



## GENERAL TERMS AND CONDITIONS OF SMIT CONTRACT

### 1. Definitions

In the general terms and conditions of the SMIT contract and in the contract itself, the terms are used in the following meaning:

**Warranty** – the obligation of the Contractor to ensure the compliance of the delivered object of the Contract with the Contract and the removal of defects that have emerged at the cost of the Contractor during the period (**Warranty period**) and under the terms and conditions provided for in the Contract.

**Third party** – any natural or legal person other than the Contracting Entity or the Contractor.

**Contract** – an agreement between the Contracting Entity and the Contractor in which the object of the Contract and specific terms and conditions related to performance are specified. The procurement documents, current general terms and conditions and other documents on which the Parties have agreed shall form inseparable parts of the Contract. An agreement with an estimated cost below public procurement's threshold, that consists of the order of the Contracting Entity, the tender of the Contractor and the acceptance of the tender by the Contracting Entity, whereas all the aforesaid have been set out in a format that can be reproduced in writing, is also treated as a Contract.

**Object of Contract** – the service, result or object that the Contracting Entity buys under the Contract.

**Payer** – a third party involved in the Contract by the Contracting Entity, generally another state authority (above all an authority within the area of government of the Ministry of the Interior).

**Tender** – a tender submitted by the Contractor that has been declared successful. The tender is binding on the Contractor.

**Party** – depending on the context, either the Contracting Entity/Entities or the Contractor(s); together referred to as the **Parties**.

**Procurement documents (abbreviation: RHAD)** – the documentation related to the procurement procedure being conducted by the Contracting Entity pursuant to the Public Procurement Act<sup>1</sup>, including the contract notice, invitation to tender, and any and all other documents drawn up or referred to by the contracting entity that provide the details of a specific public procurement. The procurement documents form an inseparable part of the Contract.

**SMIT** – IT and Development Centre. Ministry of the Interior, Estonia; registry code 70008440.

**Contracting Entity** – SMIT.

**Location of Contracting Entity** – Mäealuse 2/2, Tallinn, unless another location/locations is/are explicitly provided in the Contract.

**Order (invitation to tender)** – a communication in a format that can be reproduced in writing or a written document to be submitted by the Contracting Entity to the Contractor on the basis of the Contract and for the performance thereof, or without a Contract, which includes the Contracting Entity's proposal to the Contractor for submitting a tender for selling the objects, providing the services and/or performing the work determined by the Contracting Entity. An order enters into force when the Contracting Entity has confirmed to the contractor in writing or in a format that can be reproduced in writing that the tender is acceptable.

**Contractor** – a natural or legal person/persons who has entered into a Contract with SMIT.

**Working time** – the period from 8:30 a.m. to 5:00 p.m. on working days.

**Working day** – calendar days from Monday to Friday, except national and public holidays.

**Deficient work** – defects in the object of the Contract for the purposes of the Law of Obligations Act, including non-conformity to the provided conditions, including agreements or obligations. The

Parties may specify in mutual agreements as to which non-conformities are deemed to be a defect for the purpose of the performance of the object of the Contract.

**Moment of receipt** – the moment the object of the Contract is delivered by the Contractor and the Contracting Entity deems it proper in accordance with the Contract and receives the object of the Contract.

**External funds** – specific financial support allocated by the European Union, an international organisation or another institution.

**General terms and conditions** – current document, providing the general principles of the contractual relationship between the Parties to the Contract. In case the non-application of one or more provisions or of the whole document is strictly excluded in specific contracts (due to the nature of the specific subject-matter of the contract), the general terms and conditions are binding on the parties.

**Act of delivery and receipt** – a document signed by both Parties certifying the delivery and receipt of the object of the Contract or a part (stage) thereof.

## **2. General Principles**

2.1 The general terms and conditions shall form an inseparable part of the Contract and are binding on the Parties.

2.2 The Parties may agree on terms and conditions that are different from the general terms and conditions. In the case of any conflict between the provisions of the general terms and conditions and those of the Contract, the provisions of the Contract shall prevail.

2.3 If the wording of the Contract can be interpreted in several ways, the Parties shall proceed from the actual intention of the Parties and the way in which a reasonable person would understand the wording in the same circumstances.

2.4 In any issues not provided for in the Contract, the Parties shall follow the legislation in force in the Republic of Estonia and the principles of good faith and reasonableness.

## **3. Performance of Contract**

3.1 Upon entry into a Contract, the Contractor undertakes the obligation to perform it duly and properly and in accordance with the relevant requirements and good practice established for the Contractor as a professional, and to assume liability for the performance of the Contract in a manner that does not infringe the rights, including intellectual property rights, of third parties. In any matters not regulated in the Contract, the Contractor shall follow the guidelines of the Contracting Entity, the appropriate requirements in force in the Republic of Estonia and, upon the lack thereof, the corresponding and generally recognised international requirements and good practice.

3.2 Upon the performance of the Contract, the Contractor undertakes to bear in mind the purpose of the Contract and, if necessary, seek additional explanations from the Contracting Entity. Should any conflicts arise, the Contractor shall inform the Contracting Entity thereof immediately and, upon the performance of the Contract, follow the respective guidelines of the Contracting Entity.

3.3 The language to be used by the Parties upon the performance of a Contract shall be Estonian, unless otherwise provided in the respective Contract. Any documents to be drawn up within the framework of the Contract shall be delivered to the Contracting Entity in Estonian. Documents may be delivered in other languages with the prior approval of the Contracting Entity. At the request of the Contracting Entity, the Contractor shall provide a translation at its own cost.

3.4 If necessary, the Contracting Entity shall provide the Contractor access to the documentation, information, premises and/or technological environments important for the performance of the Contract. The necessity for access shall be assessed by the Contracting Entity.

3.5 The Contractor is required to adhere to the procedure for use of premises at the location of the Contracting Entity and other requirements and restrictions related to security that the Contracting Entity has introduced to the Contractor before starting to perform the Contract and/or during the performance of the Contract.

3.6 If the team members involved by the Contractor have been granted access to the location or information systems of the Contracting Entity or if the Contracting Entity has granted them

information and communications technology (hereinafter ICT) equipment, the Contractor shall ensure and assume liability for adherence to the following guidelines by the involved team members:

3.6.1 team members involved by the Contractor shall personally use the electronic access card granted to them and use it to register their entry to and exit from the premises of the Contracting Entity;

3.6.2 team members involved by the Contractor shall only use the ICT equipment and access to information systems granted to them by the Contracting Entity personally and only for performing the contractual tasks. Upon the use of ICT equipment, team members involved by the Contractor shall not assume a legitimate expectation to privacy, and the Contracting Entity shall maintain a log of their activities in the ICT equipment and systems.

3.7 If the Contractor comes into contact with or uses the Contracting Entity's assets during the performance of the Contract, the Contractor shall use the assets in a purposeful and prudent manner and ensure that the assets are protected and preserved. The Contractor shall assume proprietary liability for any damage caused to the Contracting Entity due to the intentional or negligent behaviour of their team members.

3.8 The Contractor shall also perform, on the basis of the Contract and for the value provided for therein, the so-called coherent work that is not explicitly provided for in the Contract, but the performance of which is required following good practice and the Contractor's professionalism and/or required for the achievement of the purpose arising from the Contract. The coherent work described in this clause shall not mean an amendment to the initial task or work volume as arising from the Contracting Entity.

3.9 The Contracting Entity has the right to inspect, at any time, the compliance of the object of the Contract with the Contract and to require the Contractor to provide information about the performance of the Contract.

3.10 The Contractor is required to perform the work to a high degree of quality and in an efficient and timely manner. If the Contracting Entity has any justified doubt about the performance of the aforesaid obligations, the Contracting Entity shall have the right to make a corresponding inquiry to the Contractor. If the Contractor's justifications are not sufficient for the Contracting Entity, the latter shall have the right to seek the opinion of an independent third party.

3.11 Communication aimed by the Contractor at the public and related to the object of the Contract or the performance thereof, including press releases, the use of the Contracting Entity's name or reference to the insignia in a network publication or advertising materials, is permitted only if the Contracting Entity has granted its explicit prior consent thereto.

3.12 The Contracting Entity has the right to involve third parties in a Contract that has already been entered into for the benefit of the Contracting Entity (above all in the role of the Payer), e.g. state authorities (above all any authorities within the area of government of the Ministry of the Interior). Involving a third party for the benefit of the Contracting Entity shall not be treated as an amendment to the Contract for the purposes of the Public Procurement Act.

3.13 Additional terms and conditions and terms and conditions different from those provided in the general terms and conditions may be provided in the Contract if such terms and conditions are required for complying with requirements arising from the implementation of external funds.

#### **4. Delivery and receipt of object of Contract**

4.1 The object of the Contract shall be delivered by the Contractor to the Contracting Entity at the location of the Contracting Entity in accordance with the terms and conditions of the Contract.

4.2 The Contracting Entity shall have ten working days to inspect the compliance of the work submitted for receipt with the terms and conditions of the Contract. The Contracting Entity may extend the aforesaid term if the extension is justified, and the Contractor shall not have any right to refuse the extension without good reason.

4.3 If the Contracting Entity has not signed the act of delivery and receipt or given notice of extending the term within the term specified in clause 4.2, the object of the Contract shall be deemed as received and the moment of receipt shall be deemed to be the calendar day following the expiry of the term provided for in clause 4.2.

- 4.3.1 If the Contract is financed by means of external funds in part or in full, this provision shall not apply.
- 4.4 If the Contracting Entity identifies any errors, defects or other non-compliance with the terms and conditions of the contract (deficient work) in the object of the Contract submitted for receipt, the Contractor is in breach of the Contract and the breach shall be eliminated on the basis of the respective guidelines of the Contracting Entity.
- 4.4.1 The Contracting Entity shall append the list of deficient work along with the term for removal of defects to the act of delivery and receipt. By signing the act, the Contractor confirms that they are aware of the terms for the removal of defects and for the performance of deficient work documented in the act, and they undertake to comply with the relevant terms. When the defects are removed a separate act of delivery and receipt shall be formed.
- 4.5 If the Contracting Entity has no complaints in respect of the object of the Contract, the Parties shall sign an act of delivery and receipt.
- 4.6 Along with the act of delivery and receipt, the Contractor shall deliver to the Contracting Entity the technical and other documentation required for the use and administration of the object of the Contract on paper and/or electronic data media (CD/DVD, etc.) and/or by e-mail, or install it in the environment indicated by the Contracting Entity, as instructed by the latter.
- 4.7 The Contractor shall have the right to conduct an expert assessment if it disagrees with the complaints of the Contracting Entity concerning the quality of the object of the Contract. The expert shall be selected upon agreement between the Parties and the costs of the expert assessment shall be paid by the Contractor.
- 4.8 If the object of the Contract is development work and no act of delivery and receipt has been formed into for the delivery of the development work and clause 4.3 does not apply, the moment of receipt of the development work shall be deemed to be the day the Contracting Entity started to use the result of the work as a whole in the production environment (*live*).
- 4.8.1 If the Contract is financed by means of external funds in part or in full, this provision shall not apply.
- 4.9 Unless otherwise provided in a specific Contract, the following principles shall apply to reflecting and calculating working hours:
- 4.9.1 a team member involved by the Contractor shall indicate the number of working hours spent on their work duties defined by the Contractor in the Contracting Entity's work duty administration system or, upon agreement with the Contractor, in another environment;
- 4.9.2 settlement for working hours shall take place pursuant to the number of working hours respectively recorded in the administration system and accepted by the Contracting Entity.
- 4.10 The receipt of the object of the Contract by the Contracting Entity shall not relieve the Contractor of its liability for defects not identified upon the delivery and receipt of the object of the Contract or for the non-compliance thereof.
- 4.11 Unless otherwise provided in a specific order or Contract, in case of returning the assets to the Contractor in contracts for use, up to 10% (included) of the monetary and/or quantitative volume of identifiable defects (e.g. scratches to computer cases, etc.) that do not interfere with or hinder the purposeful use of the assets shall be considered as normal wear and tear caused due to contractual use, and it shall not be subject to compensation to the Contractor.
- 4.12 Should the wear and tear exceed 10%, the Contractor shall be obligated to submit an expert's report with the claim for compensation, which has been preferably drawn up by a third party.
- 4.13 In any instance, the Contracting Entity shall be entitled to order an expert assessment from an independent third party. Each Party shall be obligated to cover their own expenses for the ordered expert assessments and, should the expert assessments render similar results, the Party identified as liable for covering the costs shall bear the obligation of covering/compensating the costs. In the event of a dispute and provided that the results of the expert assessments are different, the result of the expert assessment of the Contracting Entity shall be held supreme.

## **5. Transfer of right of ownership**

5.1 The moment of transfer of the right of ownership for the object of the Contract, in terms of both objects and rights, shall be the moment of receipt of the object of the Contract, unless otherwise provided in the Contract or a document serving as an inseparable part thereof (e.g. licence conditions).

## **6. Settlement**

6.1 The Contracting Entity is required to pay the Contractor a fee for the object of the Contract in accordance with the terms and conditions agreed on in the Contract and on the basis of an invoice submitted by the Contractor.

6.2 The amounts set out in the Contract are without VAT and VAT shall be added to them at the applicable rate thereof.

6.3 The Contractor shall submit to the Contracting Entity an invoice following the moment of receipt of the object of the Contract. If the Contract is performed in stages and respective payment in stages has been agreed on, the Contractor shall submit to the Contracting Entity an invoice after signing an act of delivery and receipt for the respective stage.

6.3.1 In case of deficient work, settlement shall take place as follows:

6.3.1.1 if the object of the Contract is partially usable by the Contracting Entity to an acceptable degree regardless of the presence of deficient work and the Contracting Entity has received the work by recording the deficient work in the act of delivery and receipt of the work, the Contracting Entity shall be entitled to pay, on the basis of the aforesaid act, depending on the nature of the object of the Contract, either proportionally, considering the amount of the Contract, to the extent of the cost of specific elements, or by means of a partial payment in any other manner. Deficient work shall be paid for after the removal of defects on the basis of a separately formed act of delivery and receipt;

6.3.1.2 if the object of the Contract is not usable by the Contracting Entity to an acceptable degree due to the presence of deficient work and the Contracting Entity has received the work by recording the deficient work in the act of delivery and receipt, the Contracting Entity shall be entitled to withhold the entire payable amount until the deficient work set out in the act of delivery and receipt has been eliminated.

6.4 An invoice to be submitted by the Contractor shall refer clearly and unambiguously to the Contract. An invoice not in compliance with the terms and conditions set out in this clause shall not be subject to payment. The due date of an invoice shall be twenty-one calendar days, unless otherwise arising from the terms and conditions of applicable external funds and provided in the specific Contract.

6.5 The Contractor shall submit the invoice in the e-invoice format through Fitek AS at [www.fitek.ee](http://www.fitek.ee).

6.6 The prices provided for in the Contract cannot be increased in connection with inflation, a rise in prices or for any other reason, unless otherwise provided in the specific Contract.

6.7 If the Parties have provided the maximum value of the Contract in the Contract, the Parties shall regard this amount as indicative, i.e. if the Contract is terminated in accordance with the terms and conditions of the Contract or, by the moment of expiry of the Contract, the Contracting Entity has submitted orders on the basis of the Contract in a smaller volume than the maximum value of the Contract, the difference between the maximum value and the actual value shall not be subject to payment to the Contractor or compensation in any other manner.

6.8 If the Contracting Entity has any grounds for demanding from the Contractor a contractual penalty and/or compensation for damage, the Contracting Entity shall have the right to deduct the contractual penalty and/or damages from the amount subject to payment to the Contractor on the basis of the Contract.

## **7. Warranty and removal of defects**

7.1 The general principles of the warranty conditions provided for in this chapter only apply if the Parties have explicitly agreed on the application of the warranty.

7.2 The beginning of the warranty period is deemed to be the moment of receipt of the object of the Contract.

7.3 The duration of the warranty period and terms for the removal of defects shall be agreed on in the Contract.

7.4 The warranty does not cover defects that arise as a result of the Contracting Entity's negligence or intentional acts or inactivity.

7.5 The Contractor undertakes to start, at its own cost, removal of defects that emerge on the object of the Contract during the warranty period as of the moment a corresponding claim is submitted to the Contractor by the Contracting Entity and in agreement with the Contract, and not terminate the required activities until the defects are removed.

7.6 Any costs related to the removal of defects that is covered by the warranty and has emerged during the warranty period, including transport, postal and other expenses, shall be borne by the Contractor.

7.7 If the Contractor does not regard a defect as being covered by the warranty, the Contractor shall have the right to, within three working days of the removal of the defect, submit to the Contracting Entity a respective notice along with the justifications, pointing out the volume of work required to remove the defect, and if the Contracting Entity agrees with the justifications of the Contractor, the Contractor shall have the right, pursuant to the Contract, to document the time spent on removal of the defect and require compensation therefor in accordance with the contract or if no hourly or other applicable fee for the performance of the work has been agreed on in the Contract, the Parties shall agree on the compensation for the costs separately whereas the basis for the agreement shall be the price list usually submitted for such work by the Contractor.

7.8 In the case of development work, a notice of a defect is deemed to have been submitted if it has been registered in the Contracting Entity's defect management environment and the defect management environment has sent it to the contact person determined by the Contractor.

7.9 At the request of the Contracting Entity, the Contractor shall remove the errors and defects identified on the object of the Contract during the warranty period at the location of the Contracting Entity if removal of error and/or defect on the site is possible arising from the nature of the object of the Contract.

7.10 If the Contractor does not start removal of defect in accordance with the Contract, the Contracting Entity shall have the right to remove the defect itself or use the help of a third party and require from the Contractor, in addition to a contractual penalty, compensation for the costs related to the removal.

7.11 If the object of the Contract is an object and the warranty period of the manufacturer of the object or any component thereof is longer than the warranty period agreed on in the Contract, the expiry of the warranty period set out in the Contract shall not terminate the validity of the manufacturer's warranty. The Contractor is required to transfer the documentation related to the manufacturer's warranty set out in this clause to the Contracting Entity separately, but failure to perform the obligation to transfer the warranty documents shall not affect the validity of the warranty.

7.12 If the object of the contract is an object and the Contractor eliminates any non-compliance with the terms and conditions of the Contract that emerges on the object of the Contract through repairs, the warranty period shall be extended by the duration of the period of repairing the object. If the Contractor eliminates any non-compliance with the terms and conditions of the Contract that emerges on the object of the Contract or a component thereof by replacing the object or component, the warranty period of the respective object or component shall start from the very beginning as of the date of replacement.

7.13 A Party has the right to require an impartial expert assessment if there are any disagreements as to the application of the warranty. The impartial expert shall be selected upon agreement between the Parties and the costs of conducting the expert assessment shall generally be paid for by the Contractor. The costs of conducting the expert assessment shall be paid by the Contracting Entity if, as a result of the assessment, the object proves to be in compliance with the requirements.

## **8. Confidentiality requirements**

8.1 Personal and security data that have become known upon entry into and/or performance of the Contract and other information and circumstances whose disclosure may damage the interests of the other Party constitute confidential information. Confidential information is also deemed to be

information provided with the notation “confidential”, “for internal use”, etc., or about which a Party given notice, or it can reasonably be assumed that it constitutes confidential information.

8.2 A Party undertakes to use confidential information only for the achievement of the purpose of the Contract.

8.3 Confidential information shall not be subject to disclosure to any third parties and a Party undertakes to make every effort for it not to fall into the possession of any third parties and for no such risk to arise. Confidential information may be disclosed only with the prior written consent of the other Party, in the cases explicitly provided for in the Contract, or if this obligation arises from legislation, within the extent provided for in legislation.

8.4 The obligation to maintain the confidentiality of confidential information shall not depend on the validity of the Contract, but shall remain in effect without a term following the expiry of the Contract. If a due date has been set for the confidentiality obligation, the confidentiality requirement in respect of the aforesaid information shall remain in effect until the due date.

8.5 The Contractor shall ensure that agreements of a similar nature that guarantee the maintenance of the confidentiality of the confidential information of the Contracting Entity under the same principles as provided for in the Contract, including in the general terms and conditions, have been entered into with all persons, including alternate members, involved by it in the performance of the Contract. The Contractor shall be responsible for the performance of the confidentiality agreement.

8.6 The Contracting Entity shall have the right to submit information related to the Contract to state authorities without the consent of the Contractor.

8.7 It is possible to provide additional or different agreements in specific contracts compared to these terms and conditions where necessary, including in the contracts to be entered into with the team members of the Contractor.

## **9. Force majeure**

9.1 The parties shall be liable for breaching their contractual obligations unless such a breach is excusable. Violation of obligations shall be excusable if a Party violates its obligation due to *force majeure*.

9.2 Under *force majeure* the Parties understand circumstances which are beyond the control of a Party and, following the principle of reasonableness, it could not have been expected that the Party would take them into account, avoid them or overcome the impediment or consequences thereof at the time of entry into the Contract, particularly natural disasters, general power cuts, acts of war or blockade. Upon the occurrence of *force majeure*, the performance of obligations shall be postponed according to the duration of the impediment.

9.3 The Party whose activities in performing their contractual obligations are hindered by *force majeure* shall notify the other Party thereof as soon as possible by assessing the extent to and period in which it is unable to perform its obligations. Upon failure to perform the notification obligation, the Party shall be liable for a breach of its contractual obligations in accordance with the procedure provided for in the Contract. Upon the cessation of the impediments caused by *force majeure*, the affected Party shall notify the other Party thereof immediately.

9.4 If, as a result of *force majeure*, the ability of a Party to perform its contractual obligations is only partially affected, the Party shall only assume liability for obligations whose performance was not hindered by *force majeure*.

## **10. Liability**

10.1 The Parties shall be liable for the accuracy of their representations and warranties and for the full and timely performance of their obligations in accordance with the Contract. The Contractor shall also be liable before the Contracting Entity in full if the breach arises from an act or inactivity of subcontractors or other partners involved by the Contractor.

10.2 The overall liability of the Parties upon the performance of the Contract is limited to the total cost of the Contract, except in the instance of violating the confidentiality obligation either intentionally or due to gross negligence.

10.3 If a contractual penalty or default interest applies in accordance with the terms and conditions of the Contract, the maximum amount of the contractual penalty or default interest shall be limited to

the total value of the Contract in the case of each specific breach. If the Contract is performed on the basis of orders to be submitted within the maximum value of the Contract, the maximum rate of the contractual penalty or default interest in the case of each order shall be the value of the order in respect of which the breach occurred. The upper limit shall not apply in the case of an intentional breach.

10.4 Claims for contractual penalties and fines for delay shall be submitted within a reasonable period of time.

10.5 If the Contracting Entity accepts the improper performance of an obligation, it may reduce the price subject to payment by it for the obligation proportionally with the ratio of the value of improper performance of the obligation to the value of proper performance.

10.6 Payment of the contractual penalties arising from the Contract as well as compensation for the damage caused shall not release the Party in breach of the Contract from the performance of its contractual obligations.

10.7 The Parties shall undertake everything, within reason, to reduce the damage that is or may be the basis for any claim for compensation of damage under the Contract.

10.8 In the case of damage caused to the Contracting Entity and/or third parties through failure to perform or improper performance of obligations assumed with the Contract, the Contractor undertakes, according to the guidelines of the Contracting Entity, to restore the situation prior to causing the damage and compensate the damage caused, or to compensate the damage caused, including the costs incurred by the Contracting Entity and/or the third party for the restoration of the situation.

10.9 If the proper performance of the Contract by the Contractor is hindered due to an act or inactivity of the Contracting Entity, the respective deadline shall be postponed proportionally.

10.10 If one of the Parties breaches the Contract, the other Party shall have the right to exercise in respect of the Party in breach of the Contract, as a legal remedy, in addition to those provided for elsewhere in the Contract, the right to refuse to perform its obligations until the performance of the obligation owed by the Party in breach of the Contract.

10.11 Upon a breach of the requirements related to the premises of the location of the Contracting Entity or other requirements related to security or use of assets, the Contracting Entity shall have the right to require from the Contractor a contractual penalty in the amount of 500 euros for each respective case and, in addition, compensation for direct proprietary damage in the amount not covered by the contractual penalty.

10.12 Upon a breach of the confidentiality obligation, the Contracting Entity shall have the right to demand that the Contractor pay a contractual penalty for each respective case and, in addition, pay compensation for direct proprietary damage in the amount not covered by the contractual penalty.

10.12.1 If the Contracting Entity has not provided a different (lower or higher amount) of contractual penalty in a specific procurement or contract, the contractual penalty shall be 50% of the monetary amount of the Contract.

10.13 Upon a delay in payment of a properly submitted invoice, the Contractor shall have the right to require from the Contracting Entity default interest at the rate of 0.1% of the outstanding amount per every working day of delay, but no more than the outstanding amount.

10.14 Failure to exercise a legal remedy or any delay in the exercise thereof shall not be considered as waiving the respective related rights.

10.15 If the Contractor needs to process personal data in the course of performance of the Contract, the Contractor shall undertake, upon the processing thereof, to strictly adhere to the respective requirements arising from legislation and, upon a breach thereof, be liable independently and in accordance with the procedure provided for in legislation.

## **11. Transfer of claims and obligations, amendment and termination of contract**

11.1 The Contractor may not transfer its rights or obligations arising from the Contract or assign these in any other manner to any third party without the prior written approval of the Contracting Entity.

11.2 The Parties may amend the Contract in accordance with the provisions of the Public Procurement Act and the Contract itself.

11.2.1 When amending the Contract, the following must be taken into consideration:

11.2.1.1 it is not permitted to amend the general nature of the Contract, i.e. if the nature of the procurement contract were to significantly change by amending the Contract;

11.2.1.2 the possibility of amending the Contract, its detailed procedure and particular rules (e.g. the regular review of the price, etc.) have been clearly, accurately and unambiguously provided in the procurement documents;

11.2.1.3 amending the Contract may, but does not have to bring about a change in the amount of the Contract;

11.2.1.4 the amount of the Contract may not, in any instance, exceed the cost limits provided by the Contracting Entity for the type of procurement procedure conducted by the Contracting Entity due to the amendments.

11.2.2 A significant amendment of the Contract shall not include, *inter alia*, amending, supplementing or specifying the technical description of the object of the Contract or the list of work to be performed in a manner that does not change the final objective to be achieved with the Contract, but is unavoidably required for the achievement thereof (e.g. changing, replacing or omitting the stages or the sequence of performance of intra-stage work in the case of agile development work, etc.).

11.3 The Contracting Entity has the right to terminate the contract at any time by notifying the Contractor no less than 90 calendar days in advance. The Contracting Entity also has this right if the Parties have agreed on a fixed-term contract. Upon the termination of the Contract on the basis of this clause, the Contracting Entity shall pay the Contractor for the objects that have actually been delivered or the services that have actually been provided by the time of termination; any other amounts shall not be subject to compensation.

11.4 A Party has the right to premature unilateral termination of the Contract by notifying thereof in advance if:

11.4.1 the other Party has breached the Contract and has not eliminated the breach within the reasonable term determined by the Party; or

11.4.2 this is a fundamental breach of the Contract; or

11.4.3 the breach is recurrent.

11.5 Upon the termination of the Contract through the fault of the Contractor, the Contractor only has the right to demand a fee for the objects that have actually been delivered or the services that have actually been provided by the moment of termination and which the Contracting Entity can use in reality.

11.6 In addition to that provided for elsewhere, a Party shall have the right to terminate the contract at any time if:

11.6.1 the performance of the Contract is hindered due to *force majeure* which has suspended the performance of the Contract for more than three months; or

11.6.2 bankruptcy proceedings have been commenced in respect of the other Party, the bankruptcy of the other Party has been declared or its assets have been seized or its financial situation has significantly deteriorated according to the justified assessment of the other Party, and this deterioration makes proper performance of the Contract unlikely.

11.7 The Contracting Entity shall make the settlement related to the expiry of the Contract within two months of the expiry of the Contract.

11.8 Rights and obligations which, due to their nature, do not depend on the validity of the Contract shall remain in effect following the expiry of the Contract.

11.9 If the parties have entered into a framework agreement for the purposes of the Public Procurement Act, the Contracting Entity shall have the right to submit orders on the basis thereof until the expiry of the framework agreement. Following the expiry of the framework agreement, contracts related to orders shall remain in effect in full in accordance with the terms and conditions provided for therein; the Contract shall be subject to all the terms and conditions of the framework agreement and other documents of the Contract.

11.10 If any term or condition of the Contract becomes contrary to legislation, the Contract shall remain in effect in relation to any other parts thereof. The provisions that have become contrary to legislation shall be replaced with new provisions in conformity with the general principles of the

Contract by agreement between the Parties. The invalidity of single provisions of the Contract shall not affect the validity of the Contract as a whole.

11.11 The Contractor is required to notify of commencement of bankruptcy or liquidation proceedings in respect of it and of any other circumstances that may hinder or make the proper performance of the Contract by the Contractor impossible.

11.12 If the object of the Contract is an object or if, in the course of performance of the Contract, objects are granted into the use of the Contracting Entity or delivered to the location of the Contracting Entity that are to be returned due to the nature of the Contract, upon withdrawal from or termination of the Contract, the Contracting Entity shall return the object to the Contractor as soon as possible and the Contractor undertakes to take it back within three working days of a corresponding claim of the Contracting Entity. If the Contracting Entity delays, without good reason, in returning an object and the delay exceeds 20 working days, the Contractor shall have the right to require reasonable compensation in respect of the days delayed without good reason. If the Contractor does not perform its obligation within 20 working days of the Contracting Entity's corresponding reminder, the Contracting Entity shall have the right to utilise the object at its own discretion and the Contractor shall have no right to require any compensation for any possible damage arising therefrom.

## **12. Notices**

12.1 The organisation of the performance of the contractual obligations of the Parties, including signing the act of delivery and receipt and communicating the notices, claims and other documents prescribed in the Contract, shall take place via the contact persons determined by the Parties.

12.2 Any notices and complaints related to the Contract shall be submitted in writing, unless it arises otherwise from the nature of the notice or the terms and conditions of the Contract, and they must be addressed, according to the nature of the notice, to the contact person specified in the Contract.

12.3 A notice communicated electronically shall be deemed to have been delivered as of the moment it is communicated using the contact details specified in the Contract or communicated in any other manner set out in the Contract. Communication shall be considered to be the moment when the electronic notice has been sent from a server in the possession of or otherwise controlled by the sending Party.

12.4 The other Party shall be notified of any changes to the contact persons or details as soon as possible. Until the receipt of a respective notice, a notice shall be deemed to have been properly communicated if it has been sent using the contact details known by the other Party at the time.

## **13. Final Provisions**

13.1 In the case of any conflicts between the documents of the Contract, the conflict shall be resolved according to the following order of priority:

13.1.1 the Contract;

13.1.2 the general terms and conditions;

13.1.3 other contract documents.

13.2 Any disputes arising from the Contract shall be subject to resolution by way of negotiations. If no agreement is reached, the dispute shall be resolved in Harju County Court.