

**AGREEMENT ON PROVISION OF CONSULTANCY SERVICES**

**FOR**

**Environmental and social regulation compliance**

**1) Zvolenská teplárenská, a.s.**

with its registered seat at Lučenecká cesta 25, Zvolen 961 50, Slovak Republic, company identification number (*IČO*): 36 052 248, registered in the commercial register of the District Court Banská Bystrica, section Sa, insert No. 686/S;

Bank: Všeobecná úverová banka, a.s., bank account IBAN No.: SK47 0200 0000 0035 9641 7758.

(hereinafter referred to as "**ZVT or Client**"),

**2) Name of the consultant: EKOCONSULT-enviro, a.s.**

with its seat at Miletičova 23, 821 09 Bratislava, Slovak Republic, company identification number (*IČO*): 35927739, represented by Ing. Mikuláš Janovský, position Chairman of the Board, registered with the Commercial Register of District Court Bratislava I, section Sa, insert No. 3554/B.

Bank: Všeobecná úverová banka, a.s., bank account IBAN No.: SK06 0200 0000 0019 8059 6958.

(hereinafter referred to as the "**Consultant**")

(ZVT and the Consultant together hereinafter referred to as the "**Parties**" and separately as the "**Party**")

following the mutual discussions, pursuant to the § 269 (2) et seq. of the Act No. 513/1991 Coll., the Commercial Code, as amended the Parties enter into this Agreement on provision of consultancy services No.: 2019/1002, dated 8.8.2019 (hereinafter referred to as the "**Contract**");

**1 PREAMBLE**

The International Investment Bank (the "IIB" or the "Bank") is providing a loan of up to EUR 30.9 million to the Zvolenska teplarenska, a.s. ("ZVT") in the City of Zvolen ("Zvolen" or the "City"), located in the Central Slovakia, the Facility Agreement was signed on the 15<sup>th</sup> of April 2019.

The Bank's financing will be aimed to replace existing coal-powered CHP plant ceased to meet emission limits with wooden biomass fired heating plant including rehabilitation works, supply and installation of biomass and gas boilers. The Company plans to construct a new biomass-based district heating plant of total capacity currently planned at 77.5 MWt consisting of several heat-only boilers. The new DH plant will be located in already existing, but unused building on the main land of the Company near the existing heating plant and will be connected to the existing heat distribution network.

The rationale for the investment stems from the need to decrease the emission of SO<sub>2</sub>, NO<sub>x</sub> and dust in accordance with Directive 2010/75 / EU of the European Parliament and Decree of the Ministry of the

Environment of the Slovak Republic No 410/2012. Continuing operations requires rebuilding the plant and installing modern technology, making it operational no later than on 30.6.2020. Since that date, the Company will no longer be able to use coal for heat generation because of regulatory constraints.

All contracts tendered under the project which are to be financed from Bank's loan proceeds, will be executed according to the Bank internal procurement procedures compliant to the best international practices (in this case Procurement Rules for Projects Financed by International Investment Bank).

In this regard the international open tender procedure according to IIB Procurement Rules for selection of the Consultant for Environmental and social regulation compliance has been published in May 2019 with deadline in May 2019. Overall 4 companies submitted their tenders.

The expected objective of the Consultant is to facilitate the timely and effective preparation and implementation of the Project by providing assistance in reaching compliance with environmental and social regulations of the European Union, Slovak Republic and IIB in a detailed manner in accordance with the best international practice and procedures of the Bank and pursuant to all other stipulations from the Facility Agreement signed between the Company and IIB (by Facility Agreement it is meant the loan agreement between the IIB and Zvolenská teplárenská).

## **2 SUBJECT MATTER OF THIS CONTRACT**

- 2.1 Under this Contract the Consultant undertakes to provide ZVT with consultancy services (hereinafter referred to as the "Services") closely specified in Schedule A of this Contract (Specification of the Project and the Services).
- 2.2 The Consultant shall provide the Services in accordance and under the conditions stipulated in this Contract and its Schedules.
- 2.3 ZVT undertakes to pay the Consultant remuneration for the Services duly provided under this Contract. The remuneration is closely specified in Schedule B of this Contract (Remuneration, Staffing and Breakdown of Costs).

## **3 DECLARATIONS, RIGHTS AND OBLIGATIONS OF THE CONSULTANT**

- 3.1 The Consultant shall make available for the Project the expert(s) named in Schedule B (hereinafter referred to as the "Expert(s)"). The Consultant and the Expert(s) shall perform the Services in accordance with this Contract and its Schedules, especially with the Schedule C (General Conditions of this Contract), with a due care, in time and in an economic manner.
- 3.2 The Consultant hereby declare that he is fully aware of ZVT's obligations arising from the IIB Loan Agreement and undertakes to provide ZVT with all the necessary cooperation in order to fulfill the obligations arising for ZVT from the IIB Loan Agreement, especially the anti-fraud and anti-corruption obligations, the confidentiality obligations and the reporting obligations. Furthermore, the Consultant undertakes to assure that the Expert (s) shall follow the obligations of the Consultant according to this Contract in the same range.
- 3.3 The Consultant hereby declare that it is a legal entity duly incorporated and existing under the laws of an IIB Member State and therefore shall be deemed as a legal person coming from an IIB Member State in accordance with the IIB Procurement Rules.
- 3.4 The Consultant is entitled to request from IIB cooperation necessary for the fulfillment of the Services under this Contract.

#### 4 TERM OF ENGAGEMENT

- 4.1 Except as ZVT may otherwise agree, the Consultant shall commence the Services on 8.8.2019 (the "**Start Date**") at latest. It is presently envisaged that the Services will be completed on or before 31.8.2020 (the "**End Date**", and the period between the Start Date and the End Date, inclusive, shall be referred to as the "**Term of Engagement**"). The Consultant shall be engaged by ZVT for the Term of Engagement, provided that ZVT may at any time upon giving the Consultant notice in writing, suspend or terminate this Contract with immediate effect.
- 4.2 The Term of Engagement might be closely specified in Schedule A of this Contract.

#### 5 PAYMENTS AND INVOICES

- 5.1 ZVT shall pay to the Consultant the remuneration in respect of the Services satisfactorily and timely performed during the Term of Engagement, and shall reimburse approved expenses, as set out in Schedule B. Invoices shall be prepared and submitted in accordance with the Rules for the Preparation of Invoices set out in Schedule B.
- 5.2 ZVT shall pay the Consultant the remuneration for due rendering of the Services and reimbursement of approved expenses in *lump sums for deliverables* starting on the effective date of this Contract ("**Payment Option C - Payment in Arrears**"). ZVT shall pay the sum according to the invoice(s) for Services submitted to ZVT by the Consultant in the relevant period.

Deliverable	Sum
<ul style="list-style-type: none"> <li>- Preparation and submission of the following documentation within 2 months after contract signature:               <ul style="list-style-type: none"> <li>o Inception Report</li> <li>o Environmental and Social Assessment</li> <li>o Environmental and Social Action Plan</li> <li>o Stakeholder Engagement Plan</li> <li>o Environmental and Social Management Plan</li> <li>o Non-technical Summary</li> </ul> </li> </ul>	<b>20% of the contract amount</b>
<ul style="list-style-type: none"> <li>- Final package of EIA documentation for submission to the relevant authorities – 2 months after contract signature</li> </ul>	<b>30% of the contract amount</b>
<ul style="list-style-type: none"> <li>- EIA approval obtained – 6 months after contract signature</li> </ul>	<b>10% of the contract amount</b>
<ul style="list-style-type: none"> <li>- Final package of IPPC (Integrated pollution and prevention control) documentation for submission to the relevant authorities – obtained within 1 month after EIA approval</li> </ul>	<b>20% of the contract amount</b>
<ul style="list-style-type: none"> <li>- IPPC decision obtained – within 5 months after the IPPC documentation submission</li> </ul>	<b>10% of the contract amount</b>
<ul style="list-style-type: none"> <li>- Preparation and submission of all quarterly progress reports and final report</li> </ul>	<b>10% of the contract amount</b>

- 5.3 All payments under this Contract shall be made in EUR upon submission by the Consultant of an original invoice and *deliverable for which the lump sum payment is to be made*.
- 5.4 Any Payments to the Consultant will be made solely to the following bank account, unless instructed otherwise by the Consultant in writing:

VÚB, a.s.  
Mlynské nivy 1, 82990 Bratislava 25  
Account Name: EKOCONSULT-enviro, a.s.  
Account No.: 1980596958/0200  
IBAN: SK06 0200 0000 0019 8059 6958

## 6 REPORTING

- 6.1 Except as ZVT may otherwise agree, the Consultant shall provide Mr. Miroslav Duplinský, Technical Director, ZVT, the work, findings or reports as set out in Schedule A. All reports or documents produced for ZVT shall be created in the version of Microsoft's "Word for Windows" and/or "Excel" software, and shall be compatible with "Acrobat" unless the Consultant is instructed otherwise by ZVT and/or the nature of deliverables presumes a certain specific format (such as DWG in case of technical drawings). ZVT will not accept reports or documents formatted in other software and such are deemed as not submitted for the purposes of this Contract.

## 7 MAXIMUM CONTRACT AMOUNT

- 7.1 Except as ZVT may otherwise agree, total payments, including fees, per diem allowances, expenses and any other payment, to the Consultant under this Contract or in connection with it shall not exceed EUR 248,400.00 or its equivalent in another currency if applicable (hereinafter referred to as the "**Maximum Contract Amount**"). The VAT shall be governed separately between the Consultant and ZVT based on applicable national laws. The Bank loan proceeds shall not be used to pay VAT in whatsoever form.

## 8 CONSULTANT'S LIABILITY AND INDEMNITY

- 8.1 Subject to Clauses 8.2, 8.3, 8.4 and 8.5 of this Contract, the Consultant shall be liable for and indemnify and hold harmless ZVT, its directors, officers, employees and agents in respect of:
- i. any act or omission, whether negligent, tortuous or otherwise, of the Consultant, its Expert(s), directors, officers, employees, subcontractors or agents relating to or arising from the provision of the Services or the matters contemplated in this Contract;
  - ii. any breach by the Consultant, its Expert(s), directors, officers, employees, subcontractors or agents of any of the Consultant's or Expert(s)' obligations under this Contract;
  - iii. any death or injury or non-material damage to a person resulting from the Consultant's, its Expert(s)', directors', officers', employees', subcontractors' or agents' negligence;
  - iv. the infringement or alleged infringement by the Consultant, its Expert(s), directors, officers, employees, subcontractors or agents of any patent, copyright, registered design or trademark right of any third party (hereinafter referred to as the "**Intellectual Property Infringement**"); or

- v. any failure of the Consultant, its Expert(s), directors, officers, employees, subcontractors or agents to comply with any applicable law, rule or regulation.
- 8.2 The Consultant shall indemnify, hold harmless and defend ZVT against all claims, damages, costs (including legal costs), expenses, taxes, penalties, liabilities, proceedings, losses arising from, out of or in connection with Clause 8.1 (i) or (ii) of this Contract up to an amount equal to the **Maximum Contract Amount**, except that such ceiling shall not apply to actions, claims, losses or damages caused by the Consultant's or Experts' reckless conduct or fraudulent behavior where the Consultant shall fully indemnify ZVT.
- 8.3 The Consultant shall fully indemnify, hold harmless and defend ZVT, against all claims, damages, costs (including legal costs), expenses, taxes, penalties, liabilities, proceedings, losses arising from, out of or in connection with Clauses 8.1 (iii), (iv) or (v) of this Contract.
- 8.4 ZVT agrees to give the Consultant no less than 15 calendar days (following notification by ZVT) in which to remedy any breach by the Consultant, its Experts, directors, officers, employees, permitted subcontractors or agents of any of the Consultant's or Experts' obligations under this Contract which is, in the discretion of ZVT, capable of being remedied.
- 8.5 In respect of the indemnification referred to in paragraph 8.1 (iv), ZVT shall provide the Consultant with notice of the Intellectual Property Infringement forthwith upon becoming aware the same.

## 9 INSURANCE

- 9.1 The Consultant shall maintain within the duration of this Contract at its own cost a comprehensive insurance policy including professional liability insurance (for amount of up to the Maximum Contract Amount) in respect of any liability which may arise under Clause 8 or any other provision of this Contract or under the applicable law and shall ensure that the minimum amount of cover per claim under such policy shall not be less than the Maximum Contract Amount.
- 9.2 Upon request the Consultant shall provide ZVT with a copy of the Certificate of Insurance without undue delay and allow ZVT to inspect such document. However, neither inspection nor receipt of such Certificate copy shall constitute acceptance by ZVT of the terms therefor nor a waiver of the Consultant's obligations hereunder.
- 9.3 All types of insurance are the sole responsibility of the Consultant who shall ensure that appropriate cover is in place before starting to perform the Services. ZVT reserves the right to require evidence that the Consultant has taken out the necessary insurance.
- 9.4 The Consultant's obligations in respect of insurance are further described in Clause 11 of Schedule C (General Conditions of this Contract).

## 10 NOTIFICATIONS

- 10.1 Any notice or request required or permitted to be given or made under this Contract shall be in writing. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, mail, cable, e-mail or fax to the Party to which it is required to be given or made at such Party's address specified below:

**For ZVT:** Zvolenská teplárenská, a.s., Lučenecká cesta 25, Zvolen 961 50, Slovak Republic

Attention: **Mr. Miroslav Duplinský**

E-mail: miroslav.duplinsky@zvtp.sk

**For the Consultant: EKOCONSULT-enviro, a.s.**

Attention: **Mikuláš Janovský**

Fax Number: -

E-mail: janovsky@ekoconsult.sk

- 10.2 The notice or request is deemed to be delivered also if the recipient refuses to collect it - the day of refusal to collect (regardless of whether or not he was informed of this fact) or if the notice or request is returned as undelivered due to other reason - the day when the shipment delivered by mail to the Party is a provably marked note made by the post saying the "addressee unreachable", the "addressee is unknown" or another note of similar meaning.

## **11 CONTRACT SCHEDULES**

- 11.1 The Schedules to this Contract are incorporated in this Contract by reference and shall have the same force and effect as if fully set forth herein and constitute its inseparable part. In the event of any inconsistencies between this Contract and the Schedules attached, the following order shall prevail: this Contract; Schedule A (Specification of the Project and the Services); Schedule B (Remuneration, Staffing and Breakdown of Costs, Rules for the Preparation of Invoices); and Schedule C (General Conditions of this Contract). Any reference to this Contract shall include, where the context permits, a reference to its Schedules.

## **12 TAXATION**

- 12.1 The Consultant shall determine whether any indirect taxes, including VAT, are chargeable by the Consultant in respect of the Services or this Contract in advance. The Consultant shall advise ZVT of its determination and the basis upon which it was formed, if applicable, accompanied by the statement of the respective authority. If such indirect taxes, including VAT, are chargeable, ZVT shall pay such indirect tax.

## **13 EFFECTIVENESS OF THIS CONTRACT**

- 13.1 This Contract shall become effective as of the date of its signing by both ZVT and the Consultant and shall continue in full force and effect, subject to Clause 14, until (i) the Services and all payments therefore have been completed, or (ii) the earlier termination of this Contract.

## **14 SURVIVAL CLAUSE**

- 14.1 Termination of this Contract will not relieve ZVT of any claims against the Consultant that arise under this Contract before this Contract is terminated or expires. Especially Clauses 8, 12 and 15 above and Clauses 1.3, 7.1, 7.3, 7.7, 7.8, 7.11 and 9, 15 and 17 of Schedule C (General Conditions of this Contract) shall survive the termination or expiry of this Contract.

## **15 CONFIDENTIALITY**

- 15.1 The Consultant undertakes not to, except when required by applicable law or final order of a court, without prior written consent of ZVT disclose directly or indirectly to any person or entity, or copy, reproduce or use, any information learned, known or acquired in connection to providing

the Services under this Contract. The Consultant shall also without prior written consent of ZVT not disclose terms and conditions of this Contract to third parties. The above obligation of the Consultant lasts after the termination of this Contract within the unlimited period of time.

- 15.2 The Consultant's confidentiality obligations are further described in Clause 7 of Schedule C (General Conditions of this Contract).

**16 SEVERABILITY**

- 16.1 If any term or provision of this Contract or its Schedules is determined by a court of competent jurisdiction through the final order or by virtue of law to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other terms, provisions and conditions of this Contract and its Schedules shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Contract so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable law.

**17 COUNTERPARTS**

- 17.1 This Contract has been executed in 2 counterparts, each of which shall be deemed an original, while one (1) counterpart shall be delivered to each of the Parties.

**Enclosed**

Schedule A - Specification of the Project and the Services

Schedule B - Remuneration, Staffing and Breakdown of Costs,  
Rules for the Preparation of Invoices

Schedule C - General Conditions of this Contract

## **SCHEDULE A**

### **Specification of the Project and the Services**

#### **Terms of Reference for**

#### **Slovakia: Zvolen District Heating Project - Environmental and social regulation compliance**

This Open Tender and all issues related to it shall be subject to the relevant law of the EU, Slovakia and the Procurement Rules for Projects Financed by International Investment Bank<sup>1</sup> (“Procurement Rules”).

#### **• 1. BACKGROUND**

The International Investment Bank (the “IIB” or the “Bank”) is considering to provide a loan of up to EUR 30.9 million to the Zvolenská teplárenská, a.s. (the “ZVTP” or “Company”) in the City of Zvolen (“Zvolen” or the “City”) in the Central Slovakia.

The Bank’s financing is aimed to replace existing coal-powered combined heat and power plant (further as “CHP plant”) ceased to meet emission limits with wooden biomass fired heating plant including rehabilitation works, supply and installation of biomass and gas boilers. The Company plans to construct a new biomass-based district heating plant of total capacity currently planned at 77.5 MWt consisting of several heat-only boilers. The new district heating plant (further as “DH Plant”) will be located in already existing, but unused building on the main land of the Company near the existing heating plant and will be connected to the existing heat distribution network.

The rationale for the investment stems from the need to decrease the emission of SO<sub>2</sub>, NO<sub>x</sub> and dust in accordance with Directive 2010/75 / EU of the European Parliament and Decree of the Ministry of the Environment of the Slovak Republic No 410/2012. Continuing operations requires rebuilding the plant and installing modern technology, making it operational no later than on 30.6.2020 (the technical and commercial completion date of the new DH Plant). Since that date the Company will no longer be able to use coal for heat generation because of regulatory constraints.

The Company and the Bank have now agreed that the assistance of an experienced firm (the “Consultant”) is required in order to facilitate compliance with environmental and social regulation during preparation and implementation of the Project (by Project it is meant the implementation of DH Plant until successful operations). The Company is now looking for eligible firms to take part in the tendering procedure.

#### **• 2. OBJECTIVES OF THE ASSIGNMENT**

The overall objective of this Assignment (by Assignment in this Terms of Reference it is meant environmental and social regulation compliance) is to facilitate the timely and effective preparation and implementation of the Project by providing assistance in reaching compliance

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<sup>1</sup> [https://iib.int/attachments/procurement\\_rules\\_for\\_projects\\_financed\\_by\\_international\\_investment\\_bank.pdf](https://iib.int/attachments/procurement_rules_for_projects_financed_by_international_investment_bank.pdf)



with environmental and social regulations of the European Union, Slovak Republic and IIB in a detailed manner in accordance with the best international practice and procedures of the Bank and pursuant to all other stipulations from the Facility Agreement signed between the Company and IIB (by Facility Agreement it is meant the loan agreement between the IIB and Zvolenská teplárenská. A copy of each Finance Document will be provided to the contracted Consultant under this Assignment upon signature of the contract provided that the Consultant signs a non-disclosure agreement acceptable to the IIB).

In order to meet the above objectives, the Consultant shall, inter alia:

- Identify and assess any potentially significant future adverse environmental and social impacts associated with the proposed Project, assess compliance with applicable laws, determine the measures needed to prevent or minimise and mitigate the adverse impacts, and identify potential environmental and social opportunities, including those that would improve the environmental and social sustainability of the Project,
- The assessment process will be commensurate with, and proportional to, the potential risks, aspects and impacts of the Project, and will cover, in an integrated manner, all relevant direct and indirect environmental and social aspects and impacts of the Project, and the relevant stages of the project cycle.
- The Environmental and Social Assessment (E&S Assessment) will also determine whether further studies are required,
- The Environmental and Social Audit (E&S Audit) is required to assess the Client's current and future operations and management practices in terms of compliance with national legislation, national or local permitting requirements, the relevant provisions of the IIB Environmental and Social Policy<sup>2</sup>, IFC Performance Standards on Environmental and Social Sustainability (PSs)<sup>3</sup>, or EBRD Environmental and Social Policy EBRD Performance Requirements (2014)<sup>4</sup> and relevant EU environmental standards. Further, the audit shall assess historical environmental and social issues likely occurring in the future. Reasonably available data shall be assessed to quantify the risks and assess any liabilities,
- Prepare and ensure proper implementation of Environmental and Social Action Plan and Stakeholder Engagement Plan,
- Ensure that tender documents for construction of new DH Plant contain relevant information regarding environmental and social compliance during construction for the contractor to be followed and adhered to.

It is expected that with the Consultant's involvement the Company will have access to the best international practice in providing environmental and social regulation compliance services in projects funded by Multilateral Development Banks (namely the following "best practice standards" - World Bank (WB)/International Finance Corporation (IFC) Performance Standards, and Environmental, Health and Safety (EHS) Guidelines; the European Bank for Reconstruction and Development (EBRD) Performance Requirements; the World Health Organization (WHO) standards), knowledge and experience with Slovak and EU environmental and social regulations and standards as well as receive advice on specific environmental and social issues.

<sup>2</sup> [https://iib.int/attachments/iib\\_environmental\\_and\\_social\\_impact\\_guidelines.pdf](https://iib.int/attachments/iib_environmental_and_social_impact_guidelines.pdf)

<sup>3</sup> [https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd998895a12/IFC\\_Performance\\_Standards.pdf?MOD=AJPERES](https://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES)

<sup>4</sup> <https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html>

**Inception Report** mean, in respect to the new DH Plant, written report issued by the Consultant within 30 days after signing of the contract for this Assignment addressed to the Company and Bank in form and substance satisfactory to the Bank.

**Quarterly Progress Reports** mean, in respect to the new DH Plant, written reports issued by the Consultant within 10 business days after end of each calendar Quarter addressed to the Company and Bank in form and substance satisfactory to the Bank.

**Final Report** means, in relation to the new DH Plant, the final written report issued by the Consultant 30 calendar days before the completion date of this Assignment and addressed to the Company and Bank in form and substance satisfactory to the Bank.

### **3. APPLICABLE REQUIREMENTS**

The requirements are as follows:

- Applicable local, national and regional requirements, including those related with environmental and social impact assessments / EIAs and associated public disclosure and consultation requirements;
- The Project will be structured to meet relevant EU substantive environmental standards;
- Compliance with IIB Environmental and Social Policy, IFC Performance Standards on Environmental and Social Sustainability (PSs), or EBRD Environmental and Social Policy and EBRD Performance Requirements (2014)<sup>5</sup> and relevant EU environmental standards;
- Public consultation and stakeholder engagement will be tailored for the Project, be meaningful and will allow for disclosure of information and public participation in decision-making;
- The Project shall include all reasonable measures to avoid, minimise or mitigate any adverse change in environmental and social conditions and impacts on public health and safety, especially with respect to any disproportionate impacts on any group of people as a result of their gender, age, ethnicity, disability, socio-economic status and/or other personal characteristics; and
- Relevant international conventions and protocols relating to environmental and social issues, as transposed into national legislation.

### **4. SCOPE OF WORK**

The Consultant shall co-operate with the Company, other Consultants and the Bank. The project aims to support cooperation between the representatives of the Company on the Project site, Consultant acting as construction supervisor/FIDIC engineer and the contractors as well as to improve the project management mechanism.

The Consultant will undertake the following work in accordance with the requirements of the IIB Environmental and Social Policy and EBRD Environmental and Social Policy:

- Identify existing and Project-related environmental and social impacts and risks;
- Describe and characterize a relevant environmental and social baseline commensurate with the risks posed by the current site operations and the Project;

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<sup>5</sup> <https://www.ebrd.com/who-we-are/our-values/environmental-and-social-policy/performance-requirements.html>

- Carry out E&S Assessment and Audit and develop a draft E&S Assessment report in accordance with the Bank's requirements as defined in the ESP, including a Compliance Summary table with the Bank's PRs;
- Prepare a draft Stakeholder Engagement Plan (SEP), draft Environmental and Social Action Plan (ESAP) and draft Non-Technical Summary (NTS);
- Identify if any additional studies will be required to cover relevant aspects in greater detail (e.g. biodiversity, resettlement, retrenchment, etc.); and,
- Finalize all documentation further to the IIB, and Company's comments.

The following services are to be provided by the Consultant:

- **4.1 Review of Available Data**

The Consultant will review the following studies and baseline data available from the Company:

- Any relevant maps, technical drawing and specifications for the proposed developments;
- Existing feasibility study and preliminary designs documentation
- Any existing environmental studies for the project site;
- Any local EIAs for the proposed development carried up to date (if any);

The Consultant will identify and assess relevant regional and strategic environmental and social assessments or studies that affect the Project. Where regional or strategic assessments or studies are identified and assessed, these will be included in the summary of tasks undertaken, including the Non-Technical summary.

The Consultant must be prepared to review, and also request, further documentation that does not appear above.

Following the review of available data, the Consultant will visit the site, to obtain any supplemental information needed to complete the E&S Assessment and carry out the on-site activities necessary to fulfil the E&S Audit.

The data review process will include comprehensive analysis to determine whether any relevant issues regarding the Project or Company have been reported through the media and to determine the importance of these through additional verification during the work. If no relevant issues are identified through this process the Consultant will include a statement to this effect in its report.

Following completion of the data review and site visit, the Consultant will deliver a summary of key findings.

- **4.2 Assist the Company in preparation of materials related to environmental and social matters in relation to permits for the construction of new heating plant**

The Consultant shall actively assist the Company with preparation of inputs in environmental and social matters for application for approvals and permits by authorities. The approvals and permits shall include at least the following items, but shall contain all items essential to allow the construction of DH Plant according to applicable legislation.

- Decision from Environmental Impact Assessment (EIA) process (*the Consultant shall be responsible for providing assistance in preparation of all Environmental and Social Impact Assessment documentation*)
- Permit on construction of air polluting sources
- Issuing permit for the use of the building in accordance with § 79 of Act no. 50/1976
- Issue of consent to change technical-operating parameters and technical-organizational measures in accordance with § 3 of Act no. 39/2013 Coll.
- Issue of approval for the approval of the technical calculation of emission limit data acc. to § 3 of Act no. 39/2013 Coll.
- Issuance of consent to determine emission limits
- Issue of consent to change the permit for disposal of hazardous waste acc. to § 3 let. c6) of Act no. 39/2013 Coll.
- Consent to approving the procedure for calculating the amount of pollutants discharged
- Performing first discontinuous measurement of pollutant emissions
- Consent to the disposal of hazardous waste

The Consultant shall closely cooperate with another Consultant responsible for *Preparation of detailed designs and obtaining permits*.

#### **4.3 Support in Ensuring Compliance with Finance Documents in environmental matters during project preparation and implementation<sup>6</sup>**

During the project preparation and implementation, the Consultant will ensure that all applicable environmental procedures required by applicable law and the Bank are being adhered to, and that the Company is duly informed and supported in those procedures.

During project implementation the Consultant shall provide monitoring of ESAP and SEP implementation.

The Consultant shall provide assistance to the Company in preparation of the following matters:

- (i) Any measures necessary or desirable in connection with Environmental Claim<sup>7</sup> commenced against the Company, which is current, pending or threatened and reporting all information of such Environmental Claim to the Bank;
- (ii) Any measures to be taken in relation to the facts or circumstances which are reasonably likely to result in any Environmental Claim being commenced or threatened against the Company and reporting all pertinent information to the Bank
- (iii) handling matters related to compliance by the Company with all applicable environmental and social laws, including the results of any inspections carried out by environmental labour, and health and safety or other relevant authorities, any violations of any applicable environmental and social laws, reporting all pertinent information to the Bank and

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<sup>6</sup> The Finance Document means the Facility Agreement, and any security document, any enforceable notarial deed and any other document designated as such by the IIB and Zvolenská teplárenská.

<sup>7</sup> Environmental Claim means any claim, proceeding, formal notice or investigation by any person in respect of any environmental and social laws.

- taking any remedial action relating thereto and any fines imposed for any such violations; and
- (iv) summaries of any notices, reports and other communications on environmental, labour, health and safety and social matters submitted by the Company to any relevant authorities.
  - (v) within 60 days after the end of each half of each of its financial years:
    - A. compiling a report on the health and safety record of the Company, including the rate of accidents and any initiatives in relation to health and safety matters which have been implemented or planned by the Company and submitting the report to the Bank;
    - B. compiling a report on compliance by the Company with the IIB Environmental and Social Policy<sup>8</sup> and the IIB Environmental and Social Exclusion List<sup>9</sup> and any violations of same and remedial action relating thereto and submitting the report to the Bank; and
    - C. compiling a report on the status of implementation of the Environmental and Social Assessment and Environmental and Social Action Plan pursuant to the Facility Agreement; and
  - (vi) within 60 days after the end of each of its financial years, an annual environmental and social performance report in form agreed with the Bank.

#### **4.4 Carrying out environmental and social assessment**

##### *4.4.1 Project Description, Identification of Relevant Associated Activities & Operations*

The Consultant will prepare a description of the Project including details of any alternatives considered for the project and information on neighbouring operations and activities. The Consultant will identify:

- Any potentially significant environmental and social issues or risks associated with relevant other activities or facilities, which are not part of the Project but which may be directly or indirectly influenced by the Project, exist solely because of the Project or could present a risk to the Project;
- Cumulative impacts of the Project in combination with impacts from other relevant past, present and reasonably foreseeable developments;
- Unplanned but predictable activities enabled by the Project that may occur later or at a different location; and,
- Environmental and social risks associated with the primary supply chains central to the Project's core operational functions.

##### *4.4.2 Baseline Conditions*

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<sup>8</sup> Environmental and Social Policy means the environmental and social impact assessment guidelines of the Lender, contained in a document "Environmental and Social Impact Assessment Guidelines", as amended from time to time and published on the Lender's web-site ([www.iib.int](http://www.iib.int)).

<sup>9</sup> IIB Environmental and Social Exclusion List means the environmental and social exclusion list of the Lender, contained in a document "Environmental and Social Exclusion List", as it may be amended from time to time and published on the Lender's web-site ([www.iib.int](http://www.iib.int), Annex to the IIB Environmental and Social Impact Assessment Guidelines).

The environmental and social assessment will include a detailed review of the aspects of the physical, biological and socio-economic environment likely to be affected by the proposed Project. The environmental baseline for the environmental and social assessment will be largely based on data already gathered and available at the Company. Where available data is insufficient, and subject to contractual agreement on the scope and budget, the Consultant will be required to carry out further studies as defined during the review of available data.

The baseline assessment will include consideration of the inter-relationship between the relevant factors, as well as the exposure, vulnerability and resilience of these factors to natural and manmade disaster risks and climate change.

#### *4.4.3 Assessment of Impacts*

The Consultant will analyse the potential environmental and social impacts and risks of the Project, as well as opportunities that the Project may provide, including infrastructure development.

The environmental and social assessment will include a review of the likely effects of the proposed Project on the physical, biological and socio-economic environment to provide an identification and characterisation of potential environmental and social impacts, including beneficial (as well as adverse) impacts.

The level of analysis and reporting will be commensurate with the risk magnitude of the identified issues.

#### *4.4.4 Environmental and Social Management Plan*

Taking into account the findings of the environmental and social assessment process and the outcomes of stakeholder engagement, the Consultant will develop a programme of actions to address the identified project's environmental and social impacts and issues and other performance improvement measures to meet the Performance Requirements. For each identified adverse future impact, issue and/or risk, the Consultant will propose measures to avoid, minimise, mitigate or compensate for them.

The programme may consist of a combination of documented operational policies, management systems, procedures, plans, practices and capital investments, collectively known as Environmental and Social Management Plans (ESMP).

The ESMP will reflect the mitigation hierarchy and, where technically and financially feasible, favour the avoidance and prevention of impacts over minimisation, mitigation or compensation, and ensure that all relevant stages of the project are structured to meet applicable laws and regulatory requirements and the PRs. Where affected individuals or groups are identified as disadvantaged or vulnerable during the appraisal process, the ESMP will include differentiated measures so that adverse impacts do not fall disproportionately on them and they are able to take advantage of opportunities to benefit from the project. Where relevant, the ESMP will also cover management of third party and supply chain issues.

The level of detail and complexity of the ESMP will be commensurate with the project's impacts and issues addressing risks, impacts and opportunities specific to the project.

#### *4.4.5 Preparation of Stakeholder Engagement Plan*

The stakeholder engagement strategy will need to be developed carefully as the success of the project depends on the acceptance of the project by the residents of Zvolen area and other affected people.

The Consultant will prepare a draft Stakeholder Engagement Plan (“SEP”). The scope and level of detail of the SEP will be scaled to fit the needs of the Project. Following review of the Project operations, the Consultant will propose a format best suited for the specific Project needs.

#### *4.4.6 Carrying out Environmental and Social Audit*

The E&S Audit is required to review the current and, to a limited extent, past operational performance of the Client’s existing operations and associated activities or facilities, as identified during the review of available data. The audit will make recommendations on potential need for further physical investigations. The Consultant will be guided by the relevant requirements of the IFC or EBRD E&S Performance Requirements.

#### *4.4.7 Preparation of Environmental and Social Action Plan (ESAP)*

The Consultant shall develop a comprehensive ESAP to address gaps and issues identified during the Project appraisal. When circumstances dictate, corporate level provisions shall also be separately identified. Actions identified must be numbered, clearly defined, indicate a time frame for completion (with specific reference to those actions that must be completed before financial close if appropriate) and a responsible party specified.

Further, each item must contain a description of the factors that will be used to determine when the identified action is closed/completed. The Consultant should also inform the Client about any material budget implications of ESAP items.

#### *4.4.8 Preparation of Non-Technical Summary (NTS)*

The Consultant will prepare, in consultation with the Client, a concise, over-arching, standalone NTS. The NTS will be written in non-technical language and the Consultant will ensure that the NTS can be used to demonstrate compliance with the IIB, IFC and/or EBRD requirements, and provide confirmation that the documents are ready for public disclosure.

### **4.5 Preparation of Quarterly Progress Reports**

The objective of Quarterly Progress Reports is to provide clear understanding and confirmation to the Bank in relation to the environmental and social matters of the project in form and substance satisfactory to the Bank before the third and each next disbursements (i) setting out photographs and video materials documenting the progress of the new DH Plant and (ii) in which the Consultant confirms, among other things, the following matters related to environmental and social matters:

- (a) whether the relevant Zero Report (*note: Zero Report will be prepared by the Consultant responsible for Review of Feasibility Study*) or the latest relevant Progress Report (if any) is still complete, correct and up to date (as of the date on which it was prepared), informing the Bank in particular of any change in the relevant supply documents, permits and specifications (including any partial or full cancellation or

revocation thereof) and of any applicable legal regulations relating to the new DH Plant, which could cause the relevant projected costs of the Project to exceed the relevant budgeted costs or could cause delay to the practical completion as set against the relevant specifications or beyond the required completion date;

- (b) compliance of the new DH Plant with the relevant permits, specifications and supply documents (including compliance with the timetable and identifying any delays and shifts in the approved timetable);
- (c) whether any risks have emerged or are expected to emerge in the course of the new DH Plant and, if so, the steps taken or to be taken to mitigate those risks;
- (d) whether any damage has occurred to any part of the new DH Plant and, if so, the steps taken or to be taken to remedy it;
- (e) confirming that the current stage of the new DH Plant is in compliance with the ESAP and SEP or all their relevant parts (and, if there are any discrepancies, providing justification and comments on these discrepancies); and
- (f) whether any risks or damages have occurred to any third party or to the environment due to the new DH Plant construction and, if so, the steps taken or to be taken to mitigate those risks and losses;
- (g) any other matter required by the Bank (acting reasonably) to be included in that report, which matters have not been reasonably foreseeable as of the date of the Facility Agreement, upon having given reasonable notice to the Consultant, with a copy to the Company.

#### **4.6 Preparation of the Final Report**

The Consultant will be responsible for preparation and compilation of the Final Report for environmental and social matters. The Consultant shall also provide relevant inputs to the Consultant acting as Implementation Support and Contract Administration Consultant.

The objective of Final Report is to provide clear understanding and confirmation to the Bank in relation to the project in form and substance satisfactory to the Bank not later than 30 calendar days after technical and commercial completion of the new DH Plant, at least of the following matters:

- (a) a confirmation that the new DH Plant (including all buildings and technology) was completed in compliance with the environmental and social standards, ESAP and SEP have been duly adhered to by the Contractor and the Performance requirements have been followed.
- (b) a list of defects (*vady*) and incompletions (*nedorobky*), if any, which have direct or indirect impact on compliance with environmental and social standards.
- (c) any other matters related to environmental and social area that are reasonably required by the Bank to be included in that report, which matters have not been reasonably foreseeable as of the date of the Facility Agreement, upon having given a reasonable notice to the Consultant with a copy to the Company.



- **4.7 Support in procurement documentation preparation**

The Consultant shall provide inputs, namely Environmental and Social Action Plan and Stakeholder Engagement Plan to the Implementation Support and Contract Administration Consultant to be included to the tender documents for (1) construction supervision, role of FIDIC engineer (consultancy contract) and (2) DH Plant rehabilitation works, supply and installation of biomass and gas boilers (Contract for supply and installation of DH Plant and equipment).

Should other documents, reports or opinions be provided in this regard, the Consultant shall provide them in an efficient and timely manner.

#### **4.8 Monitoring of Project Implementation in environmental and social area**

The Consultant shall ensure that health and safety requirements (including on-site movements) are met and that the minimum disruption to operations is caused by the contract works as required by ESAP and/or SEP.

The Consultant shall also ensure that Environmental and Social Action Plan, Stakeholder Engagement Plan and environmental and social monitoring plan and all other applicable environmental and social procedures required by the Bank and the Company are being adhered to and that the Company is duly informed about them.

The Consultant shall report the progress on the implementation of ESAP and SEP in Quarterly Progress Reports.

- **5. IMPLEMENTATION ARRANGEMENTS AND DELIVERABLES**

- **5.1 Implementation Arrangements**

The Consultant will report to the Company on all aspects of this Assignment. The Consultant will sign the contract with the Company. The Assignment is expected to start in June 2019 and have a duration until July 2020.

The Consultant will be responsible for arranging accommodation and local and international transportation. The Consultant will be responsible for all salaries, fees, allowances, insurance, leave pay and taxes.

The Consultant including its engineering staff (where relevant) shall hold relevant licences, certifications, permits in relation to performing engineering, design or other specialised services within Slovakia / European Union related to the Project.

It is expected that the Company will provide the Consultant free of charge with furnished, office accommodation and access to telephones, fax and internet. All calls and internet service costs are to be paid by the Consultant.

All available project information, reports, and documents will be made available for the Consultant by the Company at the start of the assignment.

All documentation related to the contract will remain the property of the Company after completion of the assignment. The Consultant shall not publish, use or dispose of this documentation without the written consent of the Company.

The Company may from time to time request the Consultant to produce an ad hoc report. The reports shall be prepared in both English and Slovak.

The Consultant shall cooperate closely with other consultants in the project, as the inputs like detailed designs are yet to be prepared by another specialised consultant under assignment "Preparation of detailed designs" or tender documents being prepared by consultant responsible for "Implementation support and contract administration".

- **5.2 Deliverables**

In the course of the assignment the Consultant shall prepare the following Reports in both English and Slovak:

The Consultant will submit the following deliverables to the Company for the Assignment:

- Inception Report
- Environmental and Social Assessment
- Environmental and Social Action Plan
- Stakeholder Engagement Plan
- Environmental and Social Management Plan
- Non-technical Summary
- Quarterly Progress Reports
- Final Report

The deadlines for the submission of the deliverables will be agreed with the Company in advance.

All tender documents must be approved by the Bank prior to their dissemination.

- **Inception Report**

The Inception Report means an initial report prepared by the Consultant under this Assignment and inter alia it shall include: (i) a summary of the initial findings and assessment regarding Project, and any unexpected problems of staffing, access to information, data, etc.; (ii) provide review of available data and assessment of baseline conditions; and (iii) provide recommendations, if needed, on amendments to the scope of work under this Assignment or proposals for other initiatives.

The draft of Inception Report shall be delivered within 1 month after signature of the Contract for this Assignment and deliver it to the Company and the Bank. The comments of the Company and the Bank shall be incorporated within 1 week and Final version of the report shall be delivered.

**Quarterly Progress Reports**

Quarterly Progress Reports shall be delivered within 10 business days after end of each calendar Quarter addressed to the Company and Bank in form and substance satisfactory to the Bank.

### **Final Report**

The final written report issued by the Consultant shall be delivered to the Company and Bank 30 calendar days before the completion date of this Assignment and addressed to the Company and Bank in form and substance satisfactory to the Bank.

#### **• 5.3 Consultant**

The Consultant shall provide adequate staff in terms of expertise and time allocation, as well as needed equipment in order to complete the activities required under the scope of work and to finally achieve the objectives of the project in terms of time, costs and quality.

The Consultant shall be responsible for mobilisation of qualified project manager with preparation and implementation experience from MDB funded projects (multinational development banks such as the IIB, EBRD, World Bank, EIB or other applicable) and engineers with proven experience in supporting implementation of projects financed by MDBs. The experts shall be experienced in preparation and/or implementation of projects, including district heating. Where staff does not speak the local language, interpretation and translation will be the responsibility of the Consultant. All proposed experts of the Consultant shall have valid work permits applicable for Slovakia or to be citizens or lawful residents of the EU Member States, or shall reasonably demonstrate at the time of bid submission that such work permits will be obtained by the time of contract signature without causing delays in the Assignment.

It is anticipated that the Consultant's team shall include the following expertise:

- Team leader/project manager;
- Local project manager;
- Engineers:
  - 2 Environmental and social experts;
  - Civil / mechanical;
  - District heating.

All experts shall preferably have a minimum of 5 years' experience of the activity which they are proposed for, except for Team leader/project manager where 8 years of experience is required. The experts shall also have the following experience for positions they are proposed, including:

- project management experience;
- advisory and consultancy experience in public sector clients gained in countries with conditions similar to Slovakia;
- experience with district heating projects;
- experience from infrastructure projects financed by various MDBs;
- experience with EIA in the Slovak Republic;
- experience with preparation of ESAP and SEP under environmental and social policies of MDBs, preferably at public sector infrastructure projects;
- experience in ESAP and SEP implementation in MDB funded projects;
- experience in preparation / implementation of infrastructure projects incl. district heating rehabilitation and upgrade projects;
- experience in (i) project planning activities; (ii) providing assistance with environmental impact assessment activities; (iii) project management; (iv) project management assistance; (v) preparation / implementation of projects financed by

various MBDs; (vi) working knowledge of IIB Environmental and Social Policy, or IFC Performance Standards on Environmental and Social Sustainability (PSs), or EBRD Environmental and Social Policy and EBRD Performance Requirements and relevant EU environmental standards;

- good knowledge from projects tendered under procurement procedures and rules of multilateral development banks, such as the IIB, EBRD, World Bank, EIB
- good knowledge of FIDIC Red Book;
- good knowledge of requirements of Slovak and EU legislation concerning construction, engineering, environmental and social issues.
- be able to work proficiently in English, fluency in Slovak would be an advantage.

**SCHEDULE B****Remuneration, Staffing and Breakdown of Costs****Slovakia: Zvolen District Heating Project - Environmental and social regulation compliance**

(All amounts to be exclusive of indirect taxes, including VAT and in the currency of EUR)

**1 Fees:****EUR**

Name of Expert	Job Title		Total
Vladimír Žúbor	Project Manager	Lump sum fee – inclusive of all expenses	248,400.00
Mikuláš Janovský	Local Project Manager		
Jindřich Šesták	Civil Engineer		
Jiří Kratěna	Mechanical Engineer		
Jindřich Zeman	District Heating Expert		
Jaroslav Kabele	Environmental and Social Expert		
Pavla Gábrišová	Environmental and Social Expert		
<b>Total Fees:</b>			<b>248,400.00</b>

(the above-mentioned persons collectively referred as to the “Experts”)

**2 Per Diem Allowance:**

Place	Number	Rate Period	Per Diem	Total
<b>Total per Diem:</b>				<b>0</b>

**3 Reimbursable expenses, may include indirect taxes, such as VAT, if not otherwise recoverable by the Consultant:****Air Travel**

(Full Economy Class or Equivalent)

Routing	Air Fare	No. of Flights	Total
<b>Total Air Travel:</b>			<b>0</b>

**Local Travel**

Journey	Cost	No. of Journeys	Total
<b>Total Local Travel:</b>			0

**Miscellaneous**

[•]	[•]	Total
[•]	[•]	[•]
<b>Total Miscellaneous:</b>		0

**4 Contingencies**

Utilization only after prior approval in writing by IIB.

[•]	[•]	Total
[•]	[•]	[•]
<b>Total Contingencies:</b>		0

<b>TOTAL MAXIMUM CONTRACT AMOUNT (Contract Ceiling Amount)</b>	<b>248,400.00 EUR</b>
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Invoices must be prepared according to the attached **Rules for the Preparation of Invoices** and according to the applicable law. ZVT shall not be responsible for delays in paying invoices if the Consultant's invoices do not comply with the attached Rules. Unless otherwise stated, any equipment included in this Contract and purchased by the Consultant shall be disposed of at the end of this Contract in accordance with ZVT's directions.

### RULES FOR THE PREPARATION OF INVOICES

The following points shall be observed when submitting invoices for payment. For lump sum-based invoices, the points relevant to structure of the invoice and listed costs shall be disregarded.

- **All invoices shall be addressed and sent to:**

**Zvolenská teplárenská, a.s.**

**Lučenecká cesta 25, Zvolen 961 50,**

**Slovak Republic**

- This Contract number 2019/1002 and RNDr. Miroslav Duplinský (see Clause 6. *Reporting of this Contract*) shall be quoted on the invoice.
- Invoices shall be marked to show the Consultant's business address, identification number, registration with the respective Commercial Register, invoice number and date. The name and telephone number of a person who may be contacted in case of need to raise queries shall be quoted on the invoice.
- ZVT will only make payments after the original signed copy of this Contract has been returned to ZVT and only on submission of original invoices and original supporting receipts (no faxes or copies shall be acceptable).
- Invoice payments will be made by direct transfer to the bank account referred to in Clause 5 of this Contract, unless agreed otherwise.
- Full details of the bank account, where payment shall be made, as set out in this Contract must be supplied on the invoices, including currency of the account.
- Period during which Services were provided must be stated.
- Invoices shall be itemized in the order set out in Schedule B – Remuneration, Staffing and Breakdown of Costs.
- Fees and Per diem must be invoiced as per Clause 3.2 of Schedule C.
- Reimbursable expenses, including Air Travel, Local Travel and Miscellaneous costs must be invoiced in the currency of this Contract, according to Clause 3.2 of Schedule C.
- Exchange rates for reimbursable expenses should be stated in the invoice. Conversions shall be made at the rates published the European Central Bank on the first Monday of the relevant month (the month that the invoice was prepared) if it is convertible or against submission of evidence of the exchange rate applied when purchasing local currency for the corresponding reimbursable expenses.
- Any change to this Contract necessitating an amendment to this Contract should be completed prior to submission of an invoice.
- The last of the invoices (or, as the case may be, the only invoice) issued by the Consultant for the Services shall be called the "**Final Invoice**" and shall be indicated as such. The Final Invoice shall not be issued and paid by ZVT until all the Consultant's obligations for performing the Services have been satisfactorily fulfilled. The Final Invoice must be submitted within three months of the earlier of the completion of the Services and the End date of this Contract.
- For reimbursement of air travel costs, original ticket stubs must be submitted, together with boarding cards and travel agency receipts.
- A numbered list detailing each reimbursable item shall be submitted, with correspondingly numbered original receipts for each item attached.

- Prior to issuing the first invoice, in accordance with Clause 12 of this Contract, the Consultant should confirm with ZVT whether VAT can be charged or whether the invoice(s) should be zero rated for VAT purposes due to ZVT's tax status.
- Any applicable VAT charged by the Consultant shall be separately itemized on the invoices.
- Any questions regarding these Rules should be addressed to RNDr. Miroslav Duplinský.



## SCHEDULE C

### General Conditions of this Contract

#### 1 FEES

- 1.1 Where the fee is expressed in terms of a daily rate, the time spent in performing the Services shall be determined based on the number of days actually spent by the Expert(s) in performing the Services including necessary travel time.
- 1.2 Where the fee is paid as a fixed fee or lump sum it shall include all ancillary services such as secretarial services and research, as may be incurred for the purposes of the Services as specified in this Contract. Unless otherwise specified in this Contract, per diem allowances and travel expenses and all other miscellaneous expenses shall be deemed to be included in the fixed fee or lump sum payment.
- 1.3 The fees specified in this Contract shall be deemed to include provision for all leave, insurance, tax, social welfare charges or contributions to which the Consultant may be or may become liable to pay (by law or by agreement) during the Term of Engagement. The Consultant has full and sole responsibility for complying with any applicable law, regulation, administrative rule or guidance in this respect and shall fully indemnify ZVT against any claim for non-compliance thereof, whether made before or after the termination or expiry of this Contract. Except as may be otherwise specified in this Contract the fees shall also be deemed to include all administrative expenses and other overheads of the Consultant.
- 1.4 Except as otherwise agreed between IIB and the Consultant, no fees shall be paid in respect of work performed other than during the Term of Engagement as specified in this Contract.

#### 2 ALLOWANCES AND EXPENSES

Where this Contract is not a lump sum or fixed fee Contract, ZVT shall pay the following allowances, costs, and expenses if so provided in schedules, subject to the provisions of this Contract:

- 2.1 Per diem: a per diem allowance when an Expert is requested by ZVT to be away from the usual place of residence. The per diem allowance shall cover the cost of hotel room, food and incidental expenses, but not local travel. To the extent provided in this Contract, the per diem allowance will be paid for each night spent away from the seat of the Consultant or the Expert's usual place of residence. No per diem allowance shall be paid for periods of leave or day of return.
- 2.2 An accommodation allowance when the Expert is required by this Contract to be away from the usual place of residence and to reside in the place and country of assignment for a period of three (3) months or more. For the purpose of determining this period as well as the entitlement to the allowance, short absences from the place and country of assignment shall not be counted.
- 2.3 Travel expenses: all travel expenses actually and properly incurred by the Expert(s) in travelling for the purposes of the Services including the cost of local transport by an appropriate means of public transport between the Expert's usual place of residence and the nearest convenient international airport when travelling away from the seat of the Consultant. All travel should be via the most cost-effective routes and methods available. Air travel shall be made at fares no higher than full Economy Class fare (commonly designated as fare basis Y). Travel by train may be made in second class. Travel by private car shall only be made if provided for in this Contract.

The cost for a private car shall be reimbursed at the kilometer rate applied at the time by ZVT for reimbursement of such cost.

- 2.4 Miscellaneous expenses: expenses of the Expert(s) arising directly out of the Services as ZVT may in its sole discretion determine. Each miscellaneous expense shall be specifically itemized in Schedule B.
- 2.5 Except as otherwise provided for in this Contract, travel expenses and miscellaneous expenses are reimbursable at cost to the Consultant, inclusive of any applicable VAT paid if such VAT are not otherwise recoverable by the Consultant.

### **3 PAYMENT OF FEES AND EXPENSES**

- 3.1 The fees and per diem allowance shall be invoiced and paid in the currency specified in this Contract. Reimbursable expenses shall be invoiced and paid in the currency of this Contract after conversion from the currency in which they were incurred to this Contract currency, at a conversion rate set out by the European Central Bank on the first Monday of the month of the invoice, if it is convertible, or against submission of evidence of the exchange rate applied when purchasing local currency for the corresponding reimbursable expenses.

### **4 COOPERATION**

- 4.1 ZVT shall make all reasonable endeavors to ensure that the Experts receive necessary cooperation from ZVT's employees and agents in order that the Consultant is able to provide the Services.

### **5 REPLACEMENT OF EXPERT(S)**

- 5.1 The engagement of the Consultant by ZVT is conditional upon the Expert(s) being in good health and not subject to any physical or mental disability which may interfere with the performance of the Services.
- 5.2 The Consultant shall also ensure that every Expert, employee or agent who may have access either a) to ZVT's IT facilities or b) to ZVT's headquarters or resident offices has had his or her references in respect of previous employment history critically reviewed and subsequently confirmed by the Consultant prior to the granting of such access. The Consultant confirms that it, or a suitably qualified third party agency, has performed a background check regarding each Expert's criminal record, an employment and education verification, and that the Consultant is satisfied that the background check has not revealed any material discrepancies or issues. The Consultant shall supply a summary of its findings to ZVT upon ZVT's request.
- 5.3 ZVT, at any time, and at its sole discretion, may review the Consultant's or the Expert(s)' references, background checks, criminal records, employment and education records in respect of any previous employment history. The Consultant grants ZVT its consent for the processing of the above listed personal data by ZVT and assures the identical consent of Expert(s) with processing of such personal data whereas both consents shall be valid for the duration of this Contract. Without prejudice to Clause 8 of the General Conditions ZVT may, at its discretion, by summary notice in writing terminate this Contract with immediate effect if any material discrepancies or issues with regard to the ability of the Consultant or Expert to perform the Services under this Contract have been discovered. ZVT is entitled to demand the replacement of any Expert(s) without delay if, in the opinion of ZVT, the Consultant has failed to comply to ZVT's satisfaction with this Clause or, if any material discrepancies or issues have been discovered, during the review, or if the Expert is unable to effectively provide the Services due

to reasons related to health, language, ability, professional or personal qualifications and conduct. The Consultant shall bear all additional costs incurred in connection with a replacement of Expert(s) pursuant to this provision, as well as any additional expenses arising from or in relation to the substitute personnel.

- 5.4 ZVT may require the replacement of the Expert(s) for reasons other than those referred to in Clause 5.3. In such cases, ZVT may in its sole discretion reimburse such expenses as are unavoidable in connection with the replacement. Insofar as such expenses concern fees and ancillary expenses, in respect of the Expert(s) replaced, these shall be deemed avoidable if they arise more than three (3) months after ZVT has requested the replacement, unless the Consultant can prove that the incurring of such costs beyond this period of time was unavoidable.
- 5.5 Following a demand for the replacement of the Expert(s) by ZVT, the Consultant shall assign new Expert(s) without delay, unless ZVT explicitly requests that this shall not be done. The new Expert shall possess qualifications and experience acceptable to ZVT and the relevant fees shall be at a rate no higher than that agreed for the previous Expert.
- 5.6 The Consultant shall not be permitted to replace or substitute Expert(s) without the prior written consent of ZVT. ZVT may in its sole discretion determine whether or not such consent shall be given.

## **6 TERMINATION PROCEDURE**

- 6.1 Without limiting the provision of Clause 5, if at any time in the opinion of ZVT whether for reasons of health or otherwise, the Expert(s) are unable to perform or to complete the Services in an adequate manner, ZVT may terminate this Contract with immediate effect.
- 6.2 ZVT may, at any time, by summary notice in writing suspend or terminate this Contract with immediate effect, in its sole discretion, if the Consultant or the Expert(s) commits any material breach of their obligations hereunder or shall have engaged in conduct likely to bring ZVT into disrepute.
- 6.3 ZVT is entitled suspend or terminate this Contract by summary notice in writing with immediate effect should the agreement on cooperation with the financing Bank (IIB) regarding the implementation of the Project be suspended or terminated for any reason.
- 6.4 Upon receipt of notice of termination by ZVT according to Clause 4.1 of this Contract, or the giving of notice of termination under Clause 6.1, 6.2 or 6.3 of the General Conditions, the Consultant shall take immediate steps to terminate the Services in a prompt and orderly manner to reduce losses and to keep further expenditures to a minimum. If this Contract is a fixed-fee or lump sum Contract, the Consultant shall be entitled to that proportion of the Maximum Contract Amount, which represents the work provably and duly completed or Services provided up to the date of termination.
- 6.5 Upon termination of this Contract by ZVT (unless such termination shall have been caused by the default of the Consultant), the Consultant shall be entitled to be reimbursed in full for such fees, per diems and expenses as shall have been duly incurred prior to the date of such termination. The Consultant shall also be entitled to unavoidable reasonable costs incidental to the orderly termination of the Services, but shall be entitled to receive no other or further payment. Insofar as such incidental costs concern fees and ancillary expenses in respect of termination of this Contract by ZVT, these shall be deemed avoidable unless the Consultant can prove that the incurring of such costs beyond the date of termination was unavoidable.

6.6 In no event shall payments pursuant to the Clause 6.5 exceed the Maximum Contract Amount.

## 7 GENERAL COVENANTS

The Consultant covenants and agrees that:

7.1 During the Term of Engagement, the Expert(s) shall devote the appropriate time and attention to the performance of the Services and shall at all times act with due diligence and efficiency and in accordance with the Specification of the Project and the Services set out in Schedule A to this Contract. The Expert(s) shall make or assist in making all such reports and recommendations as may be reasonably required by ZVT within the general scope of the Services, and shall at all times co-operate with ZVT, its employees and agents in the interests of the Project.

After the Term of Engagement, including during any Project evaluation by ZVT, the Expert(s), shall continue to co-operate with ZVT to such reasonable extent as may be necessary to clarify or explain any reports or recommendations made by the Expert(s). For avoidance of any doubts the Consultant or Expert is not entitled to any remuneration, costs or fees in herein regard.

7.2 At all times, the Consultant and the Expert(s) shall act with appropriate propriety and discretion and in particular shall refrain from making any public statement concerning the Project, ZVT or the Services without the prior written approval of ZVT. The Consultant and the Experts shall refrain from engaging in any unreasonable political activity.

7.3 Except with the prior written consent of ZVT, the Consultant shall not disclose nor cause or permit the Expert(s), the Consultant's employees, agents and sub-contractors to disclose to unauthorized persons nor use for the Consultant's or the Expert's, the Consultant's employees', agents' or sub-contractors' own purposes any information relating to the Services, the Project or ZVT, including information in respect of rates of remuneration and conditions of the cooperation. Neither the Consultant nor the Expert(s) shall have authority to commit ZVT in any way whatsoever, and shall make this clear as circumstances warrant.

7.4 The Expert(s) shall report immediately to ZVT any accident, injury or any damage to the property of ZVT or to the property or person of any third parties occurring in or arising out of the performance of the Services and any act, matter or thing which within the Expert(s)' knowledge may have caused such accident or injury. The Expert(s) shall also report immediately to ZVT any circumstances or events which might reasonably be expected to hinder or prejudice the performance of the Services including circumstances and events relating to the Expert(s)' transport and accommodation.

7.5 The Consultant shall not assign or subcontract this Contract or any part thereof except with the prior consent in writing of ZVT and only to a firm or a person approved by ZVT. ZVT may at its sole discretion refuse to consent or withdraw from already given consent.

7.6 Except as otherwise agreed, all reports, notes, drawings, specifications, statistics, plans and other documents and data compiled or made by the Consultant or the Expert(s) while performing the Services and all equipment furnished to the Consultant by ZVT, or purchased by the Consultant with funds supplied or reimbursed by ZVT hereunder shall be the property of ZVT and upon termination of the Services shall be disposed of as ZVT shall direct. The Consultant may retain copies of such documents and data but shall not use the same for purposes unrelated to the Services without prior written approval of ZVT.

7.7 After the conclusion of the Term of Engagement, neither the Consultant nor the Expert(s) shall without the prior written consent of ZVT engage in any subsequent work on or in connection with

the Project or arising out of the Project in favor or for third party for a period of two years provided, however, that such consent shall not be unreasonably withheld.

- 7.8 The Consultant shall ensure that no circumstances arise during the Term of Engagement in which the Consultant's activities under this Contract conflict or might conflict with the personal interest of the Consultant or the Expert(s) or with any services which the Consultant or the Expert(s) may render to third parties.
- 7.9 The Consultant shall respect and abide by all applicable laws, regulations, administrative rules and guidance of the country of the Project assignment.
- 7.10 Where ZVT has entered into an agreement with a third party for the provision to the Expert(s) of transport, accommodation or other facilities, whether in the country of assignment or elsewhere, the Expert(s) shall, so far as may be practicable, utilize such facilities.
- 7.11 Any improvement or design made or process or information discovered or copyright work produced by or on behalf of the Consultant in connection with or relating to the Services (whether capable of being patented or registered or not) shall be original work and shall forthwith be disclosed to ZVT and shall belong to and be the absolute property of ZVT. If and whenever required so to do by ZVT, the Consultant shall at the expense of ZVT apply to join with ZVT in applying for patent or other protection or registration of intellectual property in any country or part of the world for any such invention, improvement design, process, information or work as aforesaid and shall at ZVT's expense do all things necessary for vesting the said patent or other protection or registration when obtained and all right title and interest to and in the same in ZVT absolutely and as a sole beneficial owner.

## 8 PROHIBITED PRACTICE

- 8.1 ZVT, without prejudice to any other remedy for breach of contract may, by written notice, terminate this Contract with immediate effect if in its judgment the Consultant has engaged or is suspected to have been engaged in prohibited practices in competing for or in executing this Contract. For the purposes of this Clause:

"**corrupt practice**" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party in connection with the selection process or in this Contract execution in order to obtain or retain business or other improper advantage in the conduct of business.

"**fraudulent practice**" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

"**coercive practice**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party in connection with the selection process or in this Contract execution in order to obtain or retain business or other improper advantage in the conduct of business.

"**collusive practice**" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party and includes any arrangements among the consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive ZVT of the benefits of free and open competition.

- 8.2 Moreover, the Consultant hereby acknowledge that under the loan agreement ZVT may report any suspected prohibited practices to the IIB or is otherwise obliged to take the respective steps in compliance with the loan agreement. The Consultant ensures that the Expert or any employee, agent or subcontractor through which the Services are provided shall be bound by the same obligations under this Clause as the Consultant.

## **9 INSPECTION AND AUDIT**

- 9.1 The Consultant shall permit ZVT or its designated representative(s), upon reasonable notice, periodically during and after the Term of Engagement to inspect the Consultant's accounts and records relating to the performance of this Contract and make copies thereof and to have them audited by auditors appointed by ZVT, if so required by ZVT.

## **10 FORCE MAJEURE**

- 10.1 If either Party is temporarily unable as a result of an event of Force Majeure to meet any obligations under this Contract, such Party shall give to the other party written notice of the event within four (4) days after its occurrence.
- 10.2 The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 10.3 Neither Party shall be liable to the other Party for loss or damage sustained by such other Party arising from any event referred to in Clause 10.1 or delays arising from such event.
- 10.4 Any period of time required by a Party to perform an obligation, or complete any action or task pursuant to this Contract, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 10.5 During any period of the Consultant's inability to perform the Services in whole or in part, as a result of an event of Force Majeure, ZVT, in its sole discretion, may determine whether or not the Consultant shall be entitled to continue to be paid under the terms of this Contract and reimbursed for additional costs reasonably and necessarily incurred by them during such period and in reactivating the Services after the end of such period.
- 10.6 The term "**Force Majeure**", as employed herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar events, not within the control of either Party and which by the exercise of due diligence neither Party is able to overcome.

## **11 INSURANCE**

- 11.1 Except as may be expressly provided herein, ZVT's accident insurance, baggage insurance, or any other ZVT insurances will not apply to the Consultant or its Experts, employees or any permitted subcontractors used by the Consultant. The Consultant shall be responsible for appropriate insurance coverage and for assuring that any Experts, employees and subcontractors it uses also maintain adequate insurance coverage. In addition to the coverage referred to in Clause 9 of this Contract, the Consultant shall take out and maintain insurance against the risks and for the coverage set forth below;
- 11.2 At ZVT's request, the Consultant shall promptly provide evidence to ZVT showing that such insurance has been taken out, maintained and that the current premium have been paid:

- i. in the event the Consultant's Expert(s), or employees are using owned, or leased vehicles in carrying out Services under this Contract in the country of assignment, adequate motor vehicle insurance cover in accordance with local standards;
- ii. workers' compensation and employer liability insurance, or its equivalent, in respect of the Consultant the Expert(s), and the Consultant's employees, in accordance with the provisions of applicable law, covering work activity in the jurisdiction(s) where work is to be carried out, and during the course of travel, as well as, with respect to such Expert(s) or employees, any life, health, accident, travel or other insurance as may be appropriate;
- iii. insurance or self insurance against loss or damage to (a) the Consultant's and Expert(s)' personal property used in the performance of Services and (b) any documents prepared by the Consultant in the performance of Services; and
- iv. insurance against loss of or damage to the equipment purchased in whole or in part with funds provided under this Contract and against loss of or damage to Consultant's property, including papers and documents, necessary to the Services.

## **12 TAX LIABILITIES**

- 12.1 Subject to the provisions of Clause 12 of this Contract, the Consultant shall be liable for and pay any taxes (such as income tax) arising out of or in connection with the Services, or this Contract wherever arising, including but not limited to the country(ies) of assignment.

## **13 RELATIONSHIP OF THE PARTIES**

- 13.1 Nothing contained in these Conditions or in this Contract shall be construed as establishing or creating any relationship other than that of independent contractor between ZVT on the one part and the Consultant and the Expert(s) on the other part.

## **14 ASSIGNABILITY**

- 14.1 Should ZVT transfer or assign its rights or duties from this Contract to another person, the assignment and any other rights of ZVT (or its part) arising from this Contract will be transferred to this person automatically.
- 14.2 The Consultant undertakes, that upon request of ZVT or such other person, he shall give his irrevocable consent to the assignment or transfer pursuant to above mentioned in writing or that he signs any documents necessary for realization and assurance of effectivity of such assignment or transfer.
- 14.3 The Consultant shall not be entitled without previous written consent of ZVT assign or transfer, in whole or in part any obligation under this Contract or any rights or duties from it to a third party.

## **15 ZVT'S LIABILITY**

- 15.1 Notwithstanding any other provision of this Contract, ZVT shall not be liable to the Consultant under or in connection with this Contract for any loss or damage (including consequential or indirect loss or damage, such as loss of property, profit or business revenue) whether or not caused by the negligent act or omission of ZVT. This provision shall not apply in relation to any negligent

act or omission of ZVT, which gives rise to death, or personal injury of the Consultant's personnel or Experts.

## **16 ENTIRE AGREEMENT, AMENDMENTS AND NON-WAIVER OF CONTRACT TERMS AND CONDITIONS**

16.1 This Contract as amended from time to time in accordance with this Clause contains the entire agreement between the Parties and supersedes all prior arrangements or agreements whether written or oral, express or implied. Any amendment, waiver or relaxation whether partly or wholly of any of the terms or conditions of this Contract shall be valid only if in writing and signed by entitled representative of ZVT and shall apply only to a particular occasion and for the specific purpose. Any specific waiver or relaxation shall not constitute a waiver or relaxation of any succeeding breach of the same or other terms or conditions.

## **17 GOVERNING LAW AND DISPUTE SETTLEMENT**

17.1 This Contract shall be governed by and construed in accordance with the law of Slovak Republic. Any non-contractual obligations arising out of or in connection with this Contract shall be governed by and construed in accordance with the law of Slovak Republic.

17.2 All disputes or claims arising out of or in connection with this Contract including disputes relating to its validity, breach, termination or nullity shall be decided by appropriate court of Slovak Republic.

## **18 VALIDITY AND SEVERABILITY OF CERTAIN PROVISIONS**

The expiration or termination of this Contract howsoever arising shall not affect the provisions hereof that are expressed to operate or have effect thereafter. Furthermore, the invalidity of any part of this Contract does not affect the validity of other parts of this Contract.

## **19 LANGUAGE**

19.1 English shall be the sole language of this Contract and except as otherwise agreed or required by ZVT all communication, documentation and reports under this Contract shall be prepared and presented in both English and Slovak/Czech language. In any dispute over language the English version shall prevail.

## **20 FURTHER ASSURANCES**

20.1 The Consultant shall, or shall cause the Experts to, at any time and from time to time, upon ZVT's request, execute and deliver such further documents and do such further acts and things as ZVT may reasonably request in order to evidence, carry out and give full legal effect to the terms, conditions, intent and meaning of this Contract.

## **21 CONSORTIA, SUBCONTRACTORS AND ASSOCIATION**

21.1 When the Consultant is permitted by ZVT to associate with individual consultants, consultancy firms, partnerships, entities or other persons, in a consortium or through subcontracting or association, as appropriate, the Consultant will ensure that each such consortium member, subcontractor and/or associate fully complies with the Consultant's obligations under this Contract. The Consultant shall be fully liable for the acts or omissions of such consortia members, subcontractors and/or associates directly to ZVT. The Consultant will not be relieved of its



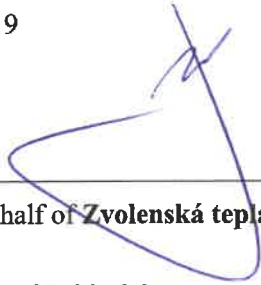
obligations under this Contract by use of such individual consultants, firms, partnerships, entities or other persons.

Such permitted individual consultants, firms, partnerships entities or other persons in the consortia, association or subcontracting arrangement may only be changed with the prior consent of ZVT.

**SIGNATURES OF THE PARTIES**

Parties declare that they have read this Contract, have understood its content and in witness of the fact that this Contract corresponds to their actual and free will they attach their signatures by their duly authorized representatives hereto.

Dated 8.8.2019

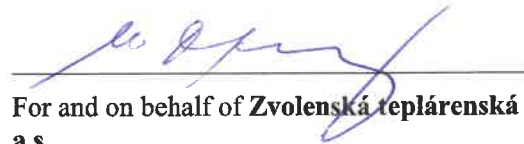


For and on behalf of **Zvolenská teplárenská a.s.**

Name: Ing. Jozef Pobiecký

Position: General Director, Chairman of the Board of Directors

Dated 8.8.2019

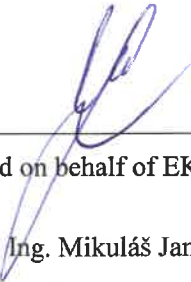


For and on behalf of **Zvolenská teplárenská a.s.**

Name: RNDr. Miroslav Duplinský

Position: Director of Production and Trade with Electricity, Member of the Board of Directors

Dated 8.8.2019



For and on behalf of **EKOCONSULT - enviro, a.s.**

Name: Ing. Mikuláš Janovský

Position: Chairman of the Board