

- 1. Definitions**
Applicable Laws means any current or future demand, directive, order, permission, approval, authorisation, direction, rule, ordinance, law or other act published by a Competent Authority which (i) directly or indirectly relate to the Subject of Performance, (ii) are or shall become legally binding and/or should be observed by the relevant Party if acting with due care.
Contractor means a person so designated in the Order (as well as his authorized legal successors), which in the Contract acts in the position of a provider of the Subject of Performance, i.e., as a seller, manufacturer or in other similar position as stated in the Order.
Documentation means any technical and other documentation which SES may reasonably demand from the Contractor in connection with the Goods and the Services.
Competent Authority means government, state, local, national, international or supranational institution, organization, association, office, inspectorate, court, ministry or other public or self-governing body with jurisdiction over the territory where (i) the Subject of Performance is being fulfilled, is to be fulfilled or is to be used and/or (ii) the Parties have a registered seat, the real performance of business and/or operate in other manner.
Place of Performance means (i) a place of delivery of the Goods, if the Subject of Performance or its part are Goods, and (ii) a place of submission of the Documentation, if the Subject of Performance or its part is the Documentation, (iii) a place of provision of the Service, if the Subject of Performance or its part is the Service.
Order means a written form of SES, designated as "order", by which SES issues its order as an offer to enter into a Contract, including all its written annexes.
Subject of Performance means the Goods, Documentation and Services, or the combination thereof forming one whole (the work), which the Contractor is supposed to deliver, submit and provide in respect to the Contract and/or as may be reasonably deduced from the Contract, and includes everything necessary to fulfill the purpose of the Contract. The Subject of Performance also includes a delivery of special tools necessary for the due use and operation and/or regular maintenance of the Subject of Performance.
SES means the company SLOVENSKÉ ENERGETICKE STROJARNE a.s., with its seat at Továrnská 210, 935 28 Tlmače, Slovak Republic, BIC: 31 411 690 (as well as its legal successors), which in the Contract acts in the position of a acceptor of the Subject of Performance, i.e., as a purchaser, customer or in other similar position.
Services mean any and all obligations of the Contractor under the Contract having the nature of activities or works. The provisions relating to Goods and/or Documentation shall also apply to the Services accordingly.
Parties mean the Contractor and SES.
Subcontractor means any person (as well as its legal successors), with which the Contractor wishes to execute and/or shall execute a contract on delivery and/or implementation of a certain part of the Subject of Performance, as well as subcontractors of such a person.
Goods means movable assets determined individually or in terms of quantity and type according to a specification contained in the Contract.
Purpose of Contract means a fundamental essence of the Contract and the reason and aim pursued by SES when executing the Contract.
Defect means any deviation from the actually delivered Subject of Performance, or its part, from the Subject of Performance, or its part, presumed by the Contract. As the Defect shall be deemed in particular (i) a lack of the Subject of Performance in terms of wrong quantity, quality or performance and/or of properties other than those specified in the Contract and/or in such packing or fitting condition for transportation which is contrary to the manner specified in the Contract, (ii) delivery of the Subject of Performance other than that specified by the Contract and/or (iii) any legal defect.
GPC means these General Purchasing Conditions of SES a.s.
Contract means a contractual relationship between the Parties, the content of which is formed by the Order, in writing and without reservation confirmed (accepted) by the Contractor, including all its written annexes and amendments and GPC.
- 2. Execution of Contracts**
- 2.1. The Contractor shall deliver written and without reservations confirmed (accepted) Order in due manner to the address of SES within 14 days from its delivery to the Contractor. SES may recall the Order as an offer to enter into a contract at any time until the time of the acceptance thereof by the Contractor, without specification of the reason and without giving rise to any claims of the Contractor and SES.
- 2.2. Offer of SES to enter into a contract shall be deemed accepted by the Contractor and the Contract shall be deemed duly executed (i) upon delivery of a counterpart of the Contract to the address of SES, or (ii) if there is no written acceptance of the Order by the Contractor and despite of that there is any performance by any Party in accordance with the issued Order and at the same time such performance is accepted by the other Party, the Order shall be deemed confirmed and the Contract shall be deemed executed as of the date of acceptance of the relevant performance by the other Party.
- 2.3. If the provisions of these GPC are contrary to the provisions of the Order duly confirmed by the Parties, a text of such Order shall prevail if it contains more favourable provisions regarding rights and obligations of SES. If the Order refers to an offer of the Contractor, such offer must form an annex to the Contract in a printed form, otherwise a reference to such an offer of the Contractor in the Contract shall be deemed invalid.
- 3. Subject of Performance**
- 3.1. The Contractor agrees to deliver to SES the Subject of Performance to the extent, in the manner and under the terms and conditions specified in the Contract. The Subject of Performance must be in accordance with the Contract and the Applicable Laws in such a manner as necessary to achieve the Purpose of Contract. The Contractor agrees to act with due care in the fulfillment of any of its obligations and the exercise of any right under the Contract.
- 3.2. The Subject of Performance must be new, of first quality, reflecting the newest status of a technical solution, free from defects and in accordance with all requirements of the Contract and the Applicable Laws, express or implied. If the Contract refers to any other document, standard, norm etc., they shall be binding on the Contractor. Notwithstanding the previous sentence, if the Contract refers to business terms and conditions of the Contractor or business terms and conditions other than those of the GPC, such reference shall not be taken into account. If same Goods are included in the Subject of Performance, such Goods must be interchangeable in the Contract.
- 3.3. The Contractor agrees to provide SES with all Documentation in a number, languages, extent, place and time as specified under the Contract, or if not specified under the Contract, then according to the subsequent written demand of SES.
- 3.4. The Contractor shall, with due care and with regard to the fulfillment of the Subject of Performance in accordance with the Contract, provide upon request of SES, duly and on time, any assistance and support in connection with meeting any and all eligible requirements of SES necessary for the due and on-time fulfillment of the Subject of Performance, in particular to provide duly and on-time all necessary information, documents, reports and explanations related to the Subject of Performance.
- 4. Place of Performance**
- 4.1. Unless the Order provides for otherwise, the Place of Performance for the Goods and Documentation is determined by an agreed delivery condition under the INCOTERMS® 2010 rules. If a delivery condition is not agreed, then the Place of Performance for the Subject of Performance shall be the seat of SES.
- 5. Time of Performance**
- 5.1. The Contractor agrees to fulfill the Subject of Performance in accordance with the dates of performance specified in the Contract.
- 5.2. In case of delay or a risk of delay of the Subject of Performance, the Contractor shall (i) notify SES thereof without undue delay, and inform SES about the reasons and estimated period of delay, and (ii) utilize all its abilities and capabilities and adopt all necessary measures to remove or shorten such delay.
- 5.3. In case of delay or a probability that delay will occur, SES shall be entitled to instruct the Contractor to promptly take steps which are inevitable to comply with the date of performance and the Contractor shall take such steps within a prescribed period and at its own costs. If such steps are not taken by the Contractor on time or are insufficient in the opinion of SES, SES may withdraw from the Contract, take such steps on its own, or through a third person, at the Contractor's costs, or reject the Subject of Performance, or its part. The claim of SES to a contractual penalty or compensation for damage caused by the Contractor shall not be thereby affected.
- 5.4. If SES is in delay with performance of any obligation under the Contract, the Contractor shall be entitled to a reasonable extension of the dates of performance, but not more than the length of duration of delay of SES, and/or to a claim to compensation of costs, provided that all following conditions are cumulatively fulfilled and only for the duration of the given fulfillment and demonstration of all following conditions: (i) a delay of SES with the fulfillment of obligations under the Contract shall be the sole reason for delay of the Contractor with fulfillment of the Subject of Performance and shall have a material, proven and immediate impact on the due and on-time fulfillment by the Contractor under the Contract; and (ii) the Contractor notified SES of such breach in writing not later than 10 (ten) days from the day on which the Contractor has learned about such delay of SES, or could have learned if acted with due care. For the avoidance of doubts, if the conditions under this Section are not fulfilled, (i) the Contractor shall have no claim towards SES in case of delay of SES with fulfillment of any obligation under the Contract and (ii) the liability of the Contractor for the due and on-time fulfillment of the Subject of Performance shall remain unaffected.
- 5.5. Unless the Contract expressly provides for otherwise, the Contractor shall not be entitled to fulfill the Subject of Performance prematurely.
- 6. Contract Price**
- 6.1. SES agrees to pay to the Contractor for the Subject of Performance the price specified in the Contract (the "Contract Price") under the terms and conditions stated in the Contract. The Contract Price has been agreed by the Parties and shall include all costs of the Contractor related to the fulfillment of its obligations under the Contract. The Contract Price is fixed, final and is not subject to any changes for the entire term of the Contract. Unless the Contract expressly provides for otherwise, the Contract Price is determined as an amount exclusive of VAT.
- 6.2. If the Contract Price, or its part, for the Goods is specified in unit prices (per piece, kg, tone, meter and so forth), Section 6.1 on the fixation and finality of the Contract Price shall apply to the unit prices. At the same time the following shall apply: if the quantity of the Goods in the Contract is only approximate or is not given even approximately, the Contractor shall deliver all Goods which are necessary for the due and on-time fulfillment of the Subject of Performance and SES shall pay to the Contractor the Contract Price or its part pertaining to such Goods for the quantity of actually supplied Goods to the limit of the Contract Price.
- 6.3. All customs duties, taxes (except for the value added tax), fees, transportation, insurance, or other charges are included in the Contract Price. If the Subject of Performance is subject to the value added tax pursuant to a generally binding regulation applicable at the place of a taxable transaction on the day of performance of the Contractor, such tax shall be invoiced and paid in accordance with such regulation.
- 6.4. If it has been agreed in the Contract that the price for the Subject of Performance shall be determined in accordance with a price list of the Contractor, it shall relate to the price list of the Contractor applicable as of the day of issuance of the Order. The price list of the Contractor must form an annex to the Contract, otherwise any reference to the price list of the Contractor in the Order shall be deemed invalid. The price list shall be binding on the Parties at least until the end of a following calendar year. The price list cannot be unilaterally amended by the Contractor during the time of its validity, not even due to an increase of costs of the Contractor.
- 7. Payment Terms**
- 7.1. The Contract Price shall be paid on the basis of an invoice (invoices) issued by the Contractor. The Contractor shall deliver the relevant invoice to SES not later than 15 (fifteen) days after a due delivery and acceptance of the Subject of Performance or its part. A confirmation on partial or complete fulfillment signed by both Parties shall be part of each invoice.
- 7.2. The Contractor shall be liable in full towards SES for the compliance of its invoices with the Applicable Laws. The Contractor bears the risk of non-payment of such liability. The Contractor shall indemnify SES for any damage incurred as the result of an incorrectly issued invoice.
- 7.3. Invoices shall have all prerequisites required by legal regulations applicable at the place of a taxable transaction. Besides prerequisites required by legal regulations, invoices shall at each time contain the following: a) a bank connection in the extent of IBAN, BIC (SWIFT); b) an order number of the invoice; c) the Contract number; d) the signature of a person issuing the invoice and a stamp of the Contractor.
- 7.4. Invoices issued in respect to advance payments must contain the designation "Advance Invoice".
- 7.5. If an advance payment was provided and/or a retention amount applied in respect to the Subject of Performance, the Contractor shall deduct them on a pro-rata basis in individual implementation invoices, unless the Contract provides for otherwise.
- 7.6. The due date of invoices shall be 60 days from the delivery thereof to SES.
- 7.7. An invoice or an advance payment shall be deemed paid on the day of debiting of the outstanding amount from SES's account. In case of any delay with payment of a duly issued invoice for the duly fulfilled Subject of Performance, the Contractor shall be entitled to charge SES interest for delay amounting to 0.02% of the outstanding amount for each day of delay.
- 7.8. A Party shall be entitled to return an invoice without being paid for and specify the reason of return thereon within the due date of the relevant invoice, if such invoice was issued contrary to the Contract. In case of an invoice issued contrary to the Contract, an issuing Party must correct it or revoke it and issue a new one. The due date of a new invoice shall be governed by Section 7.6. If a Party legitimately returns an invoice under this Section, it shall not be in delay with the invoiced payment. For the avoidance of doubts, if a Party fails to return an invoice issued contrary to the Contract within the period under the first sentence of this Section, this shall not result in the recognition of legitimacy of the invoice.
- 7.9. If SES is obliged under the Applicable Laws to pay a withholding tax or to retain tax from a payment towards the Contractor (so-called tax retention), the payment towards the Contractor shall be decreased by such tax. SES shall pay such tax retention on behalf of the Contractor to the relevant tax administrator.
- 7.10. If SES becomes obliged to pay taxes and/or fees either for the Contractor, Subcontractors or their employees, the Contractor shall, within 30 days upon receipt of a request from SES, reimburse to SES (i) such paid amount and (ii) any further costs or expenses incurred by SES (for example, if SES pays VAT for the Contractor to the tax administrator). The same procedure shall apply if SES reimburses taxes and fees for such persons in connection with a breach of their duties (in particular penalties, sanctions, interest and so forth). The Contractor shall promptly submit all necessary information and documents required by SES for the making of such payments. Other claims of SES under the Contract shall remain unaffected.
- 7.11. If the payments of SES towards the Contractor are governed by international double taxation treaties, the Contractor shall submit to SES, within 10 (ten) days from the execution of the Contract, as well as at any time for the duration of the Contract upon request of SES, a document of its tax residency, a document on the existence of a permanent operating unit, as well as any other document which SES, at its own discretion, may demand from the Contractor for the purposes of assessment of status of the Contractor in the aspect of the income tax in connection with the Subject of Performance. The Contractor shall be liable towards SES for data specified in the documents pursuant to the foregoing sentence being incorrect, incomplete, out-of-date or untrue and shall be obliged to indemnify SES for any damage incurred by SES. Other claims of SES under the Contract shall remain unaffected.
- 7.12. The Contractor shall submit to SES, within 10 (ten) days from the execution of the Contract, as well as at any time during the term of the Contract upon request of SES, a Contractor's document verifying its registration of a VAT payer in the country in which it makes a taxable transaction, a document on the existence of a VAT operating unit in such country as well as any other document which SES, at its own discretion, may demand from the Contractor for the purposes of assessment of status of the Contractor from the aspect of VAT in connection with the Subject of Performance. The Contractor shall be liable towards SES for data specified in the documents pursuant to the foregoing sentence being incorrect, incomplete, out-of-date or untrue and shall indemnify SES for any damage incurred by SES. Other claims of SES under the Contract shall remain unaffected. If the Contractor ceases to be a VAT payer during the term of the Contract, it shall notify SES within 3 (three) days from the occurrence thereof.
- 7.13. If the Contractor is included, at any time during the term of the Contract, in a list of persons, in respect of which the reasons have occurred for the cancellation of registration for VAT under Section 81 (4) (b) of the second paragraph of Act No. 222/2004 Coll. on Value Added Tax, as amended, the Contractor agrees to promptly notify SES thereof in writing. SES shall be entitled to retain amounts from invoices being issued by the Contractor corresponding to an amount of the invoiced VAT ("VAT Retention") from the day of the Contractor being listed in the list published by the Financial Administration of the Slovak Republic on the web site of the Financial Administration of the Slovak Republic regardless of the legal title of the total amount being invoiced. SES shall release the VAT Retention to the Contractor, decreased by the amounts which the relevant tax administrator asserted towards SES in accordance with the statutory guarantee of SES under Section 69b of Act No. 222/2004 Coll. on Value Added Tax, as amended, only if the Contractor is deleted from the list specified above in this Section and submits to SES a confirmation from the relevant tax administrator on the non-existence of arrears of the Contractor for VAT, not older than 5 (five) days. If SES or the Contractor withdraws from the Contract, SES shall be entitled to retain the VAT Retention until the moment the Contractor fulfills conditions for the release thereof under this Section. For the avoidance of doubts, retention of the VAT Retention by SES represents the payment in an amount of the VAT Retention for a payment of SES to the Contractor as of the moment of due date of the relevant invoice and subsequent retention of the VAT Retention. Other claims of SES under the Contract shall remain unaffected. The provisions of this Section shall also apply accordingly in similar cases where SES shall be liable and/or guarantee for obligations of the Contractor towards the Competent Authorities and/or third person under other Applicable Laws.
- 7.14. The provisions of this Article related to invoices shall also apply to the requirement to make an advance payment and/or the requirement to make a payment of the retention accordingly.
- 7.15. SES shall be entitled, at its own discretion, to satisfy any of its pecuniary receivables towards the Contractor under the Contract through a set-off, retention of a reasonable pecuniary amount payable to the Contractor. The Contractor shall not be entitled to set-off any of its receivables towards SES against receivables of SES towards the Contractor, or to satisfy the same in any other form of security.
- 8. Acceptance of the Subject of Performance**
- 8.1. The Contractor shall deliver, together with the Subject of Performance, all Documentation as well as (in case of the Goods) a) a delivery note which shall in particular contain: a number of the delivery note, a name of the Contractor, number of the Order, item number of the Order, date of dispatch and acceptance of a delivery, a number of units of a delivery, a unit of quantity, gross weight and net weight, price per unit, manner of transportation and possibly also a number of the means of transport, b) certificate of the quality and completeness of a delivery or a conformity declaration, c) document on the origin of a delivery and d) test certificate.
- 8.2. The delivery and acceptance of the Subject of Performance shall be confirmed by the Parties in a written acceptance protocol (the "Acceptance Protocol"). Upon delivery of the Subject of Performance to the Place of Performance the Contractor shall submit to SES documents proving the due fulfillment of the Subject of Performance, the Documentation and the Acceptance Protocol signed by the Contractor and shall request SES to sign the Acceptance Protocol.
- 8.3. SES shall not later than 60 (sixty) days from the fulfillment of the obligation of the Contractor pursuant to the second sentence of Section 8.2, (i) sign the Acceptance Protocol and deliver the same to the Contractor or (ii) reject the request of the Contractor, stating reasonable grounds thereof. A reasonable ground shall at each time be deemed the fact that the Subject of Performance has Defects, notwithstanding the scope and nature thereof or SES shall have a justified suspicion that such Defects exist and shall demand the Contractor to carry out the relevant test. The Contractor shall carry out a test required by SES at its own costs. If the Defect is not proven, the Contractor shall be entitled towards SES to the compensation of costs of such a test.
- 8.4. SES shall be entitled to sign the Acceptance Protocol at its own discretion, notwithstanding any Defects of the Subject of Performance. In such a case the Contractor shall remove defects of the Subject of Performance within a time period and in manner agreed to or determined by SES in writing. A list of defects, terms of the removal thereof as well as a manner of the removal thereof shall be specified in an annex to the Acceptance Protocol, confirmed by both Parties.
- 8.5. The Acceptance Protocol signed by the Parties shall be a document authorizing (i) the Contractor to issue an invoice for the relevant payment, (ii) SES, its customer and/or other person, to begin using the Subject of Performance in full extent. The execution of the Acceptance Protocol shall not affect other rights and obligations of the Parties, unless the Contract expressly provides for otherwise. In particular it is not an evidence that (i) the Subject of Performance was, at the time of the execution of the Acceptance Protocol by SES, regardless of the contents thereof, free from defects, and (ii) the Contractor has duly and on time fulfilled all its obligations under the Contract.
- 9. Transfer of Legal Title and Risk of Damage**
- 9.1. The Contractor shall bear, in the course of fulfillment of the Subject of Performance, a risk of damage to the Subject of Performance and shall be the owner of the Goods. The ownership of things procured by SES for the fulfillment of the Subject of Performance shall not pass over to the Contractor, but the Contractor shall bear a risk of damage to such things upon their acceptance from SES. The ownership of things for the maintenance, repair or adjustment shall not pass over to the Contractor, but the Contractor shall bear a risk of damage to such things upon their acceptance.
- 9.2. SES shall acquire the legal title to individual Goods at one of the following moments, whichever occurs earlier: (a) upon the transfer of a risk of damage to the Goods under Section 9.3; (b) by delivery to the Place of Performance or when SES is authorised to dispose of a consignment (if this relates to the Goods being transported); (c) by a payment of the Contract Price or its part; (d) by a moment immediately preceding the exit of the Goods from territory of the European Community if the Subject of Performance is designated, is to acquire legal title to such Goods. The provisions of this Section shall apply accordingly also to a transfer of the right to dispose of the Documentation as the owner to the extent of the Contract. The Contractor agrees to ensure in respect to the Subcontractors that the transfer of rights under this Section to SES shall not be contrary to a contract between the Contractor and the Subcontractor.
- 9.3. A risk of damage to the Subject of Performance shall pass over to SES upon the execution of the Acceptance Protocol.
- 10. Designation, Packaging and Transportation**
- 10.1. The Contractor shall designate, pack and prepare the Goods for transportation in the manner set out in the Contract. If the Contract does not provide how the Contractor is supposed to designate, pack and/or prepare the Goods for transportation, the Contractor shall be obliged to designate, pack and prepare the Goods for transportation in the manner which (i) is standard for the Goods in international business transactions, or (ii) if it is not possible to determine in such a manner, in a manner necessary for preservation and protection of the Goods. The packaging must be made in such a manner so that no physical damage to or other impairment of the Goods can occur during handling, transportation and storing. In case of the use of packaging from wood, the Contractor shall also ensure the issuance and submission of the relevant phytosanitary certificate.
- 10.2. The Contractor shall be liable for a correct designation of the Goods, for a correct use of shipment documents and if obliged to ensure transportation of the Goods, then also for the execution of contracts inevitable for the transportation thereof to the Place of Performance and/or the place of designation by duly chosen means of transport.
- 10.3. If the Subject of Performance is a delivery of the Goods designated for export to or from third countries – countries outside of the EU and Contractor shall arrange for export customs clearance, the Contractor shall submit to SES, as part of the Subject of Performance, all Documentation necessary to demonstrate export of the Goods under the relevant regulations in the Slovak Republic, specifically: (i) in export of the Goods to third countries from the EU, an accompanying document in export (EX) and a customs declaration confirming, by a customs authority, exit of the Goods from territory of the European Community (electronic document accepted from the customs authority – export confirmation), (ii) in case that transportation of the Goods is the Subject of Performance of the Contractor, the Documentation on dispatch or transportation of the Goods (for example, CMR, bill of lading, airway bill, carnet TIR and so forth). The Contractor shall submit the Documentation demonstrating export of the Goods to third countries to SES not later than: (i) within 15 (fifteen) days from an export confirmation by a customs body; an accompanying document in export (EX) within 5 (five) days from the release from the customs regime, and (ii) a bill of lading and an airway bill promptly upon the issuance thereof, but no later than within 5 (five) days, or (iii) CMR, CIM within 15 (fifteen) days from the confirmation by the recipient, and/or (iv) carnet TIR within 15 days from confirmation by a customs office at the place of designation. If a tax administrator or a custom body imposes/levies on SES sanctions or penalties for a failure to comply with the statutory obligation to receive documents and/or the Documentation demonstrating export of the Goods from the territory of the European Community, the Contractor shall be liable to SES any imposed sanctions or penalties as the compensation of damage in full within 10 (ten) days from the delivery of a calculation to the Contractor.
- 10.4. Delivery of the Goods, including transportation costs, shall be governed by agreed delivery term according to the INCOTERMS® 2010 rules. In case of any conflict between provisions of the Contract and the contents of the delivery terms and conditions, provisions of the Contract shall prevail.
- 10.5. The Contractor shall (i) not less than 10 (ten) days prior to a scheduled dispatch of its delivery, notify SES of the date of its dispatch, and (ii) on the day of dispatch of the Goods and an accompanying documentation and/or Documentation via

- facsimile and email notify SES of all information on transport and shipment documents.
- 10.6. If dispatching information is not known or complete at the time of the execution of the Contract, SES shall forward such information to the Contractor upon request within reasonable period prior to dispatch of the Goods.
- 10.7. If dispatch of the Goods is postponed based on a request of SES, the Contractor shall keep the Goods in storage free of charge with professional care and protect it against damage, impairment and loss. If such request of SES is not caused by a failure to meet obligations of the Contractor under the Contract, the Contractor shall be reimbursed for the costs reasonably incurred in the fulfillment of the above mentioned obligation for the time of fulfillment of such obligation, which exceeds 3 (three) months from the beginning of storing.
- 11. Quality Assurance**
- 11.1. The Subject of Performance must comply with the requirements of standards and/or regulations set out in the Contract. If such standards and/or regulations are not set out in the Contract, then standards and/or regulations of the country in which the Subject of Performance or the equipment for which the Subject of Performance is designated, shall be applied.
- 11.2. The Contractor agrees to comply, in implementation of the Subject of Performance, with requirements for the quality and environment management system according to ISO 9001:2008 and ISO 14001:2004.
- 11.3. If the Goods are designated for a project implemented by SES in an EU country, the Contractor shall submit to SES a document "Conformity Declaration" and shall designate the Goods with the mark "CE" in accordance with European legislation on conformity assessment. If the Goods are designated for a project implemented by SES outside of EU countries, the Contractor shall submit to SES a document on the declaration of quality and completeness and shall designate the Goods by a mark according to the legislation of a country of the Contractor.
- 11.4. The Contractor shall allow SES or its customer or a person authorized by them at any time to carry out, to a necessary extent, an audit of the quality management system with the Contractor and/or Subcontractors, not later than within 7 (seven) days from prior written notification of SES.
- 11.5. The Contractor shall ensure that the Subject of Performance meets all generally binding environmental legal regulations applicable at the agreed Place of Performance/place of designation. If the Subject of Performance is repeatedly contrary to the said regulations or if the Contractor fails to remove such discrepancy in a period stipulated by SES, SES may withdraw from the Contract.
- 11.6. SES and/or its customer shall be entitled, at any time in the course of implementation of the Contract, to inspect the Subject of Performance, or its part, to see that it complies with the terms and conditions agreed in the Contract. The Contractor shall bear all costs and expenses (including costs for the preparation of required accompanying technical documentation), which it incurs for positive result of any tests, controls or inspections under the Contract. The Contractor shall notify SES, not less than 14 (fourteen) days prior to the dates of the performance of tests, controls or inspections, of the date and place of the performance thereof and shall provide SES with all documents sufficiently in advance, but not less than 5 (five) days prior to the date of performance of the relevant test, control and/or inspection. In case that any test, control or inspection must be repeated for a reason on the side of the Contractor, the Contractor shall bear all costs and expenses pertaining to a repetition of such tests, controls or inspections, including the costs of SES, its customer, experts or inspectors, the attendance of which SES will deem necessary at the repeated tests. Other claims of SES under the Contract shall remain unaffected. No control discharges the Contractor from liability for the due and timely fulfillment of the Subject of Performance. The Contractor shall ensure that SES shall be authorized to exercise the rights under this Article also towards the Subcontractors.
- 12. Warranties and Warranty Period**
- 12.1. The Contractor shall be liable for any and all Defects to the extent and under the terms and conditions set out in the Contract, unless the Contract expressly provides for otherwise.
- 12.2. If SES ascertains at any time prior to the commencement of the Warranty Period that the Subject of Performance, or its part, contains Defects or there is a risk of such Defects, SES shall be entitled, at its own discretion, to (i) request the Contractor to remove such Defects, not later than within 24 (twenty four) hours from the notification to the Contractor of the Defect, (ii) remove the Defects itself or through a third person at the costs of the Contractor, (iii) reject the Subject of Performance, or its part, and continue in the fulfillment itself or through a third person at the costs of the Contractor. By exercising the rights under the foregoing sentence, SES shall not waive any other of its rights under the Contract. In such a case, the Contractor shall not be liable for further Defects only if (i) SES, or a third person authorized by SES, interferes with the Subject of Performance, or its part, in accordance with this Section, without due care and (ii) the Contractor warned SES in writing of a possibility of the occurrence of the Defects as a result thereof. The exclusion of liability of the Contractor under the foregoing sentence applies only to the Defects directly caused by the interference under the foregoing sentence.
- 12.3. Without prejudice to the extent of liability of the Contractor pursuant to Section 12.1, the Contractor shall be liable for the Subject of Performance maintaining, during the period set out in the first sentence of Section 12.4 (the "Warranty Period"), the agreed quality and complying in other aspects with requirements under the Contract (the "Warranty").
- 12.4. The Warranty Period starts running from the execution of the Acceptance Protocol, unless the Acceptance Protocol specifies an earlier date, and shall end (i) 24 (twenty four) months from the execution of the Acceptance Protocol, and (ii) upon the expiry of an actual or (iii) the project implementation by SES, whichever is later, for which the Subject of Performance is designated, whichever period is longer, in case of the project Documentation of the Contractor, including design. However, if the Applicable Laws or a guarantee of the Subcontractor towards the Contractor specify a longer warranty period in respect to individual parts of the Subject of Performance, such longer warranty period shall be in this part deemed the Warranty Period. The Contractor shall inform SES about all facts which pertain to the Warranty Period under the foregoing sentence and deliver to SES all documents, which it is necessary to submit in case of bringing claims for the Defect. For the avoidance of doubts, neither the execution of partial protocols from the side of SES, nor other conduct/omission of SES or its customer shall affect the beginning of application of the Warranty Period.
- 12.5. The Warranty Period pertaining to individual parts of the Subject of Performance runs separately. The provision on the beginning of application of the Warranty Period pursuant to Section 12.4 shall remain unaffected thereby. The Warranty Period pertaining to individual parts of the Subject of Performance is on hold from the moment of start of the running of a period for notification of the Defect pursuant to Section 12.6, if SES notifies the Contractor of such Defect in accordance with Section 12.6.
- 12.6. If SES ascertains during the Warranty Period that the Subject of Performance or its part contains Defects, SES shall deliver, within 20 (twenty) days from the day of such finding, a notice to the Contractor of such Defect. If the period under the foregoing sentence expires after expiration of the Warranty Period, a notice from SES of the Defect shall be deemed given within the Warranty Period, if SES delivers such notice to the Contractor not later than on the last day of the 20 (twenty) day period. As a notice given within the Warranty Period shall also be deemed a notice from SES of the Defect delivered to the Contractor within 20 (twenty) days upon discovery of the Defect, which SES ascertained after expiration of the Warranty Period, if this relates to (i) the Defect about which the Contractor knew or could have known not later than on the last day of the Warranty Period, if it acted with due care, but failed to notify SES of such defect and SES did not know about such Defect at that time; or (ii) the Defect which occurred upon expiration of the Warranty Period and which the Contractor knew or could have known not later than on the last day of the Warranty Period, if acted with due care, but the Contractor failed to notify SES of such facts not later than on the last day of the Warranty Period, and SES did not know about such facts at that time.
- 12.7. The Contractor shall deliver a written statement in respect to the notice pursuant to Section 12.6 and in respect to the facts and/or claims of SES specified therein and/or asserted without undue delay, but each time not later than within 5 (five) days from the delivery thereof.
- 12.8. If the Contractor fails to meet any of its obligations pursuant to Section 12.7, the notice of Defect pursuant to Section 12.6 shall be deemed eligible and the Defect, including a claim, if any, of SES asserted in such notice, shall be deemed acknowledged by the Contractor.
- 12.9. In case of the notice of Defect pursuant to Section 12.6, SES shall be entitled to assert, at its own discretion, in such notice or at any time thereafter, any from the following claims: (a) request the Contractor to remove the Defect depending upon its nature, in particular (i) a repair of the Subject of Performance, if the Defect can be repaired, (ii) a delivery of a replaced Subject of Performance, if the Defect cannot be repaired, (iii) a delivery of a missing part of the Subject of Performance and/or (iv) removal of a legal defect; (b) remove the Defect on its own or through a third person at the costs of the Contractor; (c) reject the Subject of Performance or its part and continue in the fulfillment on its own or through a third person at the costs of the Contractor; (d) request a reasonable discount on the Contract Price; or (e) withdraw from the Contract, if the Defect represents a material breach of the Contract.
- 12.10. The Contractor shall remove the Defect in the manner and time period determined by SES. If SES does not determine the time period for removal of Defect, the Contractor shall remove the Defect within 15 (fifteen) days from the assertion of a claim by SES. When the Contractor believes that it has removed the Defect, the Contractor shall (i) notify SES of such fact in writing, (ii) submit to SES documentation removing the Defect and a protocol signed by the Defect, and (iii) request SES to sign such protocol. The provisions of the GPC on the execution of the Acceptance Protocol shall apply to the execution of a protocol on removal of the Defect accordingly. Until the execution of a protocol on removal of the Defect, SES shall not be obliged to pay to the Contractor part of the Contract Price which would correspond to its claim to a discount on the Contract Price, a claim of SES for the reimbursement of costs and other claims of SES in relation to the Defect, if the Contractor did not remove the Defect. The Contractor shall remove the Defect and fulfill all pertaining duties at its own costs and risk. The Contractor shall remove the Defect regardless of whether the Contractor acknowledges its liability for the Defect or not.
- 13. Force majeure**
- 13.1. Force majeure is an extraordinary event and/or circumstance, (a) which has occurred after the execution of the Contract independent of a will and/or control of a Party; (b) which prevents such Party from the fulfillment of obligations under the Contract; (c) about which reasonable person in exercising due care could not have foreseen; (d) forecasted such event/circumstance at the time of the execution of the Contract, and/or (ii) mitigated, reverted and/or overcome the consequences of such event/circumstance; and (d) which is not attributable to the Party or to its customer (the "Force Majeure").
- 13.2. As the Force Majeure shall in particular be deemed the following events/circumstances provided that the criterions specified in Section 13.1 are met: (a) a war, a state of war, an invasion of enemy army, mobilization, terrorist attack; (b) a civil war, uprising, rebellion, civil riot, general strike; and/or (c) natural disasters or catastrophes, for example, earthquake, hurricane, typhoon, volcanic activity, flood, calamity. As the Force Majeure shall never be deemed any impairment of an economic situation of a Party, unless such impairment is a direct, main and immediate consequence of the event or circumstance meeting the criterions of definition of the Force Majeure. As the Force Majeure on the side of the Contractor shall never be deemed, except for the foregoing paragraph, (i) the lack of work forces, material, stock, energy, manufacturing/transportation capacities/means, and/or raw material, downtimes at work, accidents of means of transport, industrial accidents or accidents of the Contractor and/or Subcontractor, unless such situation is a direct, main and immediate consequence of the event or circumstance meeting the criterions of definition of the Force Majeure, and (ii) when the Contractor could fulfill, even partially, its obligation through the Subcontractor, including a hire of another Subcontractor for the part of the Subject of Performance for the fulfillment of which it has already hired the Subcontractor, regardless of additional pertaining costs.
- 13.3. A Party shall not be liable towards the other Party for a breach of its obligation under the Contract, if (i) a direct and main cause of such breach is the Force Majeure, but only to such extent and for the duration thereof, and (ii) a Party referring to the Force Majeure fulfills its obligations under Sections 13.4 and 13.5. However, a Party may never be discharged from the liability pursuant to the first sentence of this Section, if at the time of an occurrence of the Force Majeure it already had been in delay with the fulfillment of its obligation, in respect of which it refers to the Force Majeure.
- 13.4. A Party referring to the Force Majeure shall notify in writing the other Party of, and prove by reliable documents, an occurrence of the Force Majeure and consequences of the Force Majeure on the fulfillment of its obligations promptly, but not later than within 5 (five) business days from the day on which it learns about the Force Majeure or could have learned about it if acted with due care.
- 13.5. A Party referring to the Force Majeure shall take all necessary measures to mitigate further damage. Without prejudice to the obligation under the first sentence of this Section, if the Contractor refers to the Force Majeure, it shall at each time take all necessary measures to protect the Subject of Performance or its affected part.
- 13.6. If the Contractor elgibly refers to the Force Majeure and has fulfilled all its obligations pertaining thereto, it shall be entitled towards SES to a claim for a reasonable extension of the dates of performance (but no claim for the compensation of costs, or other claim), but not more than to the extent of duration of the Force Majeure, if it asserts such claim not later than within 30 (thirty) days from termination of the Force Majeure.
- 14. Withdrawal from Contract**
- 14.1. SES shall be entitled at any time to withdraw from the Contract, or its part, if: (a) the Contractor is in delay with the fulfillment of the Subject of Performance, or its part for more than 30 (thirty) days; (b) the Contractor fails to take the steps under Section 5.3 duly and on time or such steps are, in the opinion of SES, insufficient; (c) the amount of contractual penalties for a delay of the Contractor under the Contract exceeds 20% (twenty percent) of the total Contract Price; (d) the Contractor is not deleted

- from the list pursuant to Section 7.13 within 30 (thirty) days from the day of its listing in such a list; (e) the Contractor fails to remove the Defect in accordance with the Contract; (f) the Subject of Performance, or its part, contains the Defect which corresponds to a material breach of the Contract; (g) the Contractor breaches the Contract in a material manner; (h) the Contractor breaches the Contract in a manner other than the material manner and fails to remedy such breach within an additional reasonable period of time from the delivery of a request from SES for remedy; (i) the Contractor materially or repeatedly breaches any Applicable Laws; (j) over assets of the Contractor, a bankruptcy, restructuring or other proceeding with the aim of collective satisfaction of creditors of the Contractor is declared; (k) the Contractor is insolvent, or the Contractor is, according to a justified opinion of SES, in a situation in which it is not able to duly and/or on time fulfill its obligations; (l) the Force Majeure, regardless of which Party it affects, is in place continuously for a period exceeding 2 (two) months or in total of all events of Force Majeure for more than 4 (four) months. SES may withdraw from the Contract also if its customer for whom the Subject of Performance is designated, has withdrawn from a contract with SES or otherwise terminated such contract or if SES has withdrawn from such contract with its customer. In such a case the Contractor shall only be entitled to the compensation of costs, which it has reasonably incurred as of the date of withdrawal from the Contract, and the expenditure of which it shall demonstrate by a submission of the relevant written documents, and (ii) which under no circumstances shall include any profit (nor lost one) of the Contractor.
- 14.2. The Contractor shall be entitled at any time to withdraw from the Contract, or its part, (a) if SES is in delay with the payment of an invoice for the Contract Price or with partial payments exceeding 30% of the total Contract Price for more than 150 (one hundred fifty) days, and fails to remedy such breach within an additional period of 30 (thirty) days from delivery of a written request from the Contractor; (b) if the Force Majeure, regardless of which Party it affects, is in place continuously for more than 2 (two) months or in total of all events of the Force Majeure for more than 4 (four) months. However, the Contractor shall not be entitled to withdraw from the Contract under this Section after the expiration of 30 (thirty) days from the day on which it learned about such reason or could have learned, if acted with due care.
- 14.3. Any withdrawal from the Contract shall be made in writing with specification of the reason for the withdrawal, if the Contract so requires, and must be delivered to the other Party in a manner which can be proven. By withdrawal from the Contract the Contractor shall be terminated upon delivery of a notice thereof to the other Party. The rights and obligations of the Parties established prior to the withdrawal shall remain unaffected, in particular (i) claims for the compensation of costs; (ii) claims for the compensation of damages; (iii) claims for contractual penalties, interests, interest for delay and other sanctions stipulated in the Contract; (iv) rights and obligations from warranties; and (v) the right of SES to the VAT Retention; and (vi) other obligations of the Parties which given to their nature are to survive the termination of the Contract.
- 15. Contractual penalties**
- 15.1. SES shall be entitled to demand from the Contractor the reimbursement of a contractual penalty in the amount of: (a) 100% of the total Contract Price, if the Contractor breaches any of its obligations under Sections 20.2 and 20.3; (b) 1% (one percent) of the total Contract Price for each commenced day of delay of the Contractor with fulfillment of any part of the Subject of Performance, for each such part of the Subject of Performance separately; (c) 0.5% (point five percentage) of the total Contract Price for each commenced day of delay of the Contractor with removal of the Defect.
- 15.2. A contractual penalty shall be payable within 30 (thirty) days from the delivery of a request for the payment thereof together with the calculation thereof to the Contractor.
- 15.3. The Contractor's obligation to fulfill the obligation secured by a contractual penalty shall not extinguish by the assertion and/or payment of a contractual penalty.
- 15.4. A claim of SES for the compensation of damage towards Contractor shall not be affected by the assertion and/or payment of a contractual penalty. The provision of the foregoing sentence shall also equally apply to other claims of SES towards the Contractor arising out of any breach of obligation secured by a contractual penalty.
- 16. Compensation for Damage**
- 16.1. The Party that breaches its obligation arising from the Contract is liable to other Party for caused damage.
- 16.2. As part of a claim for the compensation of damage, the Contractor shall never be entitled towards SES to the compensation of (i) lost profit, (ii) any additional costs incurred by the Contractor as a result of the breach of a legal obligation by SES in preventing the occurrence of further damage or in mitigating the consequences of damage; (iii) costs pertaining to the enforcement of claims under the Contract, whether before the relevant court or not, and (iv) losses of the Contractor incurred as a result of the assertion of claims by third persons. Notwithstanding the foregoing sentence, a claim of the Contractor for the compensation of damage towards SES may never exceed the total Contract Price. The restrictions under this Section shall not apply, if SES has caused damage to the Contractor willfully.
- 16.3. The Contractor shall adopt all reasonable measures to mitigate damage which has occurred or may occur.
- 17. Intellectual Property Rights**
- 17.1. The Contractor shall hold SES harmless against the claims of third persons and indemnify SES for all claims and requirements caused due to any violation of intellectual property rights, in particular, copyrights and industrial rights (trade name, patents, utility models, technical solutions, designs, right for the designation of goods and services, trademarks and so forth), and/or other protected rights of third persons in connection with the Subject of Performance.
- 17.2. If the Contractor violates the rights pursuant to Section 17.1, it shall promptly ensure for SES, upon request from SES, all rights necessary to use the Subject of Performance or shall, upon consent from SES, replace the Subject of Performance or its part with such performance, in respect of which there will be no violation of such rights.
- 17.3. The Contractor shall transfer, free of charge, to SES and/or its customer, the right to use, free from restrictions, the Subject of Performance or its part protected by the rights pursuant to Section 17.1. The right to use the Subject of Performance shall also include the right to make changes or repairs on the Subject of Performance or its part protected by such rights, as well as to further transfer such rights to third persons. SES and its customer shall be entitled to assign such rights to third parties, including the tangible carriers thereof, for the purpose of making spare parts, carrying out adjustment/repair, as well as using the Subject of Performance.
- 18. Confidentiality of Information**
- 18.1. The Contract and all information contained therein, as well as all information which the Parties have exchanged and provided in connection with the Contract and its fulfillment, are confidential information. The Parties agree not to disclose any confidential information and use such confidential information to a necessary extent and only for the purposes of implementation of the Contract.
- 18.2. Notwithstanding other Sections of this Article, SES shall be entitled to provide any confidential information to its customer.
- 18.3. The obligations of the Parties set out in this Article shall also survive the termination of the Contract.
- 19. Governing Law and Dispute Resolution**
- 19.1. Without prejudice to the provisions of the Contract regulating the connection between the Contract and the governing law, the governing law for the legal relationship established by the Contract shall be the substantive law of the Slovak Republic. Provisions of UNO treaties on international purchase of goods shall not apply to the legal relationship established by the Contract.
- 19.2. If any disputes between the Parties arise out of and/or relate to the Contract, the Parties agree to exert reasonable efforts for its amicable settlement. Slovak courts shall have jurisdiction over the final resolution of any dispute between the Parties arising out of and/or related to the Contract. The provision of the foregoing sentence shall not prevent a Party from seeking the imposition of a preliminary injunction against the other Party also before the courts of other country, if necessary for the protection of rights of the first Party. No dispute between the Parties arising out of and/or related to the Contract shall discharge the Contractor from the duty to duly and on-time fulfill its obligation under the Contract.
- 20. Final Provisions**
- 20.1. Amendments to the Contract** Unless the Contract expressly provides for otherwise, the Contract (including rights and obligations ensuing therefrom and the security thereof) may only be amended or supplemented by a written agreement.
- 20.2. **Assignment** The Contractor agrees that in case of a request of the customer of SES, for which the Subject of Performance is designated, all rights and obligations of SES from the Contract shall be assigned to such customer. The Contractor shall not be entitled to assign and/or transfer to a third person, in full or partly, any of its rights and/or obligations under the Contract without prior written consent from SES. Such action is ineffective towards SES.
- 20.3. **Security interest** The Contractor shall be entitled to create a security interest in favor of a third person over a thing, right or other property value, which have occurred and/or will occur from the Contract or in connection with the Contract only with prior written consent of SES.
- 20.4. **Entire Agreement** The Contract contains full and final agreement between the Parties. Any and all other previous arrangements, correspondence, agreements, representations, assurances, commitments, regardless the form thereof, shall not be taken after the execution of the Contract into consideration.