**No ..............……/ОП-И/17**

This day, ..........................................., in the *city of Sofia*, by and between:

THE MINISTRY OF FOREIGN AFFAIRS, of 2, Aleksandar Zhendov Str., Sofia, BULSTAT No. 000695228, represented by Kalin Anastasov – chief secretary and authorized Contracting Entity in compliance with Order No. 95-00-506/20.12.2016 of the Minister for Foreign Affairs and Iskra Grigorova-Zorovska – chief accountant, hereinafter referred to as CONTRACTING ENTITY, of the one part,

and

**[*Name of the contractor*]**,

with address: [*contractor’s address*] / company seat and registered address: ................................................................, UIC /code in the BULSTAT Register/ registration number or any other identification code […] [and VAT ID number […]],

represented by [*name(s) of the person(s), representing the contractor*], in the capacity of [*positions(s) of the person(s), representing the contractor*], [according to [*document or act on which the powers of the person(s) representing the contractor are based – where applicable*]],

hereinafter for brevity referred to as **CONTRACTOR**, of the other part,

The CONTRACTING ENTITY and the CONTRACTOR shall jointly be referred to as „**Parties**“ and each of them individually – as a „**Party**“;

**on the grounds of** Article 112, paragraphs 1 and 4 of the Public Procurement Act („**PPA**“) and on the grounds of Decision No ...................2017 for selection of CONTRACTOR by the chief secretary of MFA (the CONTRACTING ENTITY) of public procurement with subject: “Ensuring of publicity through media and communication services to the Bulgarian Presidency of the Council of the European Union outside the Republic of Bulgaria”,

this **Contract** was entered into, as follows:

**І. SUBJECT OF CONTRACT**

**Article 1.** The CONTRACTING ENTITY shall assign and the CONTRACTOR shall undertake to ensure publicity through media and communication services to the Bulgarian Presidency of the Council of the European Union outside the Republic of Bulgaria, against charge and under the terms of this Contract comprising the services, described in detail in the Technical Specification, (Annex 1), Technical proposal – Tender for implementation of the public contract (Annex 2), hereinafter for brevity referred to as the „**Services**“.

CODE under PPC 79416200 – Consultancy services in public relations.

**Article 2.** (1) The CONTRACTOR shall undertake to provide the Services in conformity with the Technical Specification, the Technical proposal of the CONTRACTOR and the Price proposal of the CONTRACTOR, being respectively Annexes No. 1, No. 2 and No. 3 to this Contract (the „**Annexes**“) and constituting integral part hereof.

**(3)** Within 7 (*seven*) days of execution of the Contract, but not later than the start of its performance, the CONTRACTOR shall notify the CONTRACTING ENTITY of the names, contact details and the representatives of the subcontractors indicated in the CONTRACTOR’s bid. The CONTRACTOR shall notify the CONTRACTING ENTITY of any changes to the information made available in the course of the performance of the Contract within 3 (*three*) days of occurrence of the respective circumstance.(*where applicable*)[[1]](#footnote-1)]

**ІІ. CONTRACT TERM. PERFORMANCE PERIOD AND LOCATION**

**Article 3.** (1) The Contract shall enter into force on 15.12.2017 and be in effect until the discharge of all obligations assumed under the Contract, but not later than 30 (thirtieth) of July, 2018.

**(2).** The period for performance of the Services shall be 7 months, as of 01.01.2018.

**(3)** The period from 15.12.2017 to 31.12.2017 shall be of a “preparatory and organization” nature for coordination of the activities, envisaged to be carried out in implementation of the Concept and the Plan – schedule annexed, between the Contracting Entity and the Contractor. **The specific deadlines for carrying out the individual activities shall be determined in a Plan – schedule and accompanying schedules, prepared by the CONTRACTOR, forming integral part of the Technical proposal – Annex No 2.** (the „**Schedule(s)**“), shown in the bid.

**Article 4.** The Contract performance location shall be in the city of Brussels, Kingdom of Belgium, where the bulk of the activity under the contract would be performed and in the city of Sofia – where ancillary activities would be performed, as well as other cities in Bulgaria and other states in the European Union, in conformity with the Technical proposal of the Contractor and in conformity with the minimum requirements of the Technical Specification.

**ІІІ. PRICE, PAYEMENT MODE AND TERMS.**

**Article 5.** **(1)** In exchange for the provision of the Services the CONTRACTING ENTITY shall undertake to pay the CONTRACTOR a total price in the amount of ……… (…………………………) (*indicate the price net of VAT, in figures and words*) BGN net of VAT and ……… (…………) (*indicate the price including VAT, in figures and words*) BGN including VAT (hereinafter referred to as the „**Price**“ or the „Contract value“), in accordance with Price proposal of the CONTRACTOR, constituting Annex No 3.

**(2)** The Price under paragraph 1 shall include all costs of the CONTRACTOR for the provision of the Services, including also the costs of personnel, who will be performing the contract and/or the management members, who will be responsible for the performance [and for its subcontractors] (*where applicable*)] and the CONTRACTING ENTITY shall not owe payment for any other costs, incurred by the CONTRACTOR.

**(3)** The Price, indicated in paragraph 1, shall be fixed/final for all activities, related to the provision of the Services, indicated in the Price proposal of the CONTRACTOR, for the period of Contract performance and shall not be subject to change.

The agreed price shall cover all direct and indirect costs for performance of the Contract, as well as any taxes and charges payable and shall not be subject to change except in the cases, expressly agreed in this Contract and in conformity with the provisions of the PPA. [In case the VAT rate would be changed during the Contract performance, the price shall be deemed changed automatically, in conformity with the legally prescribed tax rate, without need of signing of any additional agreement.]

**Article 6.** TheCONTRACTING ENTITY shall pay the CONTRACTOR the Price under this Contract, as follows:

**(1) advance payment** in the amount of 10% (ten per cent) of the Price – within 15 (*fifteen*) business days, as of the date of signing of the Contract, based on and following submission to the Budget and Finances Directorate of MFA of an original invoice for the amount due, issued by the CONTRACTOR;

**(2)** **intermediate payments** in the amount of up to 60% (sixty per cent) of the Price, i.e. each of 10% of the total value, within 15 (fifteen) business days following expiry of the respective month (from 31.01. to 30.06.2018), on the basis of the following documents:

1. monthly report concerning the Services (activities) performed for the previous month, submitted by the CONTRACTOR to the CONTRACTING ENTITY;

2. acceptance protocol concerning acceptance of the Services for the respective month, signed by authorised representatives of the CONTRACTING ENTITY and the CONTRACTOR following receipt of the report under point 1, subject respectively to compliance with the provisions of Article 23, Section VI (Transfer and acceptance of performance) of the Contract; and

3. original invoice concerning the portion of the Price due for the respective period, issued by the CONTRACTOR and submitted to the CONTRACTING ENTITY.

**(3)** **final payment** in the amount of 30% (thirty per cent) of the Price – within 15 (*fifteen*) business days, based on and following submission to the B&F Directorate of MFA of the following documents:

1. final report concerning the overall performance of the Contract, submitted by the Contractor;

2. acceptance protocol concerning acceptance of the Services, signed by authorised representatives of the CONTRACTING ENTITY and the CONTRACTOR following receipt of the report under point 1 of the Contract; and

3. original invoice concerning the portion of the Price due, issued by the CONTRACTOR and submitted to the CONTRACTING ENTITY.

**(4)** Payment shall be denied in case of receipt of information in regard to the contractor from the National Revenue Agency or the Customs Agency of existence of public liabilities, in accordance with Decision of the Council of Ministers No. 593/20.07.2016. In such a case the payment shall be made in accordance with instructions of the revenue and customs administrations.

**Article 7. (1)** All payments under this Contract shall be made in Bulgarian Levs, by bank transfer to the following bank account of the CONTRACTOR:

Bank: […………………………….]

BIC: […………………………….]

IBAN: […………………………….].

**(2)** The Contractor shall be obliged to notify in writing the Contracting Entity of all subsequent changes under paragraph 1 within 3 (*three*) days of the moment of such change. If the Contractor omit to notify the Contracting Entity within the said deadline it shall be deemed that the payments were duly made.

**[(3).** [[2]](#footnote-2): [Where for any part of the Services, which is being performed by a subcontractor, the performance may be accepted separately from the provision of the other Services, the subcontractor shall submit to the CONTRACTOR a report regarding the performance of the respective part of the Services [for the respective period/ the respective activity], together with a request for payment for that part directly to the subcontractor.]

(4) The CONTRACTOR shall undertake to submit to the CONTRACTING ENTITY the report and the request for payment of the subcontractor within 15 (fifteen) days of receipt thereof together with an opinion, showing whether it disputes any payment or any part thereof as being undue.

(5) The CONTRACTING ENTITY shall accept the performance of the part of the Services, while respectively complying with the provisions of Section VI (Transfer and acceptance of performance) of the Contract and pay remuneration for the said part to the subcontractor within 15 (*fifteen*) days of the signing of the acceptance protocol. The CONTRACTING ENTIT may refuse to make payment in case the request for payment would be disputed by the CONTRACTOR, pending the elimination of the cause of the refusal.

**ІV. PERFORMANCE GUARANTEE**

**Article 8.** Upon the signing of this Contract the CONTRACTOR shall submit to the CONTRACTING ENTITY a performance guarantee in the amount of 2% (two per cent) of the Contract value net of VAT, namely ……… (…………………………) BGN (the „**Performance guarantee**“), which shall serve as security for the fulfilment of the obligations of the CONTRACTOR under the Contract.

**[ (1)** In case of amendment of the Contract[[3]](#footnote-3), introduced in conformity with this Contract and with applicable law, including where such amendment is related to an indexation of the Price, the CONTRACTOR shall undertake to make the necessary steps for bringing the Performance guarantee into conformity with the amended Contract terms, within 7 (seven) days of the signing of a supplementary agreement concerning the amendment.

**(2)** The steps for bringing the Performance guarantee into conformity with the amended Contract terms may include at the choice of the CONTRACTOR:

1. depositing of an additional monetary amount to the bank account of the CONTRACTING ENTITY, in compliance with the requirements of paragraph 3; and/or;

2. submission of document of amendment of the original bank guarantee or of a new bank guarantee, subject to the requirements of Article10 of the Contract; and/or

3. submission of document of amendment of the original insurance policy or of a new insurance policy, subject to the requirements of Article 11 of the Contract.

**Article 9.** Where the Performance guarantee is in the form of a monetary amount, the latter shall be deposited to the bank account of the CONTRACTING ENTITY:

Bank: […………………………….]

BIC: […………………………….]

IBAN: […………………………….]].

**Article 10. (1)** Where the performance guarantee is in the form of a bank guarantee, the CONTRACTOR shall deliver to the CONTRACTING ENTITY an original of the bank guarantee, issued in favour of the CONTRACTING ENTITY, which must conform to the following requirements:

1. constitute an unconditional and irrevocable bank guarantee in a form, agreed in advance with the CONTRACTING ENTITY/contain a commitment by the guaranteeing bank to make payment upon first written demand by the CONTRACTING ENTITY, declaring that a default exists on the part of the CONTRACTOR or any other grounds for withholding the Performance guarantee under this Contract;

2. remain valid throughout the entire Contract term plus 30 (thirty) days following termination of the Contract and if necessary the validity term of the bank guarantee shall be extended or a new one must be issued.

**(2)** Any bank charges for establishment and maintenance of the Performance guarantee in the form of a bank guarantee, as well as the conditions for withdrawal of funds on the part of the CONTRACTING ENTITY, where grounds for this are in place, shall be at the expense of the CONTRACTOR.

**Article 11. (1)** Where the Performance guarantee is in the form of an insurance policy, the CONTRACTOR shall deliver to the CONTRACTING ENTITY an original of the insurance policy, issued in favour of the CONTRACTING ENTITY/in which the CONTRACTING ENTITY is named as a third-party beneficiary, which must conform to the following requirements:

1. secure the performance of this Contract by covering the liability of the CONTRACTOR;

2. remain valid throughout the entire Contract term plus 30 (thirty) days following termination of the Contract

**(2)** The costs of execution of the insurance Contract and for maintaining the validity of the insurance policy for the required term, as well as for each payment of insurance compensation in favour of the CONTRACTING ENTITY, where grounds for this are in place, shall be at the expense of the CONTRACTOR.

**Article 12. (1)** The CONTRACTING ENTITY shall release the Performance guarantee within 20 (*twenty*) days of termination of the Contract, of completion of the performance of the Contract and of the final acceptance of the full volume of services, in case no ground would exist for keeping back by the CONTRACTING ENTITY of any amount under it.

**(2)** The procedure for releasing the Performance guarantee shall be, as follows:

1. where it is in the form of a monetary amount – by transferring the amount to the bank account of the CONTRACTOR, indicated in Article 7, paragraph 1 of the Contract;

2. where it is in the form of a bank guarantee – by returning its original to a representative of the CONTRACTOR or to a person, authorized by it;

3. where it is in the form of an insurance policy – by returning the original of the insurance policy/ insurance certificate to a representative of the CONTRACTOR or to a person, authorized by it / delivering a written notice to the insurer.

**(3)** The guarantee or a respective portion of it shall not be released by the CONTRACTING ENTITY, if in the process of the Contract performance a dispute would arise between the Parties concerning non-performance of obligations by the CONTRACTOR and the matter had been referred for resolution to a court. In case of outcome in favour of the CONTRACTING ENTITY the same shall be entitled to proceed to absorption of the guarantee.

**Article 13.** The CONTRACTING ENTITY shall be entitled to withhold back a respective part and to draw from the Performance guarantee, where the CONTRACTOR would fail to perform any of its obligations under the Contract, as well as in cases of poor quality, incomplete and delayed fulfilment of any obligation of the CONTRACTOR, by absorbing such a portion of the Performance guarantee, as would correspond to the penalty for the respective case of default, agreed in the Contract.

**Article 14.** TheCONTRACTING ENTITY shall be entitled to withhold the Performance guarantee in full in the following cases:

1. if the CONTRACTOR would fail to start the performance of the Contract for a period in excess of 30 (*thirty*) days as of the Date of entry into force and the CONTRACTING ENTITY would cancel the Contract on that ground;

2. in case of complete non-performance, incl. where the Services would not conform to the requirements of the CONTRACTING ENTITY and the latter would cancel the Contract on that ground;

3. in case the CONTRACTOR ceases its activities or is declared bankrupt.

**Article 15.** In all instances of withholding the Performance guarantee the CONTRACTING ENTITY shall notify the CONTRACTOR of this measure and for its grounds. The withholding of the Performance guarantee, as a whole or in part, shall not exhaust the rights of the CONTRACTING ENTITY to seek compensation in greater amount.

**Article 16.** Where the CONTRACTING ENTITY would draw on the Performance guarantee and the Contract would remain in effect the CONTRACTOR shall undertake, within 7 (*seven*)] days, to supplement the Performance guarantee, by depositing the amount drawn down by the CONTRACTING ENTITY to the latter’s account or by submitting a documents of amendment of the original bank guarantee or of a new bank guarantee, respectively an insurance policy, so that at any time during the validity of the Contract the amount of the Performance guarantee would remain in the amount of 2% of the Contract value.

**General provision concerning the Performance guarantee**

**Article 17.** The CONTRACTING ENTITY shall not owe interest for the period of time, during which the funds from the Performance guarantee have remained lawfully in its possession.

**V. RIGHTS AND OBLIGATIONS OF THE PARTIES**

**Article 18.** The listing of specific rights and obligations of the Parties in this Section of the Contract shall be non-exhaustive and shall not impact the effect of other clauses of the Contract or of the applicable law, creating rights and/or obligations for any of the Parties.

**General rights and obligations of the CONTRACTOR**

**Article 19. The CONTRACTOR shall be entitled to:**

1. receive remuneration in the amount, deadlines and under the terms of this Contract;

2. require and receive from the CONTRACTING ENTITY the assistance required for performance of the obligations under this Contract, as well as all requisite documents, information and data, directly relevant or required for the Contract performance.

**Article 20. The CONTRACTOR shall undertake to:**

**1**. provide the Services and fulfil its obligations under this Contract within the agreed terms an up to a high quality standard, in conformity with the Contract and the Annexes;

**2.** prepare and submit to the CONTRACTING ENTITY the statements/reports/materials, envisaged under the Contract;

**3**. revise and/or supplement the Concept presented in the bid (if required) within the term prescribed by the CONTRACTING ENTITY, if the latter would have so requested, which shall be reflected in the monthly reports under Article 23, paragraph 1;

**4.** inform in due course the CONTRACTING ENTITY of all obstacles, encountered in the course of performance of the work, to propose a way for eliminating them and may request from the CONTRACTING ENTITY instructions and/or assistance for their elimination;

**5**. fulfil all lawful instructions and requirements of the CONTRACTING ENTITY;

**6.** protect the Confidential information, in conformity with the provisions of Article 37 of the Contract;

**7.** refrain from changing the composition of the personnel, who will be assigned to performance of the Services, absent prior written agreement on the part of the CONTRACTING ENTITY.

**8.** take part in all working meetings, related to the performance of this Contract, with the Contracting Entity and its representatives, for discussion of specific requirements and coordination of activities under the Plan fir implementation of the Concept;

**9.** ensure adherence to the Technical Specification;

**10.** ensure an office in at least one of the European capitals, where the main European institutions are situated and to undertake to ensure a working environment in at least two other European capitals for the period of performance of the procurement.

**11.** prepare and submit a monthly report of the activities for performance of the Contract, in accordance with Article23 of the Contract;

**12**. prepare weekly analyses of media coverage – to be submitted electronically to the contact person, designated under the Contract,

**13.** prepare a final report concerning the overall implementation of the Contract, in accordance with Article 23 of the same;

**14.** prepare weekly analyses of the efficiency of the online campaigns and the communication in social media – to be submitted electronically to the contact person, designated under the Contract;

**15.** ensure the required media coverage for reporting on the sessions, meetings and events from the calendar of the Presidency throughout the term of the Contract;

**16**. prepare for communication key messages, corresponding to the priorities of the Presidency and specific examples, illustrating the importance and impact of the Presidency and of the EU;

**17.** ensure and implement innovative, creative and affective communication measures/activities, described in detail in the Concept and in the Implementation plans, forming integral part of the bid submitted;

**18.** assist the functions of Bulgarian officials and ministers for their coverage by foreign media;

**19.** inform of the results and accomplishments of the Presidency by organizing press conferences, interviews, media visits, informal meetings and other types of fora for publicizing the work of the Presidency among the target audiences following prior coordination with the Contracting Entity;

**20.** coordinate with the Contracting Entity (the officials designated by it) all of its activities in fulfilment of the Technical Specification, at least 3 (three) business days prior to the respective event;

**21.** refrain from assigning the work or parts thereof to subcontractors, other than those indicated in the CONTRACTOR’s bid except in cases and under terms, envisaged in the PPA, and to monitor the fulfilment of their obligations (*where applicable*)];

**22.** [The Contractor shall undertake to enter into subcontract/s with the subcontractors, indicated in its bid, within 3 days of the execution of this Contract. Within 3 (*three*) days of execution of a subcontract or of a supplementary agreement for substitution of a subcontractor, indicted in the bid, the contractor shall deliver a copy of the Contract or of the supplementary agreement to the Contracting Entity along with evidence that the conditions under [Article 66, paragraphs 2](http://web.apis.bg/p.php?i=2752471#p28982788) and [11 of PPA](http://web.apis.bg/p.php?i=2752471#p28982788) have been met (*where applicable*)]

**General rights and obligations of the CONTRACTING ENTITY**

**Article 21. The CONTRACTING ENTITYЯТ shall be entitled to:**

**1.** request and receive the Services within the deadlines agreed, in quantity and of quality in accordance with the Technical Specification and the Proposal for performance of the procurement;

**2**. in case of need and following a reasoned proposal, to demand from the Contractor to revise and/or supplement the Concept and Plan-schedule(s) proposed and accepted in the bid within the framework of the financing ensured, manifested in a change (rescheduling) in time of the conduct of any of the activities proposed in the Concept and/or in supplementing or rendering of more specific of the activities planned (where applicable).

3. control the fulfilment of the obligations, assumed by the CONTRACTOR, incl. to request and receive information from the CONTRACTOR throughout the Contract term or to conduct inspections, if required at the site of the Contract performance, without unduly interfering with the performance;

4. coordinate and approve all materials prepared and/or activities envisaged (planned) of the Contractor and to require, if need be and at own discretion, a justification on the part of the CONTRACTOR of the materials prepared by it or of any part of them;

5. require from the CONTRACTOR to revise or develop further any materials/reports;

6. refuse to accept any of the reports;

**Article 22. The CONTRACTING ENTITY shall undertake to:**

**1.** accept the performance of the Services for each specific period and any activity, if they meet the agreed requirements, under the terms and procedure of this Contract;

**2.** pay the CONTRACTOR the price in the amount, under the terms and procedure envisaged in this Contract;

**3.** provide and ensure access by the CONTRACTOR to the information, required for the performance of the Services, subject of this contract, subject to any relevant requirements or restrictions in accordance with applicable law;

**4.** keep secret any Confidential information, in conformity with Article 37 of the Contract;

**5.** render assistance to the CONTRACTOR in connection with the performance of this Contract, including for elimination of any obstacles in the way of the Contract performance, should the CONTRACTOR so request;

**6.** approve in writing, in one of the manners of correspondence described, the Contractor’s materials/activities;

**7.** release the Performance guarantee submitted by the CONTRACTOR, in accordance with the Contract clauses;

**VІ. TRANSFER AND ACCEPTANCE OF PERFORMANCE**

**Article 23. (1)** The performance of the Services for each individual month shall be documented by a report, describing the activities included in the Concept and the plan-schedule, attached to it or any parts thereof, which have been completed. The same shall be submitted by the contractor within 5 business days following the expiry of the respective month, starting from 31.01.2018.

(2) The reports shall be accepted based on protocol of transfer-and-acceptance, signed by representatives of the CONTRACTING ENTITY and the CONTRACTOR[[4]](#footnote-4) in two originals – one for each Party („**Protocol of transfer-and-acceptance**“), within 5 business days of submission of the report for the respective month;

(3) Following the expiry of the Contract term the Contractor shall prepare and make available within 5 (five days) a final report on the overall performance of the Contract;

**Article 24. (1)** The CONTRACTING ENTITY shall be entitled to:

1. accept the performance, when in conformity with the content agreed;

2. require revision and/or supplementing of the statements/reports within a term specified by it and in such a case any revision and/or supplementing shall be made within the term specified by the CONTRACTING ENTITY and entirely at the expense of the CONTRACTOR. In case non-conformities would be established between the work performed and the content agreed or shortcomings would be found the CONTRACTING ENTITY may refuse to accept the performance pending the correction of the shortcomings and specify an appropriate time limit for their elimination at the expense of the CONTRACTOR;

3. refuse to accept the performance in case of substantial deviations from the content agreed /if the shortcomings found would be of such a nature, as may not be corrected during the performance term of the Contract/or the result of performance would become useless for the CONTRACTING ENTITY.

**(2)** The final acceptance of the performance of Services under this Contract shall be made by a final Protocol of transfer-and-acceptance, to be signed by the Parties within 7 (*seven*) days of delivery by the Contractor of the report under Article 23, paragraph 3. If at that point shortcomings would be found in the performance, they must be described in the final Protocol of transfer-and-acceptance and an appropriate time limit imposed for their elimination or a sanction must be imposed, in accordance with Articles [25 – 29] of the Contract.

**VІІ. SANSTIONS FOR NON-PERFORMANCE**

**Article 25.** In case of delayed performance of obligations under this Contract the Party at fault shall owe the compliant one a penalty in the amount of 0.1% of the Price for each day of delay, but not exceeding 10% (ten per cent) of the Contract value.

**Article 26.** In case of finding poor quality or other type of incorrect performance of any individual activity or of departure from the requirements of the CONTRACTING ENTITY, indicated in the Technical Specification and in case the repeated performance of the service would be of poor quality, the CONTRACTING ENTITY shall be entitled to withhold the performance guarantee and to cancel the Contract.

**Article 27.** In case of cancellation of the Contract due to default by any of the Parties, the Party at fault shall owe a penalty in the amount of 10% (ten per cent) of the Contract value.

**Article 28.** The CONTRACTING ENTITY shall be entitled to withhold any penalty, owed under this Contract, by subtracting an amount from the Performance guarantee, by notifying in writing the CONTRACTOR thereof.

**Article 29.** Payment of the penalties, agreed in this Contract, shall not affect the right of the compliant Party to demand actual performance and/or compensation for any damage suffered and benefits foregone in greater amounts, in accordance with applicable law.

**VІІІ. TERMINATION OF THE CONTRACT**

**Article 30.** (1) This Contract shall be terminated:

1. upon expiry of the Contract Term;

2. upon complete performance of all obligations of the Parties under it;

3. upon occurrence of complete objective impossibility to perform, of which fact the Party affected must notify the other Party within 7 (seven) days of occurrence of the impossibility;

4. upon dissolution of a legal entity – Party to the Contract – without legal succession, within the meaning of the legislation of the state, in which the respective person is established;

5. under the terms of Article 5, paragraph 1, point 3 of LEFRCRPTJRPRTTBO [*Law on economic and financial relations with companies, registered in preferential tax regime jurisdictions, their related persons and their beneficial owners*].

**(2)** The Contract may be terminated.

1. by mutual consent of the Parties, expressed in writing;

2. in case insolvency or liquidation proceedings would be instituted against the CONTRACTOR – upon request from either Party.

**Article 31.** **(1)** Each of the Parties may cancel the Contract in case of culpable non-performance of a material obligation of the other party to the Contract, under the terms and with the effects in accordance with Article 87 et seq. of the Obligations and Contracts Act, by service of written warning by the compliant Party to the one at fault and specifying an appropriate term for compliance. Cancellation of the Contract may not take place, if the portion of the obligation not performed is immaterial in comparison to the interest of the compliant Party.

**(2)** For the purposes of this Contract, the Parties shall treat as culpable non-performance of a material obligation of the CONTRACTOR all of the following cases:

1. the CONTRACTOR would fail to start the performance of the Contract for a period in excess of 30 (*thirty*) days as of the Date of entry into force;

2. the CONTRACTOR would have stopped the performance of Services for more than 10 (ten) days;

3. the CONTRACTOR has allowed a material departure from the Technical Specification and the Technical proposal.

**(3)** The CONTRACTING ENTITY may cancel the Contract only by written notice to the CONTRACTOR also without specifying an additional time limit for performance, if due to a delay on the part of the CONTRACTOR it had become useless or if the obligation had to be certainly performed at the time agreed.

**Article 32.** TheCONTRACTING ENTITY shall terminate the Contract in the cases under Article 118, paragraph 1 of PPA, without owing compensation to the CONTRACTOR for any damage suffered from the Contract termination, except where the termination was applied on the grounds of Article 118, paragraph 1, point 1 of PPA. [In the latter case the amount of the compensation shall be determined in a protocol or in an agreement, signed by the Parties and in case of inability to reach agreement – under the dispute resolution clause of this Contract.

**Article 33.** In all instances of Contract termination, except in case of dissolution of a legal entity – Party to the Contract – without legal succession:

1. the CONTRACTING ENTITY and the CONTRACTOR shall draw up a protocol of findings regarding the work performed up to the moment of termination and the amount of payments possibly due; and

2. the CONTRACTOR shall undertake to:

a) cease providing the Services except for such activities, as could be necessary and requested by the CONTRACTING ENTITY;

b) deliver to the CONTRACTING ENTITY all reports, prepared by it in performance of the Contract up to the date of its termination; and

c) return to the CONTRACTING ENTITY all documents and materials, which are property of the CONTRACTING ENTITY and were made available to the CONTRACTOR in connection with the subject of the Contract.

**Article 34.** In case of early termination of the Contract the CONTRACTING ENTITY shall be obliged to pay the CONTRACTOR for all Services, actually performed and accepted under the established procedure and the CONTRACTOR shall be obliged to return to the CONTRACTING ENTITY any unused portion of the funds provided in advance. If the Contract termination would be due to fault of the CONTRACTOR it shall also owe lawful interest on the portion of the funds provided in advance that is subject to return, for the period from the Contract termination date to their actual return.

**ІХ. MISCELLANEOUS**

Defined terms and interpretation

**Article 35. (1)** Unless expressly defined in a different manner in this Contract the terms used in it have the meaning, assigned to them in the PPA, respectively in the legal definitions of the Supplementary Provisions to the PPA or, in absence of such for any of the terms – based on the meaning, which is assigned to them in the main provisions of the PPA.

**(2)** In case of conflict between different provisions or conditions, the following rules shall apply:

1. the special provisions shall prevail over the general provisions;

2. the provisions of the Annexes shall prevail over the provisions of the Contract.

Compliance with applicable norms

**Article 36.** During the performance of the Contract the CONTRACTOR [and its subcontractors] shall be obliged to comply with all applicable normative acts, provisions, standards and other requirements, related to the Contract subject and in particular – with all applicable rules and requirements, related to environmental protection, social and labour legislation, any applicable collective agreements and/or provisions of international environmental, social and labour legislation, in accordance with Annex No. 10 to Article 115 of PPA.

Confidentiality

**Article 37. (1)** Each of the Parties to this Contract shall undertake to keep in secret and to refrain from disclosing any information concerning the other Party, which had become known to it during or in connection with the performance of the Contract („**Confidential information**“). Confidential information shall include, but not be limited to: facts, related to commercial activities, technical processes, projects or finances of the Parties, as well as know-how, inventions, utility models or other rights of like character, related to the performance of the Contract. Information, relevant to the name of the project completed, the value and subject of this Contract, with the view of referring in future to professional experience gained by the CONTRACTOR, shall not be deemed confidential information.

**(2)** Except for the cases, referred to in paragraph 3 of this article, Confidential information may be disclosed only following prior written agreement by the other Party, where such agreement shall not be unreasonably withheld.

**(3)** The following shall not be deemed as violation of the duty to refrain from disclosure of Confidential information, where:

1. the information became or would become publicly without violation of this Contract by any of the Parties;

2. the information became is required by virtue of law, applicable to any of the Parties; or

3. the provision of information is requested by a regulatory or another competent body and the respective Party is obliged to comply with such a request.

In the cases under points 2 and 3 the Party, which is to provide the information, shall notify forthwith the other Party to the Contract.

**(4)** The obligations under this clause shall be applicable to the CONTRACTOR, all of its subsidiaries, all companies or organizations under its control, all its employees and natural and legal persons, engaged by it, while the CONTRACTOR shall remain liable for the performance of those obligations on the part of such persons.

The obligations, related to non-disclosure of Confidential information, shall survive the termination of this Contract on any grounds.

Public statements

**Article 38.** TheCONTRACTOR may not make public statements and announcements, or disclose or make public any information that it had received in connection with the performance of the Services, subject of this Contract, irrespective of whether based on data and materials of the CONTRACTING ENTITY or of results of the CONTRACTOR’s work, absent prior written agreement of the CONTRACTING ENTITYЯ, where such agreement shall not be unreasonably withheld or delayed.

Transfer of rights and obligations

**Article 39.** The Parties may not transfer any of the of rights and obligations, arising from this Contract, absent the agreement of the other Party. The monetary receivables under the Contract [and under any subcontracts] may be transferred or pledged in accordance with applicable law.

Amendments

**Article 40.** This Contract may be amended only y supplementary agreements, drawn up in writing and signed by both Parties, in conformity with the requirements and restrictions of the PPA.

Force majeure

**Article 41. (1)** The Parties shall not be liable for the non-performance of any obligation under this Contract, if performance would be rendered impossible by force majeure.

**(2)** For the purposes of this Contract „force majeure“ shall have the meaning assigned in Article 306, paragraph 2 of the Commerce Act. The Parties agree that force majeure shall also include amendments in applicable law, impacting the activities of any of them and preventing performance or leading to impossibility to fulfil duties, assumed by the Contract.

**(3)** The Party affected by force majeure, shall be obliged to apply all reasonable efforts and measures in order to minimize the damage and losses suffered, as well as to notify in writing the other within 3 (*three*) days of occurrence of the force majeure. All relevant and/or legally established evidence of the occurrence and nature of the force majeure shall be attached to such notice and clarifications of the causal link between such event and the impossibility to of performance and of the expected duration of non-performance.

**(4)** While the force majeure persists the performance of the obligation shall be suspended. The Party affected shall be obliged, following coordination with the opposite Party, to continue to perform those parts of its obligations, which are not prevented by the force majeure.

**(5)** Force majeure may not be invoked by a Party:

1. which had been in delay or in any other type of default before the occurrence of the force majeure;

2. which failed to notify the other Party of the occurrence of the force majeure; or

3. the negligence or intentional actions or omissions of which have led to an impossibility of fulfilment of the Contract.

**(6)** The lack of monetary funds shall not qualify as force majeure.

Severability

**Article 42.** If any of the clauses of this Contract would be invalid or inapplicable this shall not affect the remaining clauses. The invalid or inapplicable clause shall be replaced by an imperative legal norm, if any.

Notices

**Article 43. (1)** All notices between the Parties in connection with this Contract shall be made in written form and may be delivered in person or via registered letter, by courier, telefax or e-mail.

**(2)** For the purposes of this Contract the contact details and persons of the Parties shall be, as follows:

1. For the CONTRACTING ENTITY:

Mailing address: 2, Aleksandar Zhendov Str., Sofia, Republic of Bulgaria

Telephone: ………………………………………….

Fax: …………………………………………

e-mail: ………………………………………..

Contact person: ………………………………………….

2. For the CONTRACTOR:

Mailing address: ………………….

Telephone: ………………………………………….

Fax: …………………………………………

e-mail: ………………………………………..

Contact person: ………………………………………….

**(3)** The following shall be regarded as notice date:

1. the date of handing over – in case of personal delivery of the notice;

2. the date of the post-office stamp on the returned receipt – in case of delivery by post;

3. the delivery date, marked on the courier’s receipt – in case of delivery by courier;

3. the date of receipt – in case of sending by fax;

4. the date of receipt – in case of sending by e-mail.

**(4)** All correspondence between the Parties shall be deemed valid if forwarded to the addresses shown above (incl. the electronic ones), by the means of communication indicated and to the contact persons indicated. In case of change in the indicated addresses, telephones and contact details the respective Party shall be obliged to inform the other in writing within 3 (*three*) days of the occurrence of the change. In case of non-performance of this obligation any notice shall be deemed validly served, if forwarded to the addresses shown above, by the means of communication and to the contact persons indicated.

**(5)** In case of reorganization not involving dissolution, change of business name, of the legal form, the corporate seat, the registered address, the purposes of business, the period of existence, the management bodies and the representation of the CONTRACTOR, the same shall undertake to notify the CONTRACTING ENTITY of the change within 3 (*three)* days of its registration in the respective register.

Language[[5]](#footnote-5)

**Article 44. (1)** This Contract shall be entered into in the Bulgarian language.

**(2)** The applicable language shall be mandatory for use in the preparation of all documents, related to the performance of the Contract, incl. notices, protocols, reports etc., as well as in the conduct of working meetings. All costs of translation, if required by the CONTRACTOR or its representatives or employees, shall be at the CONTRACTOR’s expense.

Applicable law

**Article 45.** This Contract, incl. the Annexes hereto, as well as all agreements related or arising from it and all rights and obligations, related to them, shall be governed by and be interpreted in accordance with Bulgarian laws.

Dispute resolution

**Article 46.** All disputes, arising from this Contract or related to its, including disputes, arising from or related to its interpretation, invalidity, performance or termination, as well as any disputes concerning filling of gaps in the Contract or its adaptation to newly occurring circumstances, shall be resolved by the Parties through negotiations and in case of inability to reach agreement – such dispute shall be referred for resolution to the competent Bulgarian court.[[6]](#footnote-6)

Counterparts

**Article 47.** This Contract was drawn up and signed in 2 identical counterparts – one for each Party.

Annexes:

The following Annexes shall be attached to this Contract and form integral part hereof:

Annex No. 1 – Technical Specification;

Annex No. 2 – Technical proposal of the CONTRACTOR;

Annex No. 3 – Price proposal of the CONTRACTOR;

**CONTRACTING ENTITY: CONTRACTOR:**

**KALIN ANASTASOV .............................................**

**/CHIEF SECRETARY/ /MANAGER/**

**ISKRA GRIGOROVA-ZOROVSKA**

**/CHIEF ACCOUNTANT/**

1. This clause is to be included if required. All clauses of this model contract, concerning relations with subcontractors, shall be applicable only if the participation of subcontractors was envisaged in the CONTRACTOR’s bid, in which case the applicable provisions of PPA must be held in mind. [↑](#footnote-ref-1)
2. The introduction of clauses concerning direct payments to subcontractors is an option, envisaged in Article 66, paragraphs 4 – 8 of PPA. [↑](#footnote-ref-2)
3. This is an option available in the cases, envisaged in Article 111, paragraph 2, last sentence and Article 116, paragraph 1, points 1, 2, 3 and 6 and Article 116, paragraph 4 of PPA. [↑](#footnote-ref-3)
4. Article71 of the Implementing Regulation of PPA. [↑](#footnote-ref-4)
5. This clause shall be applicable if the contractor is a foreign person. [↑](#footnote-ref-5)
6. A review of the dispute by an arbitration court may be envisaged. [↑](#footnote-ref-6)