# **CONTRACT FOR DELIVERY**

On this day, ............................. (year), in the city of .........................., between:

[Name of the ASSIGNOR with address: the city of ...........................street: ................... BULSTAT register code/ registration number or other identification code, represented by.................................................... in the capacity as........................................... hereinafter referred to as “the ASSIGNOR”,

and

[Name of the CONTRACTOR], [with address: [address of the CONTRACTOR] / with seat and registered office: [seat and registered office of the CONTRACTOR] [insert as applicable], [UIC / BULSTAT register code / registration number or other identification code (if the CONTRACTOR is a person established in another EU Member State or third country) [...] [and VAT number [ ...1] [insert as applicable], represented by [name(s) of the person or persons representing the CONTRACTOR], in the capacity as [title(s) of the person or persons representing the CONTRACTOR], designated as CONTRACTOR, of the other party, following a procurement procedure under Chapter of the Public Procurement Act (the PPA) with subject:.................................... this contract (“the Contract”) is concluded for the following:

**SUBJECT OF THE CONTRACT**

Art. 1. Subject

(1.1) The ASSIGNOR hereby assigns, and the CONTRACTOR agrees to deliver, the..................... in accordance with the ASSIGNOR’s Technical Specification (Annex No. 1), the CONTRACTOR’s Technical and Price Proposal (Annexes Nos. 2 and 3), an integral part of the Contract and in accordance with the requirements of this Contract.

(1.2) The type, data and characteristics of the products are detailed in the Technical Specification of the ASSIGNOR (Annex No. 1).

**PRICES AND PAYMENT METHOD**[[1]](#footnote-1)

Art. 2. Price

(2.1) For the supply of the products subject to the procurement, the ASSIGNOR shall pay to the CONTRACTOR a total price of ....(....................) BGN excluding VAT or .........................(.....................) BGN including VAT, in accordance with his Price Proposal (Annex No. 3), an integral part of this Contract.

(2.2) The price referred to in Art. 2.1 is formed at the following unit prices:

The price for the delivery of one piece of the subject of the Contract shall be:................................(...........) BGN excluding VAT or (......................) BGN including VAT;

(2.3) The prices quoted are final and include all costs and fees of the CONTRACTOR for the performance of the subject of this Contract, such as but not limited to: the costs of acquiring, respectively transferring title to the ASSIGNOR’s products, for delivery of the products to the delivery location, and all other costs necessary for the quality performance of the Contract.

(2.4) The prices specified in this Contract are final and remain unchanged for the duration of its validity, except in the cases referred to in Art. (18.1).

Art. З. Method of payment

(3.1) the ASSIGNOR shall pay the price for the respective delivery within 30 (thirty) days after signing a Record of Handover, signed by the ASSIGNOR without remarks and providing the original invoice issued by the CONTRACTOR.

(3.2) Payments shall be made by payment order to the following bank account specified by the CONTRACTOR: ................................

The CONTRACTOR shall notify the ASSIGNOR in writing of any subsequent changes to his bank account within 3 (three) days from the time of the change.

In the event that the CONTRACTOR fails to notify the ASSIGNOR: within this period, the payments to the bank account referred to in this Article shall be deemed to have been duly made.

**TERMS, PLACE AND CONDITIONS OF DELIVERY.
TRANSFER OF OWNERSHIP AND RISK**

Art. 4. Terms and place of delivery

(4.1) This Contract shall come into force from the date of signing and registration in the ASSIGNOR’s filing system.

(4.2) The time limit for delivery of the products shall be within .......................... calendar days from the date of execution of the contract for the award of contract.

(4.3) The place of delivery of the products subject to the contract shall be in the city of.................... street.................................................................................

Art. 5. Terms of delivery

(5.1) The CONTRACTOR undertakes to supply and deliver to the ASSIGNOR products that fully comply with the ASSIGNOR’s requirements.

(5.2) Upon delivery of the Products, the CONTRACTOR shall provide the ASSIGNOR with a properly executed invoice - original, signed by the CONTRACTOR.

(5.3) The delivery and the handover/receipt of the Products shall be certified by the signing in duplicate of a bilateral Record of Handover (“Record of Handover”) by the Parties or their authorized representatives, after verification of: the absence of apparent Non-compliances, the completeness of the delivery and presentation of the document in accordance with Art. (5.2.) and the conformity of the Product with the technical specifications, according to the requirements in the Technical Specification of the ASSIGNOR.

(5.4) The CONTRACTOR shall notify the ASSIGNOR: in writing within......(five) days in advance of the specific dates and times on which deliveries will be made.

(5.5) In case of obvious Non-compliances, of the delivered products, the ASSIGNOR has the right to refuse to sign a Record of Handover. In these cases, the Parties shall sign a Statement of Findings, which shall describe the Non-compliances found, according to Art. (5.6). After removal of the Non-compliances, the Parties shall sign a bilateral Record of Handover for acceptance of delivery.

(5.6) In the event that the CONTRACTOR delays the delivery of the Products or the rectification of the Non-Compliances by more than 30 (thirty) days from the delivery date stipulated in Art. (4.2) respectively from the date specified in the Statement of Findings, the ASSIGNOR shall be entitled to terminate the Contract, as well as to receive penalties under Art. 12 of the Contract, including to draw down the amount of the submitted performance security.

(5.7) The signature of the Record of Handover under Art. (5.3) or Art. (5.5) without remarks shall have the effect of acceptance of delivery by the ASSIGNOR, except in cases of “latent Non-compliances” which cannot be detected by ordinary examination of the products.

(5.8) Where the CONTRACTOR has entered into a subcontract/contracts, the work of the SUBCONTRACTORS shall be accepted by the ASSIGNOR in the presence of the CONTRACTOR and the SUBCONTRACTOR. (clause to be included if applicable)

Art. 6. Transfer of ownership and risk

The ownership and the risk of accidental damage or perishability of the products subject to delivery shall pass from the CONTRACTOR to the ASSIGNOR as of the date of acceptance thereof as recorded in The Record of Handover pursuant to Art. (5.3), respectively pursuant to Art. (5.5).

**RIGHTS AND OBLIGATIONS OF THE CONTRACTOR**

Art. 7.

(7.1) In performance of the Contract, the CONTRACTOR undertakes to deliver products meeting the technical parameters set out in the Technical Specification to the ASSIGNOR, complete in accordance with the requirements of this Contract and accompanied by the relevant documents, and to transfer ownership thereof to the ASSIGNOR:

(7.2) The CONTRACTOR shall perform his obligations under the Contract and exercise all his rights with a view to protecting the interests of the ASSIGNOR.

(7.3) Upon the faithful and punctual performance of his obligations under this Contract, the CONTRACTOR shall be entitled to receive payment for the value of each delivery in accordance with the specified method of payment.

(7.4) The CONTRACTOR shall have the right to request from the ASSIGNOR such assistance as is necessary to carry out the work under the Contract, including the provision of information and documents necessary for the performance of the Contract.

(7.5) The CONTRACTOR undertakes to enter into a subcontract with the SUBCONTRACTORS specified in his offer within 3 (three) days of the conclusion of this Contract. Within 3 (three) days of the conclusion of a subcontract or of a supplementary agreement for the replacement of a SUBCONTRACTOR specified in the offer, the CONTRACTOR shall send a copy of the contract or of the supplementary agreement to the ASSIGNOR together with evidence that the conditions of Art. 66, paragraph 2 and paragraph 11 of the PPA have been fulfilled. (the clause is included if applicable)

**RIGHTS AND OBLIGATIONS OF THE ASSIGNOR**

Art. 8.

(8.1) The ASSIGNOR undertakes to pay the price under Art. (2.1) of this Contract, according to the terms and in the manner specified herein.

(8.2) The ASSIGNOR undertakes to accept delivery of the products subject to the contract pursuant to Art. (5.3) if it meets the agreed requirements.

(8.3) The ASSIGNOR shall not disclose in any form any information provided to it by the CONTRACTOR which is in the nature of a trade secret and which is expressly referred to by the CONTRACTOR as such in his offer.

(8.4) The ASSIGNOR shall be entitled to request the CONTRACTOR to execute the delivery of the products at the address specified in Art. (4.3) of the Contract, in time and without deviation from the agreed requirements.

(8.5) The ASSIGNOR shall be entitled to receive information at any time concerning the preparation, progress and organisation of the execution of the delivery and the activities covered by the Contract.

(8.6) The ASSIGNOR shall have the right of reclamation for the products delivered under the Contract, subject to the conditions set out in this Contract.

(8.7) The ASSIGNOR shall have the right to refuse acceptance of delivery where the CONTRACTOR fails to comply with the requirements of the Contract and the Technical Specification until the CONTRACTOR has fully performed his obligations under the terms of the Contract, or to refuse to pay in part or in full the price for the relevant delivery.

(8.8) The ASSIGNOR shall have the right to require the CONTRACTOR to enter into and submit to it subcontracts with the SUBCONTRACTORS specified in his offer. (clause to be included if applicable)

**PERFORMANCE GUARANTEE** [[2]](#footnote-2)

Art. 9. Types of guarantees, amount and form of the guarantees

(9.1) Types and amount of the guarantees

(9.1.1) Upon conclusion of the contract the CONTRACTOR shall provide a performance guarantee in the amount of ...............% (................percent) of the value under Art. (2.1) of this contract in the amount of ) BGN.

(9.1.2) The CONTRACTOR shall provide proof of a placed performance guarantee on the Contract as of the date of its execution.

(9.2) Form of the guarantees.

(9.2.1) The CONTRACTOR shall choose the form of the guarantee from among the following: (a) a cash sum deposited in the bank account of the ASSIGNOR and (b) a bank guarantee; or (c) insurance.

Art. 10. Requirements regarding the guarantees

(10.1) Where the guarantee is presented in the form of a sum of money, it shall be deposited in the following bank account of the ASSIGNOR:

Bank...............................

Bank account ..............................

All bank charges related to the transfers of the amount are at the expense of the CONTRACTOR;

(10.2) When the CONTRACTOR submits a bank guarantee, the original thereof shall be submitted, and it shall be unconditional, irrevocable and non-transferable, covering 100% (one hundred percent) of the value of its performance guarantee, with a validity period of the duration of the Contract, plus thirty (30) days.

(10.2.1) The Parties agree that in the event of the creation of a bank guarantee, it shall contain a condition that on first demand the bank shall pay the amount of the guarantee notwithstanding any objections and defences arising in connection with the underlying obligations.

(10.2.2) All bank charges related to the servicing of the transfer of the guarantee, including its reimbursement, shall be borne by the CONTRACTOR.

(10.3) The insurance which secures performance, by covering the liability of the CONTRACTOR, shall have a term of validity, the duration of the contract, plus thirty (30) days. The ASSIGNOR shall be specified as a third party beneficiary under this insurance. The insurance shall cover the CONTRACTOR’s liability for total or partial failure to perform the Contract, and may not be used to secure the liability under any other contract. The cost of taking out the insurance contract and maintaining the insurance in force for the required period, and of any payment of insurance indemnity in favour of the ASSIGNOR, if there is reason to do so, shall be borne by the CONTRACTOR.

Art. 11. Retention and release of the guarantees

(11.1). The ASSIGNOR releases the performance guarantee of the Contract on terms as follows:

within thirty (30) days after completion of the Contract, in full, if there are no grounds for the retention by the ASSIGNOR of any amount thereunder.

(11.2). The release of the performance guarantee shall be made as follows: 1. when in the form of a sum of money - by transferring the amount to the bank account of the CONTRACTOR;

2. when in the form of a bank guarantee - by returning the original to a representative of the CONTRACTOR or a person authorized by him;

3. when in the form of insurance, by returning the original policy of insurance to a representative of the CONTRACTOR or his designee.

(11.3) the ASSIGNOR shall be entitled to retain an appropriate portion of and to avail himself of the performance guarantee where the CONTRACTOR fails to perform any of his obligations under the Contract, and in the event of poor, partial and delayed performance of any of the CONTRACTOR’s obligations, by appropriating such portion of the performance guarantee as corresponds to the penalties agreed in the Contract for the relevant event of failure to perform.

(11.4) In any case of retention of the performance guarantee, the ASSIGNOR shall notify the CONTRACTOR of the retention and its basis. The retention of the performance guarantee in whole or in part shall not exhaust the rights of the ASSIGNOR to seek compensation in a greater amount.

(11.5) When the ASSIGNOR has satisfied the performance guarantee and the Contract is still in force, the CONTRACTOR shall within seven (7) days supplement the performance guarantee by depositing the amount drawn down by the ASSIGNOR in the ASSIGNOR’s account or by providing a document amending the original bank guarantee or a new bank guarantee or insurance, as the case may be, so that at any time during the term of the Contract the amount of the performance guarantee is in accordance with Art. [9.1.1] of the Contract.

(11.6) the ASSIGNOR does not owe interest for the time during which the funds under the performance guarantee have lawfully remained with it.

**PENALTIES**

Art. 12.

(12.1) In the event of delayed performance of obligations under the Contract by the CONTRACTOR in breach of the terms agreed in this Contract, the CONTRACTOR shall pay to the ASSIGNOR penalties in the amount of ................ % (....................... percent) of the price of the relevant delivery for each day of delay, but not more than 10 % ( ten percent) of this amount.

(12.2) If the ASSIGNOR defaults in the performance of his payment obligations under the Contract, the ASSIGNOR shall pay to the CONTRACTOR a penalty of ............... % (.................. percent) of the amount due for each day of delay, but not more than 10% (ten percent) of the amount of the delayed payment.

(12.3) Penalties shall be paid immediately, upon demand by the ASSIGNOR, to the following bank account:

...................................................................

(12.4) The ASSIGNOR may claim compensation for damages and loss of profit in the ordinary course, irrespective of the penalties and irrespective of the retention of the performance guarantee.

**SUBCONTRACTORS**[[3]](#footnote-3)

Art. 13.

(13.1) For the performance of the activities under the Contract, the CONTRACTOR is entitled to use only the SUBCONTRACTORS indicated by him in the offer on the basis of which he was selected as CONTRACTOR.

(13.2) The percentage participation of the SUBCONTRACTORS in the price for the performance of the Contract may not be different from that stated in the CONTRACTOR's offer.

13.3) The CONTRACTOR may make substitutions of the specified SUBCONTRACTORS for the performance of the Contract, as well as include new SUBCONTRACTORS in the cases provided for in the PPA and on the terms provided for in the PPA.

(13.4) Notwithstanding the use of SUBCONTRACTORS, the CONTRACTOR shall be responsible for the performance of this Contract.

(13.5) Entering into a Contract with a SUBCONTRACTOR who is not specified in the CONTRACTOR’s offer and is not included during the performance of the Contract as provided in the PPA or the performance of the activities under the Contract by a person who is not a SUBCONTRACTOR specified in the CONTRACTOR’s offer shall be deemed a failure to perform the Contract and shall be grounds for unilateral termination of the Contract by the ASSIGNOR and for drawdown of the full amount of the performance guarantee.

Art. 14.

(14.1) In concluding the Contracts with the SUBCONTRACTORS, as bid in the offer of the CONTRACTOR, the latter is obliged to create conditions and guarantees so that: the applicable provisions of the Contract are binding on the SUBCONTRACTORS; the actions of the SUBCONTRACTORS will not directly or indirectly lead to failure to perform the Contract; in the exercise of his control functions under the Contract the ASSIGNOR will be able to carry out unhindered inspection of the activities and documentation of the SUBCONTRACTORS.

Art. 15.

(15.1) Where the part of the order to be performed by a SUBCONTRACTOR may be handed over as a separate item to the CONTRACTOR or to the ASSIGNOR, the ASSIGNOR shall pay remuneration for that part directly to the SUBCONTRACTOR.

(15.2) Payments under Art. (15.1) shall be made on the basis of a request made by the SUBCONTRACTOR to the ASSIGNOR through the CONTRACTOR, who shall deliver it to the ASSIGNOR within 15 days of its receipt.

(15.3) The CONTRACTOR shall provide a statement to the request under Art. (15.2) indicating whether it disputes the payments or any part thereof as being undue.

(15.4) The ASSIGNOR is entitled to refuse payment under Art. (15.1) where the request for payment is contested, until the reason for refusal has been remedied.

**CONDITIONS FOR AMENDMENT, TERMINATION AND CANCELLATION OF THE CONTRACT**

Art. 16.

(16.1) This Contract is terminated in the following cases:

1. With the performance of all obligations of the Parties;

2. Where there are material changes in the financing of the procurement - the subject of the Contract, beyond the power of the ASSIGNOR, which it could not or was not obliged to foresee or prevent - by written notice from the ASSIGNOR to the CONTRACTOR, immediately after the circumstances have occurred, without compensation;

3. Upon the occurrence of an innocent impossibility of performance, unforeseen or unavoidable event of an extraordinary nature occurring after the conclusion of the Contract (“Force Majeure”) lasting more than 45 (forty-five) days.

4. in the event of the dissolution of a legal entity Party to the Contract without legal succession, within the meaning of the law of the country in which the relevant entity is established;

(16.2) the Contract may be terminated by mutual consent of the Parties expressed in writing;

(16.3) in the cases under Art. 118, paragraph 1 of the PPA, where a substantial modification of the contract is necessary, which does not allow the contract to be modified on the basis of Art. 116, paragraph 1 of the PPA;

(16.4) under the conditions and with the consequences pursuant to Art. 87 et seq. of the Obligations and Contracts Act, by giving written notice by the Party in default to the Party in default and fixing an appropriate time for performance;

(16.5) Termination of the Contract shall not be permitted when the unperformed part of the obligation is insignificant in view of the interest of the Party in default, without compensation to the CONTRACTOR for damages suffered by the termination of the Contract, unless the termination is based on Art. 118, paragraph 1, item 1 of the PPA. In the latter case, the amount of compensation shall be determined in a protocol or agreement signed by the Parties and, in the absence of agreement, in accordance with the dispute resolution clause of this Contract.

(16.6) Termination shall take place after settlement of the financial relations between the Parties for the activities carried out by the CONTRACTOR and approved by the ASSIGNOR for the execution of the Contract.

 (16.7) For the purposes of this Contract, the Parties shall consider as culpable failure to perform a material obligation of the CONTRACTOR any of the following:

1. When the CONTRACTOR delays performance of an obligation under this Contract for more than thirty (30) days;

2. when the CONTRACTOR uses a SUBCONTRACTOR without having so declared in the documents for participation, or uses a SUBCONTRACTOR that is different from the one specified, unless the substitution or inclusion of a SUBCONTRACTOR is made with the consent of the ASSIGNOR and in accordance with the PPA and this Contract.

Art. 17.

(17.1) This Contract may be amended and supplemented by the Parties under the terms of Art. 116 of the PPA.

(17.2) The prices agreed in Art. 2 of this Contract may only be changed if the CONTRACTOR proposes lower prices during the performance of the contract, without changing the subject matter and scope of performance.

**FORCE MAJEURE**

Art. 18.

(18.1) The Parties shall be exempt from liability for failure to perform their obligations where the failure to perform is due to force majeure. Neither of the Parties may invoke force majeure if it has been in default and has not informed the other Party of the occurrence of the force majeure.

(18.2) The Party affected by Force Majeure shall make all reasonable efforts and take all reasonable measures to minimize the damage and loss suffered and shall notify the other Party in writing promptly upon the occurrence of the Force Majeure.

(18.3) As long as the Force Majeure lasts, the performance of the obligations and the related counter-obligations under the Contract shall be suspended.

(18.4) Force Majeure may not be invoked by a Party whose negligence or willful acts or omissions have resulted in an inability to perform the Contract.

**CONFIDENTIALITY**

Art. 19.

(19.1) The Parties agree to treat as confidential the following information obtained in the course of and in connection with the performance of the Contract:................................

(19.2) Neither Party shall, without the prior written consent of the other, disclose in any manner or form any confidential information to anyone other than his employees and/or consultants. Disclosure of confidential information to such employee/consultant shall be made only to the extent necessary and only for the purpose of performing the Contract and after assumption of the appropriate confidentiality obligations.

**ADDITIONAL PROVISIONS**

Art. 20.

(20.1) This Contract is concluded in …………………language.

(20.2) The applicable language is mandatory for use in the preparation of any documents relating to the performance of the Contract, including notices, records, etc. All translation costs, if required for the CONTRACTOR or his agents or employees, shall be borne by the CONTRACTOR.

Art. 21.

The provisions of the current .........................(Bulgarian) legislation shall apply to all matters not covered by this Contract.

Art. 22.

(22.1) Authorized representatives of the Parties who may accept and make representations concerning the performance of this Contract are:

FOR THE ASSIGNOR:



Phone-

Email

FOR THE CONTRACTOR:



Phone

Email

(22.2) All notices and communications relating to the performance of this Contract shall contain the name and number of the Contract, be in writing for validity.

(22.3) The Parties undertake to inform each other of any change in their legal status, their registered office addresses, telephone numbers and the persons representing them.

(22.4) Official correspondence between the Parties shall be exchanged at the addresses of management specified in this Contract, unless the Parties inform each other in writing of other addresses. In the event of failure to notify or untimely notification of a change of address, correspondence sent to the addresses in this Art. (22.1) shall be deemed validly sent and received by the other Party.

(22.5) All notices and communications shall be sent by registered post or courier. Written notices between the Parties to this Contract shall be deemed validly sent by fax with an automatically generated receipt message from the addressee or by email to the Parties signed with an electronic signature.

Art. 23.

The CONTRACTOR shall not assign his rights or obligations under this Contract to any third party except as provided in the PPA.

Art. 24.

(24.1) All disputes arising out of or relating to this Contract shall be settled first out of court by negotiation between the two Parties, and in the event of a dispute, either Party may send to the other at the addresses indicated for correspondence an invitation to negotiate specifying the date, time and place for negotiations.

(24.2) In the event of failure to reach an agreement pursuant to the preceding paragraph, all disputes arising out of or relating to this Contract, including disputes relating to its interpretation, invalidity, failure to perform or termination shall be referred to a court of competent jurisdiction (arbitration) for hearing and determination.

Art. 25.

The nullity of any clause of the Contract or of any additional terms agreed shall not invalidate any other clause or the Contract as a whole.

Art. 26.

The following documents have been submitted at the signing of this Contract:



The following Annexes form an integral part of this Contract:

Annex No. 1 - Technical Specification of the ASSIGNOR;

Annex No. 2 - A Technical Proposal of the CONTRACTOR;

Annex No. 3 - Price proposal of the CONTRACTOR.

 This Contract is signed in 2 (two) counterparts - one for each of the Parties.

FOR THE ASSIGNOR: FOR THE CONTRACTOR

1. The ASSIGNOR may also choose the method of advance payment of part or the whole amount, which may be secured by a guarantee. [↑](#footnote-ref-1)
2. The clause shall be included if applicable (the ASSIGNOR has the option whether or not to require the performance of the contract to be secured by a performance guarantee) [↑](#footnote-ref-2)
3. The requirements and conditions set forth in this Section shall apply in cases where the CONTRACTOR has provided for the use of SUBCONTRACTORS [↑](#footnote-ref-3)