

VIII MODEL CONTRACT

This Model Contract has been prepared in accordance with the Rulebook on Determining Model Contracts on Energy Services for Implementation of Energy Efficiency Improvement Measures for Users in the Public Sector (*Official Gazette* of RS 41/15)

MODEL CONTRACT ON ENERGY SERVICE FOR A PART OF THE PUBLIC LIGHTING SYSTEM OF THE MUNICIPALITY OF VRBAS THROUGH PUBLIC-PRIVATE PARTNERSHIP

Concluded between

Client: _____

Address: _____

Authorized Representative: _____

Official registration number: _____

Tax Identification Number: _____

(Sub) account (of the budget): _____

- Hereinafter referred to as: **the Client**

And

The Contractor: _____

Address: _____

Authorized Representative: _____

Official registration number: _____

Tax Identification Number: _____

Current account: _____

Special purpose account: _____

- Hereinafter referred to as: **the Contractor**

TABLE OF CONTENTS

	PREAMBLE	
1.	TERMS	
2.	SUBJECT MATTER OF THE CONTRACT	
3.	AUTHORIZED REPRESENTATIVES OF THE CONTRACTING PARTIES AND SUBMISSION	
4.	CONTRACT PERIODS	
4.1	Commencement of the Contractual Period	
4.2	Main periods of the Contract	
4.3	Duration of the Guarantee Period	
5.	RIGHTS AND OBLIGATIONS OF THE CONTRACTOR	
5.1	Right of decision on choice of ESMs	
5.2	Obligation to provide financial means for implementation of ESMs	
5.3	Obligation to guarantee a minimum amount of Financial Savings	
5.4	Obligation to cooperate in obtaining necessary licences/permits and approvals	
5.5	Regulatory compliance	
5.6	Obligation of the Contractor to implement activities in the Preparatory Period	
5.7	Obligation of the Contractor to implement activities in the Implementation Period	
5.8	Obligation of the Contractor to implement activities in the Guarantee Period	
5.9	Obligation of transparency	
5.10	Right to utilize data on the Project for commercial purposes	
5.11	Right to assign receivables	
5.12	Engagement of Subcontractor	
5.13	Obligation of the Contractor to open a Special Purpose Account	
5.14	Obligation of the Contractor to cooperate with the EDSO	
6.	RIGHTS AND OBLIGATIONS OF THE CLIENT	
6.1	Right of the Client to influence the Contractor's design	
6.2	Right of the Client to audit the Special Purpose Account of the Contractor	
6.3	Obligation of the Client to provide support for the design and implementation of ESMs	
6.3.1	General obligations of the Client	
6.3.2	Obligations of the Client in the Preparatory Period	
6.3.3	Obligations of the Client in the Implementation Period	
6.3.4	Obligations of the Client in the Guarantee Period	
6.4	Obligation of the Client to bear costs of rehabilitation for unforeseen damages during the Contractual Period	
6.5	Obligation of the Client to pay remuneration to the EDSO	
7.	PROCEDURES AND ACTIVITIES	
7.1	Activity Log in the Preparatory Period and in the Implementation Period	
7.2	Activity Log in the Preparatory Period	
7.3	Activity Log in the Implementation Period	
7.4	Incentives, grants and rebates	
7.5	Important criteria for performance of Preparatory Activities and Implementation Activities	
7.6	Obstacles to the implementation of ECMs	
7.7	Correct disposal of faulty and/or replaced installations	
7.8	Minutes of Audit	
7.9	Commissioning of implemented ECMs	
7.10	Transfer of title	
7.11	Measurement and Verification	
7.12	Maintenance of ESMs	
7.13	Final inspection prior to the expiry of the Contractual Period	
7.14	Final verification document	
8.	GUARANTEE FOR GOOD PERFORMANCE AND PROPER FUNCTIONING OF ITEMS	
9.	DETERMINING ACHIEVED ENERGY AND FINANCIAL SAVINGS AND GUARANTEED SAVING	

9.1	Methodology for Achieved Energy and Financial Savings determination	
9.2	Reference currency	
9.3	Reference energy price	
9.4	Baseline adjustments	
9.5	Guaranteed saving	
9.6	Frequency of determining the achieved Guaranteed Savings	
9.7	Additional Financial Saving	
9.8	Non-achieved Guaranteed Saving attributable to underperformance of the Contractor	
9.9	Non-achieved Guaranteed Saving attributable to the Client	
10.	REMUNERATION	
10.1	General provisions	
10.2	Annual Basic Remuneration	
10.3	Remuneration for Operating and Preventive Maintenance	
10.4	Additional Remuneration	
10.5	Compensation in case of non-achieved Guaranteed Savings ("Penalties")	
10.6	Penalties for poor quality of Operating and Preventive Maintenance	
10.7	Payment of remuneration	
10.8	Terms of payment	
11.	ENSURING THE EXECUTION OF OBLIGATIONS FROM THE CONTRACT	
11.1	Ensuring the execution of Contractor's obligations	
11.1.1	Purpose, type and amount of security	
11.1.2	Guarantee's essentials	
11.1.3	Return of guarantee	
11.2	Ensuring the execution of the Client's obligations	
12.	LIABILITY	
12.1	The Client's right of compensation for damages caused by the Contractor	
12.2	The Client's right of compensation for failure of the Contractor to fulfil the obligations set in the Bid and the Contract	
12.3	The Contractor's right of compensation for failure of the Client to support the implementation of ECMs	
13.	FORCE MAJEURE	
14.	TERMINATION OF THE CONTRACT	
14.1	Expiry and termination of the Contract	
14.2	Termination of the Contract due to justifiable reasons	
14.3	Termination notice	
14.4	Compensation of damages on the grounds of unilateral termination	
15.	SETTLING OF DISPUTES AND GOVERNING LAW	
15.1	Resolution of technical disagreements	
15.2	Resolution of general (legal) disputes	
16.	FINAL PROVISIONS	
16.1	Entire Contract	
16.2	Counterparts	

List of abbreviations

PUC	Public Utility Company
M&V	Measurement and Verification
ESMs	Energy Saving Measures
EDSO	Electricity Distribution System Operator
VAT	Value Added Tax
RS	Republic of Serbia
UNCITRAL	United Nations Commission on International Trade Law

PREAMBLE

The Client has prepared the tender documents on the basis of which it conducted an open public procurement procedure Number 401-1-24/2016 for energy service for a part of the public lighting system of the municipality of Vrbas through public-private partnership, which shall include implementation of energy efficiency improvement measures and savings in the operating costs of public lighting for a part of the public lighting system of the Municipality of Vrbas. The objective of the project includes energy savings, corresponding reductions in CO₂ emissions, and savings in the operating expenditures of the public lighting as the public facility of the Client based on the public-private partnership. In the procedure of choosing the private partner, the Contractor has been chosen, who submitted the Bid number: _____ dtd. ____ 2016.

WHEREAS the Client is the owner of the public facility, on which the energy service, which is the subject matter of the public procurement, shall be implemented;

WHEREAS the Contractor is the company providing energy services, which commits to execute the service aiming at providing savings in energy consumption,

WHEREAS, under the law regulating public-private partnership and concessions in the RS, the Client is considered to be a Public Partner and the Contractor is considered to be a Private Partner,

WHEREAS this Contract was awarded to the Contractor in a public procurement procedure in accordance with the regulations governing the public procurement in the RS, specifically for the purpose of realizing the public-private partnership in line with the regulations governing public-private partnership and concessions,

WHEREAS this Contract is at the same time considered to be a public contract under the law regulating public-private partnership and concessions,

WHEREAS, by signing this Contract between the Contractor as a private partner and the Client as a public partner (hereinafter referred to as: the Contract), the Client aims at achieving savings in energy and associated savings in the operating expenditures of the Contracted Facility, as specified in Appendix 1 hereto,

The Client as a public partner and the Contractor as a private partner hereby agreed as follows:

1. TERMS

The terms used in the Contract have the following meanings for the Contracting Parties:

- 1) **Implementation Activities** include all the activities for which the Contractor is liable hereunder in the Implementation Period, which are recorded in the Activity Log in the Implementation Period, including, *inter alia*, the construction of facilities, extension, retrofitting, adaptation, and rehabilitation, as well as fitting/installation and Commissioning of installations, parts thereof, or of equipment and/or software in the Contracted Facility.
- 2) **Non-routine Adjustments** mean adjustments in relation to the factors, the changes of which are usually not expected. They involve changes in any characteristics of the Contracted Facility within the measurement limits, except for the above mentioned Independent Variables, which are used for Routine Adjustments.
- 3) **Guaranteed Savings** means the total amount of the contracted for financial savings during the Guarantee Period, resulting from the implementation of ESMs.
- 4) **Annual Guaranteed Savings** equal Guaranteed Savings divided by the number of years of the Guarantee Period.
- 5) **Annual Basic Remuneration** equals the Annual Guaranteed Savings multiplied by the contracted for percentage of the Shared Savings belonging to the Contractor.
- 6) **Annual Savings** mean the achieved Financial Savings as calculated in the approved M&V report for a specific Accounting Period during the Guarantee Period.
- 7) **Activity Log in the Implementation Period**, managed by the Contractor, is the record of all the Implementation Activities conducted by the Contractor, and which are verified by the Contracting Parties at the end of the Implementation Period.
- 8) **Activity Log in the Preparatory Period**, managed by the Contractor, is the record of all the Preparatory Activities performed by the Contractor, and which are verified by the Contracting Parties at the end of the Preparatory Period.
- 9) **Additional Financial Savings** mean the achieved Financial Savings in excess of the Guaranteed Savings.
- 10) **Additional Remuneration** is the contracted for monetary amount exceeding the amount of the Basic Remuneration, to which the Contractor is entitled if having achieved Additional Savings within the Guarantee Period, as demonstrated by the application of the M&V Plan.
- 11) **Energy** denotes all the forms of energy, including electricity, heat energy, water, and associated consumption/use including rate of power input and/or capacity.
- 12) **Contractor** is a company or an entrepreneur engaged in performing energy services, the Bid of which has been chosen in the procedure of choosing the private partner and which signs this Contract with the Client.
- 13) **Breakdown Maintenance** involves replacement of lamps and/or luminaires in cases of breakage or damage resulting from the activities of the Contractor (damage by unknown persons, damage due to bad weather, etc.). The Client shall be obliged to organize Breakdown Maintenance while adhering to Energy Saving Measures.
- 14) **Public Facility** is a lighting facility – an asset in public ownership of the RS (pursuant to the regulations governing public property), meaning the facilities that serve for illumination of road infrastructure and other areas in public use, and which are used by citizens, authorities,

organizations, and institutions of the Republic of Serbia, authorities and organizations of autonomous provinces, of the local self-government units, institutions founded by the RS, autonomous provinces, and local self-government units, public companies, public services, and other beneficiaries of assets in public ownership of the RS.

- 15) **Energy Saving Measures (ESMs)** are the measures to improve energy efficiency, i.e. activities by which savings in Operating Costs in the Contracted Facility are achieved.
- 16) **Measurement & Verification (M&V)** involve activities and procedures conducted in order to reliably determine actual Energy Savings and Financial Savings attributable to the Implementation Activities.
- 17) **Client** is the owner of the Contracted Facility.
- 18) **Independent Variable** designates a parameter that is expected to change regularly and has a measurable impact on consumption of Energy in the Contracted Facility (such as operating hours, operating conditions, and periodic changes in patterns of use of relevant facilities).
- 19) **Accounting Period** is a period of 12 calendar months during which the achieved Energy Savings and Financial Savings in the Guarantee Period are calculated.
- 20) **Authorized Representatives** are the representatives of the Contracting Parties, authorized to undertake actions in the name and/or for the account of the Contracting Parties. Such persons must have a legal or some other authorization/power of attorney for undertaking actions and representing the Contracting Parties, wherein the scope of their authorizations in the legal transactions related hereto is established.
- 21) **Electricity Distribution System Operator (EDSO)** is an energy-related entity dealing with transmission/distribution/transport or sale of the electricity in the area in which the Contracted Facility is located.
- 22) **Operating Cost** is the current expenditure on the ground of Energy use and maintenance of the Contracted Facility.
- 23) **Operating Maintenance** is regular supervision over the functioning of the public lighting system, which is the subject matter of this Contract and response in case of disruptions in its operation (cleaning of luminaires, replacement of burnt out lamps, ballasts or defective electronic units on a luminaires if any, etc.).
- 24) **Basic Remuneration** is the contracted for monetary amount, belonging to the Contractor provided it meets its contractual obligation and achieves the Guaranteed Savings during the Guarantee Period, as shown in the M&V Plan.
- 25) **Guarantee Period** means the time period from the end of the Implementation Period up to the end of the Contractual Period.
- 26) **Reporting Period** means any period of three months during the Guarantee Period for which the M&V reports are prepared in compliance with the M&V Plan.
- 27) **Implementation Period** is a period of conducting various implementation activities related to the implementation of ESMs, starting from the date when the Contracting Parties verify the Activity Log by their respective signatures and seals in the Preparatory Period and ending when the Contracting Parties verify the Activity Log by their respective signatures and seals in Implementation Period.
- 28) **Measurement & Verification Plan (M&V Plan)** is a document containing pre-agreed activities

and procedures to be conducted with the aim to identify the M&V activities related to the implemented ESMs.

- 29) **Shared Savings** represent an option for sharing the Guaranteed Savings between the Client and the Contractor according to contractually agreed percentage.
- 30) **Subcontractor** is any party whom the Contractor has engaged for partial execution of the ESMs hereunder, for whose works/services the Contractor shall be responsible as if they were implemented by it.
- 31) **Bid** is the Contractor's bid No. [enter the bid number] dated ____ 2016, which was accepted by Client and on the basis of which the public-private partnership was established hereunder (attached hereto as Appendix 3).
- 32) **Preventive Maintenance** involves procurement and replacement of lamps, ballasts or electronic units on luminaires, if any, when their service life expires irrespective of whether they are still operational or not. Periodical inspection of the public lighting system, which is the subject matter of this Contract, for the purpose of identifying problems when they actually start or identifying potentials for problems to occur in operation before they take place (Proposal to the Client to remove the plants interfering with the public lighting system, etc.).
- 33) **Preparatory Activities** include all the activities, for which the Contractor is liable hereunder in the Preparatory Period and which it records in the Activity Log in the Preparatory Period, including, *inter alia*, the time planning, obtaining of licences/permits, opinions, and technical requirements from the EDSO and PUCs, elaboration of the technical documentation and the technical review of the technical documentation for ESMs in the Contracted Facility, as well as procurement of materials and equipment and undertaking of measures necessary for obtaining the legally valid construction permit or other permits by the Client allowing for commencement of activities in the Implementation Period in line with prevailing regulations.
- 34) **Preparatory Period** is a period of conducting of a Preparatory Activity, and lasts from the commencement of the Contractual Period to the verification of the Activity Log by the Contracting Parties by their respective signatures and seals in the Preparatory Period.
- 35) **Project** refers to the public-private partnership project hereunder comprised of complete execution of the contractual obligations by the Contracting Parties throughout the Contractual Period, aimed at achieving Energy Savings, i.e. Financial Savings in the Contracted Facility.
- 36) **Commissioning** is the activity of putting of the installed equipment, installations and/or parts thereof in the Contracted Facility into test operation, for the purpose of verifying whether they are operational, comply with the contractual obligations and specifications, and whether they are ready for the planned use and operation. The Commissioning must be in compliance with the technical regulations and standards in respect to the construction permit or any other relevant permit required for the commencement and carrying out of works, so that the operating licence for the installed equipment, installations and/or parts thereof in the Contracted Facility may be properly obtained if required.
- 37) **Special-Purpose Account** is an account opened by the Contractor, in order to keep the inflows and outflows during the Project implementation separately, for the purpose of monitoring the fulfilment of the Contractor's obligations hereunder.
- 38) **Routine Adjustments** are adjustments for any factors, related to changes of Independent Variables that influence the consumption of Energy during the Guarantee Period.

- 39) **Reference Energy Price** means a net price of any form of Energy, as defined in the tender documents, including specific prices for consumption and power input units or capacities as deemed necessary, excluding VAT, but including all the fees and other costs included in the energy price calculations by the Energy Supplier.
- 40) **Reference Operating Cost** means the Baseline Energy Consumption multiplied by the Reference Energy Price plus Reference Maintenance Costs.
- 41) **Baseline Period** is a mutually agreed time period representing the functioning of the Contracted Facility prior to the implementation of ESMs.
- 42) **Baseline Energy Consumption** means the consumption of Energy and associated rate of power input and/or capacity of the Contracted Facility occurring during the Baseline Period.
- 43) **Reference Maintenance Costs** are net costs, as defined in the tender documents, for maintenance of specific parts of the Contracted Facility, which will be influenced by the implementation of the ESMs, excluding VAT, but including all the fees and other costs.
- 44) **Energy Supplier** is an economic operator engaged in the activity of supplying Energy in the territory in which the Contracted Facility is located.
- 45) **Contracting Parties** are the Client and the Contractor.
- 46) **Contracted Facility** is the Public Lighting System (Grid), as defined in Appendixes 1 and 2 hereto, which covers four settlements (Savino Selo, Zmajevo, Ravno Selo, and Kucura), in which the ESMs are applied and which can consist of several sections of the lighting system delimited by switches or any other physical or operational delimitation of their component parts, used by the Client.
- 47) **Contractual Period** means the period from the signing and entry into force of the present Contract up to the expiry of the same.
- 48) **Adjustments** involve the modifications made to the Baseline Consumption in order to neutralize routine and non-routine changes in consumption of Energy and thus provide a reliable basis for identifying Energy Savings attributable to the ESMs implemented by the Contractor.
- 49) **Energy Savings** are the reduction in consumption of Energy in the Contracted Facility.
- 50) **Financial Savings** are the reduction in Operating Costs of the Contracted Facility as a result of ESMs, calculated based on the Reference Operating Cost.

2. SUBJECT MATTER OF THE CONTRACT

The subject matter hereof is the implementation of ESMs aimed at more efficient use of Energy and corresponding reduction of CO₂ emissions as well as at reduction of the Operating Costs of the Contracted Facility.

The Contractor undertakes to implement such ESMs, by which it will ensure Financial Savings of the Contracted Facility during the Guarantee Period, in accordance with this Contract (including all the Appendices hereto).

All the ESMs applied hereunder must be in accordance with applicable positive regulations and standards in the Republic of Serbia.

3. AUTHORISED REPRESENTATIVES OF THE CONTRACTING PARTIES AND SUBMISSION

The Client and the Contractor shall, on the date of signing of the Contract or within three days from the date of signing of the Contract at the latest, appoint their respective Authorized Representatives, indicating their complete contact data.

Authorized Representatives of the Contracting Parties must be authorized to undertake activities in the name and/or for the account of the Client or the Contractor, i.e. have the power of attorney for representing and/or acting on behalf of the Client or the Contractor in all the legal transactions and technical operations related to the Contract.

Statements of the Contracting Parties which refer to the Contract shall become valid and produce effect from the date of their receipt by other Contracting Party, provided that they were delivered to the addresses of Authorized Representatives of the Contracting Parties in compliance with the Contract. Submission to any other address of the Contracting Parties shall have no legal effect.

4. CONTRACT PERIODS

4.1. Commencement of the Contractual Period

This Contract and its Appendices shall be deemed to be concluded on the date when the Contracting Parties sign the Contract and, if the Contracting Parties do not sign it on the same date, then the Contract shall be deemed to be concluded on the date when the Contract is signed by both Contracting Parties and when all the signed copies are submitted to the Client.

In any event this Contract shall come into force and shall produce full legal effect as of the date when the Contractor hands over to the Client the bank guarantees prescribed by this Contract.

The Contractual Period shall start running on the date of coming into force of the Contract in compliance with paragraph 2 of this Article.

4.2. Main periods of the Contract

The Contract has three main periods, within the Contractual Period defined in line with Article 4.1 hereof: the Preparatory Period, the Implementation Period, and the Guarantee Period.

The **Preparatory Period** is a period of conducting planning and designing activities pertaining to the Preparatory Activities as defined in Article 1 point 30) hereof. The Preparatory Period is a period starting from commencement of the Contractual Period and ending at the start of the Implementation Period. The Contracting Parties shall verify the finalization of the Preparatory Period by verifying the Activity Log in the Preparatory Period.

The **Implementation Period** is a period of conducting various activities related to the implementation of ESMs pertaining to the Implementation Activities, as defined in Article 1 point 1) hereof. The Implementation Period is a period starting on the date when the Contracting Parties verify the Activity Log in the Preparatory Period and ending when the Contracting Parties verify the Activity Log in the Implementation Period.

The **Guarantee Period** is a period of utilizing the Energy saving potentials of the Contracted Facility, in the course of which Energy Savings, i.e. Financial Savings are achieved due to the implemented ESMs. The Guarantee Period shall start on the date when the Contracting Parties verify the Activity Log in the Implementation Period and shall last until the end of the Contractual Period. In any case, the Guarantee Period shall not start after the expiry of 9 months after the signing of the Contract.

4.3. Duration of the Guarantee Period

The Guarantee Period shall last for _____ [*specify the time period in years*].

5. RIGHTS AND OBLIGATIONS OF THE CONTRACTOR

5.1. Right of decision on choice of ESMs

The Contractor shall, in accordance with this Contract, including all of its Appendices, decide which ESMs will be implemented in the Contracted Facility of the Client. Consequently, as long as the Contractor acts within its authorization and pursuant to this Contract, the Client must not refuse acceptance of, or hinder any actions related to ESMs specified in Appendix 3 hereto, except in case they are not in compliance with relevant positive regulations, technical regulations, and applicable standards in the Republic of Serbia, or other contractual obligations.

In the case the Contractor concludes, before the end of the Implementation Period, that changes to ESMs may:

- (1) Be objectively needed for the feasibility of implementation of ESMs and/or for the meeting of requirements prescribed by the regulations governing the areas of health and safety at work, fire protection, and environmental protection, either due to the discrepancy between the relevant technical documentation and the actual state of the Contracted Facility, or for some other justifiable technical reason; and/or
- (2) Result in a more efficient way of achieving Financial Savings, equal to or higher than the Guaranteed Savings,

The Contractor shall then submit to the Client a written justified request for the purpose of obtaining the Client's approval to proceed with the implementation of the proposed changes, which request shall not be unreasonably rejected by the Client and, if rejected, the Client shall provide the Contractor with written substantiated reasons for such rejection.

The Client shall submit to the Contractor the answer to the written request, within 15 days as of receipt of the same. If the Client rejects the request, it shall submit to the Contractor written substantiated reasons for such rejection.

If the Client does not respond to the written request of the Contractor within the specified 15 days period, it shall be deemed that the request has been approved.

If the relevant changes to the ESMs are of such a nature that, under applicable regulations, they require the amendment of this Contract, within a further period of five days as of the date when the Client approved the request referred to in paragraphs 2 and 3 of this Article, i.e. as of the date on which the Client is deemed to have approved the Contractor's request in line with paragraph 5 of this Article, the Client shall initiate the procedure for obtaining necessary approvals for conclusion of the amendment hereof so as to include the relevant changes to ESMs in the Contract, in accordance with the law regulating public-private partnership and concessions and, within the same period, the Client shall submit to the Contractor a written notice regarding the legal measures undertaken in relation thereto.

Within five days as of the date when the Client duly obtains the necessary approvals for the amendment hereof, the Client and the Contractor shall conclude the amendment hereof in order to include the relevant changes to ESMs in the Contract, in accordance with the law regulating public-private partnership and concessions.

During the period starting on the date when the Contractor submits to the Client the request for changes to the ESMs pursuant to paragraph 3 of this Article and ending on the date when the relevant amendment to the Contract is duly concluded in accordance with paragraphs 3 - 7 of this Article, the time periods for execution of the Contractor's contractual obligations within the Preparatory Period

and/or the Implementation Period shall be suspended and any relevant dates and/or time periods shall be extended for a period equivalent to the period of suspension.

5.2. Obligation to provide financial means for implementation of ESMs

The Contractor undertakes to provide the funds for financing the expenditures of the Project, from _____ (*specify sources of financing based on the bid: own capital and/or loan and/or other source of financing*).

5.3. Obligation to guarantee a minimum amount of Financial Savings

Subject to provisions of Article 5.1 hereof, the Contractor accepts the risk with respect to achieving the Financial Savings as presented in the accepted Bid, on the basis of the analysis, which the Contractor personally conducted at the Contracted Facility of the Client. This contractual obligation is described in detail in Section 9 hereof.

5.4. Obligation to cooperate in obtaining necessary licences/permits and approvals

The Contractor shall, throughout the entire Contractual Period, obtain all the necessary permits/licences and approvals for the implementation of ESMs in the name and for the account of the Client, to the extent allowable under prevailing regulations. In cases where applicable regulations do not allow the Contractor to obtain such permits/licences and approvals in the name and for the account of the Client, the Contractor shall provide all reasonable assistance to the Client in obtaining such permits/licences and approvals.

The Client shall cooperate in the above procedure of obtaining all the necessary permits/licences and approvals by which completion of such tasks is approved, as well as provide all the necessary documentation available to it or which it is liable to, based on technical and other relevant regulations of the RS, or in a position to obtain.

5.5. Regulatory compliance

The Contractor shall act in accordance with the law, technical, and other regulations and fair business practices in the RS when performing its contractual obligations, as well as in accordance with the rules prescribed hereunder, including those set out in Article 7.3 hereof.

The Contractor shall perform its contractual obligations in a professional and responsible manner.

5.6. Obligation of the Contractor to implement activities in the Preparatory Period

Obligations of the Contractor in the Preparatory Period shall, *inter alia*, include:

- 1) Informing the Authorized Representative of the Client on all the ESMs that are envisaged to be implemented in the Contracted Facility, before they are implemented. The Contractor shall conscientiously examine all the Client's reservations and requests for changes or alternative proposals and assess their advantages and disadvantages. If the Contractor sees no objective technical or financial benefit related to such proposals, it shall inform the Client of

such conclusions and shall be allowed to implement concrete ESMs as planned in its Bid and hereunder;

- 2) As necessary, preparation and execution and/or obtaining of the technical documentation required for obtaining of requisite permits/licences, as needed under applicable regulations, and performance of relevant activities related thereto;
- 3) Procurement of required equipment and materials;
- 4) Regular keeping of the Activity Log in the Preparatory Period, in accordance with Article 7.2 hereof;
- 5) Conducting of activities and procedures necessary for the Client to obtain the legally valid construction permit or other permits/licences allowing the Contractor to commence the Implementation Activities, if obtaining of such permits/licences is necessary in the concrete case under the prevailing regulations, as well as carrying out of other Preparatory Activities.

5.7. Obligation of the Contractor to implement activities in the Implementation Period

Obligations of the Contractor in the Implementation Period shall, *inter alia*, include:

- 1) Carrying out of construction works, fitting and installing the equipment, units, and other installations or parts thereof;
- 2) Planning and coordinating of the Implementation Activities with the Authorized Representative of the Client in order to minimize disruption of the regular functioning of the Contracted Facility to the extent practicable;
- 3) Programming, installation, and testing of software, if user software is envisaged in the Contractor's Bid;
- 4) Defining of operational and maintenance procedures;
- 5) Identifying specific energy management activities;
- 6) Maintenance and replacement of the existing installations, parts thereof, or equipment in the Contracted Facility;
- 7) Prompt informing of the Client in cases when the Contractor has actually learnt about the matters that may significantly impact the safety or efficient use of the Contracted Facility;
- 8) Where applicable, obtaining of standard warranties from Subcontractors, suppliers of equipment and materials for efficiency, quality, and proper functioning;
- 9) Acceptance of equipment and materials at the Contracted Facility;
- 10) Regular keeping of the site diary, the measurement book, and other records required under applicable regulations;
- 11) Regular keeping of the Activity Log in the Implementation Period, in accordance with Article 7.3 hereof;
- 12) Proper and regular disposal of defective and/or replaced installations, parts thereof, and equipment for ESMs, in line with applicable regulations of the RS;
- 13) Commissioning of the works carried out, installed equipment, installations and/or a part of installations, in line with/if prescribed under applicable regulations, including the verification of the illumination level following instructions stated in Appendix 6 hereto;
- 14) Conducting of all the activities necessary for the obtaining of the operating licence, as required under applicable regulations, and needed for fulfilment of other obligations related to the Implementation Activities.

5.8. Obligation of the Contractor to implement activities in the Guarantee Period

Obligations of the Contractor during the Guarantee Period shall, *inter alia*, include:

- 1) Performance of all the necessary actions and procedures for measurement and verification and making of reports on measurement and verification according to the M&V Plan to present generated Energy Savings and Financial Savings for each three-month period;
- 2) Operation and maintenance of equipment and systems installed as a part of ESMs, in keeping with the Operating and Preventive Maintenance, and the period of response to the reporting of defects within maximum 48 hours from the moment of reporting, in line with operating and maintenance procedures, including the obligation to ensure the quality of maintenance of minimum 98% properly operating lamps at any moment in every settlement belonging to the Contracted Facility;
- 3) Updating and/or upgrading of the installed software, if user software is envisaged in the Contractor's Bid.

5.9. Obligation of transparency

The Contractor has the obligation of transparency related to ESMs to be implemented during the entire Contractual Period and, in line with that, shall have the express obligation to regularly keep the Activity Log in the Preparatory Period and the Activity Log in the Implementation Period in accordance with this Contract, as well as to keep the Client informed at all times about its activities in:

- 1) The planning and designing phase within the Preparatory Period,
- 2) The procedure of procuring the equipment within the Preparatory Period,
- 3) The implementation activities, Commissioning, etc. during the Implementation Period.

The Contractor shall also open and keep a Special Purpose Account for all the incoming and outgoing payments related to the fulfilment of the Contractor's obligations hereunder, as stipulated in Article 5.13 hereof.

The Client shall at all times have the right to proceed with the checking of all the contractual arrangements and costs of the Contractor incurred related hereto, through the Special Purpose Account referred to in paragraph 2 of this Article, all in accordance with the applicable law and pertinent sub-legislation regulating public-private partnership and concessions, as stipulated in Article 6.2 hereof.

5.10. Right to utilize data on the Project for commercial purposes

The Contractor shall be authorized, in compliance with the regulations relating to the Client, to freely disclose the relevant Project elements from the Contract as the reference project and to use photographs of the Contracted Facility and/or its services and works carried out on the Contracted Facility to that purpose, with the prior consent/approval of the Client, whereby such approval shall not to be unreasonably delayed, all with the aim to protect the Client's rights.

5.11. Right to assign receivables

By the conclusion of this Contract, the Client gives its consent that the Contractor shall be authorized to assign receivables deriving from the Basic Remuneration, referred to in Article 10.2 hereof, to a

financier/bank in accordance with the law regulating public-private partnership and concessions and other applicable laws of the RS.

The Client shall have no other liabilities with respect to such an assignee (financier/bank). If the Guaranteed Savings are not achieved in accordance with the Contract, the Client shall have the right of recourse against the Contractor including (without limitation) through compensation/Penalties for non-achieved Guaranteed Savings.

5.12. Engagement of Subcontractor

The Contractor shall, as specified in the Bid, engage _____ [*indicate the name and registered seat of the Subcontractor*] as the Subcontractor, whose selection was approved by the Client.

The Contractor shall be accountable towards the Client for all the activities or failures of any Subcontractor referred to in paragraph 1 of this Article, as if it has conducted such activities or failures itself.

During the Contractual Period, the Contractor may hire other Subcontractors not listed in the Bid if the Subcontractor, following submission of the Bid, has become insolvent for a long period of time, provided such new entity meets all the requirements stipulated for a Subcontractor and provided the Contractor receives prior approval for that from the Client.

The Client shall deny its approval for engagement of the Subcontractor only if there are justifiable reasons for such denial.

5.13. Obligation of the Contractor to open a Special Purpose Account

Not later than by the date of conclusion of this Contract, the Contractor shall have a new Special Purpose Account opened in the commercial bank, through which it does the majority of its business transactions. The Special Purpose Account shall be the only account used by the Contractor for all the incoming and outgoing payments in the course of fulfilment of its obligations hereunder.

For the purpose of making transfers of funds from the budget hereunder, the Contractor shall be obliged to comply with the regulations governing the budget system.

5.14. Obligation of the Contractor to cooperate with the EDSO

The Contractor shall be obliged to cooperate with the Branch of „Elektro distribucija Sombor“, the Regional Centre Novi Sad, the *EPS Distribucija* (the Distribution Company of the EPI of Serbia).

For the parts of the Public Lighting System on which works are to be carried out, the Contractor shall be obliged to submit to the EDSO the approval for construction or other relevant permits/licences as required, as well as the corresponding technical documentation prepared on the basis of technical requirements provided by the EDSO, particularly for the parts of the Contracted Facility where there is also the electricity distribution grid present.

Communication and cooperation between the Contractor and the EDSO must be approved by the Client.

5.15. Obligation of the Contractor to remunerate to the Client the remuneration paid to the EDSO

The Contractor shall be obliged to remunerate to the Client the costs of the remuneration paid for the services provided by the subject EDSO related to the performance of this Contract.

6. RIGHTS AND OBLIGATIONS OF THE CLIENT

6.1. Right of the Client to influence the Contractor's design

Notwithstanding Article 5.1 of the Contract, the Contractor shall be obliged to restrain from implementation of intended ESMs, upon written notice from the Client in the following cases:

- 1) If the Contractor, in spite of the Client's request to do so, does not demonstrate that ESMs can be implemented according to the prevailing standards and positive regulations in the RS;
- 2) If the Contractor does not act in accordance with the criteria of transparency referred to in Article 5.7 hereof related to ESMs.

In case the Contractor and the Client fail to agree upon the Contractor's evidence that ESMs meet the applicable standards and regulations, the matter shall be resolved in accordance with Article 16.1 hereof.

6.2. Right of the Client to audit the Special Purpose Account of the Contractor

During the entire Contractual Period, the Client shall have the right to control and audit the Contractor's Special Purpose Account referred to in Article 5.13 hereof, in accordance with the laws and pertinent sub-legislation regulating public-private partnership and concessions.

6.3. Obligation of the Client to provide support for the design and implementation of ESMs

6.3.1. General obligations of the Client

The Client shall be obliged to:

- 1) Reasonably cooperate with the Contractor in its efforts to implement and finance ESMs in the Contracted Facility and to achieve the intended Guaranteed Savings as presented in the Contractor's Bid and in this Contract, and
- 2) Fulfil its contractual obligations stipulated herein so as to contribute to the minimizing of the Contractor's implementation and operating costs within the Contractual Period. For the purpose of accomplishing this goal, the Client agrees to reasonably cooperate with the Contractor during all the phases of the Project envisaged hereunder.

6.3.2. Obligations of the Client in the Preparatory Period

Obligations of the Client in the Preparatory Period shall, *inter alia*, include:

- 1) Submission, to the extent it is reasonably possible, of all the information for the Contractor to perform its activities in a timely manner, which shall include, *inter alia*, the provision of:
 - The existing technical documentation on the Contracted Facility, as well as data on the operation and maintenance of systems and equipment in the Contracted Facility;
 - Records and data concerning Energy consumption for the Contracted Facility as well as other relevant information (if not available, the Client shall request from its Energy Supplier to provide them);
 - Any known requirements set by regulations and/or any construction and technical requirements and restrictions that are expressly related to the Contracted Facility, which

- deviate from those regularly applicable to construction;
- Any other information and/or documentation as objectively required.
- 2) The Client shall make available its engineers in charge of maintenance and operating staff for the requirements of contacting with the Contractor as well as any other officers, employees, and agents that may have relevant knowledge, as may be reasonably required by the Contractor from time to time;
 - 3) The Client shall review and either approve or with good reason reject (due to non-compliance with the applicable regulations and mandatory standards, impossibility to implement ESMs due to unexpected changes in the Contracted Facility, impossibility to implement ESMs under normal conditions that cannot be changed, etc.) the technical documentation prepared by the Contractor prior to such technical documentation's formal approval in accordance with the laws and regulations regulating the area of planning and construction, in writing, within 14 days as of the date of submittal of such technical documentation to the authorized Client's representatives by the Contractor. In case of disagreement between the Client and the Contractor on the sufficiency of grounds for such rejection, the matter shall be resolved in accordance with Article 16.1 hereof;
 - 4) Subject to the Contractor's valid completion of the Preparatory Activities and obtaining of the legally valid construction permit or other permits/licences required for commencement of the Implementation Activities, if prescribed under applicable regulations in the RS, the Client shall approve the Activity Log in the Preparatory Period.

6.3.3. Obligations of the Client in the Implementation Period

Obligations of the Client in the Implementation Period shall, *inter alia*, include:

- 1) Allowing the delivery of equipment and materials to the Contracted Facility of the Client;
- 2) Provision of unrestricted access to the Contracted Facility to the Contractor and its personnel or to Subcontractors authorized by the former, so as to be able to perform any function related hereto during regular business hours, or at such other time as reasonably requested by the Contractor, provided it does not affect the operation of the Contracted Facility;
- 3) Informing of the Contractor, without delay, once the Client has actually learnt about the matters that may significantly affect the contractual obligations of both Contracting Parties, or may have impact on the safety or efficient implementation of the Project or the use of the Contracted Facility;
- 4) Reviewing and either approval or rejection with good reason of the relevant technical documentation, in writing, within 14 days as of the date of their submittal by the Contractor to the Authorized Representative of the Client. In case of disagreement between the Client and the Contractor concerning the grounds for such rejection, the matter shall be resolved in accordance with Article 16.1 hereof;
- 5) Accepting of certain reasonable and time-limited reasons preventing the carrying out and commissioning of the work, and allowing/facilitating the Contractor's carrying out of the work according to the agreed construction schedule;
- 6) Active participation in the Commissioning activities of the Contractor;
- 7) Provision of sufficient and adequate rent free space, if available, for storage of materials in the Contracted Facility;
- 8) Exercising of reasonable due diligence and cooperation with the Contractor in order to protect the Project and related works, materials, and equipment from damage, theft or abuse;
- 9) Approval of the Activity Log in the Implementation Period provided the Contractor properly

completes the Implementation Activities and obtains the legally valid operating licence or other permits/licences required in line with the prevailing regulations.

6.3.4. Obligations of the Client in the Guarantee Period

Obligations of the Client in the Guarantee Period shall, *inter alia*, include:

- 1) Informing the Contractor about any changes in the Baseline Consumption of the Contracted Facility that potentially require Non-Routine Adjustments, as soon as possible, but certainly no later than within 10 days as of the date of occurrence of such changes;
- 2) Ensuring that the Contracted Facility is properly used and maintained in accordance with the guidelines defined jointly by the Client and the Contractor;
- 3) Enabling free access to the Contracted Facility for the purpose of maintenance, which shall imply removal of branches of trees, plants, parked vehicles, drop counters, taxi stations, temporarily erected facilities, etc.;
- 4) Ensuring the assistance by the local traffic police station if the temporary interruption or additional regulation of traffic is needed during the maintenance of the Contracted Facility;
- 5) Ensuring the assistance of other utility services if needed during the maintenance of the Contracted Facility;
- 6) Reporting to the Contractor on any breakdown or malfunctioning of ESMs as soon as learning about it;
- 7) Ensuring that any subsequent adjustments by the Client or by any third party that the Client is aware of on the installations, parts thereof, and equipment that are important for Energy consumption and performance of obligations, shall be carefully recorded and the Contractor shall be informed on the same without delay;
- 8) Protection of the Contracted Facility from intentional physical damage;
- 9) Enabling switching off of the system during its maintenance;
- 10) Organizing of Breakdown Maintenance whereby the maintenance of Energy Saving Measures must be taken care of;
- 11) Informing the Contractor on the planned and performed Breakdown Maintenance;
- 12) Submitting of or allowing the Contractor to access the data necessary for the preparation of the reports on measurement and verification in compliance with the approved M&V plan;
- 13) Reviewing and approving of the M&V reports compiled based on the M&V Plan.

The Contractor shall be entitled to request compensation for damages resulting from the Client's failure to comply with its obligations set out in this Article.

6.4. Obligation of the Client to bear costs of rehabilitation for unforeseen damages during the Contractual Period

In case unforeseen damages, not caused by the activities of the Contractor, occur on the Contracted Facility during the Contractual Period, and the rehabilitation (repair or replacement) of which is necessary for fulfilment of the contractual obligations by the Contractor, the Client shall undertake all the measures required for the rehabilitation, within the shortest reasonable time period, and shall bear costs of such rehabilitation, for which time period the fulfilment of the Contractor's contractual obligations shall be suspended to the extent their fulfilment is prevented/hampered by such unforeseen damages.

Notwithstanding the provision of paragraph 1 of this Article, the Contractor may, upon such Client's explicit request and in accordance with the applicable law regulating the area of public-private

partnership and concessions and other regulations, conclude the amendment hereof so as to regulate the Contractor's carrying out of any such works related to the repair of the unforeseen damages referred to in paragraph 1 of this Article, whereby the rules stipulated in Article 5.1 paragraphs 5 to 7 hereof shall be accordingly applied.

The Contractor shall be entitled to request compensation for damages resulting from the Client's failure to comply with its obligations under this Article.

6.5 Obligation of the Client to pay remuneration to the EDSO

The Client shall be obliged to regularly pay remuneration for the services provided by the subject EDSO related to the performance of this Contract and thereafter the Client shall invoice the paid up amounts of remuneration to the Contractor.

In case, in the course of the Contractual Period, the relevant EDSO ceases to provide the services specified in the previous paragraph, and another economic operator starts providing such services (as a result of implementation of positive regulations or for other reasons), the Client shall undertake all the reasonable and timely measures and activities in order to establish cooperation with the new economic operator for the purpose of continuous provision of services.

7. PROCEDURES AND ACTIVITIES

7.1 The Activity Logs in the Preparatory Period and in the Implementation Period

The Contractor undertakes to keep the Activity Logs both in the Preparatory Period and in the Implementation Period.

The Activity Log in the Preparatory Period and the Activity Log in the Implementation Period must be accessible to every Authorized Representative of the Contracting Parties throughout the entire Contractual Period.

Execution of the Preparatory Activities in the Preparatory Period and of the Implementation Activities in the Implementation Period by the Contractor shall be confirmed by verification by the Authorized Representative of the Client of the Activity Log in the Preparatory Period and of the Activity Log in the Implementation Period.

The Activity Log in the Preparatory Period shall be verified by the respective seals and signatures of the Contracting Parties only once all the Preparatory Activities envisaged hereby are completed, i.e. the Activity Log in the Implementation Period shall be verified by the respective seals and signatures of the Contracting Parties only once all the Implementation Activities envisaged hereby are completed. Immediately after all the Preparatory Activities envisaged hereby are completed by the Contractor and verified by the Contracting Parties, each Contracting Party shall sign the Activity Log in the Preparatory Period.

For the avoidance of any doubt, the verification of the Activity Log in the Preparatory Period shall not occur prior to obtaining of the legally valid construction permit or other permits/licences necessary for the commencement of construction works, if issuing of the same is required under applicable regulations, and the verification of the Activity Log in the Implementation Period shall not occur prior to proper obtaining of the legally valid operating licence, if obtaining of the same is required under applicable regulations.

7.2. Activity Log in the Preparatory Period

The Contractor's Activity Log in the Preparatory Period shall record all the Preparatory Activities of the Contractor, and particularly the ones that are related to:

- 1) time planning and deadlines, obtaining of permits/licenses, approvals, opinions, and technical requirements of the EDSO and of the Municipality, elaboration of the technical documentation and its technical review;
- 2) obtaining of the legally valid construction permit and/or other permits/licences allowing the commencement of the Implementation Activities, if obtaining of such permits is required in the concrete case under applicable regulations.

7.3. Activity Log in the Implementation Period

The Activity Log in the Implementation Period shall record all the activities of the Contractor representing the Implementation Activities hereunder, and particularly the ones that are related to:

- 1) construction works, fitting and installation of parts of installations, equipment in the Contracted Facility, maintenance, and replacement of installations or parts thereof or equipment in the Contracted Facility, proper disposal of the faulty and/or replaced installations, parts thereof, and equipment, expert supervision over the works, technical inspection of the works;
- 2) programming, installation, testing, and commissioning of software, if user software is envisaged in the Contractor's Bid;
- 3) all the activities related to the implementation of the M&V Plan;
- 4) commissioning of the executed works, installed equipment, installations and/or parts of installations, in accordance with/if prescribed under applicable regulations;
- 5) technical acceptance of the works and activities necessary for the Client's obtaining of the legally valid operating licence, whenever it is prescribed under applicable regulations and other obligations required for the Implementation Activities.

7.4. Incentives, grants and rebates

The Contracting Parties undertake to mutually and reasonably cooperate when applying for any grants, incentives, financing, reliefs or rebates. The Contractor shall reasonably apply for or provide assistance to the Client in applying for any incentives, financing, refunds, and commercial discounts for which the ESMs are eligible and which could reduce the investment costs defined in Appendix 3 hereto (Winning Bid).

7.5. Important criteria for performance of Preparatory Activities and Implementation Activities

The Preparatory Activities and the Implementation Activities of the Contractor shall be deemed completed under the Contract only if they are in compliance with the quality criteria specified in the Contract (including Appendix 3 hereto), which shall be confirmed by the Client's signature in the Activity Log in the Preparatory Period, i.e. in the Activity Log in the Implementation Period.

The Preparatory Activities and the Implementation Activities should, in particular (but without limitation), comply with the following criteria:

- 1) the activities should be executed in accordance with the law, technical and other regulations of the Republic of Serbia and, for such Activities, relevant permits/licenses, approvals, and consents must be obtained, as well as the expert supervision over the works, technical inspection and acceptance of works must be conducted and, as required, the relevant legally valid construction permit, operating licence, and other permits/licences necessary for the construction and subsequent usage of the Contracted Facility must be obtained;
- 2) selection of the optimum solution in accordance with the requested operating characteristics, taking into account the existing situation and the conditions of use and, in particular, the estimated costs of maintenance of the applied ESMs after the expiry of the Contract, which costs must not be unreasonable;

- 3) functional compliance with the existing installations and components in the Contracted Facility;
- 4) compliance with technical requirements of the EDSO for the purpose of realizing the service connection to the EDSO grid;
- 5) compliance with positive regulations and prevailing standards of comfort and other relevant standards for the specific Contracted Facility;
- 6) structural compliance with the investment structure defined in the Contract (Appendix 3 hereto);
- 7) uniformity of the quality and proper functioning of the implemented ESMs without hidden (legal and physical) deficiencies/faults and other material deficiencies; and
- 8) performance of technical activities so that the users of the Contracted Facility are not limited in its use more than it is necessary for conducting of such activities.

7.6. Obstacles to the implementation of ESMs

The Contractor shall make all reasonable efforts to identify obstacles to the implementation of ESMs and to propose the method of elimination of such obstacles, as promptly as possible. The Contractor shall not be held responsible for any obstacles that could not have been objectively identified during the Preparatory Period, even with application of the required level of due diligence by the Contractor.

7.7. Proper disposal of faulty and/or replaced installations

The Contractor shall perform, at its own cost, the disposal of installations, parts of installations or other equipment and material of all kinds, which are defective/faulty or replaced during the Implementation Period, as well as during the maintenance of the applied ESMs in the Guarantee Period, in accordance with the positive regulations on the disposal of municipal, hazardous and other waste, except where the Client indicates that it wants to use them for other purposes.

Such disposal to be performed by the Contractor shall be implemented in accordance with the prevailing regulations within 30 days from the date of waste generation (lamp replacement), and a confirmation from the company authorized to handle hazardous waste shall be furnished to the Client within 5 days from the date of completed waste disposal.

In case the Client wants to sell such equipment or material, the benefit from the sale shall be retained entirely by the Client.

In case the Client wants to reuse the equipment or material in another facility, not included under this Contract, no compensation shall be due to the Contractor.

7.8. Minutes of Audit

Promptly upon finalization of the Implementation Activities except for the Commissioning, and prior to the Commissioning referred to in Article 7.9. hereof, the Contracting Parties shall jointly audit all the ESMs installed by the Contractor under the Contract (including its Appendices), in order to confirm their readiness for the Commissioning and they will prepare and sign the Minutes of audit, as the proof

of the performed audit. These Minutes shall form a separate Appendix to the Contract, and shall correspond in form and substance to Appendix 5 hereto.

If the ESMs are not ready for the Commissioning, the Contractor shall bring the ESMs into such condition, at its own cost, in which they will be ready for the Commissioning, by repairing all the deficiencies and faults within 30 days from the date when the audit referred to in paragraph 1 of this Article was performed.

In case the Contractor fails to perform the activities referred to in paragraph 2 of this Article within the time contracted for, such activities may be undertaken by or on behalf of the Client, and the Contractor shall, in such a case, be liable to compensate the Client for the value of non-implemented ESMs for the period until such deficiencies and faults are remedied but not longer than for a period of six months, as well as to compensate the Client for any damage, costs, fees, and losses in energy savings incurred.

The Client may not condition any existing claim of the Contractor by requesting remedy of all deficiencies and faults of the ESMs.

In any case, the Contractor's obligation to compensate the Client pursuant to this Article may not exceed the amount of actual damage suffered by the Client.

7.9. Commissioning of implemented ESMs

The Client shall be obligated to allow the Commissioning of the ESMs only after their completion or elimination of deficiencies and faults, as evidenced by the Client's signature on the Minutes of Audit.

For the avoidance of any doubt, the Guarantee Period shall not start until:

- 1) all the ESMs are performing as planned, notably with regard to energy efficiency and operating performance,
- 2) the Commissioning is properly completed,
- 3) all the deficiencies and faults of the ESMs identified after the Commissioning are eliminated or remedied (if any),
- 4) the legally valid operating licence is in force, if obtaining of the same is stipulated according to the regulations, and
- 5) the Contracting Parties verify the Activity Log in the Implementation Period.

7.10. Transfer of title

The title on the installations, parts thereof, or equipment, which the Contractor shall install or otherwise incorporate into the Contracted Facility during the implementation of the ESMs shall be transferred to the Client upon the verification of the Activity Log by the Contracting Parties in the Implementation Period and the commencement of the Guarantee Period, unless otherwise regulated by the prevailing regulations.

In case the Contractor is obligated, during the Guarantee Period, to install equipment, installations, or parts thereof at its own cost, the title on such ESMs shall be transferred to the Client upon the

verification of such activities by the Contracting Parties (by their respective signatures and seals on a separate document), unless otherwise regulated in the applicable regulations.

7.11. Measurement and Verification

The Contractor must perform all measurement and verification activities based on the M&V Plan that shall be a part of the Contractor's Bid and approved by the Contracting Parties, and prepared in accordance with Appendix 4 and Appendix 6 hereto. The M&V Plan may be additionally adjusted during the Preparatory Period and the Implementation Period, based on mutual agreement of the Contracting Parties.

While performing the measurement and verification activities, the Contractor shall act in line with the following fundamental principles of good M&V practice, which shall imply, in particular, the following:

- 1) M&V Reports should be accurate, as defined in the M&V Plan;
- 2) reporting on Energy Savings and Financial Savings should take into account all the effects of the Project;
- 3) where judgments are made about uncertain quantities, the M&V procedures should be designed to assess both Energy Savings and Financial Savings;
- 4) reporting on the Project's effectiveness should be consistent between different types of the ESMs and different time periods for the same Project;
- 5) determination of Energy Savings and Financial Savings should reflect the calculated and measured performance parameters, such as measured consumption of electricity according to monthly invoices submitted by energy supplier, while other less critical or predictable parameters may be estimated;
- 6) the reports on measurement and verification must also include all measures that the Contractor shall apply in accordance with the plan on Operating and Preventive maintenance (Maintenance Logbook);
- 7) the reports on measurement and verification must also include all measures that the Client shall apply in the case of Breakdown maintenance or due to other extraordinary events which have jeopardized proper functioning of the ESMs;
- 8) all the M&V activities should be clearly and fully disclosed and documented.

The Report on M&V must include a comparison between the calculated energy saving and the measured energy consumption in accordance with monthly invoices by Energy Supplier which the Client shall submit to the Contractor and an explanation on their mutual relationship and possible discrepancies.

The M&V reports shall be prepared by the Contractor every three months during the Guarantee Period. Such reports shall be sent to the Client no later than 30 days after the end of the three-month period covered by the relevant M&V Plan. The following procedure for adoption of the M&V Plan shall be observed:

- The report shall (unless subject to objections of the Client) be approved by the Client no later than within 15 days after its receipt by the Client;
- If the Client has objections on the conclusions from the report, the Client shall inform the Contractor thereon within 15 days, as of the date of receipt of the report. The Client shall provide the Contractor with reasons for its objections;
- The Contractor shall, within the following 15 days, as of the receipt of the Client's objections, make the necessary amendments and report thereon back to the Client.

If the Client disagrees again with the conclusions in the M&V Plan, the Parties shall settle their disagreements in accordance with Article 16.1. hereof.

For each Accounting Period, the Contractor shall submit the Annual M&V Report no later than by January 31 for the preceding year, evidencing the achieved Guaranteed Annual Savings.

7.12. Maintenance of the ESMs

The Contractor shall guarantee for good performance of the work and for proper functioning of all the parts (including, but not limited to installations, parts thereof, and equipment), in compliance with Article 8 hereof and Appendix 6 hereto. During the Contractual Period, for the purpose of providing proper operating conditions in the Contracted Facility aimed at achieving Energy Savings, the Contractor undertakes to maintain the ESMs installed or fitted in the Contracted Facility in accordance with the prevailing regulations and standards contracted for, and in accordance with the design of maintenance of installations and the facility, which shall form an integral part of the design documentation and which shall not restrict the competitiveness when procuring spare parts for the ESMs or for replacement of the ESMs.

For the purpose of carrying out the maintenance obligations, the Contractor shall forward to the Client direct contact details of a person authorized to receive the Client's requests regarding the Operating and Preventive maintenance who shall take the necessary steps and act upon the request no later than within 48 hours from the receipt of such request.

The Contractor shall apply all the technical, administrative, and organizational measures, during the Contractual Period, on any works, installations, and parts of installations and equipment, which are a part of the ESMs for the purpose of maintenance or restoration of their adequate working condition. The evidence of fulfilment of this Contractor's obligation shall be recorded in the maintenance logbook which is an integral part of the M&V Plan and which shall be submitted to the Client by the Contractor in accordance with the deadlines stipulated in Article 7.11.

In the case that, after the commencement of the Guarantee Period and until the end of the Contractual Period, a defect or deficiency is established in functioning of any of the works, installations, parts of installations and/or equipment, which form part of the implemented ESMs, the costs of replacement and remedying of other damages, as a consequence of such deficiency in functioning of the implemented ESMs (damage to the Contracted Facility, impossibility of implementing other ESMs, etc.) shall be borne by the Contractor.

7.13. Final inspection prior to the expiry of the Contractual Period

Three months before the end of the Contractual Period, the Contracting Parties shall jointly inspect the ESMs. At the moment of carrying out the inspection, all of the installed ESMs must have at least 25% outstanding service life, according to manufacturers' instructions.

In the case of a disagreement between the Contractor and the Client with respect to the remaining service life, or compliance with this Article of the Contract (Final Inspection before the Expiry of the Contractual Period), the matter shall be resolved in accordance with Article 16.1 hereof.

7.14. Final verification document

On the date of expiry of the Guarantee Period hereunder, if all the contractual obligations have been fulfilled, the Contracting Parties shall sign the final verification document in which they will confirm that all the contractual obligations hereunder have been completely fulfilled.

8. WARRANTY FOR GOOD PERFORMANCE AND PROPER FUNCTIONING OF ITEMS

The Contractor guarantees to the Client for good performance of all the works performed under this Contract and proper functioning of the items hereunder (including, but not limited to, the installations, parts of installations and installed equipment), as well as that such works and items (a) are brand new and of good quality, (b) are free from defects in design, material and workmanship; and (c) are fit for the purpose.

The Contractor guarantees to the Client for good performance of all the works and proper functioning of the items from the moment of commencement of the Guarantee Period until the end of the Contractual Period. In the case of equipment replacement, the newly installed equipment shall be at least of the same quality as the one replaced and it shall be subject to the guarantee provided in line with Article 11.1.2 hereof.

9. DETERMINING THE ACHIEVED ENERGY SAVINGS, FINANCIAL SAVINGS AND GUARANTEED SAVINGS

9.1. Methodology for establishing the achieved Energy Savings and Financial Savings

Establishing whether the Guaranteed Savings have been achieved shall be based on the comparison between the measured and verified Financial Savings, based on the M&V Plan and the Guaranteed Savings.

A detailed description of the methodology for the calculation of the Energy Savings and Financial Savings for all ESMs is given in the M&V Plan, as agreed by the Contracting Parties in accordance with this Contract. The calculation formulas include a method of comparing the Operating Costs that would have been incurred had the ESMs not been implemented (Reference Operating Costs) with the Operating Costs after the implementation of the ESMs during the Guarantee Period.

9.2. Reference currency

All monetary values calculated on the basis of the Contract shall be disclosed in _____ [*specify the currency - RSD or Euro, as per the tender documents and the Bid*].

9.3. Reference energy price

The Reference Energy Price, for the purposes hereof, amounts to (*specify the amount and currency – RSD or EUR, in line with the tender documents and the bid*). The Reference Energy Price shall mean a net price for electricity, including specific rates for units of consumption and rate of power input or capacity, as deemed necessary, excluding VAT, but including all the fees and other costs included in the energy price calculations by the Energy Supplier.

The Reference Energy Price shall be kept constant throughout the Guarantee Period. Therefore, Energy price variations during the Guarantee Period shall have no impact on the calculation of the Contractor's performance and its remunerations. The same shall apply to the changes of applicable taxes (with the exception of VAT) that apply to the consumption of electricity, if the same are included in the Reference Energy Price.

9.4. Baseline adjustments

Adjustments for the Guarantee Period shall ensure accurate measurement and computation of Energy Savings against the commitments undertaken by the Contractor. On the basis of the M&V Plan, it is necessary to carry out two types of adjustments:

- 1) Routine Adjustments – for all the factors that have impact on Energy expected to change routinely during the Reporting Period.
- 2) Non-routine Adjustments – for all the factors that have impact on Energy, which are not usually expected to change. During the Reporting Period, the Client shall check whether such static factors have been changed.

9.5. Guaranteed Savings

The Contractor guarantees that the application of ESMs from the commencement until the end of the Guarantee Period shall reduce the Operating Costs of the Contracted Facility, at least to the amount of the Guaranteed Savings, equalling:

_____ [specify the reference currency RSD/EUR, in accordance with the tender documents and the Bid]

On the basis of the Contract, the Client shall not be entitled to additional claims against the Contractor, except for the Guaranteed Savings, and/or penalties for non-fulfilment of contractual obligations.

The Guaranteed Savings shall be divided between the Client and the Contractor according to the agreed Shared Savings Percentage (SSP), whereby: _____% is the share belonging to the Client (SSP_{Client}), and _____% is the share belonging to the Contractor (SSP_{Contractor}) in accordance with the Contractor's Bid.

9.6. Frequency of determining the achieved Guaranteed Savings

The level of achieved Guaranteed Savings shall be controlled once in three months, in order to facilitate the annual review and to allow for a prompt reaction in the case of underperformance or to initiate additional Non-routine Adjustments, as necessary.

9.7. Additional Financial Savings

Additional Financial Savings is a positive difference between the Financial Savings achieved in an Accounting Period and the Annual Guaranteed Savings. The Additional Financial Savings shall be the basis for Additional Remuneration in accordance with Article 10.4 hereof.

9.8. Non-achieved Guaranteed Savings attributable to under-performance of the Contractor

The non-achieved Guaranteed Savings is the negative difference between the financial savings achieved in an Accounting Period and the Annual Guaranteed Savings. The non-achieved Guaranteed Savings shall be the basis for calculation of Penalties in line with Article 10.5.

9.9. Non-achieved Guaranteed Savings attributable to acts of the Client

If the ESMs do not generate the anticipated Financial Savings for the reasons caused by the Client or that are under its control, which shall include, *inter alia*:

- (1) an unlawful act, omission, breach or delay in performance of the Contract by the Client;
- (2) a delay, for which the Contractor is entitled to an extension of a deadline;
- (3) removal of unauthorized changes in the ESMs by the Client;
- (4) changes of or damage to the Contracted Facility or to the Client's equipment and systems or its operation, which substantially impact the implementation of the Project or the Contractor's

costs in relation to the implementation of the Project in the manner envisaged in the Preparatory Activities,

such circumstances shall be addressed in the following manner:

- In the event of a temporary failure to achieve the Energy Savings and Financial Savings (within a period of less than 90 consecutive days), the calculation of the Financial Savings shall be based on an estimate of what would have been achieved had such a circumstance not occurred;
- In the event of permanent failure to achieve the Energy Savings and Financial Savings (within a period equal to or exceeding 90 consecutive days), the Contractor shall adjust the Baseline Consumption by an amount calculated to neutralize the effect of such circumstances on the Financial Savings.

10. REMUNERATION

10.1. General Provisions

The Remuneration to the Contractor shall consist of the Basic Remuneration, Maintenance Remuneration and Additional Remuneration.

After the approval of the Activity Log in the Implementation Period, the Contractor shall be entitled to the remuneration throughout the entire Guarantee Period.

10.2. Annual Basic Remuneration

If the Financial Savings in an Accounting Period equal the Annual Guaranteed Savings, as demonstrated by the application of the M&V Plan and evidenced in the Annual Report pursuant to Art. 7.11 hereof, it shall be deemed that, by implementation of the ESMs in the Contracted Facility, the Contractor has achieved the Guaranteed Savings and became entitled to the annual **Basic Remuneration** for that Accounting Period.

If there are discrepancies between the calculated and admeasured Energy Saving, as a portion of Guaranteed Annual Saving, as demonstrated in the Annual Report of the M&V Plan, the following rule shall apply:

- If the discrepancy is up to 5%, the Contractor shall not be entitled to Additional Remuneration or obligated to pay the Penalties.
- If the admeasured Energy Saving is lower than the calculated Energy Saving by more than 5%, the Contractor shall pay the Penalties in accordance with Art. 10.5.
- If the admeasured Energy Saving exceeds the calculated Energy Saving by more than 5%, the Contractor shall be entitled to Additional Remuneration in accordance with Art. 10.4.

The Annual Basic remuneration shall be calculated according to the formula:

$$\text{Annual Basic Remuneration} = \text{Annual Guaranteed Savings} \times \text{SSP}_{\text{Contractor}}]$$

Where: SSP = Shared Savings Percentage

10.3. Remuneration for Operating and Preventive Maintenance

The remuneration for the Operating and Preventive Maintenance at annual level amounts to _____ (insert an amount in the reference currency, RSD or Euro), increased for VAT and excluding any other claims.

10.4. Additional Remuneration

If the Additional Savings are achieved in an Accounting Period, as demonstrated by the application of the M&V Plan and in accordance with the rule stipulated in Article 10.2, the Contractor shall be entitled to an **Additional Remuneration**.

The amount of the Additional Remuneration shall be calculated for each Accounting Period according to the formula:

$$(FSCP - AGS) \times CS$$

where:

FSCP = Financial Savings in the Accounting Period

AGS = Annual Guaranteed Savings

CS = 50 % of the Contractor's share in the Additional Savings.

10.5. Compensation in the case of non-achieved Guaranteed Savings ("Penalties")

In the case of non-achieved Guaranteed Savings in an Accounting Period attributable to the under-performance of the ESMs implemented by the Contractor, as demonstrated by the application of the M&V Plan and in accordance with the rule stipulated in Article 10.2, the Contractor shall be liable to pay the **Penalties**.

The amount of Penalties shall be calculated for each Accounting Period according to the formula:

$$(AGS - FSCP) \times SSP_{\text{Contractor}} \times 2$$

where:

AGS = Annual Guaranteed Savings

FSCP = Financial Savings in Calculated Period

SSP = Shared Savings Percentage

The evaluation of Energy Savings and Financial Savings shall be submitted by the Contractor after each Accounting Period no later than within 10 days after the approval of the fourth quarterly M&V report during the Guarantee Period.

The total amount of Penalties shall be paid no later than within 15 days after the approval of the Energy Savings and Financial Savings by the Contracting Parties.

10.6. Penalties for poor quality of maintenance

If the quantity of operating lamps is less than the minimum quantity stipulated in Article 5.8. of this Contract, the Contractor shall have 10 days at its disposal to achieve such minimum quantity.

If the Contractor fails, within the deadline from paragraph 1 of this Article, to achieve the minimum quantity of operating lamps as stipulated in Article 5.8 of this Contract, the Client shall impose penalties on the Contractor for poor quality of maintenance. The amount of penalties shall be calculated on the basis of the quantity of faulty lamps in excess of the allowable quantity pursuant to Article 5.8 of this Contract and double expenses for annual maintenance per one lamp.

The total amount of Penalties shall be paid within 15 days after the Contracting Parties verify that the Contractor failed to reach the minimum quantity of operating lamps as stipulated in Article 5.8 of this Contract after expiry of the Reporting Period.

10.7. Payment of remuneration

As of the commencement of the Guarantee Period, the Contractor shall be entitled to the Basic Remuneration and Remuneration for the Operating and Preventive Maintenance. For each Accounting Period the payment of an advanced remuneration shall be made at the end of each month, to the amount of one twelfth of the Annual Basic Savings and the Remuneration for the Operating and Preventive Maintenance, as defined in Articles 10.2 and 10.3 hereof, which shall amount to _____ (enter the amount) _____ [enter the reference currency: RSD or EUR], increased for VAT and excluding any other claims.

At the end of the Accounting Period, the Contractor shall submit the annual M&V report in line with the M&V Plan.

On the basis of the submitted annual report:

- 1) The Contractor shall not be entitled to the Additional Remuneration nor shall he be liable to pay the Penalties if the Financial Savings in the Accounting Period equal the Annual Guaranteed Savings or deviate from it by maximum plus/minus 5%;
- 2) The Client shall pay the Additional Remuneration to the Contractor pursuant to Article 10.5 hereof;
- 3) The Contractor shall pay the Penalties to the Client pursuant to Article 10.6. hereof.

10.8. Terms of payment

The Client agrees to pay all undisputed claims due to the Contractor hereunder within 15 days from the date of receipt of the invoice from the Contractor.

The Client agrees to pay to the Contractor interest on uncontested pecuniary claims, which have not been settled within 15 days from the date of receipt of the invoice, to the amount stipulated by the law regulating default interest rate.

The Contractor shall be entitled to request from the Client compensation for failure to make timely undisputed payments, to the amount stipulated by the law regulating deadlines for settlement of pecuniary claims in commercial transactions between the public sector and the private sector entities.

The Contractor shall be entitled to request from the Client compensation for all the costs borne in its commercial transactions whenever they are directly connected to the fulfilment of its contractual obligations or to the implementation of the Project, which costs were incurred as a result of late payment of undisputed pecuniary claims by the Client.

11. SECURING THE FULFILLMENT OF OBLIGATIONS FROM THE CONTRACT

11.1. Securing the fulfilment of Contractor's obligations

11.1.1. Purpose, type and amount of security

For securing the **execution of activities in the Preparatory Period and in the Implementation Period**, the Contractor shall provide a Performance Bond to the amount of 10% of the amount of the Guaranteed Savings in accordance with Article 9.5 hereof. The value of the Performance Bond shall be calculated according to the formula:

$$GS \times 0.10$$

where:

GS = Guaranteed Savings in accordance with Article 9.5. hereof.

The Contractor shall provide and submit to the Client the original of the Performance Bond referred to in paragraph 1 of this Article no later than within 15 (fifteen) days after the signing of the Contract, with the validity expiring one month after the commencement of the Guarantee Period.

For securing of the **fulfilment of Guaranteed Savings** and for securing the payment of Penalties in the case of failure to achieve the Guaranteed Savings within the Guarantee Period, the Contractor shall provide a Performance Bond to the amount of 5% of the Guaranteed Savings. The total value of the Performance Bond shall be calculated according to the formula:

$$GS \times 0.05$$

where:

GS = Guaranteed Savings pursuant to Article 9.5. hereof.

The Contractor shall provide and submit to the Client the original of the Performance Bond referred to in paragraph 3 of this Article no later than on the date of commencement of the Guarantee Period. The validity of this bank guarantee shall start running on the date of expiry of the Performance Bond referred to in paragraph 1 of this Article, and shall expire one month after the end of the Guarantee Period. In the case the Contractor fails to provide the original bank guarantee securing the fulfilment of the Guaranteed Savings until the date of commencement of the Guarantee Period at the latest, the Client shall be entitled to activate the bank guarantee referred to in paragraph 1 of this Article.

11.1.2. Basic data on performance bond

The Contractor shall provide the bank guarantees referred to in Article 11.1.1 hereof, which shall be:

- 1) made out to the Client's name,
- 2) unconditional,
- 3) irrevocable,

- 4) payable on the first demand,
- 5) specifying an exclusive jurisdiction for the settlement of disputes arising from or related to the Performance Bond according to the Client's head office/place of business.

11.1.3. Return of performance bond

Within eight days after the expiry of the Performance Bond securing the execution of activities in the Preparatory Period and in the Implementation Period, i.e. the Performance Bond securing the achievement of the Guaranteed Savings, the respective bank guarantee shall be returned to the Contractor.

11.2. Securing the fulfilment of the Client's obligations

For securing the payment of the Basic Remuneration and Additional Remuneration to the Contractor, pursuant to Section 10 hereof, the Client shall submit:

- Promissory notes *[insert the concrete type of promissory note and, as required, other details]*.

The Client shall submit to the Contractor the promissory notes, properly certified and signed by the Authorized Representative of the Client, as well as any other documentation in accordance with the regulations of the RS required in relation to the promissory notes. The number of issued promissory notes must be equal to the number of mandatory payments of the Basic Remuneration to the Contractor, during the Guarantee Period.

The Contractor shall be obliged to return the unused promissory notes to the Client after the expiry or the termination of the Contract.

12. LIABILITY

12.1. The Client's right to compensation for damages caused by the Contractor

The Contractor shall pay compensation for all the damages (including, but without limitation to damages incurred due to or related to any loss, injury or death) caused by it or by persons acting upon its instructions (not excluding the authorized persons of the Client or its employees) or damages incurred by failure to achieve the Guaranteed Savings.

12.2. The Client's right to compensation for failure of the Contractor to fulfil obligations from the Bid and the Contract

If, after the signing of this Contract, it is established that the Contractor has failed to meet the requirements set forth in the Bid and in the Contract, i.e. the obligations arising out of this Contract, the breach of which represents the basis for the Client's unilateral termination of this Contract in accordance with Article 16.2. hereof, the Client shall be entitled to the amount calculated in the following way:

$$GS \times 0.03$$

where:

GS = Guaranteed Savings in accordance with Article 9.5 hereof.

In the event the actual damage suffered by the Client due to or related to such infringement is greater than the amount of penalties established in line with the previous paragraph, the Client reserves the right to claim, from the Contractor, the total amount of damages suffered.

12.3. The Contractor's right to compensation for failure of the Client to provide support during the implementation of ESMs

If the Client intentionally or by gross negligence fails to fulfil its contractual obligation to cooperate in accordance with Articles 6.3 and 6.4 hereof, the breach of which represents the basis for the Contractor's unilateral termination of the Contract referred to in Article 15.2 hereof, the Client shall:

- 1) Compensate the Contractor for all the damages incurred due to such acts or omissions;
- 2) Pay for the implemented ESMs as evidenced by the verified Activity Log in the Preparatory Period and the Activity Log in the Implementation Period, as well as
- 3) Pay all the remunerations for the implemented ESMs, for the period from the start of the Guarantee Period until the moment of unilateral termination of the Contract.

13. FORCE MAJEURE

The failure of the Contracting Parties to meet any of the obligation or provisions hereof shall not give rise to a claim by either Contracting Party against the other, nor shall it be deemed as a breach hereof, if such failure is a consequence of force majeure.

Force majeure, pursuant to paragraph 1 of this Article, shall imply any unforeseen or unavoidable event beyond the control of the Contracting Parties. In any event, force majeure shall include any event, circumstance or a combination of events and circumstances falling outside the scope of regular events and circumstances, beyond the control of the Contracting Party, that is, events and circumstances not caused by the fault or negligence of the Contracting Party, which occurred on or following the date of conclusion of this Contract, which have an impact on the exercising of rights and fulfilment of obligations stemming out of this Contract, and the impact of which, despite reasonable care, the Contracting Parties could not have been foreseen, prevented, eliminated or mitigated.

The Contracting Party affected by force majeure shall provide a written notice to the other Contracting Party on the events and/or circumstances constituting force majeure pursuant to this Article as soon as it is objectively possible after the occurrence of force majeure, in which notice such Contracting Party shall indicate which of its respective obligations it is prevented to fulfil for the duration of the force majeure event. After submitting the said notice to the other Contracting Party, the affected Contracting Party shall continue to notify the other Contracting Party, in writing, on any further material developments of events and/or circumstances representing the force majeure hereunder, as soon as reasonably possible, as well as of the reasonably expected date when the affected Contracting Party will be able to continue fulfilling its respective obligations.

In cases of occurrence of force majeure events pursuant to this Article, the implementation of this Contract shall be temporarily postpone, and the obligations hereunder shall be temporarily suspended until the cessation of the effects of force majeure event.

Following the cessation of effects of force majeure, the validity of this Contract shall be extended for a time period equivalent to the period of the effect of force majeure.

In the case of duration of effects of force majeure for a continuous period in excess of 180 days, either Contracting Party shall be entitled to terminate this Contract unilaterally with immediate effect.

14. TERMINATION OF THE CONTRACT

14.1. Expiry and Termination of the Contract

The Contract shall expire at the moment of completion of the Guarantee Period, as stipulated in Art. 4.3 hereof, except in respect of specific obligations, which, in line with the provisions hereof, shall remain in effect for a certain time period following the expiry of the Guarantee Period.

Neither Contracting Party shall be entitled to terminate the Contract unilaterally before its expiry, except for justified reasons as set out in Article 16.2 hereof.

Termination of the Contract shall not affect any other legal remedies available to the Contracting Parties in compliance with this Contract.

14.2. Termination of the Contract due to justified reasons

The Contracting Parties may terminate the Contract unilaterally only due to justified reasons. The following cases shall be deemed to be justified reasons:

1. Justified reasons on the part of the Client:
 - The Contractor continuously (within a period of three months or longer) fails to apply the defined or agreed criteria or standards - Appendix 3 (Winning Bid) hereto, and
 - The Contractor becomes or is reasonably deemed to be insolvent, or is not able to fulfil its due obligations for other reasons, or is under preliminary bankruptcy proceedings or bankruptcy proceedings, or is subject to voluntary or forced liquidation or under a similar procedure; and
2. Justified reasons on the part of the Contractor: the Client intentionally or due to gross negligence fails to meet its contractual obligation to cooperate (Article 6.3 hereof), or fails to make payment of the remuneration to the Contractor (Section 10 hereof) for more than three consecutive months.

14.3. Termination notice

The unilateral termination of the Contract and all other activities related to the termination (notifications, establishing of the deadline for extension of the Contract validity, etc.) must be made solely in writing, with one month notice.

14.4. Damage compensation on the ground of unilateral termination

In case the Client terminates the Contract in accordance with the provisions regulating justified reasons for unilateral termination of the Contract as set out in Article 15.2. hereof, the Client shall be entitled to compensation as envisaged in Article 12.2. hereof.

In the case the Contractor terminates the Contract in accordance with the provisions regulating justified reasons for unilateral termination of the Contract, as set out in Article 15.2 hereof, the Contractor shall be entitled to compensation as envisaged in Article 12.3 hereof.

If one of the Contracting Parties unilaterally terminates the Contract without justification and contrary to the provisions regulating justified reasons for unilateral termination of the Contract, as set out in Article 15.2 hereof, the other Contracting Party shall be entitled to compensation of any form of damage resulting from such unilateral termination of the Contract.

15. SETTling OF DISPUTES AND GOVERNING LAW

15.1. Resolution of technical disagreements

In the case of disagreements between the Contracting Parties that are of technical nature, as referred to in the provisions of Articles 6.1; 6.3.2. point (3); 6.3.3 point (4); 7.11. and 7.13. hereof, the subject matter of the disagreement shall be forwarded for final resolution to a third party who shall be appointed by the Contractor and the Client jointly within 15 days as of the date of occurrence of the subject disagreement. The third party shall settle the dispute within 30 days as of the date of submission of the request for settling of the disagreement to the third party by the Contractor and/or the Client. The decision of the said third party shall be binding upon the Parties, and the remuneration for the third party's work on resolving the subject matter of disagreement shall be paid by the losing party while each Contracting Party shall bear the costs of their respective legal advisors and other costs not representing the remuneration for the third-party's work.

During the period starting on the date when the Contractor and/or the Client submits to the third party referred to in paragraph 1 of this Article the request for resolution of the subject matter of disagreement and ending on the date when the third party issues the decision, the time-limits for fulfilment of obligations by the relevant Contracting Party shall be suspended, unless the court of jurisdiction decides otherwise.

In case the Contracting Parties, during a period exceeding three months, fail to jointly nominate the third party to resolve the technical disagreements, it shall be deemed that a general (legal) suit arose.

15.2. General (legal) disputes resolution

The Contracting Parties will resolve in an amicable manner all disputes, disagreements or claims arising from or in connection with the Contract or non-fulfilment of contractual obligations, termination or nullity of the Contract.

Except in the case of Force Majeure and in cases of other express provisions of the present Contract where, in connection with general (legal) disputes, the Contracting Parties fail to resolve a dispute in an amicable manner, which results in non-fulfilment of contractual obligations by either of the Contracting Parties for a period exceeding three months, the Contracting Parties agree to resolve the matter through a legal proceeding.

In case the condition referred to in paragraph 2 is fulfilled, each Contracting Party shall be authorized to file a civil lawsuit before the competent court.

All disputes in relation to this Contract fall under the jurisdiction of the competent court in Novi Sad.

In case that upon fulfilment of the conditions referred to in paragraph 2 of this Article none of the Contracting Parties makes use of paragraph 2 of this Article, and the Contracting Parties re-establish their relations in accordance with the Contract, the authorization referred to in paragraph 2 of this Article shall cease to exist.

16. FINAL PROVISIONS

16.1. Entire Contract

The Appendices hereto, which form integral parts hereof, are:

Appendix 1	Contracted Facility
Appendix 2	Basic Data on Each Facility within the Contracted Facility
Appendix 3	Winning Bid (including the date of receipt and registration number)
Appendix 4	Instructions for Establishing Energy Savings
Appendix 5	Template of the Minutes of Audit
Appendix 6	Guidelines for Verification of Quality of Maintenance and Illuminance Level.

The Contracting Parties consensually state that they have handed over to each other the documents that constitute the Appendices referred to in paragraph 1 of this Article, filled out prior to or on the date of signing hereof, unless other time-limit is stipulated for that purpose hereunder, or that they shall fill them out according to the time schedule that shall follow from the fulfilment of obligations of the Contracting Parties during the period of validity of the Contract, where and if the obligation to fill out an Appendix, subject to its purpose, exists.

16.2. Counterparts

This Agreement has been made in six (6) identical counterparts, three (3) of which shall receive each Contracting Party.

In _____ on _____ 2016

For the Client:

(stamp and signature of the Authorized Representative)

For the Contractor:

(stamp and signature of the Authorized Representative)