

## **Business Terms and Conditions CN-14**

### **I. General Provisions**

1. Provisions of these Business Terms and Conditions CN -14 (hereafter only as "TB" or "Terms") represent parts of Contracts for Work or General Contracts for Work concluded between the Employer and the Contractor (hereafter only as "the Contract" or "the Contracts"). The Contract is concluded also by acceptance of the order by the Contractor in any form including the commencement of the performance of the Work. The provisions of the Contract itself shall prevail over the provisions of the TB.
2. The individual provisions of these Terms shall be applied to individual contractual relations there, where they are deemed applicable with regards to the subject matter of the Contract.
3. In the instance of the provisions of these Terms concerning occupational safety the Employee of the Contractor is deemed to include the Contractor themselves should they be a physical entity and should they themselves engage in work.
4. The term "person utilized by the Contractor to perform or undertake the Work or to conduct his activities" is deemed to mean both physical and legal entities including their employees in the event they may have some.
5. All references to Acts and other legal provisions are deemed to mean references to their latest and effective wording.

### **II. Manner of Performance of the Work, Terms of Delivery**

1. The Contractor is obliged to notify the Employer of potential savings when performing the Work and to recommend or propose relevant changes.
2. The Project or technical documentation, the necessary building or any other permits (hereafter only as "the documentation") shall be secured by the Employer unless agreed otherwise by the Parties.
3. The Contractor declares that they have all of the legal authorization and permits needed to undertake all the activities related to performance of the Work and that the activities in performance of the Work will be performed solely through qualified persons who have the relevant medical eligibility as well as all of the necessary qualifications or, if needed, all of the necessary permits and are holders of relevant cards and the Contractor is obliged to prove this accordingly to the Employer upon his request at any time. In the event of a misleading nature of such affirmation the Contractor is obliged to pay compensation to the Employer for the damage (including non-material) suffered by the Employer as a result of the failure. The sanctions imposed by administrative or judicial bodies shall be deemed to be damage.
4. The obligation to deliver reviews, protocols, mandatory or prescribed tests, documentation of the actual state of affairs, original documentation containing the instructions manual from the manufacturer on the assembly, mounting, operation, handling, servicing and maintenance as well as other documents necessary to launch and properly use the Work represents part of the Contractor's contractual obligation.
5. The Contractor shall maintain a construction or a site diary or alternatively maintain any other agreed form of written evidence (hereafter only as "the construction diary") as evidence on the process of performance of the Work

in the extent set forth by effective and applicable legal regulations and by the agreement with the Employer. The Contractor is obliged to record in the construction diary the information on the process of the performance of the Work and all the other facts required by any person authorised by the Employer, such person being the persons authorized to enter a record into the construction diary as well as other superior position staff of the Employer. The Contractor is obliged to maintain the construction diary from the day on which he took over the site. All facts decisive for the performance of the subject matter of the Contract, mainly the data on the timeline of the Work (performance of the Work) and the quality of the Work, reasoning behind the deviations of the performed Work from the documentation are recorded in the construction diary. The records are entered in the day when the work was undertaken or when the circumstances subject to the entry occurred, in exceptional circumstances the day following such day. The views expressed in the construction diary must be responded to by both parties within 48 hours from the time of the entry. In the course of working hours the construction diary is to be permanently accessible on the site. The obligation to maintain the construction diary shall last until the handover of the Work to the Employer. The entries in the diary shall be legibly entered into the diary and signed by the authorized person pursuant to Article III Section 20 of the Terms. Unless stipulated otherwise in the Contract the records in the construction diary do not represent an amendment to the Contract but may serve as basis for drafts of the Contract's amendments and additions.

6. When performing the Work the Contractor proceeds with due professional care in accordance with their own technological procedure of the Work which must be in compliance with the applicable legal regulations and the relevant technology and methodological regulations as well as the handed-over technical documentation of the Employer. The Contractor is obliged to adhere to generally binding regulations, technology standards, conditions and terms stipulated by the Contract including their amendments and attachments and including these Terms. When carrying out the Work the Employer is further obliged to follow the original materials of the Employer, the technical documentation handed over to him, follow the instructions of the Employer and is obliged to carry the Work out in accordance with the interest of the Employer the Contractor is or must be familiar with. The Contractor is obliged to notify the Employer of the fact that his instructions are unsuitable as well as of any potential defect of the documentation or the procedure set forth for the performance of the Work.
7. The Employer is entitled to continuously check the performance of the Work. The Employer shall notify any defaults or defects by recording an entry into the construction diary without any delay.
8. The Contractor declares that the Work or alternatively parts of the Work are not subject to rights of third parties (e.g. patents, industrial patterns, copyrights etc.), do not serve as a negotiable instrument and that the realization of this Contract does not interfere with rights of third parties. The Contractor equally declares that all things used to carry out the Work are not subject to rights of third parties and in the event this is the case the Contractor uses those things with a rightful entitlement to do so and these things do not represent a security for either rights or debts of third parties. The Contractor is obliged to inform the Employer in the event that the Work is subject to third party rights namely industrial rights or copyrights or serve as a negotiable instrument or the realization of the Contract represents an interference with the rights of third parties. In the event the Contractor fails to provide such information or provides the Employer with misleading or untrue information or the declaration within this article surface as untrue or misleading the Contractor is obliged to compensate the Employer for the damage (including immaterial) suffered by the Employer as a result of such circumstance. The compensation shall also include potential

sanctions imposed by public or judicial bodies upon the Employer as a result of the breach of obligation of the Contractor. Shall the Contractor breach their obligation not to interfere with the rights of third parties as specified in this paragraph or shall they - when performing the Work - use things without rightful entitlement while such things are subject to right of third party or represent a negotiable instrument, the Contractor is obliged to pay the Employer for each and every individual breach a contractual penalty in the amount of 25% of the entire price of the Work. In such an event the Employer is equally entitled to rescind the Contract.

9. The Contractor is obliged for the entire duration of the contractual relationship to undertake all work through persons who he concludes due contracts with while such contracts are in compliance with legal regulations, is further obliged to keep copies of such contracts at the site or workplace for the purpose of a potential inspection. The Contractor is further obliged to immediately submit the copies of such contracts in the event of inspection by an inspectorate of work, state mining office, or any other administrative or public bodies or upon a request of the Employer. Should the Contractor breach any of his obligation set forth by this article he is obliged to pay the Employer a contractual penalty in the amount of 50,000 CZK for each and every individual breach of such obligation. The obligation to pay the contractual penalty does not in any manner effect the right of the Employer to seek the compensation for the damage (including immaterial) in the full extent of the damage. Damage is also deemed to include any penalty imposed upon the Employer as a result of breach of any obligation of the Contractor.
10. Shall the Contractor's activity be performed via a Subcontractor the Contractor is obliged to notify the Employer accordingly and in timely manner. The Contractor is obliged to provide the Employer with all necessary information on all subcontractors and persons who are invited to participate in the performance of Work on the premises of the Employer. At the same time the Contractor undertakes that the Subcontractor meets all obligations including the obligations associated with the area of health and safety and in the extent identical to the extent within which the Contractor is obliged to meet such obligations. For good reason, the Employer is entitled to require and ask the Contractor for termination of performing the Work via specific Subcontractor. If the Contractor continues in performing the Work via such Subcontractor, this shall be deemed to be a material breach of Contract. In such a case the Contractor is obliged to pay contractual penalty to the Employer in the amount of 1 % of the entire price for the Work for every started week of such breach. Good reason under this provision shall include especially repeated breach of duties related to health and safety or if the Subcontractor can be deemed to be unreliable according to the sole discretion of the Employer.
11. The Contractor undertakes an obligation to compensate the Employer for the entire damage (including immaterial) having occurred as a result of the failure of the Contractor or persons used by him for the performance of the Work to comply with legal regulations or contractual obligations. The Contractor is obliged to pay the compensation to the Employer without undue delay after assessing the amount by the Employer and after the receipt of the compensation payment notice. The sanctions imposed by administrative or public and judicial bodies shall also represent damage.
12. In case the Contractor fulfils any of their contractual obligations using other person, the Contractor is responsible for fulfilment of such obligation as if they performed them themselves. The Contractor is liable to the Employer and third persons for damage caused by persons who they used to perform contractual obligation arising from this Contract.

13. The Contractor shall perform the Work with respect to the operation of the Employer at the place of performance. Therefore the Contractor shall not limit or endanger the operation.
14. The Contractor shall meet the agreed deadline of completion of the Work within ordinary working hours of the Employer.
15. The Contractor undertakes an obligation that their representative shall at least once a week discuss the organizational issues related to the course of executing the Work with the representative of the Employer.

### **III. Interaction of Employer and Contractor**

1. Provisions of this Section III, paragraphs 2-19, shall apply only if the place of performance is located in the premises of Employer's plant (hereinafter as "the site").
2. The Employer undertakes the obligation to ensure that within the agreed date the site will be ready and prepared both from the building construction and technology point of view.
3. The Employer shall determine and handover to the Contractor the site prior to the commencement of the Work in accordance with the terms and conditions of the project documentation or pursuant to the agreement with the Contractor. The contractual parties shall draft a protocol on handover and takeover of the site or make an entry to the construction diary prior to the commencement of the Work.
4. The Employer shall stipulate and ensure the access roads and driveways and ensure their maintenance and quality and stable condition throughout the entire duration of the performance of the Work. Such access roads and driveways shall be paved in such a manner as to enable transport of the largest and most massive components necessary for performing the Work via the means of transport.
5. The Employer shall - having agreed with the Contractor - set up the site prior to its handover in such a manner as to comply with all health and safety regulations effective at the time of the executing the Work and ensuring the site is not threatened by the surrounding environment.
6. The Employer shall enable or ensure for the Contractor usage of the designated areas for storage of materials and establishing the equipment necessary for undertaking and performance of the Work.
7. The Employer shall hand over to the Contractor the basic so called "connection" points of heights and directions. The relevant measurements of the heights and directions shall be undertaken by the Contractor.
8. The Employer shall ensure in accordance with the requirements of the Contractor the electrical power 230 V / 400 V supply concluded by a switchboard directly at the site. Pursuant to an agreement the Employer shall also ensure a possibility of drinking water consumption.
9. The Contractor is obliged to pay the invoices for the consumed electrical power.
10. For the period of performance of the Work the Contractor shall ensure for his employees or other persons used for the performance of the Work a mobile toilet located within the premises designated by the Employer.
11. The Employer undertakes an obligation that apart from the employees of the Contractor who are directly involved in the performance of the Work the Employer will enable entry to the site or workplace also to other employees of the Contractor who are instructed to conduct supervision and inspections as well as to the persons used by the Contractor for the performance of the Work.

12. The Contractor undertakes an obligation to respect the rules and orders of the Employer related to the performance of security guarding and guarding services within the premises of the Employer.
13. The Contractor shall submit at the gate for an inspection a prepared triplicate of a list of imported items when importing materials, tools and equipment necessary for the performance of the Work (hereafter only as "the items") onto the premises of the Employer when the export from the premises of such items is anticipated. One copy of such a list shall be submitted to the security service, one copy to the technical supervision of the Employer and one shall be kept by the Contractor for their own need of demonstrating that the export of the listed items from the premises of the Employer is legitimate. Such an obligation does not have to be fulfilled when the Employer expressly declares he does not insist on its fulfilment.
14. The Employees of the Contractor shall only move and operate within the designated premises within the site that has been handed over and within the determined venues and communications. The Contractor undertakes that this provision will also be adhered to by persons used for the performance of the Work.
15. The Contractor undertakes that for the period of the performance of the Work an authorized representative of the Contractor is continuously present on the site (that means an appointed lead mechanic or his deputy as stated in the construction diary or in the Contract for Work).
16. The Contractor shall bear throughout the entire period of the performance of Work the risks of damage on his own equipment, means and things and is obliged to ensure their security.
17. Prior to the commencement of the Work within the premises of the Employer the Contractor shall inform the relevant staff of the Employer on the impact of his activities on the environment and shall agree with them on the course of action aimed at management of such activities and on limiting their impact on the environment.
18. The waste originating in course of the performance of Work is disposed by the Contractor at his own expense and in compliance with applicable and effective legal regulations.
19. The Contractor is liable for the site and the workplace taken over via a protocol or a record.
20. The Employer and the Contractor appoint their representatives who shall be entitled to sign the construction diary and the protocols on handover and takeover of the site or on handover and takeover of the completed works. The Employer and the Contractor are entitled at any time to appoint a new representative. The appointment becomes effective with the other party to the contract upon a delivery of the notice of such an appointment.
21. Shall obligations unaccounted for in the Contract for Works flow from the protocol on handover and takeover of the site or from the entry in the construction diary the contracting parties shall fulfil those obligations within the agreed deadlines as contractual obligations.
22. Should the executing the Work require the cooperation of the Employer, especially in cases where the Employer bears the contractual obligation of performing certain activity or delivering equipment for the performance of the Work, and the Employer fails to do so in timely manner, the Contractor shall invite the Employer to fulfil such an obligation and set an appropriate time-limit. If the Employer without due reason fails to meet their obligation in the additional time limit, the Contractor is entitled to rescind the contract. Unless agreed otherwise expressly and in written form, the Contractor is not entitled to ensure alternative performance at Employer costs.
23. All tests, set by regulations or technical standards or agreed upon by the Contractor and Employer or required by the Employer (even by entry into the construction diary) as well as any other tests necessary for ensuring proper

performance of the Work (hereinafter referred to as “tests”) shall be carried out by the Contractor in the necessary, obligatory or agreed scope as a part of the performance of the Work.

24. The Contractor shall invite the Employer to participate in the tests by means of a record in the construction diary no later than 24 hours prior to the commencement of such test. In the event that the Employer fails to attend the test following the Contractor’s invitation, the Contractor is entitled to conduct the individual tests without his presence. However, if the Employer’s absence at the test was due to an obstacle which he could not prevent, the Employer may, without delay, request conducting an additional test, if it is possible due to technical reasons. In such a case, though, the Employer shall bear all costs of this test.
25. The Contractor shall produce reports on the course and results of tests. The results recorded in the report shall be handed over to the Employer without delay.
26. By means of a record in the construction diary no later than 24 hours before commencing the work leading to covering the Work or its part, the Contractor shall invite the Employer to perform an inspection of the Work or its part to be covered. If the Employer fails to attend the inspection, the Contractor may continue the work.
27. In the instance of covering the Work or its part without prior notification of the Employer, the Contractor shall, at Contractor’s costs, allow the Employer to perform an inspection (by means of uncovering the Work) and also to re-cover the Work at their costs. Provided that the Contractor duly notified the Employer and then properly covered the Work or its part, he shall uncover it upon the Employer’s request. If the Work (or its relevant covered part) has been performed duly and properly, the Employer shall bear the costs of uncovering and new covering. If the Work has not been performed duly and properly, the Contractor shall bear the costs of uncovering and new covering. If the Employer’s presence in the inspection was precluded by an obstacle that he could not prevent, the costs of uncovering and new covering of the Work shall be borne by both contracting parties equally. In the instance of a delay in the Work due to uncovering it and if established that the Work has been performed duly and properly, the delivery date shall be extended by the period of delay arising from the uncovering and re-covering of the Work or its part.

#### **IV. Performance and Takeover of the Work**

1. The Work is completed if it complies with the Contract and the laws.
2. The Parties have agreed that the Contractor shall hand over and the Employer shall take over the Work as a whole or, following a prior written agreement, by individual partial performances (e.g. technological or assembly units), always free of any defects or backlogs. Handing over and taking over the Work or partial performance shall take place after completion. The Contractor shall invite the Employer to take over the Work or partial performance by means of a record in the construction diary in sufficient time in advance. The Contracting Parties shall produce a handover protocol on the course and result of handing over and receiving the Work or partial performance. If the Work shows any defects, the Employer is entitled not to take over the Work and the Contracting Parties shall produce a report containing the established defects and backlogs, indicating the deadlines for their elimination. However, the Employer is entitled, at his own discretion, to take over the Work showing defects that do not prevent proper use of the Work, while a report is to be produced detailing the deficiencies (reservations of Employer); the Employer is entitled to notify the obvious defects of the Work within 10 days following the takeover of the Work; such notification gives rise to all entitlements of Employer related to the defects. The fact that the Employer takes

over the Work with defect does not affect the Contractor's duty to complete the Work duly and properly, i.e. to remove any defects and backlogs, while the rights of the Employer also remain unaffected. After the final elimination of all established defects and backlogs, a handover protocol shall be produced and signed by the representatives of both contracting parties. The protocol shall commonly include (or will be attached to it as an appendix) e.g. the number of hours worked, date of signature, numbers of material sheets, spare parts used, etc.

3. For handover of the Work the Contractor shall prepare the construction diary, the documentation part pursuant to ČSN (Czech National Standards) or valid and effective regulations in compliance with the project terms and the provisions in the Contract for Work or its amendments.
4. Having completed and handed over the Work, the Contractor shall, within 2 working days, vacate the site or workplace and the premises provided, handing those over to the Employer with a corresponding protocol. Should certain facilities need to be used for the purposes of removing any defects and backlogs, they shall vacate these premises within one day after having removed such defects and backlogs.
5. Failure to meet the final deadline for performing the Work (or the partial performance as provided for in the Contract) or for vacating and handing over the site or workplace, the Contractor shall pay to the Employer a contractual penalty in the amount of 0.5% of the total price of the Work (or the partial performance as provided for in the Contract in the event of delay in its handover) per every day of delay. Should the Work (or the partial performance as provided for in the Contract) show any defects and the Employer takes over the Work in spite of this, the Contractor shall pay to the Employer a contractual penalty in the amount of 0.05% of the total price of the Work (or the relevant partial performance as provided for in the Contract in the event of delay in its handover) per every day starting from the takeover of the Work (or the partial performance) until removing the defects and backlogs.
6. The Contractor shall bear the risk of damage to the performed Work until the day of the handover and takeover of the Work by the Employer.

**V. Work Safety, Fire Protection, Environment, Mining Activity and Activity performed using Mining Methods**

1. The Contractual Parties are bound by the provisions of this Article V. provided those are applicable with regards to the subject matter of the Contract.
2. For the purposes of this article, the Contractor's employee shall also be deemed as any other person appointed by the Contractor when performing the Work. The Contractor undertakes that their employees and all other persons appointed for the purposes of performing the Work (e.g. subcontractors and their employees) comply with the duties and obligations prescribed in this article.
3. The Contracting Parties shall cooperate when ensuring the work safety and health protection. In accordance with this article, the Contractor, together with the Employer, shall ensure that the activities and work of their employees and other persons should be managed and performed in order to protect against threats to life of health not only the employees of the Employer, the Contractor or persons appointed for the purposes of performing their activities, but also any other persons. The Contractor shall cooperate when ensuring a safe, harmless and healthy working environment for all employees and other staff on the site.

4. Prior to the commencement of performing the Work, the Contracting Parties shall notify one another in writing of the risks and measures adopted in view of protecting against their effects concerning the work performance and the site, and they shall cooperate when ensuring the work safety and health protection for all employees on the site. The Contractor shall have a properly prepared documentation on “risk assessment”, containing any possible risks to the safety and health of the employees, established causes and sources, and in particular, the proposal to adopt measures to eliminate them and prevent the established risks pursuant to the provisions of Section 101, para. 3 and Section 102, para. 2 of Act No. 262/2006 Coll., Labour Code (hereinafter referred to as the “Labour Code”). The Contractor shall hand over the risks assessment documentation to the Employer no later than 7 calendar days prior to the commencement of performing the Work, i.e. also before any stay and movement of the Contractor on the Employer’s site. In the event of an express consent or upon request of the Employer, the documentation shall be handed over when taking over the site, yet always before the commencement of performing the Work. The Contractor shall also notify, in writing, all the persons appointed for the purposes of performing the Work (e.g. subcontractors) of all risks (i.e. including the risks notified by the Employer) and measures leading to the elimination or minimization of the risk. The Contractor shall notify in writing the Employer of any other circumstances that, in the course of performing their activities on the Employer’s site, could lead to jeopardizing the life or health of the staff of the Employer or any other persons or damage to property or jeopardizing the operation or jeopardizing the condition of technical facilities and buildings.
5. When performing the Work on the premises of the Employer, the Contractor shall clearly and distinctively delineate the site and prevent access of any other persons. In this respect, provided that he is supposed to perform work in heights or above free points, Contractor also shall delineate at his costs and secure, for the whole period of performing the work, the hazardous area under the points of performing the work in heights, all pursuant to Government Order No. 362/2005 Coll. The hazardous area under the points of performing work in heights shall also be deemed as the site handed over by the Employer and taken over by the Contractor. At the same time, in this case, the Contractor shall take any necessary measures pursuant to the afore-mentioned Government Order No. 362/2005 Coll. in order to prevent damage to health and property due to falling objects. The adopted measures shall be recorded in the construction diary.
6. In cases when the Work is not performed on the premises of the Contractor, or the site has not been handed over to the Contractor in accordance with Art. III, para. 2 of these Terms, or if it is performed in the mining area or using the equipment and machinery falling within the supervision of the National Mining Authority, or if activities falling within the supervision of the National Mining Authority (e.g. blasting work) are performed within the executing the Work, the Employer, in cooperation with the Contractor and pursuant to the provisions of Section 101, para. 3 of the Labour Code, shall coordinate the implementation of measures to protect the safety and health of employees and the procedures to ensure them, as well as the measures leading to eliminating or minimizing risks. In other cases in which the site has been handed over to the Contractor pursuant to Art. III, para. 2, the Contractor shall coordinate the implementation of measures to protect the safety and health of employees and the procedures to ensure them, unless otherwise agreed in the Contract or in the site handover protocol.
7. For the whole duration of the contractual relationship with the Employer, the Contractor shall carry out tasks in risk prevention pursuant to Act. No 309/2006 Coll., under the terms and conditions prescribed by this statute either by himself or through the agency of another professionally competent person (hereinafter referred to as the “person

responsible for performing tasks in the field of work safety and health protection”). The Contractor undertakes an obligation that person responsible for performing tasks in the field of work safety and health protection fully and properly fulfils tasks arising from risk prevention pursuant to Act. No 309/2006 Coll. The Contractor shall notify the Employer of the data related to this person (name, surname, and contact details) prior to the commencement of performance of the Work, yet no later than when taking over the site. Without undue delay, he shall also notify the Employer of any changes in this person or contact details of this person.

8. The Contractor undertakes that for the whole duration of performing the Work, he arranges for his own supervision of work safety pursuant to the applicable and effective regulations, as well as continuous supervision of work safety in course of the activity on the Employer’s sites pursuant to the Labour Code.
9. The Employer shall provide the Contractor with training concerning the necessary legal regulations and instructions issued by the Employer free of charge. The Contractor shall arrange for the training of all employees and persons appointed for the purposes of performing the Work (e.g. subcontractors) in the extent identical to the training provided by the Employer. The Contractor undertakes that they shall not allow performing the Work by his own employees or by any other persons who will perform the relevant activity for the Contractor (e.g. subcontractors’ employees) who have not received training pursuant to this section.
10. The Contractor is responsible for the necessary qualifications and professional and safe management of the work performed by his employees. The Contractor shall perform all activities when delivering the Work exclusively by means of persons who have the relevant medical eligibility, as well as all the necessary qualifications or necessary permits and are holders of the required licences (e.g. engineering licence, professional driver’s licence, etc.). Upon the Employer’s request, the Contractor shall support these facts with evidence, while also ensuring that upon the request of the Employer or any other person authorized by him, the Contractor’s employees prove without delay that they have the necessary qualifications or the required licence.
11. When carrying out mining works or works carried out in the mining manner, the handover certificate shall always be produced when handing over or taking over the site (hereinafter in this Article only as the “protocol”). The quarry manager (“závodní lomu”) of the Employer or his other authorized employee and the quarry manager (“závodní lomu”), the manager (“závodní”) or any other authorized employee of the Contractor is responsible for producing the protocol. The quarry manager, the manager or any other authorized employee of the Contractor is responsible for the site handed over and taken over through the protocol. The contracting parties shall provide their authorized employees with relevant authorization deed if this authorization is not mentioned in the Contract or with the power of attorney in writing. The persons specified in the protocol will execute the shift and weekly inspections of the site. The Contractor shall duly keep the operation documentation in compliance with provisions of the regulations of the Czech Mining Office No. 392/2003 Coll., No. 26/1989 Coll., and No. 51/1989 Coll., and secure their observance. The Contractor shall submit this documentation prior to the commencement of Work and upon request of the Employer anytime in the course of performing the Work. The Contractor is aware of his obligation to appoint the manager or quarry manager and through this person to guarantee the required technical qualification and technical competence of the technical supervision of the Contractor. In compliance with Section 6 of Act No. 61/1988 Coll., on Mining, Explosives and the National Mining Authority, the Employer shall secure and monitor the observance of this Act, Mining Act and regulations issued on their basis, as well as special legal regulations governing the occupational health and safety, safety of operation and working conditions when carrying out mining or activities executed in the

mining manner and to take, in a timely manner, necessary precautionary and safety measures and to forthwith remove any dangerous condition which could endanger the operation of the organization (Employer) or public interest protected by law, in particular the safety of people's life and health. The Employer is entitled to claim the contractual penalty in the amount of 5,000 CZK per every breach of obligation stipulated in this Article or protocol and the Contractor shall pay it. The contractual penalty does not affect the obligation to pay, in full, the damage (including non-material) incurred by breach of the aforementioned obligations.

12. The Contractor shall observe all the principles of fire protection, safety and occupational hygiene, environment protection, principles of the Employer's policy and other related requirements. Furthermore, the Contractor shall respect safety signs and signals. The Contractor undertakes that the activities representing an increased degree of danger to life and health of employees are carried out by employees with the relevant medical and professional eligibility and qualifications (e.g. welders, flame cutters, crane operators, slingers, scaffolders, or machine operators). The Contractor also undertakes that all their employees are trained in the occupational safety and fire prevention regulations and have relevant medical and professional eligibility and qualifications.
13. The Contractor undertakes that their employees and persons appointed to carry out the Work shall observe the specified methods of operation, use the specified working means, means of transport and personal protective tools and devices and that they do not change or put those out of operation arbitrarily. The employees use the personal protective devices according to their profession, activities, risk assessment on Employer's sites and actual working conditions. The Contractor shall secure that machines, technical devices, means of transport, appliances and tools, which the Contractor uses or will use, will be appropriate for the work for which they are used from the perspective of occupational health and safety. Within the handover and takeover of the site, the Contractor shall submit the list of all machines and devices, in particular assigned technical devices pursuant to Decree No. 392/2003 Coll., or tools, which will be used when carrying out the Work. The Contractor's employees shall not use machines or devices of the Employer or perform any modifications on them without prior agreement with the Employer. This agreement shall be made in writing. In the case of breaching any obligation stipulated by this Article the Contractor is obliged to pay to the Employer contractual penalty in the amount of 5,000 CZK per each and every breach of the obligation stipulated in this Article.
14. The Contractor's employees, for the whole time of their presence on Employer's site, shall have visibly marked clothes so that they are easily distinguishable from the Employer's staff and employees of other companies. The Contractor undertakes that the provision of the previous sentence is complied with also in the case of persons appointed for carrying out the Work.
15. Any devices (objects, materials, devices, vehicles, etc.), which the Contractor will use on the Employer's site, have to be distinctly labelled so that it is obvious that they are not the Employer's property. The Contractor undertakes that the provision of the previous sentence is complied with also in the case of persons appointed for carrying out the Work.
16. The Employer's representatives are authorized to inspect the Contractor's employees regarding the observance of occupational safety and the Contractor agrees to this and undertakes that their employees will subject to the inspection performed by the Employer's representatives. Nevertheless, the Contractor's responsibility to secure systematic supervision of occupational safety remains unaffected. In the case that gross or repeated breach of

occupational safety regulations has been established and this has been recorded in the construction diary by the inspecting person, the Employer is entitled to rescind the Contract.

17. The Contractor shall maintain the site in order and remove waste and dirt resulting from his activities at his own expense. The Contractor shall secure the potential sources which might endanger life and health of persons (e.g. holes, pits, unstable structures and construction units, or machines) so that the threat is eliminated.
18. The Contractor shall provide the moving parts of devices on site, which will be in operation, with protective covers or they shall take the necessary organizational measures in order to prevent accidents. The technical devices shall correspond to standard values and valid regulations.
19. The Employer shall arrange for (secure) switching off of all power or energy supply devices, switching off of electric power lines or devices on the site and interrupting the production process including securing the aggregates against their spontaneous switching on if necessary for carrying out the Work. These measures shall be agreed beforehand and recorded in the construction diary.
20. In the case that the Employer does not ensure the Contractor's demands on occupational health and safety, the Contractor is entitled not to commence or interrupt the performance of the Contract until all the established defects have been removed. The deadline for performance shall be extended by this period. This measure shall be recorded in the construction diary.
21. If the Contractor's employee suffers an occupational injury on the Employer's site, the Employer is obliged, without undue delay, to notify the Contractor of any such event. If an emergency occurs at the side of Contractor, in accordance to Section 19 of Decree No. 26/1989 Coll. or Section 19 of Decree No. 51/1989 Coll., the Contractor's representative shall notify the Employer of this event without undue delay. The Contractor keeps records and reports occupational injuries suffered by their employees on the Employer's site according to Section 105 of the Labour Code and Government Order No. 201/2010 Coll. and without undue delay notifies the Employer of the occupational injury and potential changes of data about this injury.
22. Welding, oxygen cutting and other work with open fire represent a fire risk on selected sites of the Employer and the Contractor shall, pursuant to Article 3.6.2.1 of ČSN 05 0601, carry out this work solely upon the written instruction to this activity and pursuant to Act No. 133/1985 Coll., Decree of the Ministry of the Interior No. 87/2000 Coll., Government Order No. 406/2004 Coll., and Decree No. 246/2001 Coll. The Contractor undertakes that the provision of the previous sentence is complied with also by persons appointed for carrying out the Work. Upon request, the Employer shall notify the Contractor of the list of sites with fire hazards. The written instruction shall be issued jointly by the Contractor and the Employer.
23. In the event of fire, the Contractor shall follow the Employer's fire alarm regulations.
24. In the case of an event which will result in pollution or danger to the environment on the Employer's premises, including the occurrence or imminent danger of ecological damage, resulting from the Contractor's activity, the Contractor shall pay the expenses related to the removal of such pollution or threat to the Employer without undue delay following their assessment and receiving the notice of payment.
25. When carrying out particularly dangerous work, the Contractor shall submit a technological procedure to the Employer 48 hours prior the commencement of the work. The Contractor shall always submit the technological procedure when instructed so by the Employer, also by means of a record in the construction (assembly) diary.

26. The Contractor shall submit to the Employer the specification and consumption of volatile organic substances if used during the performance of the Work on the Employer's premises.
27. The Contractor and their employees shall, upon request of the Employer's security staff, undergo the inspection of the vehicle when leaving or entering the Employer's premises. The Contractor undertakes that the provision of the previous sentence is complied with also in the case of persons appointed for carrying out the Work.
28. The Contractor undertakes that their employees do not consume, before and when carrying out the Work, alcohol or another toxic substances. The person of whom there are reasonable grounds to suppose that they carry out the activities under the influence of alcohol or another toxic substance and a person of whom there is a reasonable suspicion that he caused physical injury to another person in relation to the abuse of alcohol or another toxic substance is obliged to undergo an indicative examination and specialist medical examination establishing the alcohol content. In relation to obligations stipulated in Act No. 61/1988 Coll. and its implementing regulations and pursuant to Section 16, para. 4 and 5 of Act No. 379/2005 Coll., the Employer (or a person authorized by him) is entitled to invite the person to meet the obligation of undergoing the afore-mentioned indicative examination and perform the indicative examination. For these purposes, the Employer shall designate a person authorized to inspecting persons who carry out activities in the course of which they could endanger the life or health of themselves or others or damage property. The professionally qualified worker of the Employer, appointed in compliance with Section 6, para. 4 of Act No. 61/1988 Coll. for the purposes of performing the tasks in the field of occupational health and safety and safety of operation, and the relevant quarry manager in compliance with Section 6, para. 1 of Act No. 61/1988 Coll., and Section 4, para. 6 of the Decree of the Czech Mining Office No. 26/1989 Coll., on occupational health and safety and safety of operation in the course of mining and activities carried out in the mining manner on the surface, and the manager of the premises where the Work is being performed shall be regarded as persons authorized as stipulated in this section. In the instance a positive result of the indicative examination of alcohol or another toxic substance is established, the Employer shall immediately inform the Contractor and shall prohibit the person under the influence of alcohol or another toxic substance to continue their activity and bar him from the Employer's premises.

## **VI. Rights Arising from Defects of the Work and Quality Warranty**

1. Rights arising from defects are governed by the Contract, by these Terms and by legal regulations governing the Contract.
2. The Contractor is responsible throughout the warranty period for the quality of the performed Work, quality of the equipment and spare parts delivered by them, and mainly for the quality of the material used for the production hereof unless the material was supplied by the Employer. The Contractor is also responsible for the professional and expert performance and for correct technical documentation and operation of the Work. The Contractor expressly provides the warranty for correct assembly and construction and the overall flawless and faultless operation of the performed Work.
3. Should the Employer detect any defaults of the Work, the Employer shall without any undue delay notify the defaults to the Contractor in any manner, preferably, however, in a written form, via electronic mail or by a fax ("a quality complaint"). The obvious defects shall be notified by the Employer within the time limit set forth in Art. IV. Par. 2 of these Terms. The notice communicating the detected defaults shall describe the detected defect and state in what

manner the remedy of the defect is requested. The Contractor is obliged to immediately acknowledge the receipt of the notice of defect to the Employer.

4. The Contractor is obliged to attend within 24 hours at the latest to detect the defect and to commence the removal of the defects unless the parties agree on a different deadline for the commencement of the removal of the defects. The Contractor is obliged to remove the defect instantly and without any delay. Such works are performed by the Contractor at their own costs. Shall the Contractor fail to commence the removal of defects within the mentioned period of time or in the instance the defects are not instantly removed the Contractor is obliged to compensate the damage suffered by the Employer therefrom. The Employer is entitled in such a case to ensure the removal of defects either on his own or via another person. The Contractor is then obliged to cover the entire costs of the Employer associated with the removal of defects including the Employer's own costs (for example for the staff of the Employer).
5. In order to ensure the necessary operation or in the instance that a threat of production stoppage of the Employer or the production is threatened the period set forth by the previous paragraph is substituted by a period of 2 hours. In the event the Contractor is unable to remove the defect within the aforementioned period of time the Employer is entitled after prior notification of the Contractor (by a fax, electronic mail or by phone) to either remove the defect on his own or to have the defect removed at the expense of the Contractor. The Contractor is obliged to cover the entire costs of the Employer associated with the removal of the defect. The Contractor is obliged to compensate the damage suffered by the Employer therefrom.
6. In the event of repair of equipment or replacement of spare parts the warranty shall be extended by the period of time within which the Work of part of the Work were not available for due and proper usage due to the detected defect.
7. The Contractor and the Employer may agree on a manner of settlement of a quality complaint other than set forth by this article or Contract, e.g. by a discount from the price of the Work. Such an agreement must be done in writing.

## **VII. Disclaimer: Circumstances of Exclusion from Liability**

1. A contracting party shall be absolved from their obligation to pay compensation for damage caused by breach of contractual obligation if such party proves that extraordinary unpredictable and unsurmountable impediment beyond the control of such party temporarily or permanently prevented the party from fulfilment of the contractual obligation. Impediment arising from internal circumstances of the party (including a strike in the Contractor's plant) or arising at the time when the contracting party is in delay with performance of such contractual obligation or the one which the contracting party is obliged to surmount according to the Contract do not absolve the party from the obligation to pay the compensation.
2. The contractual party on whose side the impediment pursuant to the previous paragraph occurs is obliged to notify the other contractual party instantly, at the latest within five calendar days in a written form or via electronic mail on the occurrence of such impediment. Such party must also notify the other contracting party in the above-described manner that the impediment has ceased to exist. If the contractual party fails to meet any of the

obligations (to notify) stipulated in this section, they shall pay to the other party compensation for damage suffered by the other party as a result of such a failure.

3. In the instance when an impediment pursuant to the paragraph 1 of this Article VII occurs on the side of one contracting party the other contracting party is entitled to rescind the Contract. They may do so until the date when they are notified that the impediment has ceased to exist at the latest. The period for performance of the affected obligation shall be extended by the period of the duration of the impediment.
4. The impediment pursuant to the paragraph 1 of this Article VII does not affect the obligation to pay the contractual penalty.

#### **VIII. Price and Payment**

1. Unless stipulated otherwise, the price for the Work is stipulated as fixed price specified in the Contract. If the price was determined on the basis of a calculation, such a calculation shall be entire and binding and budget entirety is guaranteed by the Contractor. The Contractor bears the risk of change of circumstances.
2. The right to payment of the price for the Work shall arise to the Contractor after the completion of the Work which means after the handover of the Work without any defects and backlogs. If the partial performance is expressly stipulated, the Contractor has the right to payment of the price for every performed part of the Work, provided that such part was performed properly and was properly handed over to the Employer. In other cases the Contractor is not entitled to ask the Employer either for any advance payments or for proportional part of the price for the Work or remuneration before the handover of completed Work.
3. The date specified in the handover protocol shall be deemed as the date of the taxable event.
4. The invoice shall comply with all the particulars of a proper tax document, it shall be payable in accordance with the agreed due date, and the handover protocol shall be attached to the invoice.
5. The invoice shall contain the order number.
6. The invoice shall be payable within 60 days upon the date of delivery to the Employer. If the invoice is not delivered, the Contractor shall send it to the Employer once again. The maturity period starts to run on the day following the day of the actual invoice delivery.
7. As the date of payment shall be deemed the date of debiting the payment from the Employer's bank account.
8. In the event that the invoice does not contain the required particulars, the Employer shall be entitled to return it to the Contractor for completion. In such a case, the new maturity period shall start to run upon the delivery of the corrected invoice to the Employer.
9. The Contractor hereby declares that they are the value added tax (hereinafter referred to as "VAT") payer. In the event that they are no longer the VAT payer, for any reason, they undertake to notify the Employer of this fact in writing without undue delay, yet no later than five working days. In the event of breach of this duty, the Contractor shall pay to the Employer the contractual penalty in the amount of 100,000 CZK. At the same time, the contracting parties agree that if the Contractor ceases to be the VAT payer, he shall no longer issue invoices as tax documents pursuant to Act No. 235/2004 Coll., on Value Added Tax (hereinafter referred to as "VAT Act"); they shall be entitled to charge, for the completed Work (work / activities), to the Employer only the price agreed above excluding VAT, and they shall return the wrongfully received VAT to the Employer without undue delay.

10. The Contractor hereby declares that they are not an unreliable payer within the meaning of VAT Act and that they are not subject to the proceedings for a declaration of being an unreliable payer. If such proceedings is initiated, the Contractor is obliged to inform the Employer about it within three days after learning about such proceedings. The Contractor is also obliged to inform the Employer about the decision which sets that the Contractor is an unreliable payer immediately, but at the latest within three days following the day when the decision came to force. In the event that the Contractor fails to meet any of these contractual obligations, the Contractor shall pay to the Employer a contractual penalty in the amount of 100,000 CZK for each and every failure, as well as the compensation for any damage (including non-material); all payments which the Employer has paid due to his standing as a guarantor according to the VAT Act shall be considered to be such a damage.
11. The Contractor declares that the bank account stated in the Contract is the bank account published according to VAT Act. If the published bank account changes, the Contractor shall inform the Employer immediately, but at the latest within three days following the date the published bank account was changed. The Contractor shall also state the published bank account number (according to VAT Act) on the invoices. In the event that the Contractor fails to meet any of these obligations, the Contractor shall pay to the Employer a contractual penalty in the amount of 100,000 CZK for each and every failure, as well as the compensation for any damage (including non-material) in full amount; all payments which the Employer has paid due to his standing as a guarantor according to the VAT Act shall be considered to be such a damage. If the bank account number placed on the invoice differs from the one published according to VAT Act, the Employer shall be entitled to send the invoice back to the Contractor in order to remove the inaccuracies. In that case, the due period shall start to run again starting on the day following the day of delivering the corrected invoice.
12. The invoice is to be sent either in written form to the address as follows:  
Českomoravský cement, a.s.  
Beroun 660  
266 01 Beroun  
or in electronic form to the e-mail address: [elektronicke.faktury@cmcem.cz](mailto:elektronicke.faktury@cmcem.cz).  
The invoice shall contain the address of the Employer's registered office.
13. The Employer hereby agrees with electronic invoicing pursuant to the provision of Section 26 of the Act No. 235/2004 Coll., the VAT Act, namely when following conditions are fulfilled:
  - a. the invoices shall be sent only in electronic form to the e-mail address [elektronicke.faktury@cmcem.cz](mailto:elektronicke.faktury@cmcem.cz),
  - b. the invoices shall be sent in PDF format (invoice and its annexes in one PDF file),
  - c. one PDF file shall contain only one invoice (including its annexes)
  - d. the PDF file shall not be password protected,
  - e. an e-mail message shall contain only one PDF file and its size shall not exceed 10 MB.

## **IX. Special Provisions**

1. Removing defects shall not affect the claim for compensation for damage which the Employer suffered as a result of the defect.

2. Contractual penalties agreed on in the Contract or in these Terms shall not affect the right of the entitled contracting party for damages in full amount.
3. The term “damage” shall mean both, material and non-material damage, even if not expressly stipulated.
4. On condition that, in the course of the duration of the contractual relationship established by the Contract, there have been any changes to the data recorded in the Commercial Register and essential for the contractual relation established by this Contract (e.g. changes concerning the identification data of the contracting parties) at either party, this party shall notify the other party of this without any undue delay.
5. In the event of doubt, the delivered consignment shall be deemed as delivered (served) on the third day after posting it. The consignment shall also be deemed as delivered on the day when the addressee rejected its reception.
6. In the event that either Party encounters circumstances preventing the proper performance of this Contract, the Party which cannot comply with the duties shall notify the other Party of this fact without any undue delay (also by means of telephone, electronic means or fax) and initiate negotiation of the authorized representatives for the purposes of dealing with the situation.
7. In the event that the Employer has been imposed any financial sanctions (e.g. penalties) as a result of the operation of the Contractor or persons appointed for performing the Work, the Contractor shall pay to the Employer the sanctions paid in full amount as part of the damages.
8. In the course of performing the Work, the Contractor is obliged to compensate any damage suffered by any third party as a result of a breach of any of Contractor’s obligations. The Contractor declares that they have concluded an insurance policy covering these cases.
9. The Employer is entitled to reject cooperation with any employee of the Contractor or any other person appointed by the Contractor for the purposes of performing the Work that have grossly breached the working or technological discipline or the provisions on occupational safety. The Contractor then must not perform the Work with the help of such an employee or person. If the Contractor continues in performing the Work with the help of such an employee or person, it is deemed to be a material breach of contractual obligation. In such a case the Contractor shall pay to the Employer contractual penalty in amount of 1% of entire price for the Work for every started week of the breach.
10. The Contractor undertakes to cooperate with other contractors and suppliers that the Employer selects for the performing the work following or related to the subject matter of the Contract for Work and to involve them in the work progress schedule.
11. The Contractor hereby declares that the Work performed by him is, in relation to any third parties, free from any burdens, collaterals, debts, rights or claims of any kind.
12. On condition that any third parties exercise any rights against the Employer in relation to the breach of the provisions of the previous paragraph, the Contractor shall provide the Employer with any necessary cooperation and in the event that the Employer has been imposed a duty to compensate the damage (including immaterial) to any third party in this respect, or the Employer suffered any damage directly, the Contractor shall pay to the Employer any such damage in the full amount, including any possible sanctions imposed by administrative or judicial bodies.
13. On condition that, in course of performance of the Work, the Contractor acquires any knowledge related to scientific or technical procedures, any matters of business character, matters protected by intellectual property law, or related to prices, production procedures, patents and any other data of the Employer, they shall secure their confidentiality.

This duty shall expire automatically 10 years upon this Contract becoming effective, unless stipulated otherwise by the relevant legal regulation or the Contract.

14. When performing the Work in the Employer's premises, the Contractor who performs the Work with the participation of persons - foreign nationals and nationals of any other EU Member State (hereinafter referred to as "the persons") undertakes that the persons have been acquainted, when performing the activities for the Employer, with the regulations concerning occupational safety and health protection and operational safety and do understand them, that they have been acquainted with the operational documentation and have understood it completely, and that they are able to fulfil the duties and obligations as prescribed by the Contractor, the duties and obligations stipulated by the operational documentation, and the duties and obligations imposed by the effective legal regulations, particularly the regulations in the area of performing a mining activity or the activity performed in the mining manner, if applicable to performing the Work. With the Employer's participation, the Contractor shall verify, in the place of performing the Work, that such persons are capable of reliable communication with other persons. The Contractor shall demonstrably (e.g. by means of a record in the construction diary or the site handover and takeover protocol) notify the Employer that the Work is to be performed with the participation of such persons.
15. The Employer is entitled to cede the Contract for Work/General Contract for Work to other person. The Contractor gives an explicit consent to this cession.
16. None of the contracting parties is allowed to pledge any claim arisen from or in connection with the contractual relationship which is governed by these Terms unless agreed by the other party expressly and in a written form.
17. If the ground is given to rescind the contract due to delay, the notice of rescission must be given explicitly and in written form. The provision of Section 1978 paragraph 2 of an Act No. 89/2012 Coll., the Civil Code, shall not apply.
18. Any legal relations between the parties established by the Contract or arisen from the Contract shall be governed by the substantive laws of the Czech Republic; the application of Vienna Convention on Contracts for the International Sale of Goods is excluded.
19. The Contractor takes into account that the Employer has implemented and maintained the following systems:
  - a. Provided that the Company Českomoravský beton, a.s. acts as the Employer:
    - Quality management system pursuant to ČSN EN ISO 9001;
  - b. Provided that the Company Českomoravský cement, a.s. acts as the Employer:
    - Quality management system pursuant to ČSN EN ISO 9001;
    - Environment management system pursuant to ČSN EN ISO 14001;
    - Occupational safety and health protection management system pursuant to ČSN OHSAS 18001;
    - Energy management system pursuant to ČSN EN 50001:2012;
  - c. Provided that the Company Českomoravský štěrk, a.s. acts as the Employer:
    - Without any systems.

The Contractor shall respect the principles of these systems and the related corporate policy of the Employer.