

General Terms and Conditions of Purchase of ENSECO, a. s.

Version no. 1,00; entered into force: 01.07.2019

1. General Provisions

- 1.1. These are the General Terms and Conditions of Purchase (hereinafter referred to as the „GTCP“) of ENSECO, a. s., Identification no.: 36 220 370, with the registered seat at: Hollého 10/1499, 949 01 Nitra, registered with the Business Register of the District court Nitra, section: Sa, insert no.: 10494/N, VAT ID no.: SK2020162375 (hereinafter referred to as „ENSECO“) applicable for all Purchase Contracts, or also Contracts for Works, concluded by means of a Purchase Order (proposal to conclude a Purchase Contract, or proposal to conclude a Contract for Works) sent by ENSECO to the Contractor, in which ENSECO acts as the buyer, or the Customer.
- 1.2. For the purposes of these GTCP, the party providing for ENSECO the services, works, other performances and/or services, including any deliveries of goods related to the Purchase Order subject matter or deliveries of goods based on the Purchase Order (hereinafter referred to as the „Performance“), shall be referred to as the „Contractor“, and ENSECO shall be referred to as the „Customer“, regardless of the references indicated in the Purchase Order. For the purposes of GTCP, the „Party“ shall mean ENSECO or the Contractor, while the „Parties“ shall mean ENSECO and the Contractor together.
- 1.3. The Customer shall send the Purchase Order to the Contractor in two counterparts. The Contractor is obliged to confirm its acceptance in writing by an authorized person on one counterpart within three business days since delivery of the Purchase Order. The Purchase Order is revocable until its written acceptance is received. If the Contractor does not accept the Purchase Order in writing, and nevertheless, the Contractor performs the scope of the Purchase Order in accordance with the issued Purchase Order and the Customer accepts such Performance, the Purchase Order shall be deemed approved by both Parties as of the day of carrying out relevant transaction. By accepting the Purchase Order, or carrying out the relevant transaction, the Purchase Order shall be deemed a duly concluded contract (hereinafter referred to as the „Contract“).
- 1.4. The Contractor undertakes to observe – in addition to the Contract – the Safety and Technical Conditions of Performance indicated in the Purchase Order, or other internal provisions of the Customer, or Final customer, for which the Customer performs and that may be submitted to the Contractor in relation to the Performance before actual Performance either by the Customer, or by the Final customer.
- 1.5. These GTCP form an integral part of the Purchase Order and shall enter into force together with the Contract. The updated wording hereof is available at the Customer's web site (www.enseco.sk) for consultation or download. The respective provisions herein shall not apply if otherwise agreed in the Purchase Order, pursuant to Section 273 (2) of the Act no. 513/1991 Coll. as amended (hereinafter referred to as the „Commercial Code“), or if their application is precluded exclusively in the Purchase Order or in the separately concluded contract between the Customer and the Contractor.

2. Business Terms and Price

- 2.1. The Contractor undertakes to provide the Performance defined in the Purchase Order within the delivery time and for the Price specified therein. In case the Price is not specified in the Purchase Order, its amount must be determined by the Contractor before the provision of the performance and agreed in writing by the relevant employee of the Customer.
- 2.2. For the purposes of the GTCP, the „Price“ shall mean the total price for the Performance, VAT excluded, agreed in the Purchase Order. The Price includes all costs incurred by the Contractor related to the fulfilment of the Contractor's obligations under the Contract, including but not limited to: (i) material costs; (ii) costs for safety, protection, packaging; (iii) costs of disposal or recovery of waste generated by the Contractor's activities; (iv) costs for installation/dismantling; (v) cost of loading and unloading; (vi) transport charges to the place of performance; (viii) customs duty and other taxes (except VAT); (ix) insurance costs of the Contractor's damage liability insurance, insurance of assets or insurance costs for the transport; (x) licence fees and other import-related fees; (xi) administration and similar fees collected by any public authority body; (xii) price of the documentation necessary for or related to Performance usage; (xiii) product certification related fees; (xiv) labour costs, accommodation, catering and all expenses of Contractor's personnel; (xv) training of the Customers's, or Final customer's personnel.
- 2.3. All performances provided by the Contractor beyond the scope of Performance agreed in the Contract must be approved in advance and in writing by the Customer. Prior to such approval, the Customer shall not be obliged to accept and/or pay for any performance beyond the scope agreed in the Contract.
- 2.4. If it was agreed in the Contract that the Price will be determined in accordance with the Contractor's price list, the Contractor's price list valid as of the day of placing the Purchase Order shall apply. The Contractor's price list shall be binding for both Parties for at least one calendar year. The Contractor's price list may not be unilaterally changed by the Contractor during the term of the Contract, not even due to increased costs incurred by the Contractor, for instance as a result of changes in currency exchange rates or inflation.

3. Place and Time of Performance

- 3.1. The place of Performance (including documentation) is determined by the agreed

INCOTERMS 2000 clause. If the INCOTERMS 2000 clause is not agreed, the place of performance shall mean the Customer's premises in Mochovce.

- 3.2. The time of performance shall be the time indicated in the Purchase Order.

4. Hand-over and Take-over of the Performance

- 4.1. The Contractor is obliged to deliver the Performance to the Customer in quantity, quality and execution, in the place of delivery and at the time of Performance specified in the Contract, and corresponding to result and purpose of its use specified in the Contract, otherwise it is delayed. Breach of the Contractor's obligations under the preceding sentence shall mean that the Performance is defective and it is deemed a material breach of the Contract. Performance defects include also a delivery of Performance other than specified in the Purchase Order and defects in documents necessary for utilization of the Performance, as well as a delivery of Performance with characteristics other than expressly specified in the Purchase Order and/or generally binding legal regulations valid in SR and/or other applicable technical standard specified in the Contract.
- 4.2. The Customer is obliged to accept the Performance without defects. The Customer is entitled to accept the Performance even with defects that do not prevent proper utilization of the Performance for the purpose specified in the Contract or for the usual purpose. Should the Performance at the time of hand-over or during the acceptance process have such defects that prevent proper utilization of the Performance for the purpose agreed in the Contract or for the usual purpose, the Customer is not obliged to accept such Performance and the Contractor is in delay with the delivery. When taking over the goods on the basis of the delivery note, the Customer shall check only the number of pieces and the packaging. The goods are examined in detail only by the Quality Control department. For this reason the Customer retains the right to claim any defects of the goods taken over not only at the moment of passing the risk of damage to the goods, but only after inspection conducted by the QC department.
- 4.3. The Contractor is obliged to inform the Customer sufficiently in advance to handing over the Performance in writing, by e-mail or by telephone, using the Customer's contact details specified in the Purchase Order, about the exact time of the Performance hand-over and request the take-over of the Performance by the Customer. The Contractor is obliged to inform the Customer in writing, by e-mail or telephone, using the Customer's contact details specified in the Purchase Order about the delay in the Performance hand-over without undue delay, or to inform about the lack of cooperation provided by the Customer. In the event that the Contractor fails to notify the Customer in writing of the failure of the Customer to provide cooperation, the Contractor shall be deemed to be solely responsible for the delay in delivery.
- 4.4. In the event of a delay, or in the likelihood of a delay, the Customer shall have the right to order the Contractor to immediately take such steps as are necessary in order to meet the time of Performance and the Contractor is obliged to perform it within the specified period and at its own expense. If such steps are not taken in time or are insufficient in the Customer's opinion, the Customer may instruct a third party to deliver the Performance or a part thereof, at the Contractor's expense, and to remove any defects, discrepancies, Performance failures at the Contractor's expense, or to withdraw from the Contract. The Customer's claim for a contractual penalty or for damages caused by the Contractor is not affected. In the event that the Customer's delay in providing cooperation does not have a demonstrable and immediate effect on the proper and timely Performance of the Contractor, the Contractor shall not be entitled to postpone the time of Performance. It is understood that before signing the Purchase Order, the Contractor obtained all necessary information for Performance, in particular with regard to the legal regulations, work procedures, internal guidelines, access to the site/workplace, performance conditions and cooperation of the Customer. The Contractor has the right to ask the Customer to explain any uncertainties regarding the circumstances and the Performance before signing the Purchase Order.
- 4.5. The Customer is not obliged to take over the Performance before or after the time of Performance specified in the Contract.
- 4.6. The Customer shall take over the Performance in the form of written takeover protocol (hereinafter referred to as the „Takeover Protocol“), where:
- 4.6.1. In case of goods delivery, the Takeover Protocol shall be the delivery note, containing the list of individual items delivered pursuant to the Contract, and respective amounts, certifying the takeover of the delivery by the Customer, while indicating the date of goods takeover, and containing the information about the goods codes according to the Common Customs Tariff, in case of goods delivery from the territory outside the Slovak Republic, the delivery note shall contain: (i) Common Customs Tariff code of goods; (ii) country of goods origin; (iii) net weight of goods; (iv) date and place of loading the goods by the Contractor; (v) date of goods handover by the Contractor in the place of Performance.
- 4.6.2. In case of other types of Performance, the Takeover Protocol shall be (depending on the nature of Performance) e. g. the protocol on complying with the payment milestone, protocol on delivery of Performance, acceptance protocol, copies of entries in assembly/construction log book, or log book of services, or statement of services, or timesheets, list of works, etc.
- 4.7. The Takeover Protocol signed by the Customer and the Contractor represents a

- document proving the fulfilment of the Contract subject matter, i.e. it confirms that the delivery has been executed in the quantity and quality defined in the Contract.
- 4.8. If the Customer refuses to accept the Performance pursuant to the paragraph 4.6 hereof, the reasons for non-acceptance of the Performance shall be stated in the Acceptance Protocol.
- 4.9. The Contractor is obliged, not later than upon acceptance of the Performance by the Customer, to hand over to the Customer the documents necessary for acceptance and utilization of the Performance, as well as other documents stipulated in the Contract, or technical specification and in these GTCP (e.g.: all Declarations of Conformity, protocols and certificates of testing of equipment installed or produced by the Contractor) in Slovak or Czech language and at least to the extent stipulated by the relevant legal regulations of the Slovak Republic (hereinafter referred to as the "SR").
- 4.10. The Contractor is obliged, not later than upon acceptance of the Performance by the Customer, to hand over to the Customer the manuals for operation and maintenance of equipment to the extent stipulated by the relevant legal regulation of the SR. Manuals and labels of the control panels of equipment must be in Slovak, or Czech language.
- 4.11. If stipulated by legal regulations, or if agreed in the Contract, the Contractor is obliged, not later than upon acceptance of the Performance by the Customer, to hand over to the Customer the relevant technical documentation, test certificates of materials used for the Performance, or other documents, if required by generally binding legal regulations or respective technical regulations, or if required by the Customer, or if producing these documents is customary in view of the nature of the Performance.
- 4.12. Within the scope of acceptance procedure the Customer is entitled to perform an inspection of the Performance and to check the relevant documentation and/or documents specified for the Performance by respective legal regulations, GTCP, or agreed by the Parties in the Contract.
- 4.13. For the avoidance of doubt, if the Customer and the Contractor agree in the Contract on the takeover and handover of the Performance in parts, the provisions of these GTCP apply also for the takeover of the part of Performance.
- 5. Performance and Cooperation Provided by the Customer**
- 5.1. The Customer is obliged to take over the Performance in accordance with the Contract and to pay the agreed Price and to comply with the payment conditions.
- 5.2. The Customer shall provide the Contractor with the Performance specified in the Purchase Order for the remuneration specified in the Purchase Order.
- 5.3. Cooperation or items (e.g. documentation) provided by the Customer to the Contractor necessary for the Performance to be delivered by the Contractor shall be indicated in the Purchase Order. The cooperation shall be provided free of charge.
- 6. Invoicing Terms**
- 6.1. The basic document for payment of the Price shall be an invoice issued by the Contractor and delivered to the Customer, whereas the right to invoice shall arise on the date of acceptance of the Performance under the Contract.
- 6.2. The basic document for issue of the invoice for the Performance delivered and an integral part thereof is the Takeover Protocol (see the definition contained in the clause 4.6 to these GTCP).
- 6.3. Unless agreed otherwise in the Contract, the Contractor is obliged to issue an invoice for the Performance delivered as follows:
- 6.3.1. not later than 15 days after the receipt of **each individually provided Performance** via the Takeover Protocol, if it is agreed in the Contract that the Price to be invoiced and the Performance to be taken over will be on the basis of individual Performances (or as a whole); or
- 6.3.2. not later than 15 days after the expiration of the relevant invoicing period agreed in the Contract in case of the **Performance is provided partially or repeatedly**, whereas the subject matter of invoicing in this case must be the Performance delivered throughout the entire invoicing period and the delivery date in this case shall be also the last day of the invoicing period; or
- 6.3.3. according to the payment schedule agreed in the Contract; or
- 6.3.4. not later than 15 days after the receipt of the payment by the Contractor before delivery of the Performance.
- 6.4. If the Contractor is a VAT payer in the Slovak Republic, each invoice must contain at least the particulars as per the valid Act no. 222/2004 Coll. on Value Added Tax, as amended (hereinafter referred to as the „**VAT ACT**“).
- 6.5. In addition to the data specified in accordance with the valid legal regulation, every invoice must contain:
- 6.5.1. Contract no.;
- 6.5.2. code of the Common Customs Tariff, if it concerns supply of goods, or if supply of goods is a part of the Performance provided
- 6.5.3. service code according to the statistical classification of products by activity (CPA), Section F Construction and civil engineering works, if it concerns the Performance delivered between domestic VAT payers with the place of delivery in Slovakia (if it is not indicated in the Takeover Protocol);
- 6.5.4. date of invoice issuance;
- 6.5.5. invoice due date;
- 6.5.6. banking institution name and the Contractor's bank account number;
- 6.5.7. signature of the representative authorized to act on the Contractor's behalf.
- 6.6. The Contractor is obliged to deliver the invoice to the Customer no later than within 5 days following its issue.
- 6.7. The Contractor is obliged to deliver the invoice to the address: ENSECO, a. s., workplace: P. O. Box 10, 935 39 Mochovce, and a copy via e-mail (the delivery of the original is binding).
- 6.8. In the event that the invoice does not contain particulars required by law and these GTCP and annexes specified in the Purchase Order and these GTCP, or if the bank connection and the Contractor's account number is in conflict with the Purchase Order or in conflict with the written notice of change, or if these particulars contain an error, the Customer may return the invoice to the Contractor without payment with the request to correct it or add missing particulars. The Contractor is obliged to correct the invoice or prepare a new one without undue delay. New maturity period shall begin as of the date of the delivery of the invoice without errors to the Customer.
- 6.9. The invoice will be paid by bank transfer to the Contractor's bank account specified in the Contract. The Parties agree that the change of the bank connection and bank account number of the Contractor may be made only by a written notice demonstrably delivered by the Contractor to the Customer, at the latest together with the relevant invoice. This notice must be an original and must be signed by persons authorized to sign the Purchase Order.
- 6.10. The invoice shall be deemed to be paid on the date the amount due is debited from the Customer's bank account.
- 6.11. **Quality Retention**
In the event that the Customer accepted the Performance with minor defects, the Customer is entitled to retain 10% from the Performance Price. If in case of partial and repeated Performance there are defects of the Performance detected, the Customer is entitled to retain 10% from the amount invoiced during the invoicing period, in which the defect occurred (if possible), subsequently also from each following invoice. The Customer is obliged to release the retention money within 30 days after the defect has been removed.
- 7. Payment and Tax Conditions**
- 7.1. The invoice shall be due within the period of **60** days following the demonstrable delivery of the invoice to the Customer's address. During the term of this Contract, the Contractor shall be obliged to notify the Customer in writing of the date of VAT payer registration cancellation, as well as of the date of VAT payer registration, immediately after that date.
- The following provisions of the clauses 7.2, 7.3 and 7.4 apply to the Foreign Contractor:
- 7.2. During the term of this Contract, the Foreign Contractor is obliged to notify the Customer in writing, without undue delay, not later than within 5 business days, of the following:
- 7.2.1. whether they are a VAT payer in SR,
- 7.2.2. their tax residency (and deliver a tax receipt issued by a relevant tax authority),
- 7.2.3. setting-up of a permanent establishment pursuant to the Act no. 595/2003 Coll. on Income Tax, as amended (hereinafter referred to as the „**Income Tax Act**“) and to the relevant double taxation avoidance treaty, and the dissolution of such permanent establishment,
- 7.2.4. setting-up of an establishment pursuant to the VAT Act and of the dissolution of such establishment, as well as of any related change,
- 7.2.5. whether the Performance is delivered from such establishment, even if it is only partially delivered from such establishment in case the Customer was not notified of the facts mentioned herein by the Foreign Contractor not later than within the Contract signing by means of the Declaration on tax position and interrelation or the Declaration on the tax position. If the correctness, completeness or veracity of the abovementioned facts changes during the term of this Contract due to any facts that can or cannot be influenced, the Foreign Contractor undertakes to inform the Customer thereof in writing, without undue delay, no later than within 5 business days after the change, otherwise, the Customer shall consider them valid, true and complete also as of the date of origin of Foreign Contractor's tax liability.
- 7.3. If the Foreign contractor is a resident in a country outside the EU and has a permanent establishment in the SR and pays income tax advance payments in the SR, they shall be obliged to submit, immediately after the signing of the Contract or after the mentioned fact has come into existence, the confirmation of the Tax Authority Bratislava about the advance payments. If the Foreign Contractor fails to submit such document, the Customer shall apply the collateral tax in accordance with the Act on Income Tax.
- 7.4. **Withholding Tax**
Price and payment conditions set out in the Contract do not and shall not include any withholding. If payments in favour of the Foreign Contractor are subject to or shall be subject to withholding tax pursuant to the Act on Income Tax and respective treaties on double taxation avoidance, the Customer shall decrease, upon the above stated, the payments by the particular amounts pursuant to the respective treaty on double taxation avoidance and the Act on Income Tax. In that case the Customer shall request the concerned tax authority in the Slovak Republic to provide a confirmation of the deducted tax and shall submit it to the Foreign Contractor. The Foreign Contractor shall provide the Customer with any cooperation for the exercise of the Customer's rights and claims according to this clause.

The Foreign Contractor is not entitled to ask for any compensation from the Customer in connection with the deduction of withholding tax by the Customer, but they themselves may request settlement from the tax administrator concerned.

The Foreign Contractor shall endeavour to identify payments included in the Price that may be subject to the withholding tax and specify their unit price. In case of doubt or a lack of cooperation of the Foreign Contractor, the Customer is entitled to deduct the withholding tax from the total Price, unless the Foreign Contractor proves sufficiently that withholding tax pursuant to the Act on Income Tax and the respective treaty on double taxation avoidance is not to be deducted, or the Foreign Contractor specifies the respective amount of the invoiced Price that is subject to withholding tax.

The provisions of the following clause apply to the **VAT payer in SR**:

- 7.5. The Contractor declares that to the date of Contract signing there are no grounds, on the basis of which the Customer was or could be a guarantor, according to the provisions of the Section 69 (14) in relation to the Section 69b of the VAT Act, of the Contractor's tax liability arising from VAT charged in addition to the price under the Contract by the Contractor to the Customer in the event of receiving an advance payment from the Customer. The Contractor declares and undertakes to file a proper VAT tax return and, in the event of an obligation to pay VAT, will pay it to the local tax authority within the specified due date. The Contractor declares that they have no intention of not paying the VAT related to the subject matter of the Performance under the Contract, or of shortening the tax, or claiming a tax advantage, nor do they intend to get into the position, where they will not be able to pay it.
- 7.6. The Customer is entitled to retain the amount of VAT of every invoice issued by the Contractor, if the Contractor is published in the list kept by the Financial Directorate of the Slovak Republic pursuant to the Section 69 (14) of the VAT Act. The Customer is entitled to retain VAT of the issued invoices until the Contractor proves otherwise, i. e. delivers a statement of the tax authority on not having any tax liabilities for the period, during which the Customer is a guarantor under the aforementioned provision of the VAT Act, or proving that the Contractor has been deleted from the list kept by the Financial Directorate of the Slovak Republic.
- 7.7. In the event that for the purpose of Performance or removal of Performance defects, the Contractor will ship (or it will be shipped at the Contractor's expense) the Customer's (or Final customer's) property outside the territory of SR, where the Performance or removal of the Performance defects will be carried out, and after the Performance or removal of the Performance defects is done, the Customer's property (or Final customer's property) shall be returned back to SR, for the VAT purposes the Contractor must produce following documents:
- 7.7.1. shipping documents or other dispatch documents indicating the place of destination proving the dispatch of the Customer's (or Final customer's) property from the SR to an EU member state, as well as its return to the Slovak Republic from the EU member state, if the transport of the Customer's (or Final customer's) property is arranged by the Contractor via a third party, or
- 7.7.2. a written confirmation of the receipt of the Customer's (Final customer's) property by the Customer's manager responsible for the Contract, if the transport of the Customer's (Final customer's) property is carried out by the Contractor, and other documents proving the transport of the Customer's (Final customer's) property required by the Customer (Final customer).
- 7.8. The Contractor is obliged to deliver these documents to the Customer:
- 7.8.1. in case of the transport of the Customer's property for the purposes of the Performance – at the latest together with the invoice issued for such Performance;
- 7.8.2. in case of the transport of the Customer's property for the purposes of the removal of the Performance defects – at the latest by the Customer's takeover of the Customer's property.
- 7.9. The Contractor undertakes to be fully responsible for the calculations, reporting, tax returns and payment of all its current and future monetary or non-monetary tax obligations, including the income tax, VAT and other taxes, fees and levies (or applicable penalties or interests) incurred or to be incurred under the Contract and under any legal jurisdiction, whether within or outside the SR. The Contractor shall not make any claims against the Customer associated with the aforementioned matters.
- 7.10. The Contractor is responsible for the correct application of the VAT regime for the supply of goods with installation and for the construction works and supply of goods pursuant to the Section 69 (12) of the VAT Act. In case of incorrectly applied VAT regime, the Contractor undertakes to compensate the Customer for any damage incurred by the Customer, in particular but not only for any sanctions imposed by the Tax authority, or any costs incurred in administrative and judicial proceedings related thereto, including costs for legal, tax and accounting consulting.
8. **Inspection of the Subject of Performance before Execution**
- 8.1. Any time during the execution of this Contract the Customer is entitled to inspect the subject of Performance, or a part thereof to ensure that it complies with the conditions agreed under the Contract. The Customer has also the right to participate in inspection, technical acceptance, inspections and quality assurance tests during and after the manufacturing process related to the Performance delivery. No inspection shall relieve the Contractor of responsibility for correct and timely delivery of the Performance.

9. Risk of Damage, Ownership Right

- 9.1. The ownership right to the Performance shall be acquired by the Customer (i) on the day of the Performance takeover, or (ii) on the day of payment of the Price for relevant Performance, whichever occurs earlier, and the risk of damage to the Performance passes to the Customer at the moment of the Performance takeover.
- 9.2. In case that the Customer submits the subject of the Performance to the Contractor for the purpose of maintenance, repair or modification, the risk of damage passes to the Contractor upon receipt of the subject of the Performance by the Contractor. Takeover of the subject of the Performance by the Contractor shall be recorded in the minutes drawn up by the Customer and signed by both Parties. In such case the Customer shall not transfer the ownership right to the subject of the Performance to the Contractor and the subject of the Performance remains in the ownership of the Customer.

10. Intellectual Property Rights

- 10.1. The Contractor shall be obliged to defend the Customer against all claims of third persons and to compensate all entitlements and requirements resulting from the breach of the patent rights, trade marks, copyrights or other protected rights in connection to their company, goods, services and works, materials and engineering used while performing this Contract. In this respect the Contractor shall protect the Customer and indemnify them in the event of any claims, entitlements, requirements, proceedings, damage, costs and fees of any kind relating to the foregoing.
- 10.2. If the Contractor breaches the intellectual property rights referred to in this clause, the Contractor shall immediately upon the request of the Customer provide the Customer with all rights necessary for the use of the Performance, or, with the Customer's consent, replace the delivery of part thereof with such Performance that does not violate the abovementioned rights.
- 10.3. The Contractor shall transfer to the Customer the right to unlimited use of the Performance or parts thereof protected by the intellectual property rights free of charge. The right to use the Performance includes the right to make changes and repairs to the subject of the Performance or part thereof protected by the intellectual property right. The Customer has the right to provide documents to the third parties for the purpose of producing spare parts and performing repairs of the Performance, including change of documentation.

11. Contractual Penalties, Liability for Damage

- 11.1. If the Contractor breaches its contractual obligations, the Customer is entitled to impose on the Contractor a contractual penalty pursuant to the clause 11 hereof.
- 11.2. In the event that the Contractor breaches its obligations pursuant to the clause 4.1 hereof and fails to meet the deadline for the delivery of the Performance, the Customer is entitled to claim from the Contractor the contractual penalty in the amount of 0,5% of the price for the Performance for every, even a started, day of delay. The above shall also apply in the case of non-delivery or delayed delivery of documents that are necessary for the takeover or use of the Performance, or other documents, which the Contractor is obliged to hand over to the Customer under the Contract, relevant legal regulations or these GTCP. If the time schedule specifies a binding deadline for the delivery of a certain Performance milestone, which is designated as a penalty milestone, the Customer is entitled to claim a contractual penalty also for failure to meet such penalty milestone.
- 11.3. If the Performance has defects, the Customer may claim a contractual penalty from the Contractor in the amount of 5% of the Price for the Performance.
- 11.4. Should the Contractor fail to start removing the defects of the Performance without undue delay, or to continue with the proper removal of the defects, the Customer may claim from the Contractor a contractual penalty in the amount of 0,5% of the Price for every individual defect and for every, even a started day of the delay related to its removal.
- 11.5. If the subject of the Purchase Order is a recurring Performance, the contractual penalty under the clauses 11.2 to 11.4 shall be in the amount of 0,5% of the Price for the Performance delivered following the Purchase Order per calendar month (or other agreed period), during which the defective Performance or the delay occurred.
- 11.6. If the subject of the Purchase Order is a delivery of the Performance in parts, the contractual penalty pursuant to the clauses 11.2 to 11.4 shall be in the amount of 0,5% of the Price for the Performance part, in association to which there was a defective Performance or delay.
- 11.7. Claiming a contractual penalty pursuant to the clause 11 hereof shall not affect the Customer's claims for damages in their entirety. Payment of the contractual penalty does not relieve the Contractor from the obligation to provide proper Performance without defects and the obligation to submit to the Customer all relevant documentation.
- 11.8. In case of the delay in payment of the Price by the Customer, the Contractor shall be entitled to charge interest on late payment in the amount of 0,02% of the outstanding amount for each, even a started, day of delay.
- 11.9. If the delay in Performance is more than 30 days, the Customer has the right to withdraw from the Purchase Order and is not obliged to pay any costs incurred by the Contractor in relation to the preparation of the Performance. If the Customer incurs damage in the event of such delay, the Contractor shall be liable for such damage up to the amount of actual damage in accordance with the applicable legislation and the Customer shall be entitled to claim damages from the

- Contractor.
- 11.10. Liability for damage is governed by the provision of the section 373 et seq. of the Commercial Code, unless otherwise agreed in the Purchase Order.
- 11.11. The Contractor is obliged to compensate the Customer for damage within ten (10) days from the delivery of the damages compensation statement to the Contractor.
- 12. Quality Warranty**
- 12.1. The Contractor undertakes that the Performance will retain its features pursuant to the Contract and will be fit for use and purpose agreed in the Contract or for usual purpose throughout the entire warranty period. The Contractor provides the quality warranty throughout the period specified in the Purchase Order, or else throughout the period of 24 months after signing the Takeover Protocol by both Parties.
- 12.2. The warranty period shall start on the day of accepting the Performance by the Customer on the basis of the Takeover protocol properly signed by both Parties.
- 12.3. The warranty period shall not apply for the period, when the Customer is unable to use the Performance due to its defects for which the Contractor is responsible.
- 12.4. The Contractor is responsible for defects of material, defects caused by the manufacturer, defects caused by the Subcontractor or any other defects resulting from breaching their obligations.
- 12.5. The Contractor shall be held liable for defects of the Performance at the time of its handover and takeover by the Customer, regardless of when the defect was detected by the Customer, even if the defect becomes obvious (detected by the Customer) after this time, if the Customer notifies Contractor of such defects not later than until expiry of the warranty period.
- 13. Claims for Defects**
- 13.1. The Customer is obliged to claim defects to the Contractor in writing without undue delay immediately after detection. The aforementioned shall apply also for the acceptance of the Performance at the time of handover of the Performance, as well as during the warranty period. In the notice of the defect, the Customer shall provide a description of the defect and a request for the method of its removal. The choice of the method of removal of the defect is left to the Customer's discretion. However, if the Contractor is able to remedy the defect by repairing or delivering a new defect-less Performance within 5 days after receiving the claim, the Customer is obliged to accept the method suggested by the Contractor. This shall not apply, if the operation, life, health or property of the Customer is endangered due to the occurrence of the defect of the Performance, or if there is a risk of damage.
- 13.2. The Contractor undertakes to start eliminating the defects without undue delay after filing a claim by the Customer in writing and to remove the claimed defects in the agreed period of time, however not later than within 20 days, unless agreed otherwise by the Parties in specific case. If the Contractor is in delay with the removal of the defect within the specified period, or if it is clear that the Contractor is unable to remedy the defects properly within the specified period, or if the defect endangers the Customer's life, health, operation or property and the Contractor fails to remedy it immediately upon the notice, the Customer may, without Contractor's consent, remedy the defect themselves or have the defect remedied by a third party at the Contractor's expense.
- 13.3. Removal of defect does not affect the entitlement of the Customer to the contractual penalty, as well as to the compensation of damage caused by the defect.
- 13.4. Should the Contractor fail to remove the defects within the agreed deadline, or if the Contractor notifies the Customer in writing prior to the expiration of the deadline for the the removal that they will not remove the defects, the Customer may:
- 13.4.1. remove the defects themselves or have them removed by a third party without any influence on the Contractor's warranty, at the Contractor's expense;
- 13.4.2. claim a reasonable discount on the Price for the Performance;
- 13.4.3. withdraw from the Contract.
- 13.5. In such case, the Customer is obliged to inform the Contractor about its decision in writing and without undue delay.
- 13.6. The Contractor is not entitled to refuse or anyhow postpone removal of claimed defect, even if, in their opinion, the claim in question is not justified or not within its responsibility. However, the Contractor is entitled to subsequently prove duly the insubstantiality of such claim and should this be proven, the Contractor shall be entitled to compensation of costs provably incurred to remove such defects even though it was not their obligation, but only on condition that the Customer was notified of such circumstances by the Contractor within 5 business days from the claim delivery. Until a lawful decision on the claim is taken, all costs shall be temporarily borne by the Contractor. For the avoidance of doubts, the burden of proof that the defect claimed by the Customer during the warranty period is not a warranty defect and thus not within the Contractor's responsibility, shall be fully borne by the Contractor.
- 13.7. The Customer is entitled to make a unilateral assignment (even without the Contractor's consent) of their rights resulting from the warranties provided by the Contractor for the Performance, to any third person.
- 13.8. If the Customer removes the defects or has them remedied by a third party, the price of work performed in this way will be usual, taking into account the particular circumstances of the case (especially time constraints), but it will not be influenced by the Contractor's prices. This price for the work performed by the Customer, or by third parties will be charged to the Contractor in the amount of invoiced costs, with a 10% coordination surcharge out of the total invoiced net amount. The Customer is entitled to use the retention tools for costs related to the removal of defects. The Customer is entitled to have the defects removed not only at the moment of the handover and takeover of the Performance, but also during the time period of the Performance, should the situation anticipated in the clause 4.4 hereof occur.
- 13.9. In case the Customer seeks a Price discount as a result of defective Performance, the Price discount will be defined on the basis of a written agreement. If the Parties do not agree on an adequate Price discount within 30 days since the day of claim notice delivery to the Contractor, the Price discount shall be calculated as a sum of: (i) the difference between the value that the Performance should have had without any defects and the value of the defective Performance at the time, when the Performance should have been provided, and (ii) costs to be spent by the Customer on activities necessary for the Performance to become free of any defects pursuant to the Contract. The value of the Performance without defects and the value of the Performance with defects, as well as the sum of costs spent by the Customer for elimination of the defects shall be determined by an expert opinion submitted by the Customer. In case of the Price discount application before the issuance of an invoice for the Performance to which the Price discount relates, the Contractor shall decrease the invoiced Price by the amount of the discount. In the case of the Price discount application after issuance of an invoice for the Performance, the Contractor shall issue an invoice to the Customer for the correction of the VAT basis in compliance with valid legislation.
- 14. Termination of the Contract**
- 14.1. The Contract shall be terminated by:
- 14.2. the delivery of the Performance and by fulfilment of the related contractual obligations of the Parties;
- 14.2.1. expiration of the term for which the Contract is concluded;
- 14.2.2. a written agreement;
- 14.2.3. a written notice of termination under the clause 14.4 herein;
- 14.2.4. a written withdrawal from the Purchase Order pursuant to the clauses 14.4 and 14.6 herein.
- 14.3. The Customer shall have the right to terminate the Contract for the recurring Performance in writing without giving reasons and with a 2-month notice period, which shall start on the first day of the month following the delivery of the notice to the Contractor.
- 14.4. Any Party is entitled to withdraw from the Contract in the following cases:
- 14.4.1. non-material breach of the obligation by the other Party, which upon the written notice fails to remedy the situation within the period specified by the Party informing about the breach;
- 14.4.2. repeated (twice or more) breach of the legal obligations or obligations laid down in the Contract by the other Party; and
- 14.4.3. material breach of the legal obligations or obligations laid down in the Contract by the other Party.
- 14.5. The following instances are also considered material breach of the Contract:
- 14.5.1. the Contractor acts in any way whatsoever contrary to the principles of fair business, commits an unfair competition act, acts contrary to legal regulations on competition protection, or harms the reputation of the Customer through its action, or
- 14.5.2. the Contractor circumvented or failed to comply with the valid legal regulations and the internal rules of the Customer, or the Final customer, related to the Occupational Health and Safety, Fire Protection, the environmental protection, entries to the Customer's, or Final customer's, premises.
- 14.6. The Customer has the right to withdraw from the Contract for one-off performance in writing also at its own discretion and without giving any reason.
- 14.7. The withdrawal from the Contract shall enter into effect on the day of the delivery of the notice of withdrawal to the other Party.
- 14.8. In the event of the withdrawal from the Contract, the Parties shall agree within 15 days since the withdrawal entered into effect upon the manner of settling the mutual liabilities resulting from the terminated contractual relationship. In case of a missing agreement, the Customer shall pay to the Contractor only the amount outstanding for the Performance of a part thereof delivered and invoiced before the date the termination of the Contract by withdrawal entered into effect. The Customer has the right to reject any further payments to the Contractor, unless, by then, the Customer's costs for the Performance and removal of all defects and backlogs, the total amount of contractual penalties payable to the Customer and the total amount of the Customer's damages incurred due to delay in performance, and all other Customer's costs are specified.
- 15. Other Provisions**
- 15.1. The Contractor (during the performance for the Customer) is obliged to comply with the generally binding legal regulations valid in the Slovak Republic and the internal rules of the Customer and the Final customer concerning occupational health and safety, fire protection, environmental protection and entrance to the Customer's premises, as well as to the premises of Slovenské elektrárne, a. s.
- 15.2. The Contractor is obliged to maintain confidentiality in relation to all data, information, facts and documents of the Customer, of which they learned or which were handed over or made available to them in connection with the performance, and the Contractor must not provide this information to any third parties.
- 15.3. The Parties undertake to mutually respect and conceal from third parties the facts

constituting the trade secret of the other Party, as well as any other information of a commercial, production, or technical nature that is not standardly available in the respective trade circles and is to be kept confidential at the discretion of the Party concerned, or it is not generally known.

- 15.4. Any notice or other communication between the Parties relating to or resulting from the Contract must be carried out in writing and must be sent and delivered by the Contractor in person, via post office (by registered mail), by courier to the correspondence address of the Customer indicated on the first page of the Purchase Order. Any notice or other communication between the Parties is deemed to be duly delivered on the day of shipment delivery to the relevant Party, if the shipment was delivered in person, by post office (registered mail) or by courier, or if the addressee refuses to accept the shipment on the day of the refusal to accept the shipment (this shall also apply mutatis mutandis if the shipment was returned to the sender as undelivered).
- 15.5. The Contractor is obliged to obtain and to maintain and prove to the Customer the conclusion of a liability-for-damage insurance within the scope of the value of Performance for the entire duration of the Contract.
- 15.6. The Contractor is obliged to notify the Customer of any changes to the Contractor's data entered in the Commercial Register and/or the Trade Register in writing and without undue delay.

16. Common and Final Provisions

- 16.1. The Contract and relations arising from the or related to the Contract, as well as relations not regulated in the Contract, shall be governed by the laws of the Slovak Republic, in particular the Commercial Code.
- 16.2. If any or all of the provisions of the Contract are invalid and/or ineffective, this shall be without prejudice to other provisions of the Contract, which remain in force and effect.
- 16.3. The application of the Contractor's general terms and conditions, or any other general terms and conditions to the contractual obligations of the parties arising from the conclusion of the Contract is hereby expressly excluded.
- 16.4. In the event that the provisions of these GTCP are in conflict with the provisions of the Purchase Order they are part of, the wording of the Purchase Order shall prevail.
- 16.5. The Parties undertake to resolve any dispute arising out of the Purchase order or related thereto out of court by mutual agreement. If no agreement is reached, such dispute shall be finally settled and decided by the competent general court in the Slovak Republic.
- 16.6. It is possible to amend the Contract or the GTCP exclusively based on the agreement of the Parties, in the form of an amendment to the Contract that includes the GTCP.
- 16.7. These GTCP were adopted by ENSECO, a. s., and shall apply with effect from July 2019.