

AGREEMENT FOR ARCHITECTURAL STUDY AND CONSULTATION SERVICES

PARTIAL DESIGN AND CONSULTATION WORK ON THE PROJECT
“Modernisation and new construction of railroad track from Prague-Veleslavín
(inclusive) to Prague-Václav Havel Airport (inclusive)”

by and between

Správa železniční dopravní cesty, státní organizace

as the Customer

and

[TO BE ADDED BY THE PROVIDER]

as the Provider

dated **[TO BE ADDED]**

contract no. **[TO BE ADDED]**

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AGREEMENT FOR ARCHITECTURAL STUDY AND CONSULTATION SERVICES

entered into pursuant to Section 1746(2) of Act no. 89/2012 Sb., Civil Code, as amended (the “**Civil Code**”)
(this “**Agreement**”)

PARTIES

(1) **Správa železniční dopravní cesty, státní organizace**

registered office: Dlážděná 1003/7, 110 00 Praha 1 – Nové Město
mailing address: Správa železniční dopravní cesty, státní organizace
Stavební správa západ
Sokolovská 278/1955, 190 00 Praha 9 - Libeň
Id. no.: 709 94 234
VAT Id. no.: CZ70994234
represented by: Ing. Mojmir Nejezchleb, Deputy DG for Infrastructure
Modernisation
bank details: account no. [TO BE ADDED], at [TO BE ADDED]

registered in the Commercial Register kept by the Municipal Court in Prague, Section A, File 48384

(the “**Customer**”)

and

(2) [NAME TO BE ADDED BY THE PROVIDER]

registered office: [TO BE ADDED BY THE PROVIDER]
Id. no.: [TO BE ADDED BY THE PROVIDER]
VAT Id. no.: [TO BE ADDED BY THE PROVIDER]
represented by: [TO BE ADDED BY THE PROVIDER]
bank details: account no. [TO BE ADDED BY THE PROVIDER], at [TO BE ADDED BY THE PROVIDER]

registered in the Commercial Register kept by the [TO BE ADDED BY THE PROVIDER] Court in [TO BE ADDED BY THE PROVIDER], Section [TO BE ADDED BY THE PROVIDER], File [TO BE ADDED BY THE PROVIDER]

(the “**Provider**”)

(the Customer and the Provider are hereinafter jointly referred to as the “**Parties**”, and each of them individually as a “**Party**”)

RECITALS

WHEREAS:

- (A) The Customer wishes to procure the completion of a work – execution of an architectural study for the project of “*Modernisation of the Prague-Veleslavín railway station*” (the “**Station Design**”), which constitutes a part of the project of “*Modernisation and new construction of railroad track from Prague-Veleslavín (inclusive) to Prague-Václav Havel Airport (inclusive)*” (the “**Track Design**”), and after the completion of the architectural study for the Station Design, also the performance of consultation services and processing comments that will arise in connection with the preparation of the Track Design;
- (B) In the context of the foregoing, the Customer has initiated a design competition in accordance with Section 143 *et seq.* of Act no. 134/2016 Sb. on public procurement, as amended (the Public Procurement Act, or “**PPA**”). A notification on a public competition for a specific performance was published in the Public Procurement Journal on February 2, 2019 under ref. no. Z2019-004321. The results of the public competition for a specific performance were then published in the Public Procurement Journal on [TO BE ADDED] (the “**Design Competition**”);
- (C) In a negotiated procedure without publication pursued in accordance with Section 65 PPA, which followed the Design Competition (“**NPWP**”), the Customer decided that the most advantageous offer was the Provider’s offer; accordingly, this Agreement is the outcome of negotiations between the Parties conducted within the NPWP;
- (D) On 29 November 2016, the Customer entered into a Contract for Work concerning the execution of the project design and preparatory documentation for the construction of “*Modernisation and new construction of railroad track from Prague-Veleslavín (inclusive) to Prague-Václav Havel Airport (inclusive)*”, as amended by Amendment 1 dated 16 August 2017 (the “**Track Design Contract**”), with a partnership formed in accordance with Section 2716(1) of the Civil Code under the name “MP+SUDOP – Veleslavín-Letiště” by partners METROPROJEKT Praha a.s., with its registered office at I. P. Pavlova 2/1786, 120 00 Prague 2, Id. no.: 452 71 895, and SUDOP PRAHA a.s., with its registered office at Olšanská 2643/1a, 130 80 Prague 3 – Žižkov, Id. no.: 485 88 733 (the partnership is hereinafter referred to as the “**Lead Designer**”);
- (E) The execution of an architectural study for the Station Design and the performance of consultation services under the Agreement constitutes a part of the Track Design and is closely linked to the Track Design in terms of its purpose. In this context, in order to accomplish the purpose of this Agreement, it is of critical importance for the Provider to ensure full compatibility of the architectural study for the Station Design, as well as of other deliverables that the Provider will deliver to the Customer under the Agreement, with the content of the project design documentation drawn up by the Lead Designer for the Track Design and, where applicable, with other deliverables that the Lead Designer will deliver to the Customer under the Track Design Contract;
- (F) The Provider is prepared to provide to the Customer the deliverables specified in more detail in Article 1.1 (Subject Matter of the Agreement) below;
- (G) The Customer is prepared to cooperate with the Provider and pay the agreed-upon Price to the Provider;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. GENERAL PROVISIONS

1.1 Subject Matter of the Agreement

The subject matter of this Agreement is the Provider’s commitment to execute and/or provide to the Customer in particular the following:

- (a) **architectural study** following up on the Provider’s design proposal submitted in the Design Competition, that is a part of this Agreement as *Annex 1*, with the contents and to the extent specified in detail in Article 2 and in *Annex 2*, and which contains also the libretto in the form of a manual that describes in written and graphically depicts the

features of the architectural solution in such detail and in such a way that the Customer can, at his discretion, use the architectural study or its individual elements for the construction of other, in terms of size and purpose of using similar railway stations as the Prague-Veleslavin railway station (the “**Concept Design**”);

(b) **consultation services:**

- professional consultations provided to the Lead Designer and/or Customer for the purpose of (i) integrating the Station Design into the Track Design and (ii) incorporating comments and modifications in the Concept Design and/or in the documentation executed by the Lead Designer;
- consultations provided to the person performing designer’s supervision in the sense of Section 152 (4) Act No. 183/2006 Sb., on land use planning and building code (Building Act), as amended (the “**Building Act**”), in the course of the construction of the modernised railway station Prague-Veleslavin (the “**Construction**”) in relation to all parts of the Construction which will be, although in conjunction with the design documentation made by the Lead Designer, implemented on the basis of the Concept Design;

as these activities are described in detail in Article 5 below;

(c) **assistance in selecting the construction contractor;**

The subject matter of this Agreement further includes the Customer’s commitment to pay to the Provider, for performance properly made by the Provider, a fee (price) in an amount and on the terms specified in detail in Article 10 below.

1.2 Purpose of the Agreement

The purpose of this Agreement is to secure the proper execution of the Concept Design and performance of the consultation services so that the resulting Construction will be, based on the Concept Design by the Provider, the project design documentation delivered by the Lead Designer in cooperation with the Provider, and based on the associated services provided by the Provider, designed and subsequently executed in compliance with the requirements set out by applicable laws, in particular, but not exclusively, in accordance with the relevant regulations mentioned in *Annex 6*, with an emphasis on the latest construction-related know-how and in consideration of the principal purpose of the Construction, i.e., securing a safe and smooth railway traffic between *Prague-Veleslavin (inclusive) and Prague-Václav Havel Airport (inclusive)* and its interconnection with other follow-up modes of transportation, and so that the Construction can be utilised at optimum operating expenses.

1.3 Communication

Whenever the Agreement requires any consents, certificates, permits, decisions, notifications and or applications to be made or issued by any person, the same have to be executed in writing and delivered, according to their nature, by hand, by e-mail, into a data inbox, by courier, or by registered mail return receipt requested.

For the avoidance of doubt, the Parties expressly agree that the communications will be delivered, sent or transmitted to representatives of the Parties, i.e. to the Customer’s Representative and the Provider’s Representative, respectively, identified in Article 1.5 below, except that (i) the addressee notifies a change in the contact details ten (10) business days in advance; in such case, communications will be delivered in accordance with the changed contact details, or (ii) unless the addressee indicates otherwise in a request for approval or request for consent, the response to the request can be sent to the address from which the request was sent. The Parties agree to keep their contact details up-to-date for the other Party and to ensure that communications sent under this Agreement are received and collected at such addresses.

Any and all communications made or given under this Agreement will be deemed delivered:

- (a) on the date of written confirmation of receipt by the addressee, if delivered by hand or by courier; or
- (b) on the date indicated on the delivery confirmation slip, if sent by registered mail; or
- (c) on the date indicated as the transmission date on the confirmation of complete transmission, if sent by electronic means.

Any and all communication between the Parties will be strictly in Czech.

1.4 Provider's Authorisation and Provider's Qualified Personnel

The Provider declares that it is authorised to perform the subject matter of this Agreement and possesses all the necessary authorisations and permits required by applicable laws; the Provider is obliged to ensure that all the authorisations and permits required by applicable laws will also be possessed by all the individual persons or entities employed by the Provider for the performance of this Agreement who are obliged to have such authorisations and permits under applicable laws.

The Provider and its subcontractors must ensure, while performing this Agreement, that specific activities will be carried out by natural persons specified in the text part of the Provider's design proposal, who are licensed to engage in those activities under special laws; the number, practical experience and professional qualifications of those persons must be in compliance with the qualification criteria stipulated in the competition terms and conditions of the Design Competition. Any change of those persons will not be considered a variation of this Agreement. As a necessary precondition for a change of a person by whom the Provider proved fulfilment of the qualification criteria in the text part of the design proposal, the Provider will produce, along with the submission of the notice of change of that person, originals or certified copies of documents proving the qualification of the new person proposed as replacement, at least to the extent required in the competition terms and conditions of the Design Competition. The Provider is obliged to notify the change to the Customer at least 3 business days prior to the effective date of the proposed change. The change will take effect upon the lapse of three business days from the delivery of the notice to the Customer; this does not apply if the conditions for change of the Provider's authorised person under this Article 1.4 have not been fulfilled.

1.5 Representatives of the Parties

For the purposes of this Agreement, the Parties appoint the following persons to act as their representatives:

- (a) Customer's representative for commercial matters:

Name: [TO BE ADDED]
Mailing address: [TO BE ADDED]
Telephone: +420 [TO BE ADDED]
E-mail: [TO BE ADDED]@szdc.cz

Customer's representative for technical matters:

Name: [TO BE ADDED]
Mailing address: [TO BE ADDED]
Telephone: +420 [TO BE ADDED]
E-mail: [TO BE ADDED]@szdc.cz

(hereinafter jointly the "Customer's Representative").

(b) Provider's representative for commercial matters:

Name: [TO BE ADDED BY THE PROVIDER]
Mailing address: [TO BE ADDED BY THE PROVIDER]
Telephone: [TO BE ADDED BY THE PROVIDER]
E-mail: [TO BE ADDED BY THE PROVIDER]@[TO BE ADDED BY THE PROVIDER]

Provider's representative for technical matters:

Name: [TO BE ADDED BY THE PROVIDER]
Mailing address: [TO BE ADDED BY THE PROVIDER]
Telephone: [TO BE ADDED BY THE PROVIDER]
E-mail: [TO BE ADDED BY THE PROVIDER]@[TO BE ADDED BY THE PROVIDER]

(hereinafter jointly the "Provider's Representative").

Any and all obligations and authorisations set out in or arising out of this Agreement with respect to the Parties, except for any variation to or termination of the Agreement, and appointment and removal of the Customer's Representative and the Provider's Representative, can be performed on behalf of the Customer by the Customer's Representative for commercial matters and the Customer's Representative for the technical matters and on behalf of the Provider by the Provider's Representative for commercial matters, provided that the Customer's Representative for commercial matters and the Provider's Representative for commercial matters may delegate those responsibilities to another person by means of a written authorisation, and such authorisation as well as its revocation will not take effect vis-à-vis the other Party until its delivery to the other Party.

2. CONCEPT DESIGN

2.1 Basics of the Concept Design

The Provider is obliged to prepare the Concept Design in accordance with the urbanistic-architectural design prepared by the Provider for the Design Competition and in accordance with the Provider's offer submitted in the NPWP, provided that each subsequent version of the Concept Design will be based on the previous step of the Concept Design version approved by the Customer and the Lead Designer.

The Concept Design must fully respect the fact that the Construction is intended for the operation of rail transport, and must also fully respect the location concerned, i.e. the place of implementation of the Construction and the specific conditions with which the Provider is obliged to make itself sufficiently conversant prior to proceeding to perform the subject matter of the Agreement.

The Concept Design will be prepared on the basis of, and in compliance with, the underlying documentation received by the Provider in the course of the Design Competition, and also in compliance with Article 7.1.

The Provider is obliged to complete and deliver the Concept Design and its individual versions (i.e. the first draft and the final version) within the deadlines specified in *Annex 5*.

The Provider is obliged to prepare the Concept Design in a manner such that it meets, in terms of its content and extent, the parameters set out in *Annex 2*.

While preparing the Concept Design, the Provider is also obliged to place emphasis on:

- creating high-quality facilities for passengers in the railway station premises;
- ensuring short transfer links to onward transit connections with the use of a modern information system, in particular to metro A lines;
- compliance of the proposed solution with ČSN standards and the relevant provisions of TNŽ and the Customer's internal policies.

2.2 Meeting the maximum limit of requested investment

The Concept Design must be processed so that the itemised reference budget of the Construction investment incurred in the scope and the structure of *Annex 3* (the “**Estimated Costs**”), which will be part of the Concept Design, has complied with the required investment for the Construction i in the total maximum amount of **CZK 420 000 000 net of VAT**.

The total maximum amount of investment includes the following items:

- (a) new construction(s);
- (b) firmly installed technology and firmly inbuilt interior;
- (c) overall design for the site concerned;
- (d) demolition or reconstruction of the currently existing building of the Velešlavín railway station structure including the firmly installed technology and firmly inbuilt interior.

Any technologies and other equipment that are not firmly attached to the Construction will not constitute part of the capital expenditures for the completion of the Construction, nor will they count against the maximum limit of investment under this Article 2.2.

For the avoidance of doubt, however, the Parties agree that the Provider will by no means be held responsible in the event that, in the course of implementation of the Construction, the Construction Provider(s) will fail to meet the Estimated Costs or if the Estimated Costs are exceeded for any other reasons (increase in prices, change to the price lists, legislative change, unforeseeable expenses, extra work or other additional changes, exchange rate differences, force majeure, and the like). However, the Provider will be responsible for ensuring that the Construction contractor will not exceed the stipulated costs of the Construction due to extra works necessitated, as the case may be, by a defect of the Concept Design. For the avoidance of doubt, however, the Parties agree that the maximum limit of investment aforesaid also includes any and all demolition work to be performed in connection with the Construction, which will have to be reflected by the content, scope and level of detail of the Concept Design.

For the avoidance of doubt, the Parties acknowledge that the Provider will not be in breach of this Agreement if the requested Construction investment in the amount specified in this Article 2.2 is exceeded solely as a result of the Customer's instruction; this does not apply if the Provider, prior to complying with the instruction, did not inform the Customer in writing that compliance with the Customer's instruction will result in exceeding the requested Construction investment in the amount specified in this Article 2.2, although the Provider, acting with utmost due professional care and diligence, should and could have known that complying with the instruction would have such a consequence.

2.3 Customer's Instructions and Lead Designer's Instructions

The Provider agrees to prepare the Concept Design in accordance with the instructions issued by the Customer and the Lead Designer. In the event of any discrepancy between an instruction of the Customer and an instruction of the Lead Designer, the Provider is obliged to notify the Customer in writing of such discrepancy and its substance. The Customer will subsequently issue a new written instruction to the Provider. If during the period from notification of discrepancy till the issuance of a new instruction the Provider was unable to proceed with the work on preparing the Concept Design, the deadline for the completion of the Concept Design specified in *Annex 5* will be extended by such period.

2.4 First Draft of the Concept Design

The Provider will prepare and deliver to the Customer and the Lead Designer in hard-copy form in three (3) originals labelled “DRAFT”, including three (3) copies of the Construction drawings, and in digital form in fifteen (15) copies in closed generally accessible format (.PDF) including the Estimated Costs (in the .XLSX and .XML XC4 format) on CD/DVD the first draft of the Concept Design in accordance with *Annex 2* (the “**First Draft**”).

The digital form of the Concept Design must, in terms of content and structure, fully correspond with the hard-copy form; any non-compliance with this requirement will be deemed a defect of the Concept Design.

A finished draft will be presented to the Customer for review and approval within the period specified in *Annex 5*.

2.5 Implementing the Customer’s and Lead Designer’s Objections

The Customer and the Lead Designer will each separately present to the Provider, not later than twenty- eight (28) days from the date they received the First Draft from the Provider, their respective objections and/or suggestions for revisions to be made to the First Draft.

The Provider is obliged to modify the First Draft in accordance with the objections of the Customer and the Lead Designer not later than by the deadline set for submitting a Final Version of the Concept Design in *Annex 5*. In the event of any discrepancy between the Customer’s objections and the Lead Designer’s objections, the provisions in Article 2.3 will apply.

If the Provider does not agree with an objection raised by the Customer or the Lead Designer, the Provider will immediately notify the Lead Designer and the Customer to this effect in writing; such notification must in each case include a description of the objection and the reasons for the Provider’s disagreement. A notification of rejection of an objection raised by the Lead Designer must be made by the Provider not later than ten (10) days of the date on which the Provider had received objections from the Customer and the Lead Designer (whichever were delivered to the Provider later); upon the lapse of this time period, the Provider will be deemed to accept the Customer’s and the Lead Designer’s objections. Within twenty - eight (28) days of the date of notification of the Provider’s rejection of any objections raised by the Customer and/or the Lead Designer, the Customer will notify the Provider and the Lead Designer in writing that the Customer is calling a meeting of the Parties and the Lead Designer to deal with the objection concerned, stating the time and place of the meeting, or will directly issue a written instruction to the Provider and the Lead Designer regarding the manner of dealing with the objection. The decision regarding the Customer’s course of action is solely at the Customer’s absolute discretion.

2.6 Final Version of the Concept Design

The Provider will prepare and deliver to the Customer in hard-copy form in six (6) originals, including the Estimated costs in three (3) copies, the final version of the Concept Design incorporating all the objections of the Customer and the Lead Designer, unless another decision is made in accordance with Article 2.5 above (the “**Final Version**”).

In the digital form, the Provider provide the Customer with the Final Version as follows:

- (a) One (1) copy on a CD / DVD in the TreeInfo structure, a complete open and closed format without the Estimated Costs;
- (b) sixteen (16) copies on CD / DVD, of which one (1) in open format and fifteen (15) copies in a closed format, without the Estimated Costs; and
- (c) two (2) copies of the Estimated Costs on a CD / DVD, of which one (1) is in open format and one (1) in closed format.

The Provider is obliged to deliver the Final Version to the Customer within the time period specified in *Annex 5*.

2.7 Approval of the Concept Design by the Customer

The First Draft as well as the Final Version need to be approved by means of a written certificate of handover and acceptance of work, to be signed by the persons specified in Article 1.5 above. Minor defects that do not prevent proper use of the Concept Design cannot be the cause for non-acceptance of the Concept Design; however, the following can never be considered a minor defect: any discrepancy between the Concept Design and legal regulations, the Customer's internal bylaws or the documentation prepared by the Lead Designer, and also a defect due to which the Concept Design, without modifications, cannot be used for the purposes of administrative proceedings or for any other principal purpose for which it is intended, or a defect that would be conducive to an increase of the maximum investment amount under Article 2.2 above.

The Customer agrees not to refuse, without a reason, to sign any handover certificate under this Agreement. If the Customer refuses to sign a certificate without a reason, the First Draft or the Final Version (as applicable) will be deemed delivered at the time of such refusal, without prejudice to the Customer's rights stemming from liability for defects of the version of the Concept Design so delivered.

2.8 Binding Deadlines for Performance

The deadlines for the completion and delivery of individual deliverables under this Agreement as specified in *Annex 5* can, on an exceptional basis and subject to the Customer's prior written consent, be extended without a penalty. The decision on a reasonable extension of individual deadlines is in the Customer's sole and absolute discretion, and the Provider has no claim to an extension of those deadlines. An extension of a deadline does not have to be granted in the form of an amendment to this Agreement; sufficient will be, for example, a written declaration of the Customer or an inspection day record signed by the Customer's authorised person, provided that the Lead Designer or the Lead Designer's representative, employee or subcontractor cannot be regarded as such authorised person.

2.9 Inspection Days

The Provider will convene inspection days for the Project management at least once in 14 days for the entire period of time until delivery of the Final Version at the Customer's headquarters, unless agreed otherwise between the Parties. On the inspection days, the Customer's Representative and the Lead Designer will inspect and review the progress of work, and the Customer will approve the parts of the Concept Design completed as at that date. On the inspection days, the Parties will also approve proposals regarding the choice of material and technologies to be used in the execution of the Station Design. If any material or technologies proposed in any part of the Concept Design fail to be approved by the Customer in writing and are implemented contrary to the Agreement, the Provider will be obliged to redraft the Concept Design and the proposed material or technologies at no additional cost in accordance with the Customer's instructions. An approval issued in respect of a part of the Concept Design by the Customer does not relieve the Provider of full responsibility for the quality of the work, with the exception of cases where the Customer, despite a written notice from the Provider, insisted on instructions that had an adverse impact on the resulting quality of the work. In the event that the Customer will, by the procedure described in this paragraph, demand the use of material and technologies that will result in an increase of the maximum amount of requested investment under Article 2.2 of this Agreement, such increase will be attributable to the Customer and the Provider will not be in breach of Article 2.2 hereof.

At least one of the inspection days in the course of the work on the First Draft will be in the form of a presentation; the date will be agreed upon in advance with the Customer.

The Provider acknowledges and agrees that inspection days may also be attended by the Lead Designer who can present to the Provider any objections regarding the completed parts of the Concept Design. In the event of any discrepancy between the Lead Designer's objections and the Customer's objections, Article 2.3 will apply. The Provider acknowledges and agrees that the Customer has the right to empower the Lead Designer to perform the activities that are to be

performed by the Customer under this Article 2.9; in such case, the Lead Designer will act as the Customer's representative.

Minutes of the meetings held on the inspections days will be drawn up and distributed by the Provider.

In addition, when requested by the Customer or the Lead Designer to do so, the Provider will be obliged to attend inspection days and discussions relating to the Track Design Contract; any objections raised or instructions issued by the Customer or the Lead Designer on such inspection days will be equally binding on the Provider for performance of this Agreement as objections raised and instructions issued on inspection days organised by the Provider.

2.10 Defects of the Concept Design

The Provider is obliged to prepare the Concept Design in accordance with this Agreement, applicable laws, with particular emphasis, but not exclusively, on the relevant regulations according to *Annex 6*, administrative authorities' requirements asserted in administrative proceedings that will be handed over to the Provider by the Customer or the Lead Designer, applicable technical standards, instructions from the Customer or the Lead Designer (to the extent permitted under this Agreement), and using due professional care in the design work concerning constructions of similar nature and extent as the Construction.

The Provider is responsible for the correctness and completeness of the Concept Design (including the correctness and completeness of the Estimated Costs) and feasibility of the Construction according to the Concept Design; the legal and factual state at the time of delivery of the Concept Design is relevant for the correctness and completeness of the Concept Design.

The Provider is responsible for the activities of its entire team, including also invited responsible designers with relevant specialisation, as though the Provider itself were performing the work.

In the case of a defect of the Concept Design, the Parties agree that the Customer will have the right to demand removal of the defect and the Provider will be obliged to remove such defects at no additional cost. The Provider agrees to remove any defects of the Concept Design without undue delay, but in any case not later than twenty (20) business days after the Customer raised the relevant claim in writing.

If the Concept Design has a defect that cannot be removed, the Provider is obliged to either redraft the Concept Design or its relevant part at its own cost, or to provide a reasonable discount from the price for the work to the Customer; the choice of the claim is in the Customer's sole and absolute discretion.

This Article 2.10 does not affect or prejudice the Customer's claims on the ground of liability for defects under applicable laws, nor the claim to damages.

3. OWNERSHIP TITLE; RIGHT TO USE THE CONCEPT DESIGN AND THE PROVIDER'S OTHER OUTPUTS (LICENCE)

3.1 Ownership Title to the Provider's Outputs

The Customer will acquire ownership title to each version of the Concept Design and other outputs, regardless of their form, resulting from the consultation services under Article 5 below, from joint collaboration in selecting the Construction contractor under Article 6 below, and any other results created by the Provider under this Agreement, at the time of handover and acceptance of the relevant output.

3.2 Right to Use the Provider's Outputs (Licence)

The Provider hereby grants to the Customer, with regard to each version of the Concept Design (the First Draft and the Final Version) as well as to any part thereof in progress, and any documents, instruments, drawings, designs, modifications to the Concept Design, programmes and data created or provided by the Provider under the Agreement, including all outputs and

results, regardless of their form, generated in the course of the consultation services under Article 5, in the course of joint collaboration in selecting the Construction contractor under Article 6, and any other results created by the Provider or by third parties (in particular the Provider's subcontractors) on behalf of the Provider under this Agreement ("**Copyrighted Work**"), an exclusive right of use (licence) within the meaning of Section 12(4) of Act no. 121/2000 Sb. on copyright, rights related to copyright, and on amendments to certain laws, as amended (the "**Copyright Act**"), without any territorial limitation and in all modes of use consistent with the purpose for which the Copyrighted Work is intended, for the entire duration of the author's economic rights, within the necessary scope consistent with the purpose for which the Copyrighted Work is intended, and in particular for the purpose of implementation, operation, use, maintenance, alterations, modifications, repairs, and demolition of the Construction or its individual parts. The Provider hereby grants to the Customer the consent to the assignment or sublicensing, in whole or in part, of any or all of the rights comprising this licence to a third party. The authorisations (licence) also includes the right of the Customer, or a person to which the licence is assigned or to which a sub-licence is granted, to modify or alter the Copyrighted Work or its parts in any manner whatsoever. The royalty for the licence is already included in the total Price.

By entering into this Agreement, the Provider expressly agrees that the Customer, after the acceptance of the Concept Design (or its part), will have the right to freely use such documentation and, in accordance with Section 11(3) of the Copyright Act, the Provider grants to the Customer permission to make any change (i.e. the right to make alterations and modifications) to the Concept Design. The Provider will not be held responsible or liable in respect of any changes or modifications of the Concept Design made by the Customer or a third party authorised by the Customer instead of the Provider, including in respect of the impact of such changes on unmodified parts of the documentation and including the impact of such changes on the feasibility of the Construction.

In any and all cases in which the Provider is unable for objective reasons to directly grant authorisation to the Customer with respect to the Copyrighted Work, the Provider will cause the third party who enjoys the right to use the Copyrighted Work to grant to the Customer free of charge an authorisation (licence) to use the Copyrighted Work, on the term, subject to the conditions and to the extent of this Article 3, on the date of handover of the relevant Copyrighted Work at the latest. If on the date of delivery of the relevant Copyrighted Work the written authorisation from a third party is not produced to the Customer per the preceding sentence, the relevant authorisations will be deemed granted to the Customer by the Provider as the author of the Copyrighted Work.

The Customer is not obliged to use the licence, and the Provider does not have the right to rescind this Agreement (in whole or in part) under Section 2378 et seq. of the Civil Code on the ground of failure to use the licence.

The Parties preclude application of Section 2382 of the Civil Code concerning rescission of the Agreement on the ground of change of the author's opinion.

4. LEGAL DEFECTS OF PROVIDER'S PERFORMANCE

The Provider represents that neither the Concept Design nor any other performance delivered by the Provider under this Agreement has any legal defect and no third party is entitled to exercise any ownership or other rights with respect thereto, except where such entitlement follows from applicable laws and where the Provider was unable to influence such entitlements following from applicable laws.

The Provider is obliged, at its own cost and expense, to provide all the necessary assistance, procure all the necessary documentation, and take all the steps that it can be reasonably required to take if in connection with the Provider's performance under this Agreement any third party exercises their ownership or other rights vis-à-vis the Customer and if such assistance of the Provider is necessary to ensure that the Customer will be able to use or enjoy the performance. The foregoing is without prejudice to the Customer's claims based on the Provider's liability for

defects of the work and to the Customer's rights to claim damages. The Customer agrees to inform the Provider in writing without delay that any third party has asserted any such claim vis-à-vis the Customer.

If the Provider's representation contained in this Article 4 is found to be false, the Customer may rescind this Agreement after serving a prior written request for remedy, or rescind this Agreement in respect of any partial delivery (whether already accepted or not), or may demand that the Provider procure such rights for the Customer at the Provider's cost and expense or that the Provider secure due protection for the Customer in any other manner; in such case, the Customer may rescind this Agreement or rescind this Agreement in respect of any partial delivery (whether already accepted or not) if such rights fail to be acquired within a period of time to be set by the Customer of at least twenty (20) days. The foregoing is without prejudice to the Customer's rights to claim damages.

5. CONSULTATION SERVICES

5.1 Purpose, Subject Matter, and Extent of Consultation Services

The Provider is obliged to provide professional consultations to the Customer and the Lead Designer for the purpose of ensuring feasibility of the Station Design in full compliance with the Track Design, and also for the purpose of updating the Concept Design on the basis of the results of public discussions concerning the Track Design (or its parts), including also after delivery of the Final Version if necessary.

Consultation services can be rendered in the form (depending on circumstances) of:

- disclosure of professional and qualified information, opinion, calculation, or any other separate output of the Provider;
- mark-up of proposed revisions to the text part and/or the drawing part of the documentation prepared by the Lead Consultant on the basis of the Track Design Contract; and/or
- mark-up of proposed revisions to the text part and/or the drawing part of the Concept Design.

An instruction to provide consultation can be issued to the Provider by the Customer and/or by the Lead Designer. The Provider is obliged to deliver the result of the consultation services to the Customer and the Lead Designer, unless the Customer determines that delivery to the Lead Designer is sufficient.

The Provider is obliged to render consultation services during the entire term of the Agreement, in the course of preparation of the Concept Design and after its delivery.

Any defects in performance of consultation services will be the subject of Article 2.10 *mutatis mutandis*.

5.2 Author's supervision

In the course of consultation services implementation, the Provider is also obliged to carry out the author's supervision in accordance with Section 152 (4) of the Building Act during the execution of the Construction, in relation to all parts of the Construction which will be, although in conjunction with the project documentation made by the Lead Designer, based on Concept Design.

The Provider will, in accordance with the Customer's instructions, perform for the Customer the services of author's supervision, which includes:

- (i) to control of the compliance of workshop and assembly documentation for the Construction in the scope of its compliance with the Concept Design and the Customer's notice of the defects found in the workshop and assembly documentation;
- (ii) to control of the implementation of the Construction in accordance with the Concept Design, including the Customer's notice of the defects found in the course of the Construction implementation;
- (iii) to reconciliation of variations and deviations from the Concept Design and to the extent in which these changes and deviations affect parts of the design documentation for the Track Design project based on the Concept Design, their possible incorporation into the project documentation for the Project Line;
- (iv) the Provider shall provide the Customer with reasonable assistance in the preparation of the actual execution documentation by the Contractor, including notice of nonconformity of the agreed changes during the execution of the Construction contained in the documentation of its actual execution;
- (v) to provide all necessary cooperation to the Customer for the purpose of issuing the approval or approval decision (legal and technical acts leading to the issuance of the endorsement are not subject to performance under this Agreement);
- (vi) the participation in inspection days with the Contractor at least once a week unless the Parties otherwise agree in writing

(the activities under points (i) to (vi) jointly referred as "**Author's Supervision**").

The implementation of the Author's Supervision will commence on the day of commencement of the construction work by the Contractor.

The execution of the Author's Supervision will be duly completed by issuing the building approval or building approval decision on the Building or by removing any defects and faults mentioned in the building approval agreement (building approval) on the Construction, whichever is the later; without prejudice to the Provider's obligation according to the part of the sentence before the semicolon, the Parties state that the estimated time when the Provider shall be obliged to provide Author's Supervision shall be 45 months from the date of the Author's Supervision commencement. The period under the preceding sentence shall not run for the duration of the interruption of works due to breach of the Agreement by the Provider within the meaning of Article 8.3 of the Agreement or during the interruption of the Contractor's construction work.

5.3 Fee for Consultation Services

The performance by the Provider under this Article 5 covered by the Price for the work under Article 10 will not exceed the scope stipulated in *Annex 4*. Any performance beyond the maximum scope of performance according to the preceding sentence will be considered as extra work to be paid separately from the Price under Article 10, for every hour effectively spent in selecting the Construction contractor at the hourly rate specified in *Annex 4*.

The Provider shall always draw up an invoice for the implementation of the consultation services after every fifty (50) hours of the consultancy activity or after nine (9) calendar months from the due date of the last issued invoice, whichever is the earlier.

Notwithstanding previous arrangements, the Provider is obliged to prepare activity reports and submit them to the Customer at the end of each calendar month in which any of the activities under this Article 5 was performed.

5.4 Consultations with Public Authorities

If so instructed by the Customer, the Provider will be obliged to consult individual parts of the Concept Design with public authorities and other institutions that will be involved in the zoning proceedings (or other related proceedings). If necessary the Customer will grant a power of attorney to the Provider for this purpose.

6. ASSISTANCE IN THE SELECTION OF THE CONSTRUCTION CONTRACTOR

6.1 Selection of the Construction Contractor

The Provider undertakes to work with the Customer in the selection of the Construction contractor, providing that a repeated selection following the cancellation of the tender procedure for the Construction contractor or the termination of the contract with the Construction contractor is also deemed a selection of the Construction contractor. The Provider will provide the Customer with the following assistance:

- (i) at the stage of a preliminary market consultation (if any) – professional advice on formulating questions of the Customer (the contracting authority) directed at potential contractors and an assessment of responses obtained during the preliminary market consultation;
- (ii) at the stage of processing tender terms for the Construction – professional advice particularly on qualification requirements, evaluation criteria and contractual terms;
- (iii) at the stage of the time limit for submitting bids – drafting explanations about the tender documentation provided at the request of contractors as well as without contractors' prior request where necessary (subject to the deadline within which the contracting authority (Customer) is required to provide such explanation);
- (iv) at the stage of bid assessment and evaluation – professional advice on the bid assessment and evaluation, participation in meetings of the evaluation committee according to its current requirements;
- (v) professional advice on objections (if any) (drafting a decision of the contracting authority (Customer) regarding the objections);
- (vi) professional advice in the event of administrative proceedings before the Czech competition authority (if any) (drafting necessary statements of the contracting authority (Customer)).

The provisions in Article 2.10 will apply to any defects in the assistance in the selection of the Construction contractor.

6.2 Fee for Assistance in the Selection of the Construction Contractor

Performance under this Article 6 will be provided by the Provider within the scope of the Price of the work under Article 10 hereof to the maximum extent set out in *Annex 4*. Beyond the maximum scope of the performance under the previous sentence, other performance will be considered additional work that will be paid in excess of the Price under Article 10 for each meaningful hour spent selecting the Construction contractor multiplied by the hourly rate set out in *Annex 4*.

The Provider shall always draw up an invoice for the assistance in the selection of the Construction contractor after every fifteen (15) hours of the assistance in the selection of the

Construction contractor or after six (6) calendar months from the due date of the last issued invoice, whichever is the earlier.

Notwithstanding previous arrangements, the Provider undertakes to prepare worksheets and timesheets that must be presented to the Customer at the end of each calendar month in which any of the steps under this Article 6 is taken.

7. GENERAL OBLIGATIONS OF THE PROVIDER

7.1 Provision of Reference Materials

The Customer, at its own expense, will provide the Provider with relevant documents and materials relating to the Construction and land on which the Construction is to be built and which will be available at the time of the Agreement's execution, against a written report signed by both Parties within ten (10) days of execution of this Agreement.

Any relevant documents obtained at any time after the handover must be provided by the Customer to the Provider within ten (10) days of the receipt of such documents by the Customer; this does not apply if the Customer has reasonable doubts as to the correctness or completeness of such documents.

If documents additionally provided to the Provider have a material impact on the work carried out so far or cause any delay, the Customer will accordingly extend the deadlines agreed in this Agreement for the Provider's performance.

If the Provider incurs additional costs as a result of processing additionally provided relevant documents that have not been included in the Price under Article **Chyba! Nenalezen zdroj odkazů.** hereof, the Provider is entitled to propose in writing to the Customer, without undue delay but no later than within 15 (fifteen) days of the handover of such additional documents, an increase in the Price under Article **Chyba! Nenalezen zdroj odkazů.** hereof by an amount equal to the additional costs incurred by the Provider as a result of processing additionally provided relevant documents. The Customer is required to respond to the Provider's proposal no later than within 15 (fifteen) days of the day of delivery. If the Customer disagrees with the Provider's proposal, the Parties will hold fair negotiations in good faith regarding the consequences of processing additionally provided relevant documents. Any increase in the Price under this Article 7.1 must be agreed in a written amendment to this Agreement and must comply with the PPA. In measuring the additional costs, the Provider is required to rely on prices specified in *Annex 4* and if no such items are listed in *Annex 4*, the Provider is required to rely on fair market prices, particularly prices specified in applicable professional price lists.

All documents handed over to the Provider by the Customer and all documents prepared by the Provider for the Customer will be kept and guarded by the Provider in a safe place until they are taken over by the Customer against a written report; if the documents are originals, they are the liability of the Provider as the custodian.

If any of the Parties ascertains an error or defect of a technical nature in any documents handed over by the Customer to the Provider, the Party is required to notify the other Party of the error or defect without delay and jointly agree upon the most suitable solution.

7.2 Use of the Customer's Documents by the Provider

The Customer has economic copyright and other intellectual property rights to documents that have been prepared by the Customer or may be used by the Customer for the purposes of this Agreement on the basis of agreements with persons who enjoy such rights. Such documents may not be copied, used or disclosed by the Provider to third parties without the Customer's consent, save for cases where this is necessary for purposes arising from the Agreement.

7.3 Granting Powers of Attorney

At a written request of the Provider, the Customer will grant the Provider or a person appointed by the Provider all necessary powers of attorney if required for the provision of the performance

under this Agreement. The Provider will request the Customer to grant such a power of attorney in writing at least ten (10) days in advance.

7.4 Provision of Assistance

At a written request of the Provider, the Customer will provide the Provider with all assistance that may be reasonably requested and is necessary for a proper and timely preparation of the Concept Design and a proper and timely provision of consultation services, as well as any other assistance necessary for a proper and timely performance of this Agreement.

8. GENERAL OBLIGATIONS OF THE PROVIDER

8.1 Professional Care and Diligence

The Provider undertakes to prepare the Concept Design, provide consultation services and assistance in the selection of the Construction contractor diligently, in good faith, as and when due, with the most professional care and diligence and in accordance with the Customer's interests and instructions, applicable laws, the Customer's internal regulations, safety regulations and applicable technical standards (ČSN and EN) irrespective of whether or not these are binding. The Provider must, at all times, act in compliance with the professional and ethical standards of the Czech Chamber of Architects and the Czech Chamber of Authorised Engineers and Technicians in Construction.

8.2 Instructions of the Customer and the Lead Designer

The Provider will prepare the Concept Design and will provide other performance under the Agreement in accordance with the instructions of the Customer and the Lead Designer. The Provider is obliged to act in accordance with instructions of the Customer and the Lead Designer at all times and must not deviate from such instructions unless the Provider receives the prior written consent of the Customer and the Lead Designer in which the Customer as well as the Lead Designer agree that the Customer may act at its sole discretion. Where such a deviation is necessary and it is an emergency situation when the prior written consent of the Customer and the Lead Designer cannot be obtained, the Provider may act at its sole discretion but only to the extent necessary for immediate protection of the interests of the Customer and the Lead Designer and for preventing damage.

If instructions given to the Provider by the Customer or the Lead Designer are not suitable for the purposes of timely and proper implementation and completion of the subject-matter of the Agreement or are in conflict with applicable laws or legitimate requirements of parties to the proceedings, state administration authorities and the organisations concerned, the Provider is required to notify the Customer accordingly within five (5) business days of the date on which the Provider could have and should have become aware of the unsuitability of the instruction with all due professional care and diligence but no later than within fifteen (15) days of receipt of the instruction, and as for the instruction of the Lead Designer, the Provider is required to notify the Customer and the Lead Designer in writing, otherwise the Provider will be liable for any and all damage caused by complying with the instruction. If the Provider is unable to provide a statement regarding an instruction of the Customer or the Lead Designer for reasons outside its control (in particular due to the complexity of the instruction or necessary cooperation required from third parties or administrative authorities) within the time limits set out in the previous sentence, the Provider is required to present to the Customer or the Lead Designer written statements containing all information regarding the instruction of the Customer or the Lead Designer available to the Provider by then on inspection days under Article 2.9 hereof, and where no such inspection days are held, no less than once in fourteen (14) days, and to subsequently update the information at such intervals until the Customer and the Lead Designer receive a full statement of the Provider regarding the instruction, unless the instruction is recalled earlier by the Customer or the Lead Designer. If despite a written notification of the Provider regarding the unsuitability of the instruction, the Customer or the Lead Designer insist on complying with the written instruction, the Provider is required to carry out the instruction but is not liable for any damage and delay in meeting the deadlines for the Provider's

performance resulting from compliance with the instruction and is not liable for any other consequences of the instruction provided that they have been notified by the Provider to the Customer (and to the Lead Designer in the case of an instruction given by the Lead Designer). However, the Provider may not carry out an instruction of the Customer or the Lead Designer that is in conflict with applicable laws from which the Parties may not deviate if the Provider was aware or should and could have been aware of such a conflict while exercising its utmost professional care and diligence. However, irrespective of any provision in this Article 8.2, the Provider is not obliged to carry out instructions of the Customer or the Lead Designer that are in conflict with decisions of administrative authorities and/or with this Agreement.

For the avoidance of doubt, the Parties state that the Lead Designer is not entitled to recall or change an instruction given by the Customer to the Provider unless the Customer grants its written consent to the recall or the change in its instruction and the consent is delivered to the Lead Designer and the Customer.

The Provider is also required to notify the Customer in advance of the fact that compliance with an instruction will or may result in exceeding the maximum investment under Article 2.2 of the Agreement. An instruction of the Customer is not considered conflicting solely due to the fact that compliance with the instruction will result in exceeding the maximum investment under Article 2.2, and, consequently, the Provider is not entitled to refuse to comply with the instruction; any exceeding of the maximum investment only as a result of acting on the Customer's instruction is not a defect in the Concept Design within the meaning of Article 2.10 of the Agreement. The Lead Designer is not entitled to give such an instruction to the Provider.

If the Customer identifies any shortcomings on the part of the Provider, the Provider is required to remove such shortcomings on the Customer's instruction without delay without any entitlement to an increase in the Price or any component thereof under Article **Chyba! Nenalezen zdroj odkazů.**

8.3 Interrupted Work

The Customer may instruct the Provider in writing at any time during the term of the Agreement to interrupt work. The notice of work interruption must be served at least three (3) business days in advance. The time limits for providing performance by the Provider as set out in this Agreement do not run during the work interruption period, in particular the time limits agreed in *Annex 5*; this does not apply if a work interruption is expressly ordered by the Customer due to a breach of the Agreement by the Provider, especially due to defects identified in the Concept Design.

8.4 Cooperation

The Provider undertakes to perform the Agreement in coordination, cooperation and ongoing communication with the Customer, the Lead Designer and their advisers to the maximum extent possible, in particular to work with the Customer in the tender procedure for the Construction contractor and the relevant contract for work for the Construction to be entered into with the selected Construction contractor by implementing additions and explanations regarding the Concept Design as required by the Customer. The Provider will provide the Customer, on an ongoing basis, with documents obtained during the performance of the Agreement if such documents are closely related to the performance, and provide the Customer with all necessary information, documents and explanations relating to steps taken in performing the Agreement at the Customer's request.

8.5 Subcontractors

The Provider is entitled to hire a subcontractor to perform the Agreement at its own expenses, providing that in such a case, the Provider will be liable to the Customer for any part of its obligations arising from the Agreement that is performed by the subcontractor as if the obligations were fulfilled by the Provider.

The Provider must not entrust a subcontractor with the performance of the entire subject-matter of the Agreement. However, the Provider is entitled to commission a subcontractor

(subcontractors) to perform any part of the subject-matter of the Agreement, providing that the subcontractor/subcontractors must be approved by the Customer in writing in advance. The Provider is also required to arrange contractually that each of the approved subcontractors will carry out its part of the performance of the Agreement in person and will not assign it to another subcontractor, unless the Customer grants its separate consent to transferring a part of the performance to the other subcontractor.

The Provider undertakes to ensure that a subcontractor has all relevant permits to perform the Agreement as the scope of its activity or business. In addition, the Provider is liable for the subcontractor ensuring that the selected performance of the Agreement which requires a specific licence or education is carried out by individuals who hold all necessary permits and have required education to carry out such activities. The contractor selected by the Provider must also be the holder of all other licences required to carry out the activities related to the performance of the Agreement by law or the Agreement.

The Provider is required to submit to the Customer a list of subcontractors whom the Provider intends to commission to perform any part of the Agreement within fourteen (14) days of the date of execution of the Agreement. During the performance of the Agreement, the Provider is required to obtain the Customer's consent to a new subcontractor at least five (5) business days before the subcontractor is used to perform the relevant part of the Agreement. The notification will at all times contain the name of the subcontractor(s) for individual parts of the Agreement, the specification of the part of the performance under the Agreement that is to be carried out by the subcontractor, and copies of relevant valid licences, permits, attestations and certificates that are required to carry out the individual part of the performance of the Agreement by the subcontractor. The Customer may reject the participation of a specific subcontractor in the performance of the Agreement within three (3) business days of receipt of the relevant notice, providing that the Customer will not withhold or deny without a serious, legitimate and precisely specified reason. If the Customer fails to respond within three (3) business days of receipt of the relevant notice, the use of the subcontractor is deemed to be accepted.

The Provider undertakes that engineering activities will not be carried out using the building owner's technical supervisor or a person cooperating with the building owner's technical supervisor as a subcontractor (including the building owner's technical supervisor's employees).

8.6 Confidentiality Obligation

The Provider is aware that, in performing this Agreement, the Provider and its contractual partners (if any) will gain access to the Customer's information (such as personal data and information about the Customer's security measures and technical equipment). The Provider hereby undertakes to treat all information of the Customer as confidential and trade secret, in particular to preserve confidentiality and take all contractual, administrative and technical measures preventing misuse or leakage of such information. The Provider may only disclose such information to its employees or contractual partners to the extent necessary to achieve the purpose of this Agreement and solely on condition that such persons are bound by the confidentiality obligation to the same extent as provided for in this Article 8.6. The Provider undertakes to provide sufficient advice to the above persons on the confidentiality of such information, to bind them to confidentiality and ensure sufficient contractual, administrative and technical protection of such information. The confidentiality obligation continues to apply irrespective of the effect or validity of this Agreement, i.e. survives the termination of this Agreement.

8.7 Obligation of Professional Conduct

The Provider is obliged to defend the Customer's interests to the best of its knowledge and abilities. The Provider is required to refrain from its own business activities in respect of the subject-matter of the Agreement throughout the period of preparing the Concept Design and when carrying out the Construction and putting it into operation, either in association with or via third parties, which could endanger or be in conflict with the Customer's legitimate interests or could give unlawful preference to the Provider or third parties. The Provider undertakes not

to accept any commissions or payments from third parties except for subcontractors agreed by the Customer, in particular from manufacturers, suppliers or the Construction contractor. The Provider is required to ensure that commissions or payments from third parties are not received by the Provider's employees or other persons authorised to carry out the work or a part thereof. A breach of any obligations set out above is considered a material breach of the contractual obligations and constitutes a reason for terminating this Agreement subject to the terms specified in this Agreement.

The Provider undertakes to notify the Customer in writing without delay of all facts that could cause damage or non-pecuniary harm to the Customer, of obstacles that could endanger the deadlines set out in this Agreement or the Construction and of any potential defects and incomplete documents provided to the Provider by the Customer.

The Provider undertakes not to disclose the results of its performance (the work or a part thereof) to any person other than the Customer, to a person authorised by the Customer or to the Lead Designer without the Customer's written consent.

8.8 Provider's Assistance in Financial Audits

The Provider is required to assist in a financial inspection under Section 2(e) and Section 13 of Act No. 320/2001 Sb., on Financial Inspections in Public Administration and on Amendments to Certain Acts (Financial Inspection Act), as amended, and to provide the inspection authority with documents substantiating supplies of construction work, goods and services paid from public resources or from state aid to the extent necessary to examine the relevant transaction. The Provider may demand such obligation from all of its subcontractors.

8.9 Assistance Provided to the Lead Designer, and Avoiding Conflicts of Interests

For the avoidance of doubt, the Parties declare that the Provider's obligation to comply with the Lead Designer's instructions, incorporate its comments, provide consultation services, communicate with the Lead Designer and other obligations arising from this Agreement that must be fulfilled in respect of the Lead Designer are part of the Provider's liability to the Customer as arising from this Agreement, for a breach of which the Provider is liable to the Customer. This is without prejudice to the Provider's liability to the Lead Designer arising from a breach of legal regulations.

Unless the Customer grants its prior written consent, the Provider is not entitled to establish a company with the Lead Designer within the meaning of Section 2716 of the Civil Code or any other legal entity or to enter into any agreement with the Lead Designer that would be related, only in part, to the performance provided under this Agreement or other obligations arising from this Agreement.

9. CHANGES IN THE WORK

9.1 Changes in the Work Ordered by the Customer

The Customer is entitled to order to the Provider the following at any time during the term of the Agreement:

- (a) to carry out work and providing performance that have not been agreed in the Agreement or have been agreed in a smaller scope;
- (b) not to carry out work and not to provide performance that have been agreed in the Agreement or have been agreed in a larger scope;
- (c) to provide any other performance or to carry out any other work than that agreed in the Agreement;

(the changes under paragraphs (a) through (c) are hereinafter referred to as the "**Change in the Work**").

The Provider is required to carry out the Customer's instruction to implement a Change in the Work.

9.2 Changes in the Work Proposed by the Provider

The Provider is entitled to propose a Change in the Work to the Customer, in particular to increase the quality of the performance under the Agreement, to reduce the Price under Article 10 or to resolve situations not envisaged upon execution of the Agreement. The Customer is not required to accept the proposal.

9.3 Implementing a Change in the Work

If a Change in the Work is ordered by the Customer or proposed by the Provider, it must be notified by the Party to the other Party in writing, providing that the notification must state the subject of and reasons for the Change in the Work; The Provider will also state in its proposal for a Change in the Work the planned technical solution of the Change in the Work.

Unless agreed otherwise by the Parties, the Provider will prepare a written assessment of the impact of the Change in the Work no later than within fifteen (15) days of the delivery of the notice of a Change in the Work. The assessment must describe in detail the effects of the Change in the Work on the Price under Article 10 (including an overview of all costs or savings), effect on the time schedule under *Annex 5*, or any other expected consequences of the Change in the Work on the obligation under the Agreement. The Provider's costs associated with the assessment of the impact of the Change in the Work are included in the Price under Article 10.

Where the subject of the Change in the Work is performance that may be valued in accordance with *Annex 4*, the Provider is required to determine the impact on the Price on the basis of the items stipulated in *Annex 4*.

If the Parties do not agree to change on the Price as a result of Changes in the Work, the Contractor is required to make a Change in the Work for the unit price listed in the " Extra work resulting from a Modification of Work " line in *Annex 4*.

Based on the assessment results of the impact of the Change in the Work prepared by the Provider, the Customer will approve or refuse the Change in the Work in writing.

At the period from the delivery of the notice of a Change in the Work until the approval or refusal of the Change in the Work by the Customer, the Provider is required to refrain from any acts that would endanger or prevent the implementation of the Change in the Work or that would increase the costs of performing the Agreement or extend the deadline for providing performance under the Agreement.

The Parties are required to comply with the provisions of the PPA.

10. PRICE AND PAYMENT TERMS

10.1 Price

The Customer will pay the Provider a total maximum price of CZK **[TO BE ADDED BY THE PROVIDER]** excl. VAT ("Price") for the preparation of the Concept Design, for the provision of consulting activities and assistance in the selection of the Construction contractor, and for all other obligations of the Provider arising from this Agreement and for the services provided in connection with this Agreement. The Price will be structured as follows:

Total maximum Price excl. VAT:	CZK [TO BE ADDED BY THE PROVIDER]
VAT rate:	CZK [TO BE ADDED BY THE PROVIDER]
Total maximum Price incl. VAT:	CZK [TO BE ADDED BY THE PROVIDER]

(Prices stated below are exclusive of VAT.)

The Price is comprised of the following fixed components, a detailed specification of which and other binding conditions related thereto are set out in *Annex 4*:

- (a) preparing the Concept Design;
- (b) providing consultation services;
- (c) providing assistance in the selection of the Construction contractor.

The Price includes all payments, costs and expenditures incurred by the Provider in connection with the preparation of the Concept Design (including adjustments requested by the Customer or the Lead Designer that are necessary for proper performance of this Agreement and that comply with this Agreement and the scope of performance under this Agreement) and with the provision of consultation services and assistance in the selection of the Construction contractor. For the avoidance of doubt, it is expressly stipulated that the Provider is not entitled to any compensation for payments, costs or expenditures incurred in connection with the performance of the Agreement. All payments, costs or expenditures, including employee benefits, travel expenses and costs of any other type and category are included in the Price.

Value added tax at a rate prescribed by applicable laws will be added to the Price.

For the avoidance of doubt, the Parties state that the Providers also bears all costs associated with the implementation of all changes in the work (individual parts of the Concept Design) initiated by an administrative authorities (amendments to the documentation made to comply with requirements of administrative authorities).

10.2 Payment Terms

The prices for sub-performance and invoicing terms are governed in detail by *Annex 4* hereof.

The invoice issued by the Provider must contain information required by laws for an accounting and tax document and the VAT amount stated separately as well as data required under Section 435 of the Civil Code. If an invoice issued by the Provider fails to contain the information required by laws or contains incorrect amounts or information, the Customer is entitled to return the invoice to the Provider to remedy the errors and provide additional information within a period of ten (10) days of delivery of the invoice. In such a case, the payment term of the invoice will be suspended and a new payment period will begin to run on the delivery of a corrected and good invoice.

The invoice will be due and payable within a period of sixty (60) days of delivery to the Customer. Payments will be made in Czech crowns only. If the due date falls on a Saturday, Sunday or legal holiday, the due date be extended until the next business day.

Payment will be considered made by the Customer when the relevant amount is debited from the Customer's bank account.

11. CONTRACTUAL PENALTIES

11.1 Delay in the Delivery of the Concept Design

In the event of a delay in the delivery of the First Draft or the Final Version within the deadlines stipulated in this Agreement, the Provider is required to pay the Customer a contractual penalty of 0.05% of the respective part of the Price of the partial performance for each date of the delay.

11.2 Default Resulting in the Delay of a Land Use Permit

If the land use permit for the Track Design fails to be issued within the period agreed in the Agreement for the Track Design as a result of a breach of any obligation by the Provider under this Agreement or on the grounds of any other circumstance for which the Provider is liable, the Provider will pay the Customer a contractual penalty of 0.02% of the Price for each day of default along with the contractual penalty under Article 11.1 hereof.

11.3 Default in Removing Defects

The Provider is required to pay the Customer a contractual penalty of CZK 5,000 for each day of default in removing a defect in the Concept Design under Article 2.10 hereof.

11.4 Breach of the Obligation Relating to Subcontractors

The Provider is required to pay a contractual penalty of CZK 5,000 for each individual breach of the Provider's obligation under Article **Chyba! Nenalezen zdroj odkazů.** hereof.

11.5 Failure to Pay an Invoice

The Customer is required to pay the Provider a contractual penalty of 0.05% on the due amount for each day of the default if the Customer fails to pay the Provider an invoice under this Agreement within a period of fifteen (15) business days after the delivery of a request for payment of the due amount owed by the Customer; the request may not be made before the due date of the invoice.

11.6 Increase in the Construction Price as a Result of a Defect in the Concept Design

The Parties have agreed that any increase in the Construction price due to a defect in the Concept Design will be considered damage incurred by the Customer as a result of a breach of the Agreement by the Provider. Consequently, the Provider undertakes to compensate the Customer for the damage incurred by the Customer as a result of an increase in the Construction Price due to a defect in the Concept Design. The Provider is not obliged to compensate the Customer for the damage if the Provider proves that the defect in the Concept Design could not have been prevented even when exercising all due professional care and diligence that may be reasonably requested from the Provider.

11.7 Cancellation of the Tender Procedure as a Result of a Defect in the Concept Design

The Provider is required to pay the Customer a contractual penalty of CZK 50,000 if the tender procedure for the Construction contractor is cancelled as a result of a defect in the Concept Design or a part thereof. The Provider is not required to pay the contractual penalty if it proves that the defect in the Concept Design could not have been prevented even when exercising all due professional care and diligence that may be reasonably requested from the Provider.

11.8 Breach of the Confidentiality Obligation

The Provider undertakes to pay the Customer a contractual penalty of CZK 50,000 for each individual demonstrable event of breach of the confidentiality obligation stipulated in Article 8.6 hereof. This is without prejudice to the Customer's claim to damages.

11.9 Breach of the Insurance-related Obligation

The Provider undertakes to pay the Customer a contractual penalty of CZK 50,000 for each individual demonstrable event of breach of the obligations stipulated in Article 12.4 hereof.

11.10 Joint Provisions Regarding Contractual Penalties

The contractual penalties under this Article **Chyba! Nenalezen zdroj odkazů.** are due and payable within thirty (30) days of the date of receipt of a written request for payment sent by the non-breaching Party. The payment of a contractual penalty does not relieve the Provider of the obligation to implement and complete the subject-matter of the Agreement or any other obligations, liabilities or responsibility arising from the Agreement. The Parties have agreed that the Customer may claim damages for a breach of any obligation to which any contractual penalty applies under this Agreement in an amount exceeding the sum of the contractual penalties paid for the breach.

12. LIABILITY AND INSURANCE

12.1 General Liability of the Provider for Damage

The Provider is liable for any damage caused to the Customer as a result of a breach of its obligations to duly prepare the Concept Design and to provide other performance under the Agreement, including damage caused to assets accepted from the Customer or assets accepted from third parties during the performance of the Agreement. The Provider undertakes to indemnify the Customer for any damage arising as a consequence thereof. This provision is without prejudice to Article 8.2 hereof.

Approval of the Concept Design including amendments required by the Customer or the Lead Designer and/or instructions given to the Provider by the Customer or the Lead Designer does not relieve the Provider from its liability and does not give rise to any liability of the Customer in connection with such instructions or the Concept Design. This provision is without prejudice to Article 8.2 hereof.

If the Provider is a company within the meaning of Section 2716 (1) of the Civil Code, the Provider's partners are jointly and severally liable for performance under this Agreement as well as for debts arising from this Agreement.

12.2 Liability for Damage Caused to Third Parties (Indemnification)

The Provider must indemnify and hold the Customer harmless against any damage arising from any claims, damages or costs that are or may be exercised against the Customer by third parties and that arise in connection with:

- (a) damage incurred as a result of a claim to compensation for damage to property, life, health or the natural rights of any third party that is exercised against the Customer, and incurred in connection with a defect in the Concept Design or a breach of the Provider's obligations arising from the Agreement; and
- (b) damage incurred as a result of the Customer's obligation to pay any statutory, administrative, contractual or any other penalty in connection with a defect in the Concept Design or a breach of the Provider's obligations arising from the Agreement, and the statutory, administrative, contractual or any other penalty arises for reasons on the part of the Provider in connection with a defect in the Concept Design or a breach of the Provider's obligations arising from the Agreement, save for cases when the damage is caused by the Customer or as a result of a breach of the Customer's obligations arising from this Agreement, a third-party claim that is related in full to a period before execution of this Agreement, or the Provider's compliance with the instructions of the Customer or the Lead Designer, to the extent to which the damage was caused.

12.3 Exclusion of Liability

None of the Parties will be liable for any delay in performing the Agreement provided that the following conditions are fulfilled:

- (a) the Party in delay proves that the fulfilment of an obligation under the Agreement has been temporarily or permanently prevented by an extraordinary unforeseeable and insurmountable obstacle out of its control or the work has been interrupted according to the Customer's instruction and not as a result of a breach of the Agreement by the Provider under Article 8.2 hereof;
- (b) the length of the delay reflects the length and the nature of the event under point (a) or the interruption of the work on the Customer's instruction; and
- (c) immediately after a force majeure event under point (a) becomes apparent, the Party that is not able to provide performance as and when due notifies the other Party in writing about the situation and the expected length of the force majeure event. Where possible with reasonable professional care and diligence, the above notification must contain proposed measures that should be adopted to mitigate or prevent the consequences of the force

majeure event. Each of the Parties bears its own costs associated with such measures and the removal of consequences of the force majeure event.

12.4 Insurance

The Provider is required to maintain throughout the term of the Agreement a professional liability insurance policy providing cover for damage caused to third parties, with an insurance benefit limit of at least CZK 2.000.000 per insured event to cover total damage (if any) caused to the Customer in connection with the Agreement. The insurance policy (or the certificate of insurance) issued by the relevant insurance company or insurance broker administering the policy, operating under Act No. 363/1999 Sb., on Insurance and Amendments to Certain Related Acts, as amended, was provided to the Customer by the Provider before execution of this Agreement. The Provider undertakes to fulfil its obligation arising to it from the insurance policy, in particular to pay insurance premiums and comply with notification duties. At the Customer's request, the Provider will present the Customer at any time with the valid insurance policy and/or the certificate of insurance arranged for the insured amount and a certificate of premiums payments as and when due for inspection, without undue delay but no later than within ten (10) business days of delivery of a request for presentation to the Provider. A failure to present the original of the required document containing all essential elements within the above deadline or a failure to maintain (renew) the insurance policy for the entire period required constitutes a material breach of the Agreement and a reason for termination of the Agreement by the Customer.

13. TERMINATION OF THE AGREEMENT

13.1 Causes of Termination

This Agreement can only be terminated (a) by the fulfilment of the obligations of both Parties hereunder, (b) by an agreement between the Parties, or (c) by rescission of this Agreement by either of the Parties hereto for the reasons stipulated by the Civil Code and this Agreement, in particular for the reasons set out in Articles 12.4, 13.2 and 13.3 of this Agreement.

13.2 Customer's Right to Rescind the Agreement

The Customer may rescind this Agreement if:

- (a) The Provider has breached or failed to fulfil any of its obligations under this Agreement, and has failed to remedy such breach or failure within a reasonable grace period granted by the Customer in a written notice delivered to the Provider, requesting a remedy and specifying the breach concerned; the grace period may not be shorter than fifteen (15) business days;
- (b) The Provider is unable for any reason to fulfil its obligations under this Agreement;
- (c) The Track Design Contract was terminated;
- (d) The Track Design was not approved under Article 3.6 of the Track Design Contract, regardless of whether the Customer rescinded the Track Design Contract;
- (e) The Construction was halted prior to the completion of the subject matter of this Agreement and further continuation of the Construction cannot be reasonably expected (such as due to denial, discontinuation, or reduction in the scope of the financing for the Construction); and/or
- (f) Any of the following situations occurs: (i) the Provider goes into liquidation; or (ii) a court adjudicates the Provider bankrupt; or (iii) the Provider files a voluntary petition for bankruptcy; (iv) a petition for the Provider's bankruptcy is rejected due to insufficient assets under Act no. 182/2006 Sb., Insolvency Act, as amended.

13.3 Provider's Right to Rescind the Agreement

The Provider may rescind this Agreement if:

- (a) The Customer defaults on payment of the Price or any part of the Price under Article 9 of this Agreement and fails to remediate such default within a grace period granted by the Provider in accordance with Article 11.5 of this Agreement; and/or
- (b) The Customer has breached or failed to fulfil any of its obligations under this Agreement, and has failed to remedy such breach or failure within a reasonable grace period granted by the Provider in a written notice delivered to the Customer, requesting a remedy and specifying the breach concerned; the grace period may not be shorter than thirty (30) business days; and/or
- (c) The Customer is unable for any reason to fulfil its obligations under this Agreement;
- (d) Any of the following situations occurs: (i) the Customer goes into liquidation; or (ii) a court adjudicates the Customer bankrupt; or (iii) the Customer files a voluntary petition for bankruptcy; (iv) a petition for the Customer's bankruptcy is rejected due to insufficient assets under Act no. 182/2006 Sb., Insolvency Act, as amended.

13.4 Rescission

Rescission of this Agreement has to be effected by a written notice to be duly served by the rescinding Party to the other Party, stating the reason for the rescission of this Agreement. The rescission will take effect on the date when duly delivered to the relevant Party.

13.5 Price upon Rescission of the Agreement

If this Agreement is terminated by rescission by the Customer due to a reason on the Provider's part, a prorated portion of the Price equal to the completed parts of the Concept Design, consultation services and other, if any, deliverables provided prior to the effective date of the rescission of this Agreement will become the final price for the subject matter of this Agreement and the Provider will have no claims against the Customer for any other payments in addition to that portion of the Price. For the avoidance of doubt, the Provider will not be entitled to payment for those parts of the Concept Design, consultation services and other, if any, deliverables provided by the Provider under this Agreement that have not been completed into a state usable by the Customer. The Customer may offset its claims under the preceding sentence against the Provider's claim for payment of a portion of the Price.

If this Agreement is terminated by rescission by the Provider due to a reason on the Customer's part, a prorated portion of the Price equal to the completed work on the Concept Design, consultation services and other deliverables provided prior to the effective date of the rescission of this, including a pro rata portion of the Price for work commenced but not completed by the Provider, will become the final price for the subject matter of this Agreement.

13.6 Delivery of the Results of the Provider's Work as at the Date of Termination of the Agreement, and Provider's Cooperation

In the event of termination of this Agreement for any reason, the Provider will within ten (10) days hand over to the Customer all the results of the Provider's work under the Agreement so far, including documents and information that should otherwise be handed over to the Customer upon the proper completion of the entire subject matter of this Agreement. Upon receipt of all the results of the Provider's work so far, the Customer will assess the state of the work in process, and usability of individual parts of the performance supplied and their defects, as the case may be. The Customer will notify the outcome of the assessment to the Provider within sixty (60) days of the date of delivery of all the results of the Provider's work by means of a written notice that will contain a list of all items of the results of the Provider's work delivered to the Customer, description of the state in which they were delivered to the Customer (in particular the state of the work in process and usability for accomplishing the purpose of this Agreement), and a list of defects if any. The Provider will deliver to the Customer the Provider's written statement regarding the content of the notification mentioned in the preceding sentence within twenty (20) days of the date it was delivered to the Provider. Upon receipt by the Customer of the Provider's statement, the Parties will confirm the delivery of the results of the Provider's work by means of a written certificate of handover and acceptance of

the results of the Provider's work as of the date of termination of this Agreement, to be signed by the persons specified in Article 1.5 of this Agreement; if the Parties fail to agree on the content of the certificate, they will indicate their dissenting opinions for each individual contested item in the certificate.

The certificate of handover and acceptance of the results of the Provider's work as of the date of termination of this Agreement will serve as the basis for issuance of the Provider's invoice for the outstanding portion of the Price as at termination of the Agreement under Article 13.5 above. If, however, the Parties fail to mutually approve the certificate within one hundred and twenty (120) days of the delivery of all the results of the Provider's work so far, the Provider will have the right to issue an invoice for the outstanding portion of the Price as at termination of the Agreement upon the lapse of that period, regardless of whether the certificate has been signed by the Parties or not; the foregoing is without prejudice to the Customer's claims, in particular claims resulting from defects and a claim to offset damages and extra costs under Article 13.5 hereof.

The Provider agrees at the Customer's request to also cooperate with a third party appointed by the Customer to the extent necessary for the completion of the Construction, so that the third party appointed by the Customer is able to take over the Provider's obligations without any adverse impacts on the implementation, progress or completion of the Construction, until such time when the third party appointed by the Customer is able to fully replace the Provider; this period will not exceed sixty (60) days from the date of termination of the Agreement. If the Agreement is terminated for reasons on the Provider's side, the Provider will fulfil the obligations mentioned above free of charge. If the Agreement is terminated for reasons on the Customer's side, the Customer will reimburse the Provider for demonstrable, inevitable and necessary expenses incurred by the Provider in connection with the obligations mentioned above; however, the reimbursement will be limited by the amount of usual fees customarily charged for similar services at given place and time.

13.7 Breach of the Provider's Obligation

Without prejudice to any rights of the Customer under this Agreement, the Parties agree that should the Provider fail to fulfil any of its obligations under this Agreement within seven (7) business days of delivery of the Customer's written request, the Customer will have the right to procure the fulfilment of such obligation by a third party at the Provider's costs. In such case, the Customer will have the right to reduce the relevant portion of the Price by these costs. The procurement of the fulfilment of the Provider's obligations by a third party under this Article 13.7 will have no impact on the assessment of the Provider's default in respect of the Provider's obligations.

13.8 Use of Existing Results upon Termination of the Agreement

In all cases of termination of this Agreement the Customer may engage any third party to proceed with further work on the Concept Design, provide consultation services and other deliverables under this Agreement without any limitation of the ability to use the Concept Design and/or the results of consultation services and other deliverables prepared or provided by the Provider until the effective date of termination of the Agreement.

By signing this Agreement the Provider expressly agrees that the Customer is in all cases of termination of this Agreement authorised to use the Provider's outputs provided so far for the proper completion of the Construction, including the outputs from the original Design Competition (the selected design proposal) or from the NPWP.

However, in the event of termination of this Agreement by Provider's rescission for reasons on the Customer's side, the Customer will only have the right to proceed in accordance with this Article 13.8 on condition that the Customer has made payments to the Provider for all the deliverables to which the Provider is entitled under Article 13.5 of this Agreement.

14. FINAL PROVISIONS

14.1 Effectiveness

This Agreement becomes valid on the date when signed by both Parties, and enters into effect on the date of its publication in the register of contracts pursuant to Act no. 340/2015 Sb. regarding special conditions for effectiveness of certain contracts, publication of those contracts, and register of contracts (the Register of Contracts Act; hereinafter the “RCA”).

14.2 Assignment

The Provider may not assign any rights, obligations or liabilities under this Agreement, or this Agreement as a whole, to any third party or parties without the prior written consent of the Customer.

14.3 Governing Law

This Agreement shall be governed by and interpreted in accordance with the law of the Czech Republic. Any matters not agreed upon in, or not covered by, this Agreement shall be governed by applicable provisions of the Civil Code and the PPA.

In accordance with the PPA and the RCA, the Provider is obliged to provide necessary assistance to the Customer for purposes of fulfilment of the Customer’s obligations under Act no. 106/1999 Sb. on free access to information, as amended.

14.4 Entire Agreement; Negotiations between the Parties Regarding the Contents of the Agreement

The Parties hereby acknowledge that this Agreement embodies the entire agreement between the Parties regarding the subject matter hereof, and supersedes and replaces with respect to its subject matter any and all previous agreements and understandings between the Parties, written or oral. The Parties further acknowledge that this Agreement has not been entered into under duress or on terms disadvantageous to either of the Parties. The Provider represents that it has in detail made itself conversant with the obligations stemming to the Provider from this Agreement as well as with the consequences caused by the Provider’s failure, as the case may be, to fulfil those obligations. The Provider further represents that prior to entering into this Agreement it had an actual opportunity, in particular in the course of NPWP negotiations between the Parties, to influence the content of the general terms and conditions of the Agreement. In this context, the Parties expressly exclude the application of Sections 1799 and 1800 of the Civil Code to this Agreement.

14.5 Trade Secret

The Parties declare that no information in this Agreement is the subject of trade secret within the meaning of Section 504 of the Civil Code.

14.6 Publication of the Agreement

In connection with the application of the RCA, the Parties have agreed as follows:

- (a) The Agreement does not contain any trade secret of either of the Parties or any other information exempted from the publication obligation (with the exception mentioned in the next sentence), and thus the Agreement with all its Annexes is capable of being published in the register of contracts under the RCA; the Parties hereby agree to the publication of the Agreement including all its Annexes. An exception applies to personal data of the Representatives of the Parties, comprising the names and contact details of the persons specified in Article 1.5, which will be redacted, and also to confidential information designated as such by the Provider pursuant to the PPA and contained in the Design Proposal in *Annex I*;
- (b) In accordance with Section 5 RCA, the Customer will send to the administrator of the register of contracts an electronic image of the text of this Agreement and its Annexes in open and machine-readable format with metadata required under the RCA, to the relevant

data inbox of the Czech Ministry of the Interior designated for the publication of data in the register of contracts by means of an electronic form available on the public administration portal;

- (c) The Customer agrees to specify in the form for publication of the Agreement in the register of contracts the data inbox or e-mail address of the Provider or of the Provider's Representative to enable the administrator of the register of contracts to send to the Provider a confirmation of publication of the Agreement in accordance with Section 5(4) RCA;
- (d) The Customer will fulfil their obligation specified in point (b) above without delay, but in any case not later than fifteen (15) days after the execution of this Agreement.

The Customer may, in its sole discretion, also publish the Agreement on the contracting authority's profile in accordance with applicable provisions of the PPA.

14.7 Amendments

Unless indicated otherwise in this Agreement, any variation hereof has to be made in the form of an amendment to this Agreement executed in writing and signed by the authorised representatives of the Parties. Any variation of this Agreement has to be effected in compliance with the laws applicable to public procurement.

14.8 Severability

If any provision of this Agreement becomes or is found to be invalid, ineffective or unenforceable, such invalidity, ineffectiveness or unenforceability will not (to the maximum extent possible under applicable laws) affect the validity, existence or enforceability of the remaining provisions of this Agreement. In such case, the Parties agree to replace without undue delay any such invalid, ineffective or unenforceable provision with a valid and enforceable provision in order to achieve, to the maximum extent possible under applicable laws, the same effect and result as that of the provision being so replaced.

14.9 Dispute Resolution

Any dispute between the Parties in connection with this Agreement will be resolved conclusively and with final effect by competent courts of law of the Czech Republic, unless agreed otherwise between the Parties.

14.10 Change in Circumstances

The Provider declares that, within the meaning of Sections 1764 and 2620(2) of the Civil Code, it accepts the risk of a change in circumstances and is not entitled to seek, either from the Customer and/or in court, any renewal of negotiations regarding this Agreement on the ground of a substantial change in circumstances causing a gross disproportion of the rights and obligations of the Parties.

14.11 Exclusion of Applicability of Certain Provisions of the Civil Code

With respect to this Agreement or to the execution of an amendment hereto, the Parties exclude application of Section 1740(3) of the Civil Code (acceptance of an offer with a variation). With respect to this Agreement, the Parties exclude application of Section 2609 of the Civil Code (sale by self-help) and Section 2595 of the Civil Code (rescission by the Provider on the ground of inappropriate instruction or unsuitable item). The Parties declare that, with respect to the legal relationship established by this Agreement, they also exclude application of Section 2611 of the Civil Code (possibility to request payment of a reasonable portion of the remuneration).

14.12 Limitation Periods

The Parties agree that the statutory period of limitation of the rights stemming from Articles 2.10, 11.1, 11.2, 11.3, 11.4, 11.6, 11.7, **Chyba! Nenalezen zdroj odkazů.**, 11.9, 12.1 and 12.2 will be (15) years from the date the particular right could be exercised for the first time.

14.13 Failure to Cooperate

The Provider may not rescind the Agreement on the ground of the Customer's failure to provide cooperation (application of Section 2591 of the Civil Code is hereby excluded). In the event of failure to provide cooperation, the Provider will have the right, upon the lapse of a reasonable grace period afforded to the Customer to provide cooperation, to procure the required performance at the Customer's expense. However, the Customer will only be obliged to reimburse the Provider for demonstrable, necessary and reasonable expenses.

14.14 Trade Usage

The Parties hereby declare that trade usage will be disregarded pursuant to Section 558(2) of the Civil Code with respect to the legal relationship established by this Agreement, and thus that trade usage will not take precedence over non-mandatory statutory provisions.

14.15 Annexes

The following Annexes constitute an integral part of this Agreement:

- 1) *Design Proposal on digital medium;*
- 2) *Minimum scope and level of detail of the Concept Design;*
- 3) *The extent and the structure of the Estimated Costs;*
- 4) *Proposed price and payment schedule per individual activities;*
- 5) *Time schedule of Provider's activities;*
- 6) *List of relevant documents issued by the Customer.*

14.16 Counterparts

This Agreement is made and executed in [TO BE ADDED] counterparts in Czech, of which the Customer will retain [TO BE ADDED] counterpart(s) and the Provider will retain [TO BE ADDED] counterparts of this Agreement.

THE PARTIES HEREBY EXPRESSLY DECLARE AND ACKNOWLEDGE THAT THEY ENTER INTO THIS AGREEMENT AS A FREE ACT AND DEED, IN WITNESS WHEREOF THEY SUBSCRIBE THEIR RESPECTIVE SIGNATURES BELOW.

For and on behalf of the Customer:

In: Prague

Date: [TO BE ADDED]

For and on behalf of the Provider:

In: [TO BE ADDED BY THE PROVIDER]

Date: [TO BE ADDED BY THE PROVIDER]

Ing. Mojmír Nejezchleb

Deputy DG for Infrastructure Modernisation

[TO BE ADDED BY THE PROVIDER]

Annex 1 – Design Proposal on digital medium

[Customer’s note for the purpose of submission of the Provider’s proposal: To be added by the Provider.]

Annex 2 – Minimum scope and level of detail of the Concept Design

Annex 3 – The extent and the structure of the Estimated Costs

[TO BE ADDED]

Annex 4 – Proposed price and payment schedule per individual activities

[Customer’s note for the purpose of submission of the Provider’s proposal: The Provider to fill in the proposed prices into this form.]

Price breakdown	Invoicing point	Price for partial supply net of VAT
Completion of the Concept Design in the meaning of Article 1.1 (a) of the Agreement	After the delivery of the First Draft	CZK [TO BE ADDED BY THE PROVIDER] Maximum 45 % of the price for this partial supply
	After the delivery of the Final Version	CZK [TO BE ADDED BY THE PROVIDER]
Consultation services in the meaning of Article 1.1 (b) of the Agreement	After spending 50 hours or after 9 calendar months (in which the consultancy was performed) since the due date of the last issued invoice, whichever comes first	CZK [TO BE ADDED BY THE PROVIDER] total for 1 hour of consultation services Maximum of CZK [TO BE ADDED] for hour of consultation services This price applies to the consultation services in a total range of up to 200 hours.
	After spending 50 hours or after 9 calendar months (in which the consultancy was performed) since the due date of the last issued invoice, whichever comes first	CZK [TO BE ADDED BY THE PROVIDER] per hour of consultation services after reaching 200 hours of consultation services Maximum of CZK [TO BE ADDED] per hour of consultation services
Cooperation in selecting the construction contractor in the meaning of Article 1.1 (c) of the Agreement	After spending 15 hours or after 6 calendar months (in which the cooperation was performed) since the due date of the last issued invoice, whichever comes first	CZK [TO BE ADDED BY THE PROVIDER] total for 1 hour of cooperation in selecting the construction contractor Maximum of CZK [TO BE ADDED] for hour of cooperation in selecting the construction contractor This price applies to the cooperation in selecting the construction contractor in a total range of up to 15 hours.

	<p>After spending 15 hours or after 6 calendar months (in which the cooperation was performed) since the due date of the last issued invoice, whichever comes first</p>	<p>CZK [TO BE ADDED BY THE PROVIDER] per hour of consultation services after reaching 15 hours cooperation in selecting the construction contractor</p> <p>Maximum of CZK [TO BE ADDED] per hour of cooperation in selecting the construction contractor</p>
<p>Extra work resulting from a Modification of Work</p>	<p>as agreed between the Parties</p>	<p>Unless agreed otherwise between the Parties to the Agreement, the price will not exceed CZK [TO BE ADDED] net of VAT per hour of the Provider's work</p>

Annex 5 – Time schedule of Provider’s activities

[Customer’s note for the purpose of submission of the Provider’s proposal: The Provider will submit, as part of the proposal, a time schedule of the Provider’s activities which will contain specification of the duration of individual activities. The time schedule will mark the commencement of work as “T”, not by a specific date. The duration of each work will be counted as, for example, “T + 1 week”. Prior to the execution of the Agreement between the Customer and the Provider, this Annex will be updated by the Provider so that time point “T” will be replaced by a specific date determined by the Provider.]

Annex 6 – L List of relevant documents issued by the Customer

- ČSN 73 75 08;
- Standards for the traction lines ČSN 34 1530, ČSN EN 50119, ČSN EN 50122-1, in edition No.2. In Particular, it is necessary to observe the prescribed distances (from the live parts, from the track, etc.) and to respect the design of the traction supports position. The traction supports position is made with a certain reserve both longitudinally as well as transversely. Any small shifts, however, must be consulted and evaluated individually by the Provider in advance;
- ČSN 73 75 03;
- ČSN 73 08 04;
- SŽDC (the Customer) Directive No. 118;
- ČSN 73 4959, Exemplary Sheets of Railway Underpass Y8.7 Safety and Landing Belts on Platforms, Commission Regulation (EU) No 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility and Guideline No. 16456/2015-O13 of 4 May 2015 "Tactile Adjustments for Persons with Limited Orientation“;
- Czech Act No. 17/1992 Sb.;
- Czech Act No. 100/2001 Sb.;
- Czech Act No. 114/1992 Sb.;
- Czech Act No. 89/2012 Sb.;
- Czech Decree No. 398/2009 Sb.

The list of legal regulations and technical documents in this Annex is demonstrative and does not exempt or restrict the Provider from performing any performance under this Agreement in accordance with generally binding legal regulations that are part of the legal order of the Czech Republic with technical standards and internal documents and regulations of the Customer, including those not listed in this order.