

Subject: Sludge Management WWTP Brno – Modřice
Technical consultancy services provided in relation to the preparation of Tender
Dossier and selection of the Contractor

Particular Conditions

These Particular Conditions specify and modify the FIDIC White Book (Fourth edition 2006) General Conditions. References to Sections and Clauses follow the numbering as per the FIDIC White Book.

Part B: Additional Provisions

Part B in the Particular Conditions includes changes, deletions and amendments to the General Conditions.

References to Sections and Clauses follow the numbering as per the FIDIC White Book. (Fourth Edition 2006)

1.1 Definitions -----

1.1.1 The Clause is amended and newly reads as follows:

“**Agreement**” is a set of documents consisting of the Service Agreement between the Client and Consultant, General Conditions, Particular Conditions, Appendix 1 [*Scope of Services*], Appendix 2 [*Supply of Client’s Personnel and Equipment*], Appendix 3 [*Remuneration*], Appendix 4 [*Time Schedule*], Appendix 5 [*Team Composition*] and Letter of Proposal.

1.1.16 A new Clause is added reading as follows:

“**Tendering process**” means the tendering process related to “Sludge Management Brno - Modřice WWTP” in line with the public procurement law of the Czech Republic.

1.1.17 A new Clause is added reading as follows:

“**Tender Dossier**” means tender documentation for the selection of the Contractor drawn up in accordance with the FIDIC Yellow Book. The expected composition and structure of the Tender Dossier is specified in Appendix 1 [*Scope of Services*].

1.1.18 A new Clause is added reading as follows:

“**Legal Consultant**” is an external provider of legal services and consultancy related to the preparation of the Tender Dossier and organisation of the Tendering process, working for the Client on the basis of a direct Legal Consultancy Agreement.

1.1.19 A new Clause is added reading as follows:

“**Contractor**” means an entity with which the Client enters into the Contract for Works based on the results of the Tendering process following the FIDIC Yellow Book.

1.2 Interpretation -----

1.2.3 The Clause is amended and newly reads as follows:

Documents forming the Agreement are deemed as complementing each other. For the purposes of interpretation in the event of a discrepancy between the specific documents, the following order of precedence of the contractual documents is established:

- a) Service Agreement made by and between the Client and Consultant
- b) Particular Conditions
 - Part A – References from General Conditions Clauses
 - Part B – Additional Provisions
 - Part C – Appendices:
 - Appendix 1 [*Scope of Services*]
 - Appendix 2 [*Personnel and Equipment to be Provided by the Client*]
 - Appendix 3 [*Remuneration*]
 - Appendix 4 [*Work Schedule*]
 - Appendix 5 [*Team composition*]
- c) General Conditions FIDIC White Book (Fourth Edition 2006)
- d) Letter of Proposal.

1.2.6 A new Clause is added reading as follows:

Shall the General Conditions or Particular Conditions provide reference to Appendix 3 [*Remuneration*], it shall be for the purposes of this specific Agreement interpreted as a reference to Appendix 3 [*Remuneration*] and simultaneously as a reference to the Particular Conditions, Part B – Additional Provisions.

1.8 Notices -----

1.8.1 The Clause is amended and newly reads as follows:

Notices submitted under the Agreement shall be made in writing and will take effect upon the delivery to the address specified in Part A of the Particular Conditions. The delivery may be made in person in the form of a written receipt note or via a registered letter through a postal service provider. Electronic notices via e-mail to the contact addresses of the other Party are also permissible. The effect of electronic notices is conditioned by a receipt confirmation by the recipient delivered via email within 2 calendar days of the date of notice delivery.

1.8.2 New Clause is added reading as follows:

The Parties agree that the submission of a notice in any form shall not automatically establish the Client's or Consultant's right to a change in the terms of the Agreement, in particular a change in the scope of service, price or duration of services. Any such change shall be mutually agreed and negotiated in the form of a written amendment to the Agreement.

1.9 Publication -----

1.9.1 The Clause is amended and newly reads as follows:

The Consultant is not entitled to disclose or provide for disclosure any material relating to the Services, i.e. supporting data provided submitted by the Client nor documents drawn up by the Consultant in providing the services. The right to disclose specific material may be granted by the Client at a request of the Consultant, but a written form of such content - which shall not be unreasonably withheld - is required at all times.

1.10 Corruption and Fraud -----

1.10.3 A new Clause is added reading as follows:

The Client promotes equal approach, justice, legality, fairness and ethical behaviour in all business relationships in accordance with the Ethics Charter and Ethics in relation to suppliers, issued by SUEZ Groupe and posted on the company's website www.bvk.cz. Illegal or unethical behaviour may be reported to the email address: ethics@suez-env.com

2.3 Assistance -----

2.3.1. The Clause is deleted in full.

2.6 Supply of Client's Personnel -----

2.6.1 The Clause is deleted in full.

2.6.2. The Clause is deleted in full.

2.6.3 The Clause is deleted in full.

3.2 Normal, Additional and Exceptional Services -----

3.2.3 A new Clause is added reading as follows:

Shall either of the Parties consider Additional or Exceptional Services to be necessary for the performance or completion of the subject matter of the Agreement; it shall be entitled to propose their inclusion into the Agreement in the form of a Notice. Both Parties shall promptly discuss such a proposal and the terms and conditions of any potential change in the Agreement in the form of an amendment to the Agreement.

3.3 Duty of Care and Exercise of Authority -----

3.3.1 The following supplementary wording is added to Clause 3.3.1:

Fit for purpose guarantees or similar operational/functional/process guarantees are not forming part of the Agreement irrespective of any clause/text in documents/Appendices included in the Agreement to that effect. Such clauses/text are therefore deleted in their entirety and reference is instead made to Clause 3.3.1.

3.7 Changes in Personnel -----

3.7.2 The Clause is amended and bullet point (b) newly reads as follows:

(b) The Client shall bear the cost of replacement unless it is found that misbehaviour or inability to perform satisfactorily is the reason for the replacement of the Consultant's personnel.

4.1 Agreement Effective -----

4.1.1 The Clause is amended and newly reads as follows:

The Agreement shall become effective in accordance with the law of the Czech Republic as of the date of its publishing in the Register of Contracts. The Client shall promptly inform about the coming into effect of the Agreement by sending a notice to the Consultant. The Consultant

shall commence provision of its services without delay; however, no later than within 15 calendar days from the effective date of the Agreement.

4.9 Rights and Liabilities of Parties -----

4.9.2 The Clause is amended and newly reads as follows:
The provisions of Clause 1.9.1 and 6.3 shall survive termination of the Agreement.

5.1 Payment -----

5.1.4 A new Clause is added:
The Consultant shall submit to the Client for approval the worksheet for the previous period no later than 5 calendar days of the end of each calendar month, specifying the mandays and the breakdown of expenses, all in accordance with Appendix 3 [Remuneration]. The Client shall approve this statement or provide its objections to the Consultant within 3 calendar days. Hereafter electronic invoice can be submitted to the Client. Invoice shall be paid 30 days after the invoice is received.

5.1.5 A new Clause is added:
The invoice shall provide information on the Consultant’s account to which the payment shall be remitted including IBAN and SWIFT.

5.4 Third Party Charges on the Consultant -----

5.4.1 This Section is deleted in full.

5.5 Disputed invoices -----

5.5.2 The Client is entitled to return an invoice to the Consultant at any time before its due date shall it contain incorrect or incomplete data. In such a case, the invoice payment term for the entire invoice shall be interrupted and the due payment term shall commence upon the delivery of the corrected invoice to the Client.

5.7 Taxes -----

5.7.1 A new Clause is added:
Invoices - tax certificates shall be issued in accordance with tax laws applicable in the country of the Consultant’s domicile in accordance with the applicable VAT- related EU Directive. The Client undertakes to settle all taxes if this obligation incurs under the applicable law of the Czech Republic and Agreement to Prevent Double Taxation. If this obligation incurs, the Client shall deduce those taxes from the amount payable.

6.3 Limit of Compensation -----

6.3.4 A new Clause is added:
Neither the Client nor the Consultant shall be liable in contract for any loss of profit or any special, indirect, incidental or consequential damages or losses.

7.1 Insurance -----

- 7.1.1 This Clause is amended and replaced as follows:
 The Consultant shall insure against its liability under Clause 6.1 in relation to the provision of Services and performance of the Agreement under the following conditions:
 - (a) a minimum indemnity totalling an amount corresponding to its liability under Clause 6.1;
 - (b) Certificate in English confirming the existence and validity of the insurance policy shall be submitted by the Consultant to the Client upon the Agreement execution;
 - (c) the insurance shall be valid throughout the Agreement duration including the Duration of Liability;
 - (d) The cost of the insurances form a part of the Consultant’s contractual price.

7.1.2 The Clause is deleted in full.

7.1.3 The Clause is deleted in full.

7.2 Client’s property insurance -----

7.2.1 The Clause is deleted in full.

7.2.2 The Clause is deleted in full.

7.2.3 The Clause is deleted in full.

8.1 Amicable Dispute Resolution -----

- 8.1.1. The Clause is amended and newly reads as follows:
 Shall any dispute arise out of or in connection with the Agreement, the representatives of the Parties entitled to settle the dispute shall meet within 2 weeks of a written claim raised by one Party against the other Party and they shall act in good faith with the aim of settling such a dispute. Unless the dispute is resolved in a meeting between the Parties, all potential disputes shall be adjudicated at the request of either of the Parties by the courts of the Czech Republic in accordance with the law of the Czech Republic.

8.2 Mediation -----

8.2.1 The Clause is deleted in full.

8.2.2 The Clause is deleted in full.

8.2.3 The Clause is deleted in full.

8.2.4 The Clause is deleted in full.

8.2.5 The Clause is deleted in full.

8.2.6 The Clause is deleted in full.

8.2.7 The Clause is deleted in full.

8.3 Arbitration -----

8.3.1 The Clause is deleted in full.

8.3.2 The Clause is deleted in full.