such as FIDIC etc.), as well as Vienna Convention on International Sale of Goods. Only such documents as are specifically included in the Contract shall be considered parts of the Contract. Notwithstanding the foregoing, ICC-Incoterms 2020 and URDG 758 (ICC Uniform Rules for Demand Guarantees) shall apply.
  3. .

# Notices

* 1. Any notice to be given under the Contract shall be given by personal delivery, registered mail, courier service or e-mail to the address of the relevant Party set out in this Clause below, provided that either Party shall notify the other Party in writing, of a change of its postal or e-mail address for receipt of such notices. The Parties agree that all communications by e-mail shall be considered equivalent of written form.
  2. Under these conditions, notices shall include any instructions, orders and certificates to be given under this Contract.
  3. All notices shall be addressed to:
     1. the Customer:

AL INVEST Břidličná, a.s.

Name: [●]

Address: Bruntálská 167, 793 51 Břidličná, Czech Republic

Telephone: [●]

Email: [●]

Attention: [●]

* + 1. the Contractor:

[business name of the Contractor]

Name: [●]

Address: [●]

Telephone: [●]

Email [●]

Attention: [●]

# Other provisions

* 1. The effective date of the Contract is date of signature of the Contract by both contracting Parties.
  2. No Party shall be entitled to set off any of its receivables against the other Party in connection with this Contract other than by written agreement of the Parties.
  3. The waiver of a right to remedy a breach of any provision of the Contract, as well as other relevant contracts, shall not imply and not imply the waiver of any right to remedy any other breach of such provision of the Contract or any other provision, even if these are of the same nature. The non-exercise of a right shall not imply the waiver of same.
  4. The Contractor hereby confirms that it finds all the Clauses contained in this Contract to be intelligible, are not disadvantageous for it and that this Contract does not deviate from the usual terms and conditions agreed upon in similar cases.
  5. N.A.
  6. The Parties hereby declare and confirm that represent to be business undertakings and not consumers. None of the Parties considers itself to be a “weaker party to contract” within the meaning of civil law and both Parties have had sufficient opportunity to familiarize themselves with the text and the contents of the Contract. Both Parties understand the provisions hereof fully and consider these provisions to have been sufficiently negotiated and not especially disadvantageous. The Parties declare that this contract expresses their real, earnest and free will, that its contents is sufficiently intelligible and certain to them.
  7. This Contract, including its Annexes, is the only valid agreement between the Parties, and any commitment or communication, oral or written, bid invitation and offer prior to the signing of this Contract, which is not expressly included in this Contract and its Annexes, is hereby annulled and rendered without any value whatsoever.
  8. All Annexes of this Contract form an integral part of this Contract. In case the text of the Contract will be different from the wording of any of the Annexes, the relevant wording will be the wording of the Contract.
  9. If any of the provisions of this Contract become invalid, unenforceable or illegal in part or in whole, the remaining provisions shall remain in force unchanged and the Parties shall meet as soon as possible, and in good faith, agree to accept a lawful provision being the closest to the aim of the Contract and that has an equal economic effect.
  10. This Contract may be executed and varied (a) in physical form with wet ink signatures, (b) in electronic form using DocuSign, Adobe Sign or other similar standardized solutions, (c) by exchanging electronic copies (scans) of the executed Contract or an amendment thereto or (d) by any combination of the foregoing. This Contract or any amendment thereto may be executed in any number of counterparts.

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**ANNEX 1**

PROJECT TIME SCHEDULE

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Milestones and binding deadlines**  **for the Contractor** | | | | | | |
| **#** | **Activity** | **Provision of the Contract** | **Milestone deadline**  **(*date*)** | **From day “0” (*in months*)** | | |
|  | | | | Start | Stop | |
|  | Conclusion of the Contract. | Clause 50.1 | [●] | 0 | | |
|  | Delivery of the original Performance Security to the Customer. | Clause 26.1 | [●] | 0 | | [●] |
|  | Delivery of documents for construction readiness by the Contractor to the Customer. | Clause 3.3(a) of Annex 2 (*Scope of Work*) | **20. 10. 2024** | [●] | | |
| 4. | Completion of basic engineering and delivery of the related documents by the Contractor to the Customer. | Clause 3.3(b) of Annex 2 (*Scope of Work*) | **30. 11. 2024** | [●] | [●] | |
|  | Delivery of documents for installation of the Equipment by the Contractor to the Customer. | Clause 3.3(c) of Annex 2 (*Scope of Work*) | **30. 4. 2025** | [●] | | |
|  | Delivery of the Equipment to the Site. | Clause 6.1 | [●] | [●] | | |
|  | Successful completion of Cold Commissioning by the Contractor and notification to the Customer with request to execute the respective protocol; execution of protocol on successful completion of the Cold Commissioning. | Clause 23.1(b) | **18. 9. 2026** | [●] | | |
|  | Successful completion of Hot Commissioning by the Contractor and notification to the Customer with request to execute the respective protocol; execution of protocol on successful completion of the Hot Commissioning. | Clause 23.1(c) | [●] | [●] | | |
|  | Successful completion of the Initial Operation Tests by the Contractor. | Clause 23.1(d) | [●] | [●] | | |
|  | Execution of the Project Closing Certificate and hand-over of the Equipment to the Customer. | Clause 1.1  Clause 23.1(f)  Clause 23.1(g)  Clause 23.1(i) | **31. 12. 2026**  **(Contractual Completion Date)** | [●] | | |
|  | Delivery of the original General Warranty Bond to the Customer. | Clause 26.2  Clause 23.1(h) | **31. 12. 2026** | [●] | | |
|  | Execution of the Post-Warranty Control Certificate. | Clause 23.2(b) | [●]  (subject to extensions in compliance with the Contract) | [●]  (subject to extensions in compliance with the Contract) | | |

To the extent not specified herein, the deadlines provided in the Customer’s tender documentation shall apply.

**ANNEX 2**

**SCOPE OF WORK**

1. General
   1. Under this Contract the Contractor shall provide including, but not limited to, the following:
      1. design, delivery, assembly, supervision of installation, commissioning and acceptance of the Equipment, fully compliant and fulfilling all requirements, properties, parameters and functions as set forth in the Contract and its Annexes, including its Annex 3 (*Parameters of Testing and Operation*);
      2. putting into operation, Cold Commissioning and Hot Commissioning;
      3. performance of the Initial Operation Tests;
      4. performance of the Performance Tests;
      5. other tests and inspections to the extent specified in the Contract;
      6. procurement and delivery of the Materials;
      7. co-ordination of its works performed on off-sites with the Customer;
      8. “tying-in” to the existing Customer’s facilities,
      9. providing of care for and custody of the Work until the issuance of the Project Closing Certificate by the Customer;
      10. providing of a warranty, the performance warranty including the consequences of their non-fulfilment (e.g. contractual penalty, liability for damages);
      11. granting of know-how, licenses, software and all intellectual property or other protected rights needed for proper operation, maintenance, repairs and reconstruction of the Equipment;
      12. training of the Customer’s personnel (operation and maintenance of the Equipment);
      13. managing and co-ordination and administration of the Work performance;
      14. input data verification, data collection;
      15. control of schedules and procedures, reporting;
      16. quality assurance and quality control according to the internationally acknowledged standards;
      17. co-operation in the long-term keeping of the Equipment in operation; to this extent, since the initial operations are started the Contractor shall use all reasonable efforts to provide assistance and cooperation to the Customer in relation to Equipment’s productivity improvement, general technical support and improvement in billet quality and production speed. The Contractor shall, within the cooperation described in the previous sentence assist the Customer with and process development to achieve the following mechanical properties of finished forgings: development of alloys in a way that the final product (forged part not the forging stock) has parameters expected/required by the Customer;
      18. software enabling reading, editing and printing of the reports, drawings, documents and information submitted according to the Contract by the Contractor to the Customer; training of the Customer’s staff for such work, however the provision of software;
      19. modifying or assistance to modifying the Equipment both during and after the warranty period as may be requested by the Customer in order to improve the processes and/or effectivity of the Equipment. To this extent the Contractor shall carry out the modification directly or provide the Customer with permission thereto and reasonably required assistance. Provided warranty shall not be affected thereby;
      20. provision of other works, services, activities and deliveries as stipulated elsewhere in the Contract and its Annexes as well as provision of other services, activities and deliveries not explicitly specified in this Contract but indispensable for achieving the purpose of this Contract, i.e. proper and timely installation and handover to the Customer for permanent operation of the subject of the Work which constitutes the complete, tested and properly functioning Equipment, achieving continuous, reliable and safe operation and in all operating modes the parameters, defined under the Contract, and which is in compliance with the valid legal provisions and other official regulations of the Czech Republic, the technical and health standards, including labour safety, environmental protection and waste disposal regulations of the Czech Republic;
      21. to the extent specified under the Contract, under the terms agreed in this Contract, provision of all data and coordination to the full extent of the Work. As a part of performance of the Work, the Contractor undertakes to verify, in compliance with Clause 4 (*Standards*) of the Contract, the Site as well as the input data provided by the Customer.
2. Technology and engineering
   1. The Contractor shall execute the technological part of the Work, including procurement delivery of all materials, tools (if relevant), machines and equipment and the like to the Site, tie-ins, testing in the extent agreed upon, Cold Commissioning and Hot Commissioning, putting into operation, operation until the provisional acceptance of the Equipment followed by issuance of the Project Closing Certificate, as stipulated in this Contract and in accordance with the design and engineering documentation approved by the Customer.
   2. The Contractor shall carry out the Initial Operation Tests and the Performance Tests, to the extent and under the conditions specified in Annex 3 (*Parameters of Testing and Operation*) and other parts of the Contract, to prove the quality of the executed Work and achievement of the OEE parameters and other technical parameters as specified in the Contract.
   3. Under this Contract the Contractor shall further provide namely the following engineering and incidental services:
      1. supervision on performance of construction, erection, tie-ins;
      2. performance of Cold Commissioning, Hot Commissioning, putting the Equipment into industrial operation, as well as its operation based on the approval of the Customer in accordance with the conditions of the Contract until the date of Project Closing Certificate, including Initial Operation Tests and Performance Tests;
      3. performance and supervision of maintenance and/or repair of the Work until issuance of the Project Closing Certificate;
      4. services related to the transfer of know-how, patents, trademarks, industrial designs, software and other rights to intellectual property related to the Work, if applicable, pursuant to the Contract;
      5. other services necessary for timely and proper performance of the Work.
3. Documentation
   1. Unless expressly provided otherwise, all documents, sets of documents and records specified in this Clause 3 (*Documentation*) shall be handed over by the Contractor to the Customer:
      1. electronically in PDF format; mechanical drawings in DWG and PDF format drawings in PFD and DWG format; electronic drawings in E-Plan format, version 2.9 or later and in PDF format;
      2. if requested by the Customer, other form enabling easy registration and filing of the appropriate type of documents (e.g. in file binders etc.), and the Contractor shall hand over to the Customer a monthly updated register of all such documents on an agreed data carrier permitting easy and fast orientation and identification of individual documents;
      3. if requested by the Customer, in the paper form.
   2. The Customer has the right to consult, comment on and approve project documentation in the course of its preparation. At the close of the work on individual self-contained parts of the project documentation its final consideration and approval will take place between the Customer and the Contractor, on the basis of the Contractor’s timely call (thirty (30) days in advance). The Contractor shall submit the draft project documentation to the Customer for consideration at least fourteen (14) days prior to the final consideration and approval. The Contractor undertakes to incorporate Customer’s reasonable suggestions, if any, into the project documentation. The Contractor shall nevertheless evaluate any and all such Customer’s suggestions and shall inform the Customer and request its further confirmation prior to their incorporation, should corresponding change of the documentation lead to any difficulties or discrepancies in the subsequent execution of the Work. Approval of any documentation by the Customer does not relieve the Contractor from its responsibility to design and execute the Equipment correctly according to the Contract.
   3. The project documentation prepared by the Contractor shall include:
      1. **Documents for construction readiness**

Engineering and design documentation, and documents for the purposes of construction permit obtaining, including:

* + - 1. machine layout and basic data output;
      2. side views;
      3. basic information for compressed air system, cooling water, hydraulic system, other required media;
      4. loading conditions and final load data;
      5. consumption of all operating media and their quality requirements and conduits/channels for media/electric dimensions to be connected to civil works, as required by the Customer for building engineering;
      6. emissions arising from the Equipment (if relevant) – characteristics, amount, location of the chimney (exhaust), height and diameter of the chimney (exhaust), amount of air, operating hours;
      7. noise, its sources, amount of emissions (technical data), proposal of a possible method of limitation.
    1. **Documents for basic engineering**

Engineering and design documentation, and documents for the purposes of construction readiness, including:

* + - 1. machine layout containing connection points and all utility output data;
      2. side views containing connection points;
      3. foundation plan with load data (static and dynamic) including the Equipment ground connection;
      4. anchor plans of the Equipment;
      5. drawings and requirements for compressed air system – power, flow, pressure, connection dimensions, piping plans etc.;
      6. drawings and requirements for cooling water system – power, flow, pressure, connection dimensions, piping plans etc.;
      7. drawings and requirements for hydraulic system – power, flow, pressure, piping plans etc.;
      8. drawings and requirements for air extraction – power, flow, connection dimensions, piping plans etc.;
      9. emissions arising from the Equipment (if relevant) – characteristics, amount, removal method – cleaning, location of the chimney (exhaust), height and diameter of the chimney (exhaust), amount of air, operating hours
      10. documents for electrical equipment containing:
* electric switchboard dimensions;
* electric design drawings;
* required cable routes.
  + - 1. drawings and requirements for other required media – power, flow, pressure, connection dimensions, piping plans, etc.;
      2. noise, its sources, amount of emissions (technical data), proposal of a possible method of limitation;
      3. 3D model of the Equipment for the possibility of creating an overall model in the hall and thereby eliminating the crossing of distribution lines;
      4. technology requirements for other professions – lifting equipment, platforms, camera systems, special lighting.
    1. **Documents for installation of the Equipment**

Engineering and design documentation, and documents for the purposes of installation of the Equipment, including:

* + - 1. all documentation needed for proper construction, installation, erection, commissioning, operation, maintenance and repairs of the Equipment;
      2. detailed assembly, installation, erection, commissioning, operation and maintenance manuals for each appropriate unit of the Equipment; and
      3. implementation documentation to the extent necessary for the needs of the tender procedure under the Subsidy Program (including measuring technology, preparations for assembly, requirements for measurement accuracy, etc.) and assembly.
    1. **Contractor’s and vendor’s documentation**

No later that upon execution of protocol on successful completion of installation of the Equipment by the Customer, the Contractor undertakes to furnish, the Contractor’s and vendor’s documentation and documents, in particular:

* + - 1. “as built“ documentation of the actually performed Work in one three (3) copies, including electronic version;
      2. accompanying vendor‘s documentation for the individual parts of the Equipment;
      3. itemized list of equipment which is part of the Work, with attestations, inspection books and certificates of quality, origin and certificates of compliance, and, as the case may be, other documents prescribed by the applicable regulations and standards or by this Contract;
      4. accompanying technical documentation, including the subcontractor’s file, erection manuals, Cold Commissioning and Hot Commissioning manuals in compliance with the Contract;
      5. manuals necessary for testing of the Equipment during the Work implementation and operation;
      6. documents needed for negotiations with the competent Czech authorities, support to the Customer during its negotiation with the competent bodies with respect to the building permit modifications (if any), Start-up approval, permanent operation permit (in Czech: *kolaudace*);
      7. certificates and inspection books enabling the approval of the Equipment, its operation, maintenance, repairs and reconstruction, including the conformity certificates according to Act No. 22/1997 Sb. and certificates according to the Section 47 of the Building Act (Act No. 183/2006 Sb., as amended) for all Materials used for construction; and
      8. documentation required for successful completion of Customer’s operators training including training of safe operation system, training and operation manuals.
    1. **Final documentation**

No later that upon signature of the Project Closing Certificate by the Customer, the Contractor shall submit the following minimum documentation (3× in paper form, 1× in electronic form (e.g. on CD, USB disk); text messages in \*.doc, \*.docx, or \*.pdf format, drawing documentation in \*.dwg and \*.pdf format.):

* + - 1. drawing documentation of parts, subassemblies, assemblies and of the actual execution of the Equipment in PDF and DWG format;
      2. 3D model of the actual performance of the Equipment in .stp format;
      3. instructions for service and maintenance of the Equipment printed (in the number of three (3) pieces) and in electronic form in the Czech language;
      4. bill of materials (BOM) of spare parts in PDF and xls format (in scope: type designation, order number, manufacturer, standard, size, etc.);
      5. BOM of consumable parts in PDF and xls format (in scope: name, order number, manufacturer, reference to drawing, standard, dimension, etc.);
      6. maintenance, control and revision plan of the Equipment – according to Section 2(e) of the Government Regulation No. 378/2001 Sb., on setting out more detailed requirements for the safe operation and use of machines, technical equipment, devices and tools;
      7. records and documentation of the course and evaluation of tests, inspection reports, measuring records (to be handed over always upon completion of the corresponding parts of individual works and tests) in compliance with the provisions of this Contract;
      8. calibration sheets and recommended frequency of calibration;
      9. certificates, declaration of conformity (CE Conformity Declaration, if relevant);
      10. default revision;
      11. data sheets and certificates of Materials used;
      12. assembly log;
      13. software backup (source codes must be supplied for the PLC control system, visualization e.g. WinCC, control of frequency converters, hydraulics, etc.), source codes must be in English;
      14. other documents necessary for the operation of the Equipment;
      15. a list of necessary workshop equipment for the preparation of moulds; and
      16. other documentation and drawings according to Chapter 2.3 of Annex 3 to the Customer’s tender documentation (*Annex\_3\_CD\_Technical\_Specification*).

1. Customer's staff training
   1. The Contractor shall conduct training of the Customer’s personnel on-Site and/or manufacturing site of the Contractor, in assembly, commissioning, operation, maintenance and/or repair of the Work.
   2. More detailed requirements on training hereunder is specified in Annex 3 to the Customer’s tender documentation (*Annex\_3\_CD\_Technical\_Specification*) and its annexes.
2. Permitting
   1. The Contractor shall provide the Contractor with complete documentation and necessary data and shall furnish the Customer with the explanations and support necessary for dealing with the Czech Authorities by Customer related to approval of the Equipment.
3. Components and parts
   1. Under this Contract, the Contractor shall provide to the Customer the following:
      1. accessories, parts and components necessary for Cold Commissioning, Hot Commissioning, Initial Operation Tests and Performance Tests and operation of the Equipment until the moment of Project Closing Certificate. Such accessories, parts and components are included in the Contract Price and shall be supplied along with delivery of Equipment.
      2. spare parts, including wear and tear parts, for the period of warranty operation when the warranty is applicable to the entire Work, i.e. for the period until the issuance of the Post-Warranty Control Certificate and for [to be edited by the Contractor] of normal operation of the Equipment starting on the date following the day of issuance of the Post-Warranty Control Certificate by the Customer. Such spare parts shall be deemed as the Contractor’s recommendation and the final scope, amount of, and the date of order for such spare parts to be delivered by the Contractor, shall be of the Customer’s responsibility and any and all costs related to such spare parts shall be borne by the Customer. The offered prices of the spare parts should be “competitive”, which means they shall be usual market prices. The spare part book shall be prepared in such a way to enable simple filling in the number of ordered pieces of spare parts and be submitted on a data carrier in the software approved by the Customer.
   2. Any component/spare part book and/or list, submitted by the Contractor to the Customer pursuant to Clause 6.1, shall include all necessary detail information such as, but not limited to:
      1. item;
      2. equipment tag no. description;
      3. manufacturer, address, phone, FAX;
      4. assembly drawing;
      5. amount;
      6. unit price;
      7. instruction; etc.
   3. Within [to be edited by the Contractor] years after issuance of the Post-Warranty Control Certificate the Contractor is further obliged in the event of termination of production of the spare parts under Clause 6.1(b) of this Annex to:
      1. advance notification to the Customer of the intended termination, in sufficient time to permit the Customer to procure needed spare parts; and
      2. following such termination, to furnish at no cost to the Customer, the blueprints, drawings and specifications of the spare parts enabling their fabrication, if and when requested.

**ANNEX 3**

**PARAMETERS OF TESTING AND OPERATION**

1. Cold Commissioning PARAMETERS
   1. Through the course of the Cold Commissioning, activities, processes and checks contained in Clause 23.1(b) of the Contract shall be performed.
2. Hot Commissioning PARAMETERS
   1. Through the course of the Hot Commissioning, activities, processes and checks contained in Clause 23.1(c) of the Contract shall be performed.
3. INITIAL OPERATION TESTS parameters
   1. Through the course of the Initial Operation Tests, activities, processes and checks contained in Clause 23.1(d) of the Contract shall be performed.
   2. During Initial Operation Tests billets of final diameter 54 mm are produced. The alloy of produced billets shall be 6082 according to Annex 3.1 to the Customer’s tender documentation (*Annex\_3\_1\_TS\_Guaranteed\_parameters\_ of\_ billets*). The length of each produced billet shall be between 4 500 – 6 000 mm. The exact billet length under the above range shall be specified by the Customer in advance. Produced amount of acceptable (OK) billets during the Initial Operation Tests shall at minimum correspond to 69,4 tons of billets, subject to further specifications and parameters below.
   3. Further, during the Initial Operation Tests the following parameters will be monitored and activities, processes and checks performed:
      1. trouble-free operation of the Equipment (from the takeover point (furnace spout) to the exit packaging);
      2. consumption of process media according to parameters guaranteed by the Contractor in the technical part of the Contractor’s offer submitted in the tender;
      3. consumption of electricity by the heated troughs according to parameters guaranteed by the Contractor in the technical part of the Contractor’s offer submitted in the tender;
      4. compliance of the Equipment with OEE parameters contained in Table 1 (*OEE parameters for Initial Operation Tests*);
      5. compliance of the Equipment with the parameters for maximum total process scrap contained in Table 6 *(Maximum total process scrap values)*;
      6. geometry and quality of the output product (billets) according to Table 4 (*Final product quality requirements*) will be checked on 100% of the billets cast;
      7. PoDFA at the exit of the furnace and PoDFA in the tundish, PoDFA in the tundish must meet all the values according to Annex 3.1 to the Customer’s tender documentation (*Annex\_3\_1\_TS\_Guaranteed\_parameters\_ of\_ billets*). The guaranteed value of PoDFA at takeover point is 0.45 cm3/100 g of the melt; the checks will be performed three times (3×) per cast (beginning, middle and end of cast) on one billet from each cast strand;
      8. noise level according to Chapter 1.8 of the Annex 3 to the Customer’s tender documentation (*Annex\_3\_CD\_Technical\_Specification*);
      9. temperature gradient along the whole route between the furnace spout and the mould must not exceed the value of 20 °C;
      10. temperature variation of the melt between the centre of the tundish and the edges must not exceed 5 °C;
      11. the reduction of the hydrogen content of the melt shall not be less than 75% or the resulting hydrogen content of the melt shall not exceed 0,13 cm3/100g of melt;
      12. quality of the marking of individual billets must be legible to the operator as well as to the machine code reader. The code readers will be proven as part of the Hot Commissioning;
      13. calibration of the instrumentation devices will be carried out using OK, NOK and boundary pieces.
   4. For the purposes of the Initial Operation Tests, a reference charge will be melted according to Table 2 (*Reference Charge*).
4. Performance Tests PARAMETERS
   1. During the Performance Tests, a product range will be produced as shown in Figure 1 (*Performance Tests production range*).
   2. During Performance Tests billets of final diameter 54 mm, 64 ± 2,5 mm and 100 ± 2,5 mm are produced. The alloys of produced billets shall be 6082 and 6110 according to Annex 3.1 to the Customer’s tender documentation (*Annex\_3\_1\_TS\_Guaranteed\_parameters\_ of\_ billet*s). The length of produced billets shall be between 4 500 – 6 000 mm. The exact billet length under the above range shall be specified by the Customer in advance. Produced amount of acceptable (OK) billets during the Performance Tests shall at minimum correspond to:
      1. 242 tons of diameter 54 mm and alloy 6082;
      2. 69,7 tons of diameter 64 ± 2,5 mm and alloy 6110;
      3. 71,3 tons of diameter 100 ± 2,5 mm and alloy 6110;

subject to further specifications and parameters below.

* 1. Further, during the Performance Tests the following parameters will be monitored and activities, processes and checks performed:
     1. trouble-free operation of the Equipment (from the takeover point (furnace spout) to the exit packaging);
     2. consumption of process media according to parameters guaranteed by the Contractor in the technical part of the Contractor’s offer submitted in the tender;
     3. consumption of electricity by the heated troughs according to parameters guaranteed by the Contractor in the technical part of the Contractor’s offer submitted in the tender;
     4. compliance of the Equipment with OEE parameters contained in Table 3 (*OEE parameters for Performance Tests*);
     5. compliance of the Equipment with the parameters for maximum total process scrap contained in Table 6 *(Maximum total process scrap values)*;
     6. geometry and quality of the output product (billets) according to Table 4 (*Final product quality requirements*) will be checked on every tenth (10.) billet from each cast strand;
     7. PoDFA at the exit of the furnace and PoDFA in the tundish, PoDFA in the tundish must meet all the values according to Annex 3.1 to the Customer’s tender documentation (*Annex\_3\_1\_TS\_Guaranteed\_parameters\_ of\_ billet*s). The guaranteed value of PoDFA at takeover point is 0.45 cm3/100 g of the melt; this check will be carried out at the beginning of each cast;
     8. checks of the microstructure of the exit product (billets) according to Annex 3.1 to the Customer’s tender documentation (*Annex\_3\_1\_TS\_Guaranteed\_parameters\_ of\_ billets*) will be performed three times (3×) per cast (beginning, middle and end of cast) on one billet from each cast strand;
     9. noise level according to Chapter 1.8 of the Annex 3 to the Customer’s tender documentation (*Annex\_3\_CD\_Technical\_Specification*);
     10. temperature gradient along the whole route between the furnace spout and the mold must not exceed the value of 20 °C;
     11. temperature variation of the melt between the centre of the tundish and the edges must not exceed 5 °C;
     12. degasser reduction factor. The reduction of the hydrogen content of the melt shall not be less than 75% or the resulting hydrogen content of the melt shall not exceed 0,13 cm3/100g of melt.
     13. quality of the marking of individual billets must be legible to the operator as well as to the machine code reader. The code readers will be proven as part of the commissioning.
     14. the changeover time to the same casting diameter (executable for casting diameter with two (2) casting sets available) or a different casting diameter with the same alloy must not exceed 60 minutes;
     15. the changeover time (as defined in Clause 4.3(n) of this Annex3) to a new alloy must not exceed 90 minutes;
     16. calibration of the instrumentation devices will be carried out using OK, NOK and boundary billets.
  2. For the purposes of the Performance Tests, a reference charge will be melted according to Table 2 (*Reference Charge*).

1. guaranteed parameters after issuance of the Project Closing Certificate
   1. After issuance of the Project Closing Certificate, the following parameters will be monitored and activities, processes and checks performed:
      1. trouble-free operation of the Equipment (from the takeover point (furnace spout) to the exit packaging);
      2. consumption of process media according to parameters guaranteed by the Contractor in the technical part of the Contractor’s offer submitted in the tender;
      3. consumption of electricity by the heated troughs according to parameters guaranteed by the Contractor in the technical part of the Contractor’s offer submitted in the tender;
      4. compliance of the Equipment with OEE parameters contained in Table 5 (*OEE parameters after the issuance of the Project Closing Certificate*);
      5. geometry and quality of the output product (billets) according to Table 4 (*Final product quality requirements*); the geometry and quality will be checked on a random basis;
      6. noise level according to Chapter 1.8 of the Annex 3 to the Customer’s tender documentation (*Annex\_3\_CD\_Technical\_Specification*);
      7. the Customer will keep a log during the performance monitoring where all line downtime will be recorded. An alternative is to extract test data from the Equipment’s control system;
2. DEFINITIONS AND Calculation Methods
   1. OEE parameters are established through the following methods:
      1. **Overall OEE**
      2. **Availability:**

Total test period time (as per respective test) in hours

Non-productive time (Equipment not available for production) in hours, consisting of:

* changeover time (time between end of cast = stop of melt’s flow from tundish through the mould(s) up to next start of cast = start of melt’s flow from furnace to launders in front of degassing unit);
* technical machine breakdown
* operator(s)’ fault.
  + 1. **Performance**

Real production:

* quantity of billets produced (in tons) per time interval

Potentially feasible production:

* quantity of billets (in tons) per time interval specified by the Contractor in the Contractor’s offer submitted in the tender.

Potentially feasible production also includes process scrap consisting of:

* scrap generated by removing the shell (process allowance for shell removal must not exceed 4 mm per given diameter; therefore, the final diameter of 54 mm shall have the maximum cast diameter of 58 mm);
* billet heads (the heads formed at the start of casting must not exceed 3,000 mm);
* billet heels (the heals formed at the end of casting must not exceed 3,000 mm);
* not inspected billet ends (billet ends which cannot be inspected by the combination of ultrasound and eddy current must not exceed: 20 mm for billets of Ø 40 – 84 mm; 30 mm for billets > Ø 84 mm);
* other inevitable process scrap (other inevitable process waste may be generated by the horizontal billet casting process).
  + 1. **Quality:**

OK billets mean final products meeting the following requirements:

* 1. geometry and quality of the output product (billets) according to Table 4 (*Final product quality requirements*);
  2. quality requirements according to Annex 3.1 to the Customer’s tender documentation (*Annex\_3\_1\_TS\_Guaranteed\_parameters\_ of\_ billets*);
  3. microstructure of the exit product (billets) according to Annex 3.1 to the Customer’s tender documentation (*Annex\_3\_1\_TS\_Guaranteed\_parameters\_ of\_ billets*);

NOK billets mean other than OK billets.

Inevitable process waste (not included in the quality calculation):

* 1. scrap generated by removing the shell (process allowance for shell removal must not exceed 4 mm per given diameter; therefore, the final diameter of 54 mm shall have the maximum cast diameter of 58 mm);
  2. billet heads (the heads formed at the start of casting must not exceed 3,000 mm);
  3. billet heels (the heals formed at the end of casting must not exceed 3,000 mm);
  4. not inspected billet ends (billet ends which cannot be inspected by the combination of ultrasound and eddy current must not exceed: 20 mm for billets of Ø 40 – 84 mm; 30 mm for billets > Ø 84 mm);
* other inevitable process scrap (other inevitable process waste may be generated by the horizontal billet casting process.

1. tables

**Table 1 (OEE parameters for Initial Operation Tests)**

|  |  |  |
| --- | --- | --- |
| **OEE** | **Monitored parameters** | **Value** |
| AVAILABILITY | ≥85,0% |
| PERFORMANCE | ≥96,0% |
| QUALITY | ≥97,0% |
| OVERALL OEE | ≥79,1% |

**Table 2 (Reference Charge)**

|  |  |
| --- | --- |
| **Input** | **Share** |
| Primary Al 99.7 | 20-60% |
| Internal scrap\* | 20-40% |
| External scrap\*\* | 20-40% |

\* Internal scrap – aluminium scrap of known chemical composition and purity. Internal scrap includes:

* + 1. scrap generated by removing the shell;
    2. billet heads;
    3. billet heels;
    4. not inspected billet ends;
    5. other inevitable process scrap generated by the horizontal billet casting process; and
    6. other scrap generated by the Customer – ingot cutoffs, strip edge cuttings and others.

\*\* External scrap – aluminium scrap of partially known chemical composition and purity. External scrap includes:

* + 1. scrap generated by the forging process – shearing scrap packets; and
    2. purchased external scrap.

**Table 3 (OEE parameters for Performance Tests)**

|  |  |  |
| --- | --- | --- |
| **OEE** | **Monitored parameters** | **Value** |
| AVAILABILITY | ≥91,7% |
| PERFORMANCE | ≥96,0% |
| QUALITY | ≥97,5% |
| OVERALL OEE | ≥85,8% |

**Table 4 (Final product quality requirements)**

Obsah obrázku text, snímek obrazovky, řada/pruh, číslo

Popis byl vytvořen automaticky

**Table 5 (OEE parameters after the issuance of the Project Closing Certificate)**

|  |  |  |
| --- | --- | --- |
| **OEE** | **Monitored parameters** | **Value** |
| AVAILABILITY | ≥91,7% |
| PERFORMANCE | ≥96,0% |
| QUALITY | ≥98,0% |
| OVERALL OEE | ≥86,2% |

**Table 6 (Maximum total process scrap values)**

The maximum total process scrap must not exceed the following values for individual billet diameters:

|  |  |
| --- | --- |
| **Final billet diameter [mm]** | **Maximum total process scrap [%]** |
| 54 | 18 |
| 64 ± 2,5 | 16 |
| 100 ± 2,5 | 10 |

**Figure 1 (Performance Tests production range)**



**ANNEX 4**

**TEMPLATES OF BANK GUARANTEES**

**TEMPLATE OF BANK GUARANTEE – PERFORMANCE SECURITY**

To: **AL INVEST Břidličná, a.s.**

Bruntálská 167

793 51 Břidličná

Czech Republic

We have been informed that our client [●], with its registered office at [●], identification number: [●], registered in the Commercial Registered maintained by [●] (“**Contractor**”), entered into the Contract for work related to the completion of “[●]“ at Břidličná, Czech Republic, dated [●] with AL INVEST Břidličná, a.s. as customer (“**Contract**”).

We understand the provisions of Clause 26.1 of the Contract require the Contractor to arrange for a Performance Security equal to twenty percent (20%) of the Contract Price in order to guarantee a compensation for any financial claim resulting from the Contractor’s failure to fulfil its obligations under the Contract (“**Performance Security**”).

We, [the name and contact information of bank to be added] hereby affirm irrevocably and unconditionally to pay you, upon your first written demand, without caveat or argument, any sum or sums in accordance with this Performance Security as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein. We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

Our obligations under this Performance Security are limited up to maximum total amount of: [●] [amounts of the guarantee and currency].

This Performance Security is valid from the date of receipt of twenty price (20 %) of the Contract Price on a bank account of the Contractor until

Consequently, any written demand under this Performance Security must be received by us on, or before, the said date of expiry.

Upon its expiry, the Performance Security will become automatically null and void, whether returned to us or not.

This Performance Security is not assignable or transferable.

We further agree that no change or addition to or other modification of the terms of the Contract or of Work to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Performance Security, and we hereby waive notice of any such change, addition or modification.

This Performance Security shall be governed by URDG 758.

YOURS FAITHFULLY

(BANK SIGNATURE)

THE NAME OF THE BANK

THE ADDRESS

SEAL IF APPLICABLE

**TEMPLATE OF BANK GUARANTEE – GENERAL WARANTY BOND**

To: **AL INVEST Břidličná, a.s.**

Bruntálská 167

793 51 Břidličná

Czech Republic

We have been informed that our client [●], with its registered office at [●], identification number: [●], registered in the Commercial Registered maintained by [●] (“**Contractor**”), entered into the Contract for work related to the completion of “[●]“ at Břidličná, Czech Republic, dated [●] with AL INVEST Břidličná, a.s. as customer (“**Contract**”).

We understand the Clause 26.2 of the Contract requires the Contractor to provide a bank guarantee equal to ten percent (10%) of the Contract Price, which is EUR…, in order to guarantee a compensation for any financial claim resulting from the Contractor’s failure to fulfil its obligations under warranties provided by the Contractor in the Contract (“**General Warranty Bond**”).

We, [the name and contact information of bank to be added] hereby affirm irrevocably and unconditionally to pay you, upon your first written demand, without caveat or argument, any sum or sums in accordance with this General Warranty Bond as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein. We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

Our obligations under this General Warranty Bond are limited up to a maximum total amount of: [●] [amounts of the guarantee and currency].

This General Warranty Bond is valid from the date of payment of ten percent (10 %) of the Contract price, which is EUR…. until [●].

Upon its expiry, the General Warranty Bond will become automatically null and void, whether returned to us or not.

Consequently, any written demand under this General Warranty Bond must be received by us on, or before, the said date of expiry.

This General Warranty Bond is not assignable or transferable.

We further agree that no change or addition to or other modification of the terms of the Contract or of Work to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this General Warranty Bond, and we hereby waive notice of any such change, addition or modification.

This General Warranty Bond shall be governed by URDG 758.

YOURS FAITHFULLY

(BANK SIGNATURE)

THE NAME OF THE BANK

THE ADDRESS

SEAL IF APPLICABLE

**ANNEX 5**

**TEMPLATE OF CHANGE REQUEST**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Project  Request for change | | | |  | | |  | |
| 01 | | |
| Project | | |
| TITLE: | | | | REQUESTOR: | | | | |
| DATE: | | | | POSITION/COMPANY: | | | | |
|  | | | | FAST TRACK (Y/N): | | | | |
| **REASON FOR REQUEST:** | | | | | | | | |
| **JUSTIFICATION AND BENEFITS OF CHANGE:** | | | | | | | | |
| SCOPE OF CHANGE | | | | Quantities | | Costs | | |
| 1 |  | | | 1 | | ,- | | |
| 2 |  | | | 1 | | ,- | | |
| 3 |  | | | 1 | | ,- | | |
| REFERENCE DOCUMENTS (e.g. drawings, specifications, quotations etc.) | | | | | | | | |
| COST/TIME VARIANCE | | | | | | | | |
| Total cost (increase or decrease): | | | | | **,-** | | | |
| Total time (increase or decrease): | | | | |  | | | |
| Copied to Customer’s staff | |  |  | | | | |  |
| Signed in acceptance by the Customer | | | Name | | | | | Date |
| Copied to Contractor’s staff | |  |  | | | | |  |
| Signed in acceptance by the Contractor | | | Name | | | | | Date |

**ANNEX 6**

**SPECIFICATION OF CRITICAL SOFTWARE**

**[To Be Specified by the Contractor in the Tender]**

**ANNEX 7**

**RISKS AT THE SITE**

1. General
   1. Information about risks from AL INVEST Břidličná, a.s. - area of occupational safety (Act No. 262/2006 Sb., Labor Code) - §101
   2. **Contractor:** [to be edited by the Contractor]
   3. **SCOPE OF WORK:** Delivery of the Equipment for horizontal casting of aluminium bars, including supervision of installation, commissioning and testing thereof.
   4. **WORKPLACE:** New hall TaO.
   5. **Parking:** only at a designated car park; if there is no capacity, then in a place agreed with the Customer’s representatives.
   6. Use of mechanization (own or Customer’s), operating staff (own or Customer’s), method of acceptance:
      1. [to be edited by the Contractor]
   7. Duration of work **from xx/xx/202x to xx/xx/202x** team of employees from [to be edited by the Contractor] **and their subcontractors.**
   8. When fulfilling business relationships, the following **subcontractors of the Contractor** will move in the workplace of the building of operation/division on the Customer’s premises within access roads to the workplace:
      1. **From xx/xx/202x to xx/xx/202x** [subcontractor’s name to be edited]: supervisor: [supervisor’s name to be edited]

**Site progress meetings \*):**

**Duration of work on the day of work \*):**

**Keeping site/assembly log: YES-NO \*\*)**

**Fire-hazard activity will be performed (work with open fire): YES – NO \*\*)**

For the fulfilment of OHS conditions: Mr. Luboš Rochovanský, tel. +420 606 723 089;

For the fulfilment of FP conditions: Mr. Pavel Švan, tel. +420 602 402 897;

For the fulfilment of ecology conditions: Mr. Lubomír Klajban, tel. +420 603 580 707.

\*) information required for longer projects

\*\*) cross out as appropriate

1. Created Risks
   1. Basic range of risks created by the Customer (e.g. when executing contracts, work orders, during visits, tours etc.):
      1. Risk arising from exposure to noise – see the current list of hazardous workplaces, or the job categorization overview by the Customer;
      2. See: F:\DIVIZE\BOZP,PO,Ekologie\RIZIKA\_provoz AIB;
      3. Risk arising from the use of chemical substances – see the current list of hazardous workplaces, or the job categorization overview by the Customer;
      4. See: F:\DIVIZE\BOZP,PO,Ekologie\RIZIKA\_provoz AIB;
      5. Risk arising from the use of roads, transport facilities, motor trucks, motor forklift trucks, non-motor and motor vehicles (including rail vehicles on industry tracks) – location of informative, prohibition and instructional signage, obligation to move on marked roads;
      6. Risk of fire, risk of explosion of combustible gases and vapours – location of informative, prohibition and instructional signage, fire extinguisher locations, obligations according to the Order to Welding with Increased Risk prior to the commencement of welding;
      7. Risk arising from moving parts of machines and mechanical equipment – prohibition of unauthorized operation, working clothes without any loose parts;
      8. Always ask the operator before entering a hazardous space and only enter upon a clear and straightforward instruction. When entering repeatedly, coordinate the procedure with an authorized person of the Customer;
      9. Risk arising from crane transport – prohibition of entry under hanging and transported loads (SBP workstation OS 04-06);
      10. Risk arising from processed and used materials (hot metal, hot substances) – prohibition of unauthorized manipulation;
      11. Ecological consequences – prohibition of activities leading to potential pollution of air and waterways;
      12. Risk of electric shock - electrical installations and wiring in buildings and on buildings, transformer stations and electrical substations, charging, e.g. electrical control of the crane, damage to electrical wiring cables, unwanted contact during material handling, lighting;
      13. Risk due to the cooperation of several works, the movement of persons at the place of work, handling work, or the occurrence of another contractor outside this event;
      14. Risk of impact to the head - crane operation, access and spaces with insufficient height to erect the figure, protruding objects;
      15. Risk of entering the workspace of the work process;
      16. Risk of injury to the supplier's persons during the customer's activities;
      17. Risk of tripping, falling due to unevenness, obstacles, floor level changes;
      18. Risk of slipping when moving on roads, structures, unpaved surfaces. Influence of working environment, in outdoor areas influence of microclimatic conditions (rain, leaves, slippery grass, mud, ice,);
      19. Risk of slipping on wet or greasy floors;
      20. Risk of not ensuring sufficient working / handling space (release of the workplace, removal of obstacles to the required or necessary distance, etc.);
      21. Risk of falling into depth (e.g. technological uncovered depressions, etc.). Marked on the floor yellow;
      22. Risk of reduced visibility;
      23. Additional hazard statements:
          1. various technological devices are located on the site, which are not allowed to be manipulated and interfered with outside the agreed scope of work;
          2. in case of various manipulations with loads, tools, etc. it is necessary to take increased emphasis on non-violation technological equipment and distribution.

Note: It is required to provide advice on the risks and health hazards according to the character of the assigned activity and the character of operation or place where the contractually assigned activity is to be performed. E.g., the risk of presence of another supplier within another order of the Customer.

1. Basic Information for Suppliers (or Visitors, Tours etc.) on the Elimination of Defined Risks
   1. In addition to generally valid regulations on occupational safety, the following specific requirements concerning occupational safety apply to persons from other organizations performing jobs on the premises of the Customer:
      1. The persons shall observe all signs (including road signs) on the premises of the Customer and on other premises that the Customer uses or leases. Prior to the commencement of activities, the persons shall report to the responsible managing employee of the Customer.
      2. The persons shall observe safety and fire signs posted in the individual workshops and premises of the Customer where they perform their jobs.
      3. The persons shall only use designated roads, entrances and exits assigned to the persons on the premises of the Customer.
      4. Pedestrians shall use the pavement and walk on the right. When there is no pavement, pedestrians shall walk on the left shoulder. Pedestrians must not limit the free flow of traffic, particularly by unreasonable grouping.
      5. Pedestrians shall use designated access roads when moving in the workplaces and designated pedestrian crossings when crossing roads. It is only possible to crossroads vertically facing the traffic outside marked crossings. Pedestrians must check that is it safe to cross before entering the road. Climbing the protective railing is prohibited. Hold onto the railing when using staircases.
      6. Pedestrians may walk on the road shoulder in a group of two provided that they do not compromise or limit traffic, especially under reduced visibility or increased traffic.
      7. A person pushing or pulling a hand truck with the overall width exceeding sixty (60) cm shall walk on the right shoulder.
      8. The Contractor is not permitted to ride a bicycle in the Customer’s premises. Bicycles can be parked and locked in the cycle room at the gatehouse.
      9. With regard to the risks arising from the work environment, the use of mobile phones, tablets and headphones (MP3 players etc.) is prohibited on all production and operation premises. Service calls are allowed provided that they are executed outside the areas with the risk of explosion and from a safe place.
      10. The persons shall keep the workplaces in order.
      11. The persons who are under the influence of alcohol or psychotropic and addictive substances are prohibited from entering the workplace of the Customer and from performing any jobs for the Customer. Bringing alcoholic beverages and consuming them on the premises of the Customer is also prohibited. That also applies to psychotropic and addictive substances. The persons shall undergo a detection of alcohol or other addictive influence at the direction of an authorized employee of the Customer (that is a managing employee listed in the employment regulations).
      12. Smoking is prohibited on the entire premises of the Customer except for designated places that meet the terms and conditions stipulated by the internal regulation of the Customer and that are properly marked.
      13. Any occurrence of an injury that would be related to the liability of the Customer or in relation to another person in connection with activities of the Customer and which will take place in the premises of the Customer the employee, the responsible representative of the Contractor and the third party are obliged to immediately notify the responsible person of the customer. The Contractor is obliged to train and notify its employees and other persons in connection with the activities of the Customer of the obligation to immediately and immediately report the occurrence of an injury (accident). Subsequently, the injuries should be registered at the workplace or at the relevant gatehouse of the Customer. Injuries can be treated from the first aid kit at the workplace or called the Customer’s firefighters on the phone +420 554 22 2222.
      14. In case of a serious accident, need medical help, call 155.
      15. In case of fire, accident etc., call the telephone numbers provided below:

Doctor, office 2304

And Fire brigade of AL INVEST Břidličná, a.s. 2222

Switching off power 2344, 2433

Closing gas supply 2302, 2306, for shifts see the Company’s directory

Public Lines

Medical emergency service 155

Police 158

Fire service 150

Water authority 554 711 051

Karlov Water Treatment Plant 554 273 141

The Customer 554 221 111, 554 222 xxx

* + 1. The persons shall not compromise the individual elements of the environment (water, air, soil) by their activity, especially with emphasis in the vicinity of waterways.
    2. The persons shall dispose of wastes, chemicals and harmful substances in designated places. In case of lack of information, the persons shall enquire with an authorized employee of the Customer. Wastes must be removed in accordance with the contractual arrangements and not thrown away into the Customer’s containers.
    3. Pouring liquids into the canals is prohibited. When working, proceed in a manner that avoids the occurrence of ecological accidents (e.g., spilling oil, fuels, gas leaks etc.). In case of an accident, call the responsible person of the Customer or the Customer’s fire brigade directly.
    4. The persons may only perform an activity that is the subject of a contract or agreement on the delivery of work orders. Any other activity may only be performed with the knowledge and consent of an authorized employee of the Customer.
    5. The persons may only enter such workplaces of the Customer where they are to perform the contractually arranged jobs, loading or unloading. Furthermore, they may enter sanitary facilities (WC, changing rooms, showers, bathrooms, lunchrooms, break rooms, potable water sources etc.) designated within the delivery of works and activities. Any other places may only be entered with the knowledge and consent of an authorized employee of the Customer. Use personal protective equipment (safety shoes, high-visibility vest, an industrial hard hat in halls).
    6. The persons shall follow any and all instructions from an authorized employee of the Customer, as well as from an accompanying employee of the Customer during tours, visits etc.
    7. The Contractor and their subcontractors are prohibited from operating and interfering with the Customer’s machinery, from using various aids, tools, handling equipment etc., unless they are indicated in the construction/assembly journal and properly handed over for use.
    8. In case of necessity and ambiguity, always ask the Customer’s responsible employee beforehand. The Customer’s and the Contractor’s responsible persons must resolve any issues addressed during the work that affect safety in advance.
    9. Persons of the Contractor or subcontractor may not leave the workplace upon interruption or termination of work activities without securing or securing the workplace against the occurrence of an accident, perform cleaning.
    10. Upon interrupting or completing their work activity, the Contractor’s or subcontractor’s persons may only leave the workplace provided it is secured against the occurrence of injuries, cleaned and all the stored loads are stable.
    11. Work with open fire may only be performed on the basis of a previously issued written authorisation.
    12. Prior to the commencement of work, the Contractor and the Customers hall examine and check the safe condition of the workplace. The same applies to the movement of third parties. If the Contractor has any comments, they shall be presented during training. Later on, according to the procedure in point 4(f)of this Annex 7 (*Risks at Site*).
    13. No work will be requested or tolerated by the Contractor to be performed by the Customer’s employees or third-party persons that would be beyond the scope of their obligations and the determined scope of work of the Contractor under the contractual terms and conditions.
    14. It is prohibited to use slings of the required load capacity and configuration without a written permission of a responsible employee of the Customer.
    15. Prohibition of access to the crane.
    16. The persons must adhere to and must not remove or damage the installed warning signs, light or acoustic signalling, protections, covers, barriers etc. Do not modify the workplace or its safety equipment in any way. The safety elements were explained at the specific workplaces and operating halls.
    17. At the time of opening the furnace, it is FORBIDDEN to approach or walk around the furnace. The movement is possible only after the end of work and closing of the furnace and it is out of reach of the furnace.

Note: It is required to provide advice on the risks and health hazards according to the character of the assigned activity and the character of operation or place where the contractually assigned activity is to be performed.

1. Liabilities of the Contractor (When Performing Contractual Works)
   * 1. The Contractor is responsible for demonstrable familiarization with this document (incl. verification of knowledge) of all their employees assigned to fulfil tasks in relation to the Customer.
     2. The Contractor may only delegate the provision of tasks for the Customer to persons and employees towards whom the Contractor has fulfilled their liabilities arising from valid legislation, particularly the Labour Code, as amended (e.g. provision of qualification, medical examinations, training and verification of knowledge based on regulations related to the performed activities, provision of appropriate personal protective equipment and washing agents, recording working hours, including any potential overtime, night work, recording rest periods, or safety breaks and other recording obligations related to the pattern of work, paid time off, recording any potential hazardous jobs etc.).
     3. The Contractor hereby acknowledges all occupational hazards arising from the character of the production and operating activity on the premises of the Customer and the performed jobs as the subject of the work, including the risk of injuries and other injury to health and undertakes to bear the consequences.
     4. When providing tasks, activities and deliveries of work for the Customer, the Contractor guarantees strict observance of all provisions arising from the valid legislation, safety regulations and procedures on their part for the entire duration of delivery.
     5. The Contractor shall define a safe work procedure with regard to the provision of occupational health protection and safety. The Contractor shall pay special attention to the provision of safety when working with machines and mechanical equipment, with electric appliances, in areas with the risk of explosion, in areas with prohibition of smoking and use of open fire. The Contractor shall cooperate with the Customer’s employees on the provision of necessary coordination – definition of the workplace and areas with any potential prohibition of entry and activity, securing objects against fall and undesirable movement and providing safety of work at heights (specification of coordination in the allocation of anchoring places, professional and medical capability to perform work at heights).
     6. If the Contractor does not know the correct methods of ensuring occupational safety when providing tasks, activities and deliveries of work for the Customer or such methods are not possible, or the Contractor has doubts about the scope and method of ensuring occupational safety (in relation to the Contractor’s employees as well as employees of the Customer), the Contractor shall suspend the work and immediately notify a competent employee of the Customer.
     7. If the Contractor invites other subcontractors within the Contractor’s performance of activities for the Customer, the Contractor shall be responsible for the coordination of their activities and the transfer of these Written Information on Risks. The Contractor shall also inform a competent employee of the Customer of this fact in advance.
     8. Within the meaning of the valid Labour Code, the Contractor shall also notify the Customer in writing of the risks arising from the activities performed by the Contractor (see below) and cooperate in the provision of occupational health protection and safety. If the Contractor does not submit a written notification of risks as of the date of the commencement of the performance of the Contractor’s activities, it is deemed that the risk value of the Contractor’s activity is “zero” and no cooperation in the provision of occupational health protection and safety is required from the Customer.
     9. Risks arising from the Contractor’s work or activities on the premises of the Customer: Note: To be completed by the Contractor when the Contractor has not provided any other form of notification of risks arising from the Contractor’s activity on the Customer’s premises; when there are no risks, the Contractor shall state that.
     10. Defined safety measures in the place of work and in its vicinity, placement of loads, transport, etc., in terms of OHS, Fire Prevention, and ecology.
     11. By agreement between the Parties, the Customer represented by [to be edited] coordinates the performance of measures to protect the safety and health of employees, and procedures for their provision.
     12. The Contractor’s managing employee is responsible for labour safety, work organisation in all activities according to the scope of the contract (scope of work) / order, including giving instructions, issuing orders, checking them, and for mutual consideration. The subcontractor, their employees, or third parties, and the Customer’s employees shall respect that. They shall also pay attention to their own safety.

Any deficiencies on the part of the subcontractor shall be resolved through the Contractor’s responsible person.

In Břidličná on: [●]

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AL INVEST Břidličná, a.s., Contractor

Name, surname, signature, mobile Name, surname, signature, mobile

Note: In the case of several persons of the Contractor excursions, group visits, etc., it is necessary to provide a Attendance List.

# SIGNATURE PAGE

**The Parties hereby expressly declare that this Contract is made as a free act and deed, in witness whereof they attach their respective signatures hereunto.**

|  |  |
| --- | --- |
| **AL INVEST Břidličná, a.s.** | **[business name of the Contractor]** |
| Place: [●] | Place: [●] |
| Date: [●] | Date: [●] |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: Ing. David Bečvář | Name: [●] |
| Title: Chairman of the Board of Directors | Title: [●] |
|  | Place: [●] |
|  | Date: [●] |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | Name: [●] |
|  | Title: [●] |

1. The blue boxes in square brackets are to be filled in by the Contractor as part of the tender. [↑](#footnote-ref-2)