**PRIOR INFORMATION AND INSTRUCTIONS:**

The texts presented in [*square brackets and italics in black*] indicate cases where specific data must be filled in.

Text presented in [*square brackets and italics in red*] indicates explanations or instructions.

Texts presented in [square brackets and normal black font], as well as those separated by the “/” sign, indicate alternative formulations/edits.

For some clauses, options are provided, indicated by the word [**Option**] and an explanation where necessary.

Footnotes are for internal information and clarification only, and should be removed prior to final drafting of the procurement contract.

The numbering in the contract is indicative, as the ASSIGNOR may choose another approach according to its needs.

**STANDARDIZED FORM OF**

**CONTRACT FOR DELIVERY OF CARS**

**No.**[**●**]**/**[**●**]**[*fill in number designated by the ASSIGNOR*]**

On this day, [*date of execution of the contract in format dd.mm.yyyy*], in the city of [*place of execution of the contract*], between:

**[*Name of the ASSIGNOR***],

[with address: [*seat and registered office of the ASSIGNOR*] [*to be completed as applicable*], [UIC / BULSTAT register code [...] [and number under the Value Added Tax Act [...]] [*to be completed as applicable*], represented by [*name(s) of person(s) representing the ASSIGNOR*], in the capacity as [*title(s) of person(s) representing the ASSIGNOR*], [pursuant to [*document or instrument from which the powers of the person(s) representing the ASSIGNOR derive - if applicable*]],

hereinafter referred to as **ASSIGNOR**;

and

**[*Name of the CONTRACTOR*]**,

[with address: [*registered office and address of the CONTRACTOR*] [*to be completed 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 [...]] [*to be completed as applicable*], represented by [*names of the person or persons representing the CONTRACTOR*], in the capacity as [*title(s) of the person or persons representing the CONTRACTOR*], [pursuant to [*document or instrument from which the powers of the person or persons representing the CONTRACTOR derive - if applicable*]],

hereinafter referred to as **CONTRACTOR**.

(the ASSIGNOR and the CONTRACTOR are collectively referred to as “**the Parties**” and each of them individually as a “**Party**”);

**pursuant to** Art. [*specify applicable provisions*] of the Public Procurement Act (“the **PPA**”) and [*specify name, number and date of the act of the ASSIGNOR selecting the CONTRACTOR*] of the ASSIGNOR designating the CONTRACTOR of a public procurement with the subject matter: [*description of the subject matter of the procurement*],

this contract (“**the Contract**”) is concluded for the award of a contract with the subject matter:[**●**][*describe the subject of the contract as designated by the ASSIGNOR*]or [*Supply of vehicles for the needs of[****●****]*

1. **SUBJECT OF THE CONTRACT**

**Art. 1. Subject**

(1.1) The ASSIGNOR assigns and the CONTRACTOR accepts to perform the **delivery** and **warranty (repair) service[[1]](#footnote-1)** of [**●**] (*in words: [****●****]) number of vehicles*), according to the Technical Specification of the ASSIGNOR, (Annexes Nos. [**●**]) and detailed in the Technical and Price Proposal of the CONTRACTOR (Annexes Nos. [**●**]), an integral part of the Contract and in accordance with the requirements of this Contract. The subject of this Contract also includes an obligation for the CONTRACTOR to register the vehicles with the Traffic Police on behalf of and at the expense of the ASSIGNOR.[[2]](#footnote-2)

(1.2) The type, technical data and characteristics of the vehicles to be supplied by the CONTRACTOR are detailed in the Technical Specification of the ASSIGNOR, (Annexes Nos. [**●**]) and in the Technical Proposal of the CONTRACTOR (Annexes Nos. [**●**]), forming an integral part of this Contract.

(1.3) The CONTRACTOR undertakes to provide warranty (servicing) of the vehicles delivered under paragraph (1.1) within the warranty period under paragraph (4.3). The materials, consumables, activities and conditions of the service are described in the Technical Proposal of the CONTRACTOR and shall comply with the Technical Specifications of the ASSIGNOR.

1. **PRICES AND PAYMENT METHOD**

**Art. 2. Price**

(2.1) For the performance of the subject of the Contract, the ASSIGNOR undertakes to pay to the CONTRACTOR a total price of BGN [●][[3]](#footnote-3) excluding VAT (*in words*: [●]) and BGN [●] (*in words*: [●]) including VAT, in accordance with his Price Proposal (Annexes Nos. [**●**]), an integral part of this Contract.

(2.2) The price referred to in paragraph 2.1 is formed as follows:

1. The price for the delivery of the vehicles subject to the Contract and for their registration with the Traffic Police[[4]](#footnote-4) shall be BGN [●] excluding VAT (*in words*: [●]) and BGN [●] (*in words:* [●]) including VAT;
2. The price for the warranty maintenance of the vehicles subject to the Contract shall be BGN [●] excluding VAT (*in words:* [●]) and BGN [●] (*in words:* [●]) including VAT;
3. The price for the delivery of one vehicle subject to the Contract and for its registration with the Traffic Police shall be BGN [●] excluding VAT (*in words*: [●]) and BGN [●] (*in words:*[●]) including VAT (or as specified in Annex [●] to the Contract);
4. The price for warranty maintenance of one vehicle subject to the Contract is: BGN [●] excluding VAT (*in words: BGN* [●]) and BGN [●] (*in words*: BGN [●]) including VAT (or specified in Annex [●] to the Contract);

(2.3) These prices are final and include all costs and fees of the CONTRACTOR for performance of the subject of this Contract, such as but not limited to: the costs of acquiring, respectively transferring the title of the vehicles to the ASSIGNOR, for the delivery of the vehicles, for the transportation of the vehicles to the delivery location, for the payment of the product fee (eco-fee), all costs for performing warranty maintenance in the warranty period (for labor, spare parts and consumables), as well as the costs for the rectification by the CONTRACTOR of all technical defects and failures not caused by the ASSIGNOR and covered by the warranty conditions and the warranty liability of the CONTRACTOR, as well as the costs related to the registration of the vehicles with the Traffic Police.

(2.4) The subject of this Contract, including the stated price does not include the performance by the CONTRACTOR and the cost of warranty (repair) service of the vehicles during the warranty period, which shall be borne by and arranged by the ASSIGNOR. The ASSIGNOR acknowledges that it is aware of the fact that the warranty terms in the warranty period and according to the manufacturer's rules stated in [●] is a necessary condition for the validity of the manufacturer’s warranty for faults, failures and defects during the warranty period. [[5]](#footnote-5)

(2.5) The prices stated in this Contract are final and remain unchanged for the duration of this Contract.

**Art. 3. Method of payment**[[6]](#footnote-6)

(3.1) Payments shall be made in Bulgarian leva (BGN), with a 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 [[...] (*in words*)] 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.

**Option 1:**

(3.2) Payment of the price under paragraph (2.1) shall be made as follows:

1. The ASSIGNOR shall pay in advance [●] % [specify the amount of the advance payment, if any][*in words: .......percent*][[7]](#footnote-7) of the price under paragraph (2.1) within [●][specify the term](in words: ..........) working days from the signing of this Contract and the provision by the CONTRACTOR to the ASSIGNOR of an invoice, and **a guarantee securing the advance payment** in the amount of the advance payment or the sum of [●] ([●]) BGN, in one of the forms specified in Art. 10 of the Contract. The guarantee securing the advance payment shall be released within [[...] (*in words*)] days after the return or drawdown of the advance. The advance shall be deemed to have been drawn down upon the signing of the Record of Handover under paragraph (5.3), respectively paragraph (5.5) of this Contract.
2. The ASSIGNOR shall pay the balance of the price under paragraph (2.1) in the amount of [●] (*in words:* [●]) within [[...] (*in words*)] days after delivery of all vehicles, and signing of the Record of Handover under paragraph (5.3), respectively under paragraph (5.5) of this Contract.
3. In the event that the terms of the Contract require registration of the Vehicles with the Traffic Police, the balance of the Delivery Price referred to in paragraph (2.1) in the amount of [●] (*in words:* [●]) shall be paid within [[...] (*in words*)] days after the signing of the Registration Record referred to in paragraph (5.9), the handover of possession of the Vehicles to the ASSIGNOR and the signing of the Record of Handover referred to in paragraph (5.3) and paragraph (5.5) respectively of this Contract.

**Option 2:**

(3.2) The ASSIGNOR shall pay in advance 100% (in words: one hundred percent) of the price referred to in paragraph (2.1) in the amount of [●] (in words*:* [●]), within [[...] (*in words*)] days from the signing of this Contract and the provision by the CONTRACTOR to the ASSIGNOR of an invoice as well as a **guarantee securing the advance payment** in the amount of the advance payment or the amount of [●] ([●]) BGN, in one of the forms specified in Art. 10 of this Contract. The guarantee securing the advance payment shall be released within [[...] (*in words*)] days after return or drawdown of the advance. The advance shall be deemed to have been drawn down upon the signing of the Record of Handover under paragraph (5.3), respectively under paragraph (5.5) of this Contract.

**Option 3:**

(3.2) Payment of the price under paragraph (2.1) of this Contract shall be made as follows:

1. The ASSIGNOR shall pay 100 % (*in words: one hundred percent*) of the price under paragraph (2.1) within [[...] (*in words*)] days[[8]](#footnote-8) of due completion of delivery and handover of the vehicles with The Record of Handover under paragraph (5.3), respectively under paragraph (5.5), provided that the CONTRACTOR has provided a performance guarantee of the Contract in the amounts and subject to the conditions of Art. 10.
2. In the event that the terms of the Order require registration of the vehicles with the Traffic Police, the price under paragraph (2.1) of [●](*in words:* [●]) shall be paid within [[...] (*in words*)] days after the conditions under the preceding point (i) have been fulfilled and after the Registration Record referred to in paragraph (5.7) has been signed.

(3.3) The date of payment shall be deemed to be the date on which the CONTRACTOR’s bank account is credited with the amount due.

1. **DEADLINES. 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 on [●][*date/time of coming into force*]. This Contract shall expire upon the expiration of the warranty period of the vehicles[[9]](#footnote-9), subject to the Contract, referred to in paragraph (4.3) and the satisfaction of all claims of the ASSIGNOR relating to the warranty liability of the CONTRACTOR.

(4.2) The delivery of the vehicles shall be within [●] ([●]) calendar days from the date of the ASSIGNOR’s request/signature of this Contract.

(4.3) The warranty period of each of the vehicles is [●] ([●]) years from [●] ([●]).

(4.4) The place of delivery of the vehicles shall be at [●].

**Art. 5. Terms of delivery**[[10]](#footnote-10)

(5.1) The CONTRACTOR undertakes to deliver and hand over to the ASSIGNOR each of the vehicles subject to delivery, complete as follows:

1. equipped with warning triangle, first aid kit, fire extinguisher and reflective vest (according to the Road Traffic Act);
2. complete, according to the manufacturer’s requirements, with a set of wrenches, spare tire, set of tools for changing tires, etc.;
3. with pre-sales service;
4. stocked with all fluids and materials necessary for its operation;
5. with the documents required for their registration, including documents of paid taxes, duties, fees, invoices and Records of Handover;
6. certificates of conformity, warranty and service booklets, passports or other documents from the manufacturer containing technical data and characteristics;
7. with operating instructions in Bulgarian, as well as documentation containing recommendations for proper operation;
8. other documents and accessories required under the terms of the contract and the CONTRACTOR’s offer;
9. [●].

(5.2) Upon delivery of each vehicle, the CONTRACTOR shall provide the ASSIGNOR with a properly executed invoice - original, signed by the CONTRACTOR for each vehicle to be delivered separately, containing the reason - the contract number, chassis number, model, make and cubic capacity of the vehicle[[11]](#footnote-11).

(5.3) The delivery and the handover/receipt of each specific vehicle 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 the submission of the documents in accordance with paragraph (5.1) and (5.2) and compliance of the Vehicle with the technical specifications presented in the Technical Proposal of the CONTRACTOR and the Technical Specification of the ASSIGNOR. The Record of Handover shall contain the reason for its compilation (number of the contract), chassis number of the vehicle subject to delivery. The draft Record of Handover shall be prepared by the CONTRACTOR.

(5.4) The CONTRACTOR shall notify the ASSIGNOR in writing within [[...] (*in words*)] days in advance of the specific dates and times on which deliveries are to be made. Upon handover of the vehicles, the CONTRACTOR shall provide the ASSIGNOR with the time necessary under the circumstances to inspect them for Non-Compliances, which shall not exceed [[...] (*in words*)] days.

(5.5) In case of obvious Non-compliances, within the meaning of paragraph (5.6) of the delivered cars, the ASSIGNOR has the right to refuse to sign a Record of Handover. In such cases, the Parties shall sign **a Statement of Findings**, which shall describe the Non-compliances found, pursuant to paragraph (5.6). Upon removal of the Non-compliances, the Parties shall sign a bilateral Record of Handover to accept delivery.

(5.6) In the case of “**Non-compliances**” (visible or latent defects, shortages, deficiencies, non-compliances of the vehicles with the Technical Specification of the ASSIGNOR and/or the Technical Proposal of the CONTRACTOR and/or and with the requirements for the completion of the vehicles and the documents in accordance with paragraph (5.1) and (5.2)) one of the following options shall apply:

(i) The CONTRACTOR replaces the vehicle or part with Non-compliances with those having the characteristics in the Technical Specification or higher, only if the latter does not result in a change of the subject of the Contract and the price under the Contract specified in the CONTRACTOR’s Price Offer and the Non-compliance is detected before the registration of the vehicle with the Traffic Police, in cases where a replacement vehicle is required; or

(ii) The CONTRACTOR remedies the Non-compliance within the time and in the manner specified in the Statement of Findings and/or pursuant to the warranty terms; or

(iii) the price under the Contract shall be reduced accordingly by the price of the vehicle or the part with the Non-compliances, if this does not result in a change in the subject of the Contract or by the amount of the costs of remedying the Non-compliance.

(5.7) In the event that the non-compliance of the vehicles delivered is so material that the application of any of the options under paragraph (5.6) would result in a change to the subject of the Contract, or in the event that the CONTRACTOR delays the delivery of the vehicles or their registration with the Traffic Police or the removal of the Non-compliances by more than [[...] (*in words*)] days, from the time stipulated for delivery in paragraph (4.2) or for registration with the Traffic Police specified in paragraph (5.10), respectively, of the deadline specified in the Statement of Findings, the ASSIGNOR shall be entitled to terminate the Contract, and shall be entitled to receive penalties in the amount of the performance guarantee of the Contract, and to recover all amounts advanced by the ASSIGNOR, except amounts advanced for products that have been delivered by the CONTRACTOR and accepted by the ASSIGNOR, including to draw down amounts under the guarantees provided. The Parties expressly agree that the application of the option under paragraph (5.6), point (i), namely the replacement of a non-conforming vehicle with a new one in respect of vehicles with Non-Compliances, may only be carried out until the signing of The Record of Handover under paragraph (5.3) or (5.5) and prior to registration of the vehicles with the Traffic Police.

(5.8) The signing of the Record of Handover under paragraph (5.3) or paragraph (5.5) without remarks shall have the effect of acceptance of delivery by the ASSIGNOR, except in the case of “latent Non-compliances” which cannot be detected by ordinary inspection of the vehicles or of Non-compliances manifested within the warranty period. Acceptance of delivery of the vehicles with The Record of Handover shall have no bearing on Non-compliances subsequently discovered during the warranty period, which the CONTRACTOR shall be obliged to remedy at his own expense, in accordance with the warranty terms.

(5.9) In the case of Non-Compliances identified in the Statement of Findings under paragraph (5.5), the ASSIGNOR shall not be liable for payment of the price under paragraph [*the remaining payment or 100% of the delivery price*] until they have been remedied and the other payment terms set out in the Contract have been fulfilled.

(5.10) The CONTRACTOR undertakes to register the vehicles with the Traffic Police, within [[...] (*in words*)] days[[12]](#footnote-12), starting from the date of signing the Record of Handover under paragraph (5.3), respectively under paragraph (5.5). The ASSIGNOR shall receive the vehicles completed in accordance with paragraph (5.1) and (5.2), together with the relevant documents, immediately after their registration, which shall be reflected in **a Registration Record** signed by the ASSIGNOR and the CONTRACTOR or their authorised persons, and payment of the price under paragraph [●][*the balance payment or 100% of the delivery price*] shall be made within [[...] (*in words*)] days after the signing of the Record under this paragraph (5.10).

(5.11) Where the CONTRACTOR has entered into a subcontract, the work of the SUCONTRACTORS shall be accepted by the ASSIGNOR in the presence of the CONTRACTOR and the SUBCONTRACTOR.

**Article 6. Transfer of ownership and risk**

(6.1) Title to and risk of accidental damage to or perishability of the vehicles 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 under paragraph (5.3), respectively under paragraph (5.5).

(6.2) In the event that the terms of the order require registration of the vehicles with the Traffic Police, the risk of accidental damage to or destruction of the vehicles shall pass to the ASSIGNOR upon handover of possession thereof to the ASSIGNOR and the signing of the Registration Record under paragraph (5.10).

1. **RIGHTS AND OBLIGATIONS OF THE CONTRACTOR**

**Article 7.**

(7.1) The CONTRACTOR undertakes to deliver the vehicles subject to this Contract, meeting the technical parameters presented in the Technical Proposal of the CONTRACTOR and the Technical Specification of 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 the rights with a view to protecting the interests of the ASSIGNOR.

(7.3) The CONTRACTOR undertakes to prepare the necessary documents to register the vehicles with the Traffic Police, and to register them on behalf of the ASSIGNOR, under the terms and conditions set out in this Contract and required by the competent authorities[[13]](#footnote-13) .

(7.4) The CONTRACTOR undertakes to hand over the vehicles to the ASSIGNOR after their registration with the Traffic Police, and during the period from the signing of the Record of Handover under paragraph (5.3), respectively under paragraph (5.5), until their acceptance by the ASSIGNOR with a Registration Record under paragraph (5.10), undertakes to take care of the vehicles with the care of a good dealer.

(7.5) The CONTRACTOR shall notify the ASSIGNOR in writing that the vehicles are registered with the Traffic Police and can be obtained by the ASSIGNOR. The notification shall be sent to the ASSIGNOR at the latest on the day following the registration of the vehicles with the Traffic Police.

(7.6) The CONTRACTOR undertakes to carry out ongoing maintenance and servicing of the vehicles within the warranty period, subject to the terms and conditions of this Contract, respectively subject to the terms and conditions of the warranty.

(7.7) The CONTRACTOR undertakes to remedy at his own expense and within the agreed time limits all Non-compliances of the delivered vehicles manifested and/or discovered within the warranty period, identified and claimed under the terms of this Contract and under the warranty conditions. The CONTRACTOR undertakes to use only original spare parts, materials and consumables when removing Non-compliances and when performing the warranty terms.

(7.8) Upon faithful and timely performance of his obligations under this Contract, the CONTRACTOR shall be entitled to receive the price under the Contract, according to the specified method of payment.

(7.9) The CONTRACTOR undertakes to retain all documents relating to the performance of this Contract for a period of [●]([*if the supply is funded under an EU programme state the period required under the programme*]) years after the completion and reporting date of the [●] programme.

(7.10) The CONTRACTOR undertakes to enable the Managing Authority, the national audit authorities, the European Commission, the European Anti-Fraud Office, the European Court of Auditors, the Council for the Coordination of the fight against Fraud affecting the financial interests of the European Communities - Republic of Bulgaria and the external auditors to carry out on-the-spot checks on the implementation of the project and to carry out a full audit, if necessary, on the basis of supporting documents for what has been reported, accounting documents and any other documents relevant to Such checks may be carried out up to [●] ([●]) years after the closure of the Operational Programme.[[14]](#footnote-14)

(7.11) The CONTRACTOR undertakes to enter into a subcontract/contracts with the SUBCONTRACTORS specified in his offer within [[...] (*in words*)] days of the conclusion of this Contract. Within 3 days of the conclusion of a subcontract or of a supplementary agreement for the replacement of a SUBCONTRACTOR stated 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](http://web.apis.bg/p.php?i=2752471#p28982788) and [11 of the PPA](http://web.apis.bg/p.php?i=2752471#p28982788) have been fulfilled.

(7.12) 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.

1. **RIGHTS AND OBLIGATIONS OF THE ASSIGNOR**

**Article 8.**

(8.1) The ASSIGNOR undertakes to pay the total price referred to in paragraph (2.1) of this Contract in accordance with the terms and in the manner set out herein.

(8.2) The ASSIGNOR undertakes to take delivery of the vehicles subject to the contract in accordance with paragraph (5.3) if they meet the agreed requirements, within [[...] (*in words*)] days after written notification thereof.

(8.3) The ASSIGNOR undertakes to issue a Power of Attorney for registration of the vehicles with the Traffic Police and to deliver it to the CONTRACTOR within [[...] (*in words*)] days from the date of the Record of Handover under paragraph (5.3) respectively the Record of Handover under paragraph (5.5).

(8.4) The ASSIGNOR undertakes to receive the registered vehicles within [[...] (*in words*)] days after the CONTRACTOR has notified the ASSIGNOR in writing of their registration with the Traffic Police.

(8.5) The ASSIGNOR shall be entitled to require the CONTRACTOR to execute delivery of the vehicles at the address specified in paragraph (4.4) of the contract, on time and without deviation from the agreed requirements.

(8.6) 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.

(8.7) The ASSIGNOR shall be entitled to put in a claim for the vehicles delivered under the Contract, subject to the conditions set out in this Contract.

(8.8) The ASSIGNOR shall be entitled to require the CONTRACTOR to replace a non-conforming vehicle and/or a defective vehicle only under the terms of this Contract and prior to its registration with the Traffic Police, and to remove Non-compliances in the manner and within the time limits set out in this Contract and in the terms of the warranty.

(8.9) The ASSIGNOR shall be entitled 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 part or all of the agreed price.

(8.10) 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.

(8.11) The ASSIGNOR shall be obliged to monitor and ensure the maintenance and servicing of the vehicles within the warranty period, under the terms and conditions of this Contract, respectively under the terms of the warranty.

(8.12) The ASSIGNOR is obliged not to 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 mentioned by the CONTRACTOR as such in the offer submitted by it.

1. **WARRANTY RESPONSIBILITY and WARRANTY TERMS** *(if it is set forth in the contract)*

**Art. 9.**

(9.1) Warranty liability

(9.1.1) The CONTRACTOR guarantees the full functional suitability of the delivered vehicles according to the agreed intended use, as well as according to the Technical Proposal, the Technical Specification and standards.

(9.1.2) Within the warranty period, the CONTRACTOR shall remove by his own means all defects and/or Non-compliances of the vehicles, respectively replace defective parts and/or components with new ones, in accordance with the warranty conditions and the Technical Proposal of the CONTRACTOR.

(9.1.3) The ASSIGNOR’s product liability claim may be sent by fax, telephone, e-mail or regular mail. The CONTRACTOR shall arrange for the vehicle to be inspected by his qualified representatives within [●], of receipt of the ASSIGNOR’s product liability claim. After the vehicle has been inspected by the CONTRACTOR's qualified representatives, a Statement of Findings shall be prepared as to the type of damage and/or the Non-Compliance, the work and the time required to remedy it in duplicate.

(9.1.4) The CONTRACTOR undertakes to remedy the damage and/or the Non-compliance within [●] or shorter from the date of their discovery. In the event that it is not possible to rectify the damage and/or the Non-compliance within [●], the CONTRACTOR shall provide the ASSIGNOR with a turnover vehicle of the same or similar class until the damage and/or the Non-compliance has been fully rectified, and the warranty period of the vehicles under repair shall be extended by the period during which the rectification of the damage has lasted.

(9.2) Warranty (repair) service

**Option 1**

(9.2.1) The CONTRACTOR undertakes to provide the ASSIGNOR with warranty (repair) service of the vehicles in the warranty period specified in paragraph (4.3), which starts from the date of acceptance of the vehicles and signing of a Record of Handover for the respective vehicle. The CONTRACTOR undertakes to carry out priority servicing of the ASSIGNOR's vehicles throughout the warranty period, within a period of no later than [●] ([●]) working days from receipt of a request for servicing by the ASSIGNOR. The warranty terms shall be performed at the CONTRACTOR’s repair facility, or at his authorized repair facilities identified in Exhibit [●] to this Contract.

**Option 2:** (9.2.1) The ASSIGNOR is obliged to provide warranty (repair) service support for the vehicles according to the terms and conditions of the warranty.[[15]](#footnote-15)

(9.3) During the warranty period, the CONTRACTOR shall not refuse to accept a vehicle at his authorized repair facilities for service and/or warranty repair.

1. **PERFORMANCE GUARANTEE. ADVANCE PAYMENT GUARANTEE**[[16]](#footnote-16)

**Article 10. Types of guarantees, amount and form of the guarantees**

(10.1) Types and amount of the guarantees

(10.1.1) The CONTRACTOR guarantees the performance of his obligations under this Contract with a performance guarantee in the amount of [●]% ([●]) (not *to exceed 5% (five percent*) of the value of the Contract under paragraph (2.1) or the sum of [●] ([●]);

(10.1.2) The CONTRACTOR shall provide a guarantee to secure the advance payment in the amount of [*the amount of the advance payment*]% of the Contract price under paragraph (2.1) or the sum of [●] ([●]) BGN.

(10.1.3) The CONTRACTOR shall submit documents for the payment of performance bonds for the Contract and for the guarantee of the advance payment as of the date of its conclusion.

(10.2) Form of the guarantees

(10.2.1) The CONTRACTOR shall select the form of the guarantee from among the following: (i) a cash sum deposited in the bank account of the ASSIGNOR; (ii) a bank guarantee; or (iii) insurance.

**Art. 11. Requirements regarding the guarantees**

(11.1) 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: [●]. All bank charges related to the transfer of the amount shall be borne by the CONTRACTOR;

(11.2) Where the CONTRACTOR submits a **bank guarantee**, the original thereof shall be submitted and shall be unconditional, irrevocable and non-transferable covering 100% (*one hundred percent*) of the value of the performance guarantee and/or of the guarantee securing the advance payment with a validity period, the term of the Contract, plus [[...] (*in words*)] days for the performance guarantee and the term for the drawdown of the advance payment plus [[...] (*in words*)] days for the guarantee securing the advance payment.

(11.2.1) 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.

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

(11.3). The **insurance** that secures the performance, by covering the liability of the CONTRACTOR, shall have a term of validity, the duration of the contract, plus [[...] (*in words*)] days, respectively the insurance that secures the advance payment shall have a term until the drawdown of the advance payment plus [[...] (*in words*)] 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, including failure to draw down or return the advance payment and may not be used to secure the liability under any other contract. The costs of entering into the insurance contract and maintaining the validity of the insurance for the required period, and of any payment of insurance indemnity to the ASSIGNOR, where there are reasonable grounds to do so, shall be borne by the CONTRACTOR.

**Art. 12. Retention and release of the guarantees**

(12.1). The ASSIGNOR shall release the performance guarantee of the Contract in stages and on terms as follows:

(12.1.1) partial release in the amount of [●] % ([●] *percent*) of the value of the Contract in the amount of [●] ([●]) BGN, within [[...] (*in words*)] days, after acceptance of delivery of the vehicles and signing of the Record of Handover under paragraph (5.3) respectively under paragraph (5.5) without remark, or after the registration of the vehicles with the Traffic Police and the signing of a Registration Record under paragraph (5.10), provided that the amounts under the guarantee are not forfeited, or no conditions for their retention have occurred;

(12.1.2) a final release of the remaining amount under the guarantee shall be made within [[...] (*in words*)] days, after the expiry of the warranty period of the vehicles referred to in paragraph (4.3) of this Contract, provided that the CONTRACTOR has fulfilled all his obligations under the Contract and the amounts under the guarantee have not been forfeited, or conditions for their retention have not occurred.

(12.2) If the CONTRACTOR has provided a bank performance guarantee of the Contract, prior to its partial release the CONTRACTOR shall provide a performance guarantee in the remaining amount due under the Contract of the guarantee after deduction of the amount under paragraph (12.1.1).

(12.3) If the CONTRACTOR has deposited the performance guarantee of the Contract by bank transfer, the ASSIGNOR shall release the relevant part thereof within the period and subject to the conditions of paragraph (12.1).

(12.4) The ASSIGNOR shall release the guarantee securing the advance payment within 3 (three) days after the drawdown or return of the advance, the advance being deemed to have been drawn upon delivery of the vehicles and signing of the Record of Handover under paragraph (5.3) respectively under paragraph (5.5), and/or upon registration of the vehicles with the Traffic Police and signing of a Registration Record under paragraph (5.9).

(12.5) The ASSIGNOR shall not be liable for interest, fees, commissions or any other payments on the amounts of the guarantees provided, regardless of the form in which they are provided.

(12.6) The guarantees shall not be released by the ASSIGNOR if in the course of the performance of the Contract a dispute has arisen between the Parties concerning failure to perform the obligations of the CONTRACTOR and the matter has been referred to a court for adjudication. Upon resolution of the dispute in favor of the ASSIGNOR it may proceed to retention of the guarantees.

(12.7.) The ASSIGNOR shall have the right to retain all or part of the performance guarantee and/or the security for the advance payment, in the event of total or partial failure to perform the obligations under this Contract by the CONTRACTOR and/or in the event of cancellation or termination of this Contract due to the fault of the CONTRACTOR, respectively in the event of the CONTRACTOR becoming liable to repay amounts advanced. In such cases, the ASSIGNOR shall be entitled to withhold from the performance guarantee amounts covering the CONTRACTOR’s liability for the failure to perform and from the guarantee securing the advance payment the amount of the advance payment, provided that the same is not forfeited or returned to the CONTRACTOR.

(12.8) The ASSIGNOR shall be entitled to withhold from the amounts under the performance guarantee amounts equal to the amount of penalties and penalties accrued under this Contract due to the CONTRACTOR’s failure to fully or partially perform his obligations.

(12.9) In the event of retention by the ASSIGNOR of amounts from the guarantees, the CONTRACTOR shall, within [[...] (*in words*)] days, supplement the relevant guarantee up to the amount thereof agreed in paragraph (10.1) by depositing the amount drawn down by the ASSIGNOR to the account of the ASSIGNOR, or establish a bank guarantee for an amount equal to the amount drawn down or insure the liability up to the amount in paragraph (10.1).

1. **PENALTIES**

**Article 13.**

(13.1) 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 a penalty of [●]%[[17]](#footnote-17) of the amount under paragraph [●]for each day of delay, but not more than ... %[[18]](#footnote-18) of the price of the relevant activity under paragraph (2.2).

(13.2) If the ASSIGNOR is in default in the performance of his payment obligations under the Contract, the ASSIGNOR shall pay to the CONTRACTOR a penalty of [●]%[[19]](#footnote-19) of the amount due for each day in default, but not more than .... %[[20]](#footnote-20) of the amount of the delayed payment.

(13.3) In case of systematic (three or more times) failure to perform the service obligations and/or warranty repairs within the warranty period, the CONTRACTOR shall owe to the ASSIGNOR, a penalty of [●] %[[21]](#footnote-21) ([●]*percent*) of the price of the service under paragraph (2.2), item (ii).

(13.4) In the event of a total failure to perform the service obligations and/or warranty repairs within the warranty period, the CONTRACTOR shall owe the ASSIGNOR a refund of the service amount under paragraph (2.2), item (ii), together with penalties in the amount of [●] %[[22]](#footnote-22) ([●]*percent*) of the service price under paragraph (2.2), item (ii).

(13.5) The ASSIGNOR may claim compensation for damages and loss of profits in the ordinary course, irrespective of the penalties accrued and irrespective of the drawdown of the performance guarantee, as the ASSIGNOR shall be entitled to draw the relevant amounts under this Article from the guarantees provided.

(13.6.) Penalties shall be paid immediately, upon demand by the ASSIGNOR, to the following bank account [●]. In the event that the ASSIGNOR’s bank account is not credited with the amount of the penalty within [[...] (*in words*)] days of the ASSIGNOR’s request for payment of the penalty, the ASSIGNOR shall be entitled to withhold the relevant amount from the performance guarantee.

1. **SUBCONTRACTORS[[23]](#footnote-23)**

**Article 14.**

(14.1) 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.

(14.2) 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.

(14.3) The CONTRACTOR may make substitutions for the SUBCONTRACTORS specified for the performance of the Contract, and may include new SUBCONTRACTORS in the cases and upon the terms and conditions provided in the PPA.

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

(14.5) 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.

**Article 15.**

(15.1) When concluding the Contracts with the SUBCONTRACTORS, bid in the offer of the CONTRACTOR, the latter is obliged to establish conditions and guarantees that:

1. the applicable provisions of the Contract are binding on the SUBCONTRACTORS;
2. the actions of the SUBCONTRACTORS will not directly or indirectly result in a failure to perform the Contract;
3. in carrying out his control functions under the contract the ASSIGNOR will be able to carry out unhindered inspection of the activities and documentation of the SUBCONTRACTORS.

**Article 16.**

(16.1) 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.

(16.2) Payments under paragraph (16.1) 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 receipt.

(16.3) The CONTRACTOR shall provide a statement with the request under paragraph (16.2) indicating whether it disputes the payments or any part thereof as being undue.

(16.4) The ASSIGNOR is entitled to refuse payment under paragraph (16.2) where the request for payment is disputed, until the reason for refusal has been remedied.

1. **CONDITIONS FOR TERMINATION AND CANCELLATION OF THE CONTRACT**

**Article 17.**

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

1. by mutual consent of the Parties expressed in writing;
2. on expiry of the agreed term;
3. where there have been 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 immediately after the circumstances have occurred;
4. in the event 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 [●] days;
5. [.......].

(17.2) The ASSIGNOR may terminate the Contract unilaterally without prior statement by notice sent to the CONTRACTOR:

1. when the CONTRACTOR delays performance of an obligation under this Contract by more than [[...] (*in words*)] days;
2. in the event of a systematic (*three or more times*) failure to perform the obligations of the ASSIGNOR for warranty terms and/or perform warranty repairs or in the event of a total failure to perform the obligations of the ASSIGNOR for warranty terms and/or perform warranty repairs;
3. uses a SUBCONTRACTOR without having so declared in the documents for participation, or uses a SUBCONTRACTOR other than the one specified, except where the substitution or inclusion of a SUBCONTRACTOR is made with the consent of the ASSIGNOR and in accordance with the PPA and this Contract;
4. [.......];

(17.3) the ASSIGNOR shall terminate the Contract in the cases referred to in Art. 118, paragraph 1 of the PPA, without owing compensation to the CONTRACTOR for damages suffered by the termination of the Contract, unless the termination is on the basis of Art. 118, paragraph 1, item 1 of the PPA. [*In the latter case, the amount of compensation shall be determined in a record or agreement signed by the Parties, and in the event of failure to reach an agreement - in accordance with the dispute resolution clause of this Contract.]*

(17.5) 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.

(17.6) The ASSIGNOR may terminate the Contract under the terms and conditions provided herein or in applicable law.

**Art. 18**

This Contract may be amended and supplemented by the Parties under the terms of Art. 116 of the PPA [[24]](#footnote-24) .

1. **FORCE MAJEURE**

**Art. 19.**

(19.1) 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.

(19.2) The Party affected by a Force Majeure shall take all reasonable efforts and measures to minimize the damages and losses suffered and shall notify the other Party in writing promptly upon the occurrence of the Force Majeure.

(19.3) As long as the force majeure lasts, the performance of the obligation shall be suspended.

(19.4) 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.

1. **CONFIDENTIALITY[[25]](#footnote-25)**

**Art. 20.**

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

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

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

(20.2) 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.

1. **ADDITIONAL PROVISIONS**

**Art. 21.**

All matters not covered by this Contract shall be governed by applicable Bulgarian law.

**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 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 correspondence addresses set out below an invitation to negotiate, specifying the date, time and place for negotiations. [[26]](#footnote-26)

(24.2) In the event of failure to reach an agreement under 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 and determined by the competent court of the Republic of Bulgaria under the Code of Civil Procedure.

**Art. 25**.

The invalidity 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:

1. *Annex No. 1* - Technical specification of the ASSIGNOR;
2. *Annex No. 2 -* Technical and Price Proposal of the CONTRACTOR;
3. [●][●]

This Contract is signed in [●] counterparts - [●] for the ASSIGNOR and [●] for the CONTRACTOR.

|  |  |
| --- | --- |
| **FOR THE ASSIGNOR:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **[●]** | **FOR THE CONTRACTOR:**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **[●]** |

1. *Applicable in the event that the Contract also includes performance of this obligation. Warranty (repair) service refers to the required periodic maintenance of the vehicle (other than rectification of defects at the CONTRACTOR’s expense during the warranty period) - oil changes, filter changes, etc., which must be in place for the manufacturer’s warranty liability to apply. If this is not the case, the clauses in question relating to warranty service are removed, leaving the provisions relating to warranty liability in the event of failures during the warranty period, which shall be remedied by the supplier/manufacturer and at his expense. In the latter case, however, the responsibility for providing service ensuring the validity of the guarantee remains with the ASSIGNOR.* [↑](#footnote-ref-1)
2. The clause is deleted if the contract does not include such an obligation. [↑](#footnote-ref-2)
3. It is possible to arrange payment in euros or other currencies. [↑](#footnote-ref-3)
4. If applicable. [↑](#footnote-ref-4)
5. Said clause shall be included when the subject of the Contract does not include warranty service [↑](#footnote-ref-5)
6. Where necessary and at the discretion of the Parties, specialised clauses may be included [↑](#footnote-ref-6)
7. Usually the value of the advance payment is up to 30 percent [↑](#footnote-ref-7)
8. The time limit should be in accordance with Art. 303a of the Commerce Act. [↑](#footnote-ref-8)
9. The clause is applicable if the warranty period is equal to the service period of the vehicles. If this is not the case, the relevant clauses must be amended accordingly [↑](#footnote-ref-9)
10. Where necessary and at the discretion of the Parties, specialised clauses may be included [↑](#footnote-ref-10)
11. Invoicing requirements to be complied with in cases of advance payment [↑](#footnote-ref-11)
12. Normally the time limit is 14 calendar days. [↑](#footnote-ref-12)
13. If such registration is required. [↑](#footnote-ref-13)
14. Paragraphs 7.9 and 7.10 are applicable if the supply is financed under an EU programme and the requirement derives from the rules of the programme. [↑](#footnote-ref-14)
15. The clause is in the absence of warranty service included in the subject of the Contract [↑](#footnote-ref-15)
16. The guarantees are settled in case they are provided for in the order. [↑](#footnote-ref-16)
17. The amount of the penalty shall be specified. It is usually 0,1 - 0,2 per cent. [↑](#footnote-ref-17)
18. The amount of the penalty shall be specified. It is usually up to 5 per cent. [↑](#footnote-ref-18)
19. The amount of the penalty shall be specified. It is usually 0.1 - 0.2 per cent [↑](#footnote-ref-19)
20. The amount of the penalty shall be specified. It is usually up to 5 per cent. [↑](#footnote-ref-20)
21. The amount of the penalty shall be specified. It is usually 0,1 - 0,2 per cent. [↑](#footnote-ref-21)
22. The amount of the penalty shall be specified. It is usually 0,1 - 0,2 per cent. [↑](#footnote-ref-22)
23. 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-23)
24. Where the ASSIGNOR intends to make changes to the contract on the basis of Art. 116, paragraph 1, item 1 of the PPA, the changes shall be provided for in the procurement documents and incorporated into this contract by clear, precise and unambiguous clauses, including price modification clauses or options. The scope and nature of possible modifications or options, and the conditions under which they may be exercised, must not result in a change in the subject of the contract. [↑](#footnote-ref-24)
25. The clause shall be placed at the discretion of the Parties [↑](#footnote-ref-25)
26. It is permissible to agree to arbitrate the dispute. [↑](#footnote-ref-26)