


Original: **1**

Reg. No.: ZM-66-12-2-00237-03300

	<b>BIDSF</b> <b>Project</b>	<b>ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING</b> <b>BIDSF 016 6 001</b>	<b>B6.7</b> <b>Contract</b>
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## **CONTRACT FOR CONSULTANTS' SERVICES**

Lump-Sum Remuneration

**CONTRACT N° : BIDSF 016 6 001**

## **ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING**


between

**Jadrová a vyrad'ovacia spoločnosť a.s. (JAVYS a.s.)**

and

**INYP SA, Informes y Proyectos, S.A.**


Dated:

	<b>BIDSF</b>  <b>Project</b>	<b>ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING</b>  <b>BIDSF 016 6 001</b>	<b>B6.7</b>  <b>Form of Contract</b>
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## **BIDSF project B6.7**

# **ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING**

## **FORM OF CONTRACT**

 <b>BIDSF</b> <b>Project</b>	<b>ENVIRONMENTAL IMPACT ASSESSMENT REPORT  OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING</b> <b>BIDSF 016 6 001</b>	<b>B6.7</b> <b>Form of</b> <b>Contract</b>
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## FORM OF CONTRACT

This CONTRACT (hereinafter called the "Contract") made on ....., 2012 between,

on the one hand, **Jadrová a vyrad'ovacia spoločnosť a.s.** a state owned joint stock company duly organised and existing under the Laws of the Slovak Republic with its registered office located at Tomášikova 22, 821 02 Bratislava, Slovak Republic and registered with the Trade Register of the District court Bratislava I in section Sa under number 4649/B, Company Identification No.: 35 946 024, duly represented by Ing. Peter Čižnár – Chairman of the Board of Directors and Ing. Miroslav Obert – Vice-Chairman of the Board of Directors, entrusted with the relevant powers in compliance with the Statute of Jadrová a vyrad'ovacia spoločnosť, a.s. (hereinafter called "the Client"),


and,

on the other hand, **INYPSA, Informes y Proyectos, S.A.** a company existing under the Laws of Spain with its registered office located at C/ General Díaz Porlier, No. 49; 28001 – Madrid, Spain, identification number A-28249977, registered with the Trade Register of Madrid (Registro Mercantil de Madrid) in Volume 3.993, Folio 120, Section 8, Sheet M-667796 duly represented by Mr. Manuel Blasco Siegrist – Contract Director entrusted with the relevant powers in compliance with the Statute of INYPSA, Informes y Proyectos, S.A. (hereinafter called the "Consultant")

(the Client and the Consultant jointly hereafter as "Parties")

### WHEREAS


- (a) the Client has requested the Consultant to provide certain consulting Services as defined in Appendix A attached to this Contract (hereinafter called the "Services");
- (b) the Consultant, having represented to the Client that it has the required professional skills, and Personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
- (c) the Client has received a grant from Bohunice International Decommissioning Support Fund being administered by the European Bank for Reconstruction and Development (hereinafter called the "Bank") towards the cost of the Services and intends to apply a portion of the proceeds of this grant to eligible payments under this Contract, it being understood (i) that payments by the Bank will be made only at the request of the Client and upon approval by the Bank, (ii) that such payments will be subject, in all respects, to the terms and conditions of the Grant Agreement, and (iii) that no party other than the Client shall derive any rights from the Grant Agreement or have any claim to the grant proceeds;

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NOW THEREFORE the parties hereto hereby agree as follows:

1. The documents forming the Contract are to be taken as mutually explanatory of one another. For purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:
  - (a) The Special Conditions of Contract;
  - (b) The General Conditions of Contract;
  - (c) The following Appendices:
    - Appendix A: Description of the Services;
    - Appendix B: Reporting Requirements;
    - Appendix C: Key Personnel and Sub-Consultants;
    - Appendix D: Breakdown of Contract Price;
    - Appendix E: Services and facilities provided by the Client;
    - Appendix F: Terms of Reference of the Project;
    - Appendix G: Consultant's Financial Proposal;
    - Appendix H: QA and QC Surveillance Requirements;
    - Appendix I: Safety and Technical Conditions;
    - Appendix J: Form of Advance Payment Guarantee;
    - Appendix K: Form of Request for Additional Services;
2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:
  - (a) the Consultants shall carry out the Services in accordance with the provisions of the Contract; and
  - (b) the Client shall make payments to the Consultants in accordance with the provisions of the Contract. Payments to the Consultant hereunder will be made in EURO currency. Subject to sub-paragraph (c) hereunder, and notwithstanding any other provisions of this Contract, payments under this Contract shall not exceed 401,815.61 EURO.
  - (c) The maximum amount specified in sub-paragraph (b) above has been fixed on the understanding that the Client will make available free of charge to the Consultant the exemptions, assistance, services and facilities provided for under Clause 5 of the General Conditions of Contract and in Appendix E as required for the purposes of the Services. If any such exemptions, assistance, services and facilities are not supplied, the parties shall consult regarding what additional allowance (if any) should be made to the Consultant as a result thereof to cover necessary additional expenditures not envisaged in the cost estimates in Appendix D.
  - (d) This Contract shall be changed only based on a written amendment agreed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

 <b>BIDSF</b> <b>Project</b>	<b>ENVIRONMENTAL IMPACT ASSESSMENT REPORT  OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING</b> <b>BIDSF 016 6 001</b>	<b>B6.7</b> <b>Form of</b> <b>Contract</b>
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For and on behalf of Jadrová a vyrad'ovacia spoločnosť a.s.

Date:


\_\_\_\_\_  
*Authorized Representative - Ing. Peter Čížnár, Chairman of the Board of Directors*

\_\_\_\_\_  
*Authorized Representative - Ing. Miroslav Obert, Vice-Chairman of the Board of Directors*

For and on behalf of INYPSA, Informes y Proyectos, S.A.:

Date:

\_\_\_\_\_  
*Authorized Representative – Mr. Manuel Blasco Siegrist, Contract Director*

 jadrová a výradňová spoločnosť	<b>BIDSF Project</b>	<b>ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING</b>  <b>BIDSF 016 6 001</b>	<b>B6.7</b> Special Conditions of Contract
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## **BIDSF project B6.7**

# **ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING**

## **(A) SPECIAL CONDITIONS OF CONTRACT**

 jadrová a výradovacia spoločnosť	<b>BIDSF</b> Project	<b>ENVIRONMENTAL IMPACT ASSESSMENT REPORT          OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING</b> <b>BIDSF 016 6 001</b>	<b>B6.7</b> Special Conditions of Contract
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## SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>1.1 (a)</b>	"Applicable Law" means all valid generally binding enactments, which are part of the legal order of the Slovak Republic.
<b>1.1 (i)</b>	<i>Delete and substitute Sub-clause 1.1 (i) with:</i> "Client's country" means Slovak republic.
<b>1.1 (k)</b>	<i>Delete and substitute Sub-clause 1.1 (k):</i> "Member" means any of the entities that make up the joint venture, and "Members" means all these entities.
<b>1.1 (m)</b>	<i>Delete and substitute the wording Government's country with:</i> "Client's country"
<b>1.1 (n)</b>	<i>Delete sub-paragraph (n) of Sub-Clause 1.1 and substitute:</i> "SC" means the Special Conditions of Contract by which the GC may be amended or supplemented and form part (a) of this Contract.
<b>1.1 (r)</b>	<i>Add the following as a new Sub-Clause 1.1(r):</i> "Commercial Code" means Act No. 513/1991 Coll. Commercial Code, as subsequently amended.
<b>1.1 (s)</b>	<i>Add the following as a new Sub-Clause 1.1(s):</i> "Bohunice V1 NPP" means Units 1 and 2 of the nuclear power plant located at Jaslovské Bohunice, Slovak Republic administrated by the Client.
<b>1.1 (t)</b>	<i>Add the following as a new Sub-Clause 1.1(t):</i> "Deliverables" means the documents, reports, and other matters which the Consultant is to provide to the Client in a timely manner as more particularly set out in Appendices A and B.
<b>1.1 (u)</b>	<i>Add the following as a new Sub-Clause 1.1 (u):</i> "Deliverable submission date" means the date or dates set out in Appendix A on which Deliverables are to be achieved.
<b>1.1 (v)</b>	<i>Add the following as a new Sub-Clause 1.1(v):</i> "Grant Agreement" means the Grant Agreement No.016D for the

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"Environmental Impact Assessment Report of 2nd Stage of V1 NPP Decommissioning" between the Bank, as administrator of the Bohunice International Decommissioning Support Fund, and the Client, as beneficiary, dated 04th October 2007, as amended and restated on 17th July 2012 for payment towards the cost of the Services.

- 1.1 (w)** *Add the following as a new Sub-Clause 1.1(w):*
- "PMU" means Project Management Unit an organization unit created by the Client to manage the implementation of the pre-decommissioning support projects of Bohunice V1 NPP.
- 1.1 (x)** *Add the following as a new Sub-Clause 1.1(x):*
- "Project" means: the project "Environmental Impact Assessment Report of 2<sup>nd</sup> Stage of V1 NPP Decommissioning".
- 1.1 (y)** *Add the following as a new Sub-Clause 1.1 (y):*
- "Deliverable Acceptance Protocol" means the document confirming acceptance and approval by the Client of the relevant part of the Services, which certifies the Consultant's fulfilment of the relevant part of the Services in respect of satisfactory completion of activities specified for the relevant milestone as certified by signature on the Deliverable Acceptance Protocol by the Client. Deliverable Acceptance Protocol forms a basis for issuing an invoice.
- 1.1 (z)** *Add the following as a new Sub-Clause 1.1 (z):*
- "Final Deliverable Acceptance Protocol" means the document confirming acceptance and approval by the Client of all Deliverables, which certifies the Consultant for the final payment in respect of satisfactory completion of all activities specified in TOR as certified by signature on the Final Deliverable Acceptance Protocol by the Client".
- 1.1 (aa)** *Add the following as a new Sub-Clause 1.1 (aa):*
- "Review" means the review of any aspect of the Contract and/or Project undertaken by the Client.
- 1.1 (ab)** *Add the following as a new Sub-Clause 1.1 (ab):*
- "No Objection" means such consent, concurrence, approval or the like to be provided by the Bank and the exercise of such consent, concurrence, approval or the like shall be at the discretion of the Bank.
- 1.1 (ac)** *Add the following as a new Sub-Clause 1.1 (ac):*
- "Termination" is a premature end of the Contract pursuant to Sub-Clause 2.6 hereof.
- 1.1 (ad)** *Add the following as a new Sub-Clause 1.1 (ad):*



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"Joint Venture or Consortium (JV-C)" shall mean a group of legal entities, whereby:

- (a) All members of this group shall be jointly and severally liable; and
- (b) The JV-C shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the members of the JV-C during the Tender process and, in the event the JV-C is awarded the Contract, during Contract execution.

### **1.1 (ae)**

*Add the following as a new Sub-Clause 1.1 (ae):*

"Entity Affiliated" shall mean :

- a) statutory body or member of the statutory body, leading Personnel, proxy holder, or member of the supervisory board of the legal entity,
- b) natural person or other legal entity, which has a qualified membership in the legal entity,
- c) statutory body or member of the statutory body, leading Personnel or proxy holder or the member of the supervisory board of the legal entity provided in letter b) above,
- d) close person of the natural person as provided in letters a) to c) above,
- e) other legal entity, in which the legal entity or one of the persons as provide in letters a to d has got a qualified membership,

### **1.1 (af)**

*Add the following as a new Sub-Clause 1.1 (af):*

"Qualified membership" shall mean direct or indirect share representing at least 5 % of the registered capital of the legal entity, or on voting rights in the legal entity, or the possibility to impact the leading of the legal entity, which is comparable to the impact corresponding the above share; indirect share shall mean the share hold indirectly via legal entities, in which the holder of the indirect share has a qualified share.

### **1.3**

*At the end of Sub-Clause 1.3, add the following paragraphs:*

This Contract is executed in English language version.

As used in this Contract, the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa.

Any document, submittal or Deliverable in accordance with the Appendices A and B shall be provided by the Consultant in English and/or Slovak languages as specified in the Appendices A and B. In the event of contradiction and/or conflict, the English language shall prevail.

Any notice, request or other communications between the Parties pursuant to the implementation of this Contract shall be in English.

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#### 1.4

*Delete Sub-Clause 1.4 and substitute:*

Notwithstanding the provisions of Sub-Clause 1.3, any request, information, notice, correspondence or other communication to be given by one Party to the other Party relating to the Contract shall be in writing and in the English language and shall be deemed to have been made when (i) delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, or facsimile to such Party and (ii) the appropriate receipts and/or statements confirming the receipt of those were issued by the Parties at the following address:

##### CLIENT

Name: Mr. Jaroslav Mlčúch

Address: Jadrová a vyrad'ovacia spoločnosť, a.s., Tomášikova 22,  
821 02 Bratislava, Slovak Republic

Telephone: +421 2 48 262 111

Fax: +421 33 531 4600

E-mail: mlcuch.jaroslav@javys.sk

##### CONSULTANT

Name: Mr. Oscar Tejado

Address: Calle General Diaz Porlier, 49.20001 Madrid

Telephone: + 34 91 1211700 / 727

Fax: +34 91 4021609

E-mail: ote@inypsa.es

#### 1.5

*Delete and substitute the wording Government's country with:*

"Client's country"

#### 1.6

*Delete Sub-Clause 1.6 and substitute:*

In case the Consultant consists of a joint venture of more than one entity, the Members hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

#### 1.7

The authorized representatives are:

For the Client: Mr. Jaroslav Mlčúch, Head of the  
Decommissioning Project Implementation  
Section

For the Consultant: Mr. Oscar Tejado, Head of the Environmental  
engineering and consultancy department

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*At the end of Sub-Clause 1.7, add the following paragraphs:*

The Client's representative authorized according this Sub-Clause shall act for and on behalf of the Client in carrying out the supervising of the Contract activities designated herein. The Client's authorized representative shall have no authority to amend the Contract for the Client. The Consultant shall comply with all instructions issued by the Client's authorized representative pursuant to this Contract. Save to the extent otherwise provided by the Client in writing the Client's authorized representative shall receive and issue all instructions, notices, consents and otherwise do all such things necessary to the discharge of the obligations of the Client under the Contract. The Client may, by written notification to the Consultant, modify the Client's authorized representative's authority or replace it without relieving the Consultant of any of its obligations under this Contract. Specifically, the Client's authorized representative's responsibilities under this Contract include but are not limited to:

- (a) The Client's authorized representative shall administer the Contract including all financial aspects.
- (b) The Client's authorized representative shall coordinate the interfaces between the Parties and the Bank involved in Contract implementation.

## **1.8**

*Delete Sub-Clause 1.8 and substitute:*

In the field of taxes, customs duties and fees the course of action shall be taken in accordance with the Framework Agreement concluded between the Bank and the Slovak Republic. (<http://www.javys.sk/en/bidsf/framework-agreement>).

## **1.9 Prohibited Practices**

*Delete Sub-Clause 1.9 Fraud and Corruption, and substitute with Sub-Clause 1.9 Prohibited Practices as follows:*

### **1.9.1 Definitions**

The Bank requires that Clients (including beneficiaries of Bank administered grants), as well as tenderers, suppliers, contractors, concessionaires and consultants under Bank-funded contracts, observe the highest standard of transparency and integrity during the procurement, execution and implementation of such contracts. In pursuance of this policy, the Bank:

- (i) defines, for the purposes of this provision, the terms set forth below as Prohibited Practices:

- (a) "**coercive practice**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of

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a party; and

(b) “**collusive practice**” means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; and

(c) “**corrupt practice**” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; and

(d) “**fraudulent practice**” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

Any occurrence, or suspected occurrence, of a Prohibited Practice in the procurement, award or implementation of a Bank-financed contract in the context of a Bank-funded Project shall be dealt with in accordance with the provisions of the Bank’s Enforcement Policy and Procedures. Suppliers, contractors, concessionaires and consultants as well as the Bank’s clients shall fully cooperate with the Bank in any investigation into an alleged Prohibited Practice to be carried out pursuant to the Enforcement Policy and Procedures and shall permit the Bank or its representative to inspect such of their accounts and records as may be relevant for such investigation and to have such records and accounts audited by the auditors appointed by the Bank.

### 1.9.2 Measures to be Taken

(ii) will declare the Consultant ineligible indefinitely or for a stated period of time if it determines that it engaged in Prohibited Practices in competing or executing the Contract. In addition, the Bank will cancel the portion of the Loan allocated to the Contract if it at any time determines that Prohibited Practices were engaged in by representatives of the Client or of a beneficiary of the Loan during the procurement or the execution of that Contract, without the Client having taken timely and appropriate action satisfactory to the Bank to remedy the situation.

## 2.

*Delete name of the Clause 2. and substitute with:*

### **Commencement, Completion, Modification and Expiration of Contract**

## 2.1

*Delete Sub-Clause 2.1 and substitute:*

This Contract shall come into force on the date of the signature by the Parties and becomes effective the day after the date when the Contract is published in accordance with sec. 47a of the Civil Code and sec. 5a of the Act. No. 211/2000 Coll. on Free Access to

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Information and on Change and Supplement of Certain Acts (Act on Free Information), as amended (the Effective Date).

## 2.2

The date for the commencement of Services is the following day after the Effective Date of the Contract.

## 2.3

*Delete Sub-Clause 2.3 and substitute:*

This Contract is entered into a definite period. Unless terminated earlier pursuant to Sub-Clause GC and SC 2.6 hereof, this Contract shall expire at the period of 16.5 (sixteen and half) months after the Effective Date. The Services shall be completely performed within this period.

## 2.4

*Delete Sub-Clause 2.4 and substitute:*

Either Party can initiate the Contract modification.

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, shall only be made by written agreement between the Parties and shall not be effective until the No Objection by the Bank has been obtained.

If and in so far as any Review carried out in accordance with Clause 10 results in the adjustment and/or alteration of the Services (including any addition or omission) and/or manner and/or time for performance and/or appropriate cost and/or other alterations than, subject to No Objection by the Bank the Contract shall be modified to incorporate such adjustments and/or alterations.

## 2.5.1

*At the end of Sub-clause 2.5.1 add the following paragraph:*

For the avoidance of doubt, strikes, lock-outs or other industrial action or litigation involving the Parties, their agents, Sub-Consultants or Personnel shall in no circumstances constitute an event of Force Majeure and shall not give the Consultant the right to delay or fail to perform under this Contract.

## 2.5.3 (b)

*Delete sub-paragraph (b) of Sub-Clause 2.5.3 and substitute:*

As soon as reasonably possible after the cessation of an event of Force Majeure, that Party affected by the event of Force Majeure shall notify the other Party in writing of the cessation of the event of Force Majeure and shall promptly resume performance of its obligations under this Contract.


## 2.5.3 (e)

*Delete the wording "GC 7" and substitute with "GC 8"*

## 2.5.3

*Delete the last paragraph of Sub-Clause 2.5.3 and substitute:*

During the period of their inability to perform the Services as a result

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of an event of Force Majeure, the Consultant will not be considered in delay with fulfilling its obligations under this Contract up to cessation of the event of Force Majeure. The Consultant shall be entitled to be paid under the terms of this Contract only for the Services performed before the start the event of Force Majeure. This Sub-Clause 2.5.3 is not in contradiction to Sub-Clause 2.6.1 (d) of this Contract.

#### **2.6.1**

*Delete the first paragraph of Sub-Clause 2.6.1 and substitute:*

Without prejudice to any other rights or remedies which the Client may have against the Consultant for the breach or non-performance of any of the terms of this Contract, the Client may terminate (means cancellation according to sec. 344 of the Commercial Code) the whole or any part of this Contract by delivery of a written notice of termination to the Consultant to be given after the occurrence of any of the events specified in sub-paragraphs (a) to (d) and (f) to (h) of this Sub-Clause 2.6.1.

*At the end of Sub-Clause 2.6.1 add the following text:*

Further, the Client has the right to terminate (means termination according Act 40/1964 Coll., Civil Code, § 582) the whole Contract or its part by submission of a written notification about termination of the Contract to the Consultant with minimum thirty (30) days termination period, after occurrence of the event specified in sub-paragraph (e) of this Sub-Clause 2.6.1. Both, cancellation and termination according to this Sub-Clause shall be further in the Contract defined only together as termination, if not provided otherwise in the Contract.

#### **2.6.2**

*Delete 1<sup>st</sup> subparagraph of Sub-Clause 2.6.2 and substitute:*

"The Consultant may terminate (means termination according Act 40/1964 Coll., Civil Code, § 582) this Contract in writing in the case of occurrence of an event provided in letters (a) to (e) of this Sub-Clause 2.6.2."

#### **2.6.2 (a)**

*Delete sub-paragraph (a) of Sub-Clause 2.6.2 and substitute:*

If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within sixty (60) days after receiving written notice from the Consultant that such payment is overdue.


#### **2.6.3**

*Delete sub-paragraph (a) of Sub-Clause 2.6.3 and substitute with:*

"remuneration pursuant to Clause 6 for Services satisfactorily performed and not paid by the Client prior to the effective date of termination"

#### **2.6.4**

*Delete Sub-Clause 2.6.4. and substitute with Sub-Clause 2.6.4:*

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Upon termination of this Contract pursuant to Clause GC 2.6.1, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.8 hereof, and (iv) any right which a Party may have under the Applicable Law.

## **2.6.7**

*Add a new Sub-Clause 2.6.7:*

Upon termination of this Contract for whatever reason the Consultant shall promptly deliver up to the Client any and all materials, documents, software, products and documents including, but without limitation, the Deliverables developed and/or produced by or on behalf of the Client under this Contract (and copies thereof) and each Party shall return forthwith to the other any and all property (and copies thereof) on any media belonging to the other or which is received from any third party and in its possession or under its control and that Party shall confirm in writing to the other that it has complied in all respects with this Clause 2.6.4 if requested to do so by the other.

## **2.6.8**

*Add a new Sub-Clause 2.6.8:*

Any expiration or termination of this Contract for any reason shall not affect any accrued rights or liabilities of either Party under this Contract nor the coming into force or the continuation in force of any provision of this Contract which is expressly or by implication intended to come into, or continue, in force on or after such expiration or termination.

## **2.6.9**

*Add a new Sub-Clause 2.6.9:*

In case of termination pursuant Sub-Clause 2.6.1, the Client shall be entitled, amongst other things, to make demand on any outstanding balance from the bank guarantee referred to in Clause 6.4.

## **3.1**

*Delete in Sub-Clause 3.1 the words:*

"The Consultant shall perform the Services...".

and substitute:

"With effect from the Effective Date, the Consultant shall perform the Services in accordance with the terms and conditions of this Contract and best industry practices for the provision of the Deliverables...".

### **3.1.1**

*Delete Sub-Clause 3.1.1 and substitute:*

The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with Applicable Law, generally accepted professional



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standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-Consultants or third Parties.

### 3.1.3

*Add the following Sub-Clause 3.1.3:*

#### **Sub-Contracts:**

The Consultant shall impose such terms and conditions as are necessary in any sub-contract, into which it enters in connection with the Project to ensure the performance by the Consultant of the provisions of this Clause 3, and shall ensure that any sub-contracts placed do not contradict the legal order of the Slovak Republic.

### 3.1.4

*Add the following Sub-Clause 3.1.4:*

#### **Translation:**

The Consultant shall provide at its own expense oral and written translation by accredited translator(s), including, if necessary, the physical presence of interpreters.

### 3.1.5

*Add the following Sub-Clause 3.1.5:*

#### **Progress and completion of the Services:**

The Consultant shall furnish sufficient Personnel, equipment and facilities, other than those provided by the Client, and shall work such hours so to assure fulfilment of the Services and any part thereof in accordance with the dates provided in Appendix B (Reporting Requirements) and Appendix A Description of the Services (Chapter Schedule of Consultant Activities).

The Client may at any time request the Consultant to provide, and the Consultant, upon such request, shall submit to the Client an updated Schedule of Consultant Activities showing actual progress of the Services. The comparison of the actual progress with Schedule of Consultant Activities (Appendix A) and dates provided in Appendix B shall be provided together with the updated Schedule of Consultant Activities. If at any time, the Consultant's actual progress is inadequate to meet the dates provided in Appendix B and Appendix A, the Client may notify the Consultant to take such steps as may be necessary to improve its progress. If, within a reasonable period as determined by the Client, the Consultant does not improve performance to meet the dates provided in Appendix B and Appendix A, the Client may require an increase in the Consultant's labour force, the number of shifts, overtime operations, additional days of work per week and an increase in the amount of the Consultant's equipment, all without additional cost to the Client. Neither such



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notice nor the Client's failure to issue such notice shall relieve the Consultant of its obligation to achieve the quality of work and rate of progress required by this Contract. By executing Client's rights under this Sub-Clause, Sub-Clause 2.6.1 of the SC shall not be affected.

### **3.2.2**

*Delete Sub-Clause 3.2.2 and substitute:*

The Consultant agrees that, during the term of this Contract and after its expiration, the Consultant and any Entity Affiliated with the Consultant, as well as any Sub-Consultants and any Entity Affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) for any project resulting from or closely related to the Services.

### **3.3**

*At the end of Sub-Clause 3.3, add the following paragraphs:*


The Consultant shall protect against any unauthorized disclosure of the information and data (of whatever nature and however recorded or preserved) of the Client by using the same degree of care as it takes to preserve and protect its own confidential information of a similar nature but in no event shall this be less than a reasonable degree of care.

In the event of termination or expiration of this Contract the Consultant shall as soon as reasonably practicable thereafter, at the Client's option, destroy or return to the Client all confidential information received in relation to the provision of the Services, together with all partial or complete copies thereof.

With the signature of this Contract the Consultant hereby gives its consent to publish on the website of the Client and on any other places chosen by the Client, for an indefinite time period, the whole Contract including any eventual future amendments and appendixes and enclosures of the Contract and any other documents related to the Contract. Also, the Consultant hereby gives its consent to publish on the website of the Client and on any other places chosen by the Client for an indefinite time period any invoices issued by the Consultant in relation to this Contract. The Client shall bear all costs related to the publication of the above mentioned documents. To avoid any uncertainties, the Consultant grants also its consent to publish information underlying trade secrecy according § 17 of the Commercial Code contained in the above mentioned documents by means as stated above whereby the publication of these information does not represent breach of the trade secrecy by the Client. Also, the Consultant hereby acknowledges that any information provided by the Consultant contained in the abovementioned documents shall not be considered as confidential according §271 of the Commercial Code.

### **3.4**

*Delete Sub-Clause 3.4 and substitute:*

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The Consultant shall take out and maintain insurance (risks insurance) at its own expenses but under conditions specified by the Client with the following minimum insurance coverage:

- General liability insurance covering damages induced to third persons (in accordance with lines of business entered in the Trade Register of the Slovak Republic or another similar register specifying a group of activities the Consultant is authorised to execute) with an insurance coverage amounting to no less than EUR 700,000 per one and all insured events;
- Liability insurance covering damages induced in connection with rendering services (professional liability insurance) if the Consultant's activity (even though in part only) consists in rendering services whose rendering, pursuant to laws in force, is subject to taking out mandatory liability insurance. The insurance policy shall be taken out with an insurance coverage amounting to no less than EUR 700,000 per one and all insured events.

The Consultant shall always produce a general liability insurance policy covering damages induced to third persons. The aforementioned professional liability insurance policies shall be produced by the Consultant only if the Consultant itself is authorized to execute such activities; otherwise, the Consultant shall produce the aforementioned professional liability insurance policies of entities executing these activities for the Consultant under a contract in writing.

If the Consultant itself is authorized to execute the aforementioned professional activities and, at the same time, the Consultant orders such works, either in whole or in part only, from another entity, the professional liability insurance shall be taken out separately by the Consultant as well as by its Sub-consultant.

In the aforementioned insurance policies or in general policy conditions applicable to the insurance policies, no clauses or exclusions may be agreed that might counteract the purpose of the Consultant's liability insurance applicable to B6.7 Project – Environmental Impact Assessment Report of 2nd Stage of V1 NPP Decommissioning.

The scope of insurance shall include not only damages arising from material damage to a thing or damage to health but, in case of professional liability insurance, it shall include also net financial losses and losses which might arise due to imposition of penalties by public administration authorities.

The Consultant (and its Sub-consultants) shall take out such insurance together with any other insurance required to cover other Consultant's liabilities, if any, for the period of contract duration and afterwards for a period of 2 (two) years after expiration of the Contract with the Client. The underwriter (insurance company)

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selected by the Consultant shall be notified to the Client in advance to the insurance conclusion. Consultant's insurance policies shall be taken out with a renowned insurance company.

### 3.5 (c)


The other actions are as follows:

- (i) Assigning the benefits from the Contract other than money.
- (ii) Initiating any subcontract for the performance of part of the Services. The Consultant shall provide the Client with a copy of the proposed sub-contract for approval prior to the Consultant entering into such sub-contract and if and in so far as the Client provides comments on the terms of the sub-contract then the Consultant shall take proper account of such comments in agreeing the final form of such subcontract with the relevant Sub-Consultant. In any event, any such subcontract shall not include a provision entitling the Consultant to terminate or cancel such sub-contract without proper reason or for the Sub-Consultant to terminate at will.
- (iii) Initiating termination or cancellation of the subcontract. In circumstances where the Consultant reasonably believes that the performance of its obligations under the Contract is being materially and adversely affected by the performance of one or more of its Sub-Consultants then the Consultant shall inform and consult with the Client prior to initiating any termination or cancellation procedures under such subcontract and shall explain to the Client the reasons why the Consultant requires to terminate the subcontract. However, the Consultant shall not proceed to effect such termination or cancellation before it has provided an explanation to the reasonable satisfaction of the Client as to the proposed arrangements for the proper performance of that part of the Services previously undertaken by the relevant Sub-Consultant.
- (iv) Initiating any actions outside of the Contract scope, which the Consultant considers necessary for successful performance of the Services.

### 3.5

*At the end of Sub-Clause 3.5, add the following paragraph:*

Notwithstanding such Client's approval and Consultant's provision of services either by itself or through a third party, the Consultant shall remain solely responsible for the performance of the Contract and its results.

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### 3.6

*At the end of Sub-Clause 3.6, add the following paragraphs:*

The Consultant shall ensure that Deliverables comply with nuclear, radiation, conventional safety and environmental valid legal enactments including, rules and recommendations provided by the Regulatory Authorities, the Client's existing safety rules, and best industry practices and shall be those prevailing when the Deliverables are taken over by the Client. References in the Contract to relevant standards shall be understood to be references to the edition applicable to the Effective Date of the Contract, unless stated otherwise.

If existing valid legal enactments including rules and recommendations provided by the Regulatory Authorities change or new legal enactments including recommendations provided by the Regulatory Authorities come into force in the Slovak Republic after the Effective Date of the Contract, the Consultant shall give notice to the Client and (if appropriate) submit proposals for compliance. In the event that:

- Client determines that compliance is required, and
- the Proposal for compliance requires a modification in the wording of the Contract,

than the Client shall initiate a modification in accordance with Sub-Clause 2.4.

Deliverables shall be achieved when they are approved by the Client, such approval by the Client not to be unreasonably withheld or delayed and to be communicated to the Consultants in writing and certified by signature on the Deliverable Acceptance Protocol by both Parties.

On completion of the review of the Deliverable, the Client shall identify issues concerning quality and/or content of received Deliverable and provide written comments to the Consultant. The Consultant shall forthwith address Client's comments, correct any of the Deliverables (at no cost to the Client) and re-submit the relevant Deliverable to the Client for approval. In the case of reiteration of the approval process, the Consultant shall proceed according to this Sub-Clause.

If the re-submitted Deliverable still contains issues not properly addressed by the Consultant or ones solved not to the satisfaction of the Client, the Client may immediately issue a notice in writing to the Consultant and terminate this Contract pursuant to Clause 2.6.1.

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### 3.7 (a)

*At the end of sub-paragraph (a) of Sub-Clause 3.7, add the following paragraphs:*

Any concept, product, process (patentable or otherwise), copyrightable material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs and electronic software) or confidential information developed and/or produced by or on behalf of the Consultant in the performance of its obligations under this Contract (including, but without limitation, the Deliverables) shall belong absolutely and exclusively to the Client upon its creation.

The Client shall have, and the Consultant hereby grants the Client, a permanent, world-wide assignable, exclusive, royalty-free license to use any concept, product, process (patentable or otherwise), copyrighted material (including without limitation documents, specifications, calculations, maps, sketches, notes, reports, data, models, samples, drawings, designs, and electronic software) and confidential information owned by the Consultant upon commencement of the Services under this Contract and used by the Consultant or furnished or supplied to the Client by the Consultant in the course of performance under this Contract.

All rights and obligations from the license granted are regulated and shall be regulated by appropriate provisions of the Act no. 618/2003 Coll. on copyright and rights associated with copyright (Copyright Act) in valid version.

The Consultant will defend or settle any claim against the Client resulting from infringement of any third party intellectual property rights by the Deliverables and/or the Services and/or any other work product delivered and/or produced by or on behalf of the Consultant hereunder. The Consultant shall fully and effectively indemnify the Client and keep the Client indemnified against any and all damages, demands, claims, losses, liabilities, costs and expenses of any kind whatsoever suffered or incurred by the Client arising out of or in connection with the Client's use or possession of any materials, documents, instructions, software, products and documents including, but without limitation, the Deliverables, developed and/or produced by or on behalf of the Client under this Contract and/or any and all damages, demands, claims, losses, liabilities, costs and expenses of any kind whatsoever suffered or incurred by the Client arising out of or in connection with any infringement or alleged infringement of any third party intellectual property rights.

### 3.7 (c)

The Consultant shall not use the documents or software for purposes unrelated to this Contract without the prior written approval of the Client.

### 3.9 (c)

*Delete sub-paragraph (c) of Sub-Clause 3.9 and substitute:*

The Consultant shall indemnify the Client from and against any and

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all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Client during or in connection with the Services by reason of: (i) infringement or alleged infringement by the Consultant of any patent or other protected right of intellectual property; or (ii) plagiarism or alleged plagiarism by the Consultant.

### **3.9 (e) (i)**

*Delete sub-paragraph (e) (i) of Sub-Clause 3.9 and substitute:*

That Consultant is notified of such actions, claims, losses or damages at the first possible opportunity, but not later than 2 (two) months after the Client becomes aware of such actions, claims, losses or damages.

### **3.9 (f)**

*At the end of sub-paragraph (f) of Sub-Clause 3.9, add the following paragraphs:*

In addition to all other rights and remedies which the Client may have, the Consultant shall upon receipt of written notice from the Client, re-perform the Services free of charge to correct any deficiencies which result from the Consultant's failure to perform in accordance with herewith mentioned practices and standards for the period of Contract duration plus 2 (two) months maximum. The Client shall provide prior approval of the method and timing of such re-performance.

Non-compliance with the Client's instructions may be grounds for the Client's determination that the Consultant is not performing the Services with such diligence as will assure completion within the times specified. Upon such determination, the Client may terminate or this Contract pursuant to Sub-Clause 2.6.1.

### **3.10**

*Delete Sub-Clause 3.10 and substitute:*

Equipment and/or facilities including those set out in Appendix E supplied or procured by the Client for the Project shall remain at all times the property of the Client and where practical shall be so marked. When the Services are completed or upon sooner termination or of the Contract such equipment and/or facilities (including any spare parts and/or unused consumables) shall be returned by the Consultant to the Client in accordance with the Client's obligatory procedures save unless expressly agreed otherwise by the Parties.

### **3.11**

*At the end of Sub-Clause 3.11 add the following:*

Equipment and/or goods (including any spare parts and/or unused consumables) expressly supplied and/or purchased for the purposes of the Project by the Consultant or by a Sub-consultant employed by



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the Consultant shall be used only for the purposes of the Project. Upon expiration or sooner termination of the Contract such equipment and/or goods (free of any charges liens and/or mortgages) shall be transferred and delivered by the Consultant to the Client together with any manufacturers and/or supplier guarantees and/or warranties (including any necessary assignment thereof by the Consultant to the Client) and/or any unexpended proceeds from any insurance policy taken out by the Consultant in accordance with Clause 3.4, and all in accordance with the Client's normative procedures save unless expressly agreed otherwise by the Parties.

*At the end of Clause 3, add the following Sub-Clauses:*

**3.12**

The Consultant shall take account of, and comply with all reasonable directions and requirements provided by the Client from time to time when present at the Bohunice V1 NPP site and shall, at all times, show consideration to the Client's employees, agents and Sub-Consultants.

**3.13**

The Consultant shall comply in full with all relevant valid legal enactments (including, comply with all access, security and/or procedures of the Client made known to the Consultant by the Client from time to time) and shall perform its obligations under this Contract so that its equipment, working conditions and methods are safe and without risk to health for its own, the Client's employees or subcontractors as well as for any other users of the Bohunice V1 NPP site.

Until the expiry of this Contract the Consultant is obliged to fulfil the requirements stated in Appendix I "Safety and Technical Conditions".

**3.14**

When required to enter the Bohunice V1 NPP site for the purposes of performing their obligations hereunder the Consultant, its Personnel, representatives or Sub-Consultants shall at all times be in possession of appropriate documents to give proof of identity as the Client may from time to time require.

**3.15**

The Consultant shall, at all times, comply fully with any and all work practices (including, providing the Client with risk assessments for the Services), health and safety, labour and any other requirements of the Client from time to time.

**3.16**

The Consultant shall be responsible for the provision of all equipment, uniforms and protective clothing for its Personnel to wear whilst performing the Services. The Consultant shall procure that such uniforms and protective clothing will be worn by its Sub-

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Consultants and its Personnel at all times during the performance of the Services.

### 3.17

The Client shall be empowered (without any cost or liability to the Client) to suspend the provision of the Services in whole or in part in the event of any non-compliance by the Consultant with this clause and/or its legal duties mainly regarding health and safety or environmental protection. The Consultant shall not resume the provision of the Services or such suspended part of it until the Client is duly satisfied that such non-compliance has been rectified.

### 3.18

(i) Contaminated equipment and goods as well as the Consultant's private contaminated property shall be dealt with according to Slovak Law.

(ii) The Consultant shall at all times maintain an asset register of all equipment and goods purchased for the Client for the purpose of the Project by the Consultant or by any Sub-consultant employed by the Consultant and such register shall be available for the periodic inspection by the Client upon reasonable notice to the Consultant.

(iii) The Consultant shall impose such terms and conditions as are necessary in any sub-contract into which it enters in connection with the Project to ensure the performance by the Consultant of the provisions of this Clause 6.

### 5.1

Not applicable.

### 5.3

*Delete Sub-Clause 5.3 and substitute:*

The Client shall make available free of charge to the Consultant the Services and Facilities listed under Appendix E. The Services and Facilities shall be requested by the Consultant in writing using the sample forms in Appendix E and approved by the Client pursuant to Appendix D—Breakdown of Contract Price, Form 4H - Slovak resources.

### 6.1

*Delete Sub-Clause 6.1 and substitute:*

The Consultant's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum price for the performance of the Consultant's obligations under this Contract which shall include, without limitation, all staff costs, Sub-Consultants' costs, printing, communications, travel, accommodation, and the like, and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. Except as provided in Sub-Clause 5.2 and always subject to provisions of Sub-Clause 2.4 (Modifications), Sub-Clause 6.3 (Payment for Additional Services), Clause 10 (Review) and Clause 11 (Additional services), the Contract Price (a) may be



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increased above the amount stated in Sub-Clause 6.2 if the Parties have agreed to additional payments, and / or (b) may be altered and/or adjusted.

**6.2 (a)**

Not applicable.

**6.2 (b)**

The price payable for the Services defined in Appendix D in EURO is 401,815.61 EUR (say: four hundred and one thousand and eight hundred and fifteen EUR and sixty one Cents).

**6.3**

*Delete Sub-Clause 6.3 and substitute:*

For the purpose of determining the remuneration due for additional services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendix D.

**6.4**

*Delete Sub-Clause 6.4 and substitute:*

Payments will be made to the account of the Consultant and according to the payment schedule stated herein.

Upon signing of the Contract, the Consultant shall be eligible for an advance payment, when the Consultant submits a guarantee in accordance with this Sub-Clause within sixty (60) days of submission of a request for advance payment together with a bank guarantee.


The advance payment can be invoiced once for 20 % of final Contract Price after the Client's receipt of advance payment guarantee(s) in the corresponding proportions of currencies in which the Contract Price is payable. The guarantee shall be issued by an entity and from within a country (or other jurisdiction) approved by the Client in writing, and shall be in the form set forth in Appendix J hereto or in another form approved by the Client.

The Consultant shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount may be progressively reduced by the amount repaid by the Consultant as indicated below. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Consultant shall extend the validity of the guarantee until the advance payment has been repaid.

The advance payment shall be repaid through percentage deductions in each invoice, the amortization rate is equal to 1/7 of the advanced amount.

The total advance payment shall not exceed 20 % of the final Contract Price.

If the advance payment has not been repaid prior to the expiration of this Contract under Sub-Clause 2.3 [Expiration of Contract] or prior to termination under Sub-Clause 2.6 [Termination] (as the case may be), the whole of the balance then outstanding shall immediately become due and payable by the Consultant to the Client.

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Milestone	Deliverable (s)	Event activating the payment	Amount in % of final Contract Price	Advance payment deduction in % of final Contract Price*	Amount to be paid to Consultant in % of final Contract Price*
1	D0	Deliverable accepted by Client	5 %	1 %	4 %
2	D1	Deliverable accepted by Client	5 %	1 %	4 %
3	D2	Deliverable accepted by Client	10 %	2 %	8 %
4	D3	Deliverable accepted by Client	20 %	4 %	16 %
5	D4	Deliverable accepted by Client	15 %	3 %	12 %
6	D5	Deliverable accepted by Client	30 %	6 %	24 %
7	D6	Deliverable accepted by Client	15 %	3 %	12 %
			<b>100 %</b>	<b>20 %</b>	<b>80%</b>

\* Applicable only in the case the advance payment is disbursed.

- All amounts shall be paid after approval by the Client as certified by signature on the Deliverable Acceptance Protocol.

The Consultant shall comply with the following when submitting invoices to the Client for payment:

- All invoices with joint deliverable's receipts and Deliverable Acceptance Protocol signed by the Client, shall be addressed and sent to the Client who will approve them and forward them to the Bank for payment. For the final payment, the Consultant shall attach to the invoice the Final Deliverable Acceptance Protocol for all Deliverables signed by the Parties.
- The invoice shall include also a column marked "Gross" (price without taxes), a column marked "Advance payment portion", a column marked "Taxes" (tax rates and tax) and column marked "Net". The amount to be shown in the column "Gross" is the amount corresponding to the payment milestone and shall be free from any and all taxes, customs duties levied by in the territory of, the Slovak Republic. The amount to

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be shown in column "Net" is the amount to be invoiced after deduction of the advance payment portion. In the column "Taxes" should be the amount of the all taxes, customs duties levied by in the territory of, the Slovak Republic.

- (c) All foreign invoices shall be issued bilingually in English and Slovak language.
- (d) The name and telephone number of a person who may be contacted in case of need to raise queries shall be quoted on the invoice.
- (e) The Contract number and payment milestone shall be quoted on the invoice.
- (f) Invoices shall be marked as an invoice showing invoice number, issue date, delivery date of goods and services, due date of the invoice, the Consultant's and the Client's business address, company registration number and tax identification numbers and the banking information on which the transfer will be made. When services are provided into other EU member country, the VAT duty shall be transferred to the Client.
- (g) Invoices shall be submitted in two (2) originals and two (2) copies.

In the event of any refunding of taxes, customs duties levied by, or in the territory of the Slovak Republic (refunded by the Client out of its funds other than BIDSF), the Consultant shall ensure that:

- (a) the "VAT number" (VAT registration in Slovak tax office obtained on the basis of the registration of the Consultant in the Slovak Republic) will be stated on all invoices; and
- (b) all relevant documents (invoices and any copies thereof) demonstrating the amount and payment of the required refunding amount shall be enclosed with any request for reimbursement.

All payments to the Consultant shall be made within 60 (sixty) days of receipt by the Client of the correct and valid invoice and documents specified in this Sub-Clause 6.4. The Consultant acknowledges that payment under this Contract shall be made to the Consultant by the Bank in accordance with the terms of the Grant Agreement.

## 6.5

*Delete Sub-Clause 6.5 and substitute:*

If the Client has delayed payments beyond fifteen (15) days after the due date set out in Sub-Clause 6.4, the Client shall pay default interest to the Consultant for each day of delay at the rate of 1% per month above 1M EURIBOR.

For purposes of this Sub-Clause 6.5 "1M EURIBOR" means the percentage rate per annum determined by the Banking Federation of the European Union for the offering of deposits in Euro for a period of

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one month, displayed on the appropriate page of the Telerate screen or Reuters screen as of 11.00 a.m. (Bratislava time) on the due date. If no such screen rate is available, 1M EURIBOR shall be the arithmetic mean (rounded downward to four decimal places) of the rates as supplied to the Client at its request quoted by three reference banks, selected by the Client, to leading banks in the European interbank market, as of 11.00 a.m. (Bratislava time) on the due date.

## 8.2

*Delete Sub-Clause 8.2 and substitute:*

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement by arbitration.

Arbitration proceedings shall be conducted in accordance with the rules of arbitration of the International Chamber of Commerce (the "Rules"). The arbitration shall be conducted by three (3) arbitrators designated pursuant to the Rules.

The place of arbitration shall be Bratislava, Slovak Republic and the language of the arbitration shall be English.

The arbitration decision shall be final and binding upon the Parties.

The costs of the arbitration shall be in the discretion of the arbitrator.

Neither Party may initiate arbitration or legal action until the procedure described in this Sub-Clause 8.2 has been completed, except where any Party has good cause to do so to avoid damage to its business or to protect or preserve any right(s) of action it may have. Whilst this dispute resolution is being followed, the Parties shall be obliged to continue, as far as reasonably practicable in view of any dispute, to fulfil their respective obligations under this Contract.

## 9.


*Add the following as a new Clause 9:*

If any term or provision of this Contract is held to be invalid or unenforceable, in whole or in part, that term or provision shall to that extent be deemed not to form part of this Contract but the invalidity or the enforceability of such term or provision will not affect validity and enforceability of the rest provisions of this Contract.

## 10. Review

*Add the following as a new Clause 10:*

At any time the Client may initiate and, subject to the No Objection, conduct the Review of any aspect of the Project and/or of the Contract. Prior to the initiation of the implementation of the conclusions and/or recommendations of the Review, the Client shall obtain the No Objection. The implementation of the conclusions and/or recommendations of the Review shall always be subject to provisions of Sub-Clause 2.4 (Modifications or Variations).

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## 11. Additional services

*Add the following as a new Clause 11:*

The Client may request in writing to carry out additional services in a form as specified in Appendix K of this Contract.

The Client's request for additional services shall clearly specify all necessary requirements for additional services, including but not limited to scope, timing and other relevant details. In case of Client's request for additional services, within 14 days of receipt of the Client's request, the Consultant shall prepare a response to the Client's request detailing the manner and/or mode and/or time for performance (including any adjustment to the term of the Contract) and/or if appropriate the cost of such additional services including a financial proposal which shall be calculated on the same basis as set out in Appendix D and using unit rates provided in Appendix D unless otherwise agreed between the Parties.

The Consultant can also make proposals for additional services, whereby the Consultant shall in its proposal clearly and in detail specify the manner, mode and time for performance (including any adjustment to the term of the Contract) and, if appropriate, the cost of such additional services including a financial proposal which shall be calculated on the same basis as set out in Appendix D and using unit rates provided in Appendix D unless otherwise agreed between the Parties and the reason of this proposal.

Within 30 days of receipt of the Consultant's response to the Client's request for additional services, or of receipt of a Consultant's proposal for additional services, the Client shall evaluate and decide about the additional services.


Should the Client decide so, it shall initiate an amendment to the Contract and shall instruct the Consultant to carry out the Additional Services.

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## **BIDSF project B6.7**

# **ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING**

## **(B) GENERAL CONDITIONS OF CONTRACT**

	<b>BIDSF Project</b>	<b>ENVIRONMENTAL IMPACT ASSESSMENT REPORT OF 2<sup>ND</sup> STAGE OF V1 NPP DECOMMISSIONING</b>  <b>BIDSF 016 6 001</b>	<b>B6.7</b> General Conditions of Contract
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## General Conditions of Contract

### 1. GENERAL PROVISIONS

#### 1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Government's country, or in such other country as may be specified in the Special Conditions of Contract (SC), as they may be issued and in force from time to time.
- (b) "Bank" means the European Bank for Reconstruction and Development, London, UK.
- (c) "Consultant" means any private or public entity that will provide the Services to the Client under the Contract.
- (d) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is these General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (e) "Contract Price" means the price to be paid for the performance of the Services, in accordance with Clause 6;
- (g) "Foreign Currency" means any currency other than the currency of the Client's country.
- (h) "GC" means these General Conditions of Contract.
- (i) "Government" means the Government of the Client's country.
- (j) "Local Currency" means the currency of the Client's country.
- (k) "Member" means any of the entities that make up the joint venture/consortium/association, and "Members" means all these entities.
- (l) "Party" means the Client or the Consultant, as the case may be, and "Parties" means both of them.
- (m) "Personnel" means professionals and support staff provided by the Consultant or by any Sub-Consultants and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside the Government's

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country; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile inside the Government's country; and "Key Personnel" means the Personnel referred to in Appendix C.

- (n) "SC" means the Special Conditions of Contract by which the GC may be amended or supplemented.
- (o) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (p) "Sub-Consultants" means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (q) "In writing" means communicated in written form with proof of receipt.

## **1.2 Law Governing Contract**

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

## **1.3 Language**

This Contract has been executed in the language specified in the SC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

## **1.4 Notices**

1.4.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SC.

1.4.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.


## **1.5 Location**

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Client may approve.

## **1.6 Authority of Member in Charge**

In case the Consultant consists of a joint venture/consortium/association of more than one entity, the Members hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.



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## 1.7 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.

## 1.8 Taxes and Duties

Unless otherwise specified in the SC, the Consultant, Sub-Consultants, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

## 1.9 Fraud and Corruption

### 1.9.1 Definitions

The Bank requires that Borrowers (including beneficiaries of Bank loans), as well as tenderers, suppliers, contractors, concessionaires and consultants under Bank-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Bank:


(i) defines, for the purposes of this provision, the terms set forth below as follows:

(a) "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official, or the threatening of injury to person, property or reputation, in connection with the procurement process or in contract execution in order to obtain or retain business or other improper advantage in the conduct of business; and

(b) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practices among tenderers (prior to or after tender submission) designed to establish tender prices at artificial, non-competitive levels and to deprive the Borrower of the benefits of free and open competition;

### 1.9.2 Measures to be Taken

(ii) pursuant to the policy defined in the Sub-Clause 1.11.1 above, the Bank will declare the Consultant ineligible indefinitely or for a stated period of time if it determines that it engaged in corrupt or fraudulent practices in competing or executing the Contract. In addition, the Bank will cancel the portion of the loan allocated to the Contract if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a beneficiary of the loan during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;

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1.9.3 Commissions and Fees (iii) will require the successful Consultant to disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee.

#### **1.10 Relationship between the Parties**

Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

#### **1.11 Headings**

The headings shall not limit, alter or affect the meaning of this Contract.

### **2. Commencement, Completion, Modification and Termination of Contract**

#### **2.1 Effectiveness of Contract**

This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SC have been met.

#### **2.2 Commencement of Services**

The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.

#### **2.3 Expiration of Contract**

Unless terminated earlier pursuant to Clause GC 2.6 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.


#### **2.4 Modifications or Variations**

Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party. In cases of substantial modifications or variations, the prior written consent of the Bank is required.

#### **2.5 Force Majeure**

##### **2.5.1 Definition**

(a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and

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includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.

(b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

(c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

#### **2.5.2 No Breach of Contract**

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.


#### **2.5.3 Measures to be Taken**

(a) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

(b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

(c) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

(d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon

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instructions by the Client, shall either:

- (i) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or
- (ii) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
- (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 7.


During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

## 2.6 Termination

### 2.6.1 By the Client

The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (h) of this Clause GC 2.6.1. In such an occurrence the Client shall give a not less than thirty (30) days' written notice of termination to the Consultant.

- (a) If the Consultant does not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing.
- (b) If the Consultant becomes insolvent or bankrupt.
- (c) If the Consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- (d) If, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

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- (f) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.
- (g) If the Consultant submits to the Client a false statement which has a material effect on the rights, obligations or interests of the Client.
- (h) If the Loan Agreement has been terminated or the Bank has suspended disbursements under the Loan Agreement.

#### **2.6.2 By the Consultant**


The Consultant may terminate this Contract, by not less than thirty (30) days' written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) through (e) of this Clause GC 2.6.2.

- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 7 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
- (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.
- (d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach.
- (e) If the Client becomes insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.

#### **2.6.3 Payment upon Termination**

Upon termination of this Contract pursuant to Clauses GC 2.6.1 or GC 2.6.2, the Client shall make the following payments to the Consultant:

- (a) payment pursuant to Clause GC 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a) through (c), (f), and (g) of Clause GC 2.6.1, reimbursement of

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any reasonable cost incidental to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

#### **2.6.4 Cessation of Rights and Obligations**

Upon termination of this Contract pursuant to Clause GC 2.6, or upon expiration of this Contract pursuant to Clause GC 2.3 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.8 hereof, and (iv) any right which a Party may have under the Applicable Law.

#### **2.6.5 Cessation of Services**

Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.6.1 or GC 2.6.2 hereof, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GC 3.7 or GC 3.10 hereof.

#### **2.6.6 Disputes about Events of Termination**

If either Party disputes whether an event specified in paragraphs (a) through (d), and paragraphs (f) and (g) of Clause GC 2.6.1 or in Clause GC 2.6.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 7 hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

### **3. Obligations of the Consultant**

#### **3.1 General**


##### **3.1.1 Standard of Performance**

The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-Consultants or third Parties.

##### **3.1.2 Law Governing Services**

The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any



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Sub-Consultants, as well as the Personnel of the Consultant and any Sub-Consultants, comply with the Applicable Law. The Client shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

### **3.2 Conflict of Interests**

The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

#### **3.2.1 Consultant Not to Benefit from Commissions, Discounts, etc.**

- (a) The remuneration of the Consultant pursuant to Clause GC 6 hereof shall constitute the Consultant's sole remuneration in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use their best efforts to ensure that any Sub-Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.
- (b) Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall comply with the Bank's applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.

#### **3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project**


The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) for any project resulting from or closely related to the Services.

#### **3.2.3 Prohibition of Conflicting Activities**

The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities which would conflict with the activities assigned to them under this Contract.

### **3.3 Confidentiality**

Except with the prior written consent of the Client, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public

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the recommendations formulated in the course of, or as a result of, the Services.

### **3.4 Insurance to be Taken Out by the Consultant**

The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

### **3.5 Consultant's Actions Requiring Client's Prior Approval**

The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions:

- (a) Any change or addition to the Personnel listed in Appendix C.
- (b) Subcontracts: the Consultant may subcontract work relating to the Services to an extent and with such specialists and entities as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. In the event that any Sub-Consultants are found by the Client to be incompetent or incapable in discharging assigned duties, the Client may request the Consultant to provide a replacement, with qualifications and experience acceptable to the Client, or to resume the performance of the Services itself.
- (c) Any other action that may be specified in the SC.


### **3.6 Reporting Obligations**

- (a) The Consultant shall submit to the Client the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.
- (b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.

### **3.7 Documents Prepared by the Consultant to be the Property of the Client**

- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultant under this Contract shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof.
- (b) The Consultant may retain a copy of such documents and software, and use such software for their own use with prior written approval of the Client. If license agreements are



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necessary or appropriate between the Consultant and third parties for purposes of development of any such computer programs, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

### **3.8 Accounting, Inspection and Auditing**

- (c) Other restrictions about the future use of these documents and software, if any, shall be specified in the SC.
- (a) The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the Client or its designated representative and/or the Bank, and up to five years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client or the Bank, if so required by the Client or the Bank as the case may be.

### **3.9 Liability of the Consultant**


- (a) The Consultant shall be responsible for, and shall indemnify the Client, in respect of loss of or damage to equipment and materials furnished by the Client, or purchased by the Consultant in whole or in part with funds provided by the Client.
- (b) The Consultant undertakes full responsibility in respect of life, health, and accidents for the Personnel and for the dependents of any such Personnel.
- (c) The Consultant shall indemnify the Client from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Client during or in connection in the Services by reason of: (i) infringement or alleged infringement by the Consultant of any patent or other protected right; or (ii) plagiarism or alleged plagiarism by the Consultant.
- (d) The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant out of funds provided or reimbursed by the Client or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of any third party.

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- (e) The Consultant shall indemnify, protect and defend at their own expense the Client, and its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant's failure to exercise the skill and care required under Clause GC 3.1.1 provided, however:
  - (i) that Consultant is notified of such actions, claims, losses or damages not later than the number of months after conclusion of the Services indicated in the SC;
  - (ii) that the ceiling on Consultant's liability under Clause GC 3.1.1 shall be limited to the amount indicated in the SC, except that such ceiling shall not apply to actions, claims, losses or damages caused by Consultant's gross negligence or reckless conduct;
  - (iii) that Consultant's liability under Clause GC 3.1.1 shall be limited to actions, claims, losses or damages directly caused by such failure to exercise the said skill and care, and shall not include liability for any actions, claims, losses or damages arising out of occurrences incidental or indirectly consequential to such failure.
- (f) In addition to any liability the Consultant may have under Clause GC 3.1.1, the Consultant shall, at its own cost and expense, upon request of Client, re-perform the Services in the event of Consultant's failure to exercise the skill and care required under Clause GC 3.1.1.
- (g) Notwithstanding the provisions of paragraph (a) of this Clause GC 3.9, the Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by: (i) Client's overriding a decision or recommendation of the Consultant or requiring the Consultant to implement a decision or recommendation with which the Consultant does not agree; or (ii) the improper execution of Consultant's instructions by agents, employees or independent contractors of the Client.

### **3.10 Equipment, Vehicles and Materials Furnished by the Client**

Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the

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Client in an amount equal to their full replacement value.

### **3.11 Equipment and Materials Provided by the Consultant**

Equipment or materials brought into the Government's country by the Consultant and the Personnel and used either for the Project or personal use shall remain the property of the Consultant or the Personnel concerned, as applicable.

## **4. CONSULTANT'S PERSONNEL**

### **4.1 Description of Personnel**

The Consultant shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to carry out the Services. The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C are hereby approved by the Client.

### **4.2 Removal and/or Replacement of Personnel**

- (a) Except as the Client may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.
- (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.


## **5. OBLIGATIONS OF THE CLIENT**

### **5.1 Assistance and Exemptions**

The Client shall use its best efforts to ensure that the Government shall provide the Consultant such assistance and exemptions as specified in the SC.

### **5.2 Change in the Applicable Law**

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses

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## **Related to Taxes and Duties**

otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses GC 6.2 (a) or (b), as the case may be.

## **5.3 Services and Facilities**

The Client shall make available free of charge to the Consultant the Services and Facilities listed under Appendix F.

## **5.4 Access to Land**

The Client warrants that the Consultant shall have, free of charge, unimpeded access to all land in the Government's country in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to such land or any property thereon resulting from such access and will indemnify the Consultant and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or any Sub-Consultants or the Personnel of either of them.

# **6. PAYMENTS TO THE CONSULTANT**

## **6.1 Lump-Sum Payment**

The total payment due to the Consultant shall not exceed the Contract Price which is an all-inclusive fixed lump-sum covering all costs required to carry out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

## **6.2 Contract Price**


- (a) The price payable in foreign currency/currencies is set forth in the SC.
- (b) The price payable in local currency is set forth in the SC.

## **6.3 Payment for Additional Services**

For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.

## **6.4 Terms and Conditions of Payment**

Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of an advance payment security for the same amount, and shall be valid for the period stated in the SC. Such security shall be in the form set forth in Appendix G hereto, or in such other form, as the Client shall have approved in writing. Any other payment shall be made after the conditions listed in the SC for such payment have been met, and the Consultant has submitted an invoice to the Client specifying the amount due.

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## **6.5 Interest on Delayed Payments**

If the Client has delayed payments beyond fifteen (15) days ( after the due date stated in the Clause SC 6.4, interest shall be paid to the Consultant for each day of delay at the rate stated in the SC.

## **7. GOOD FAITH**

### **7.1 Good Faith**

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

## **8. SETTLEMENT OF DISPUTES**

### **8.1 Amicable Settlement**

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

### **8.2 Dispute Resolution**

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.