CONTRACT FOR WORK

"Optimization of existing boilers K2 and K3"

concluded pursuant to Section 2586 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended.

Client's contract number: …………….

Contractor's contract number: ……….

# CONTRACTING PARTIES

## SAKO Brno, a.s.

## with its registered office: Jedovnická 4247/2, 628 00 Brno

## Registered in the Commercial Register at the Regional Court in Brno, under file number B 1371

## Company ID: 60713470 Tax ID: CZ60713470

## Bank details: Komerční banka, a.s. Brno – venkov

## Account number: 79033621/0100

## Represented by: Chairman of the Board of Directors Ing. Pavel Urubek

## Vice-Chairman of the Board of Directors Ing. Daniel Struž, MBA

## The following persons are duly authorized to act on behalf of the company:

## signing of the contract: [TO BE COMPLETED BY THE CLIENT]

## in contractual matters: [TO BE COMPLETED BY THE CLIENT]

## in technical matters: [TO BE COMPLETED BY THE CLIENT]

on the one hand, as the Client (hereinafter referred to as the "**Client**")

[TO BE COMPLETED BY CONTRACTOR]

with its registered office: [TO BE COMPLETED BY CONTRACTOR]

registered in the Commercial Register at [TO BE COMPLETED BY CONTRACTOR] court in [TO BE COMPLETED BY CONTRACTOR], under file number [TO BE COMPLETED BY CONTRACTOR]

Company ID: [TO BE COMPLETED BY CONTRACTOR],

VAT ID: [TO BE COMPLETED BY CONTRACTOR]

Bank details: [TO BE COMPLETED BY CONTRACTOR]

Account number: [TO BE COMPLETED BY CONTRACTOR]

Represented by: [TO BE COMPLETED BY CONTRACTOR]

Authorized representatives: [TO BE COMPLETED BY CONTRACTOR], tel.: [TO BE COMPLETED BY CONTRACTOR], e-mail: [TO BE COMPLETED BY CONTRACTOR]

On the other hand, as the Contractor (hereinafter referred to as the "**Contractor**")

(The Client and the Contractor, hereinafter also referred to jointly as the “**Parties**” and each separately as a “**Party**”)

# BASIC PROVISIONS

* 1. This Agreement is concluded pursuant to Section 2586 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as the "**Civil Code**"); the rights and obligations of the parties not regulated by this Agreement shall be governed by the relevant provisions of the Civil Code.
  2. The Parties declare that the information specified in Article 1 of this Agreement is true and accurate at the date of execution hereof. The Parties undertake to notify the other contracting party in writing without undue delay of any changes thereto, whereby it is not necessary to conclude an amendment to the agreement in the event of such a change.
  3. The Contractor declares that the bank account specified in Article 1 of this Agreement is a bank account published within the meaning of Act No. 235/2004 Coll., on Value Added Tax, as amended (hereinafter referred to as the "**VAT Act**").
  4. The Parties each declare that the persons signing this agreement are duly authorized to do so.
  5. The Contractor declares that it is professionally competent to perform the subject matter of this Agreement.
  6. The Contractor confirms that it has familiarized itself in detail with the scope and nature of the Work described in Article 3 of this Agreement, including during the site survey, and that it is aware of all technical, quality, and other conditions necessary for the performance of the Work, and that it has the necessary capacities and expertise to perform the Work for the agreed contract price. The Contractor shall perform the Work in accordance with the technical standards applicable to the subject matter of the performance, the binding nature of which is hereby expressly agreed by the Parties, as well as the relevant generally binding legal regulations in the area of the subject matter of the contract.
  7. The purpose of the contract is to carry out Work to ensure the optimization of the existing K2 and K3 boilers at SAKO Brno, a.s. All Work is specified in Annex No. 1 to this contract, and the Work is further described in Article 3 of this Agreement.
  8. The purpose of this Agreement is to implement the project "Optimization of existing boilers K2 and K3" in cooperation with the Contractor, whose goal is to implement the proposed steps to improve the operating parameters of the boilers to extend the service life of this equipment. The result of the project will be both an extension of the service life of the boilers and higher reliability of the equipment's operation.

# SUBJECT OF THE CONTRACT

## The Contractor undertakes to perform Work for the Client at its own expense and risk, the subject of which is the implementation of construction work and structural modifications to membrane walls in the combustion chamber areas of boilers K2 and K3 at ZEVO Brno (hereinafter referred to as "Membrane walls"), including the preparation of design and production documentation for the modifications, demolition and dismantling of the membrane walls and headers, manufacture and installation of new membrane walls and headers, and other related work and hand over the relevant documentation. The Contractor will therefore ensure the complete execution of the work, which will be fully functional and ready for operation with the material within the agreed deadline, without the need for further work or intervention.

* 1. **Scope of performance** includes in particular**:**
     + complete engineering, i.e., preparation of design, project and production documentation for Membrane wall modifications, including strength and expansion calculations at interconnection positions;
     + removal of existing Membrane walls and headers in the affected area, including appropriate protection against deformation and all related work (i.e., disconnecting auxiliary technology, secondary air piping, etc.);
     + removal and dismantling of secondary air nozzles on the rear wall on both levels;
     + manufacture and delivery of new prefabricated Membrane walls with Inconel cladding;
     + manufacture and delivery of new headers adapted for connection to new Membrane walls in areas affected by the replacement of membrane walls (including changes in connection diameters, reducers, etc.);
     + installation of new Membrane walls, connection to headers and existing membrane walls using reducers, welding of fins at connection points, application of an Inconel cladding on assembly welds, creation of an overlap area (i.e., transition from Inconel to existing material with protection using refractory linings). The Membrane walls in the overlap area must be protected with Inconel refractory material;
     + installation of new nozzles for the existing secondary air system on both levels, including connection to the existing secondary air distribution chamber on the front and rear walls of the boilers;
     + obtaining TIČR approval of the modifications (Technical Inspection of the Czech Republic) in cooperation with the Client and performing all prescribed tests in accordance with applicable legislation (NDT, pressure test, etc.);
     + preparation and delivery of complete production documentation;
     + preparation of a Health and Safety Plan (HSE) for movement on the construction site;
     + providing the necessary machinery;
     + cleaning the Construction site where the work is performed; construction waste and material packaging will be disposed of in accordance with Act No. 541/2020 Coll., Waste Management Act, and the relevant implementing regulations. The Work will be performed in accordance with Environmental Management System (EMS) rules;
     + handover of documentation in accordance with applicable standards and regulations.
  2. **Further specifications of the scope of performance and requirements of the Client:**
     + the Contractor shall maintain compatibility with existing service procedures, diagnostics, and spare parts for ZEVO operations;
     + the Contractor's work must not restrict or endanger other ZEVO operations;
     + the documents available to the Client were attached to the Call for tenders for the public contract "Optimization of existing boilers K2 and K3" dated [TO BE COMPLETED]. The Client has no other relevant documents and therefore will not provide any.
     + The Parties agree that the Client is entitled to carry out its own activities during the performance of the Work (equipment shutdown).
  3. By signing the contract, the Contractor declares that, in connection with the performance of this contract, it will have a "Safe Work System" regulation in place. The Contractor shall prepare a health and safety plan in accordance with the requirements set out in Section 15(2) of Act No. 309/2006 Coll., which regulates further health and safety requirements in labor relations and the provision of health and safety in activities or services outside labor relations (Act on Ensuring Further Conditions for Occupational Health and Safety), as amended, hereinafter referred to as the "**OHS Act**"), and its submission to the Client before the commencement of Work.
  4. When performing the works, the Contractor shall comply with all regulations on occupational safety and health protection for Workers in the construction industry and all provisions arising from Act No. 262/2006 Coll., the Labor Code, the Occupational Safety and Health Act, and Government Regulation No. 591/2006 Coll., on more detailed minimum requirements for safety and health protection on construction sites.
  5. The Contractor shall provide its employees with protective equipment and a first aid kit in an accessible location on the construction site.
  6. The Contractor shall be liable for any damage caused to the property of the Client during the performance until the Work is accepted by the Client.
  7. The Contractor shall provide documentation of the prescribed tests, attestations, certificates, and declarations of conformity by the invoicing date. The invoice shall not be paid without such documents.
  8. The subject of the Contractor's performance described in paragraphs 3.1. it 3.8. of this article shall hereafter be referred to as „**Work."**

# OPTIONAL PERFORMANCE

* 1. **The Client reserves the right to expand the subject matter of performance** to include work, supplies and activities relating to the optimization of the secondary air system for both boilers K2 and K3 as described in the section " *Option - optimization of the secondary air system for both boilers K2 and K3* " of Annex No. 3 to this Agreement and in the Contractor's offer forming Annex No. 2 to this Agreement. If this option is exercised and agreed to by the Client, the scope of performance of this Agreement shall be expanded accordingly for the individual parts of the Work (individual boilers) to include:
     + complete engineering of the secondary air system optimization design, including design of membrane wall geometry modifications, design of height level modifications, design of nozzle geometry modifications, design of secondary air distribution modifications,
     + documentation of a control calculation of secondary air flow and calculation of compliance with T2 in the situation of changing height levels,
     + manufacture, delivery, and installation of all related parts,
     + preparation and delivery of complete production documentation.
  2. The Client is entitled to notify the Contractor within 90 days from the date of entry into force of this Agreement that he is exercising the option under this Article of the Agreement; if this does not happen within the specified period, the Client loses the right to exercise the option. If the Contractor stated in its offer that it is unable to offer the optional performance, the Client is not entitled to exercise the option.
  3. The Contractor is obliged to submit to the Client, within 30 days of the notification of the exercise of the option, a detailed technical description of the option, to the same extent as it described the subject of performance of this Agreement in its offer pursuant to Annex No. 2 to this Agreement. The Contractor is obliged to implement the optional performance at the price stated in its offer pursuant to Annex No. 2 to this Agreement.
  4. The Client shall, within a reasonable period, express his opinion on the Contractor's detailed information in relation to the optional performance, including its valuation; the Contractor is obliged to incorporate these comments. After incorporating the comments (if any), the Client shall approve the optional performance; from this moment on, the scope of the Work shall be expanded to include the optional performance. The price for the optional performance corresponding to individual parts of the Work (individual boilers) shall be added to the prices of the parts of the Work; in relation to the performance of the Work, the handover and acceptance of parts of the Work and the payment of the price of a part of the Work and other related issues, this Agreement shall apply accordingly. The price for the optional performance may not exceed the indicative price of the optional performance according to the Contractor's offer within the meaning of Annex No. 2 to this Agreement.

# PRICE

* 1. The price of the Work is determined by agreement between the Parties based on the Contractor´s offer price contained in Annex No. 2. The price represents all final costs necessary to perform the Work within the scope of this Agreement.

## Total price of the Work is [TO BE COMPLETED BY CONTRACTOR] CZK excluding VAT; this price consists of:

1. price of the part of the Work – Boiler K2, which amounts to **[TO BE COMPLETED BY CONTRACTOR] CZK excluding VAT**, and
2. price of the part of the Work – Boiler K3, which is **[TO BE COMPLETED BY CONTRACTOR] CZK excluding VAT**.

VAT shall be added in accordance with valid legal regulations that is in effect.

* 1. The price under Article 5.1 is agreed as a **fixed, not‑to‑exceed price** (except, mentioned in paragraphs 5.3. this one article), valid for the duration of the performance of the Work until its completion and handover. The price includes all costs necessary for proper and high‑quality execution and completion of the Work and fulfillment all obligations by the Contractor according to this Agreement including impacts changes price levels and exchange rates differences, up to real data handover of the Work and that does not exceed tender price from the Contractor’s offer. The Contractor confirms, that price of Work includes all works and deliveries necessarily for high-quality execution of the Work, all costs associated with complete and high-quality execution and completion of the Work and includes also all related costs, which are not direct said in subject Work, as costs for dismantling, production, transport, assembly, handover, costs of Health and safety, taxes, construction costs , maintenance and removal device Construction site, measures to environmental protection, insurance, organizational and coordination activities, reasonable profit of the Contractor and any other expenses related to performance. The Contractor assumes the risk of changing circumstances in sense of provision § 1765 paragraph 2 of the Civil Code.
  2. The Parties agreed that price can be changed only in in the event of a change in the VAT rate during the performance of the Work; the VAT rate applicable on the date of the taxable supply shall always be applied.
  3. The Parties have agreed that if the Contractor (provider of the taxable supply) becomes unreliable taxpayer under the VAT Act or will be ask payment for taxable filling in other account, than account, who is administrator taxes published, the Client (recipient taxable supply) is entitled to apply a special method of securing tax pursuant to Section 109a of the VAT Act. The recipient of the taxable fulfillment will pay part payments for taxable fulfillment corresponding amount taxes from added value directly to the locally and materially competent tax administrator of the provider of the taxable supply.

# PAYMENT AND INVOICING

* 1. The total price of the Work will be paid as follows:

1. **the price of a part of the Work – the K2 Boiler** specified in paragraph 5.1. letter a) of this Agreement will be paid after the handover and acceptance of the relevant part of the Work (according to the Agreement within the scope of the K2 Boiler) without defects and incomplete items, or after the Client has confirmed the removal of all defects and incomplete Work (if any), which will be indicated in the protocol on the handover and acceptance of the relevant part of the Work, whichever occurs later;
2. **the price of a part of the Work – the K3 Boiler** specified in paragraph 5.1 . letter b) of this Agreement will be paid after the handover and acceptance of the relevant part of the Work (according to the Agreement within the scope of the K3 Boiler) without defects and incomplete items, or after the Client has confirmed the removal of all defects and incomplete Work (if any), which will be indicated in the protocol on the handover and acceptance of the relevant part of the Work, whichever occurs later,

based on a tax document - invoice; the Contractor is entitled to issue an invoice for the relevant price no earlier than 15 days after the relevant milestone above.

* 1. The basis for exposure invoices – tax document – is exclusively Protocol on Handover and Acceptance and acceptance of the relevant part of the Work, signed by both Parties, confirming that the part of the Work has been properly completed and handed over without defects and incompleteness that would prevent its proper use. In the event that defects are discovered upon handover or defects and incomplete items, they shall be listed in an annex of the protocol, and the Contractor is not authorized to issue invoices until they have been remedied and removed, and the Client confirms their removal in the form of an addendum to the handover protocol. The Contractor's invoice must meet the requirements of the tax document according to in decisive time effective legal regulations and further must contain:

1. the number of this Agreement,
2. the invoice number,
3. the date of the taxable supply,
4. the due date,
5. the designation of the Work/part of the Work,
6. the name and contact details of the person issuing the invoice, and in case, that invoice will be issued in hard copy, signature of the person, that issued of an invoice.
   1. If an invoice contains incorrect or incomplete data or fails to meet the requirements under paragraphs 6.1. and 6.2. of this Article, the Client is authorized to return it to the Contractor for correction. After repair invoices are submitted by the Contractor to the Client, a new due date under Article 6.5 shall apply. The Client may also return an invoice if defects in the Work are discovered prior to payment., After removal defects or after another extinction responsibilities by the Contractor, a new invoice with a new due date under paragraph 6.5 shall be issued.
   2. The Client is authorized refuse to pay an invoice in case, that the Contractor has suspended performance contrary to this Agreement, is performing contrary to this Agreement, or is in delay against key milestones set out in its schedule, until the obstacle to payment is removed.
   3. Invoices, which will also be tax documents, are payable within 30 calendar days from the date of their delivery to the Client’s registered office stated in the header of the Agreement or electronically to e-mail address [**fakturace@sako.cz**.](mailto:fakturace@sako.cz) The date of the taxable supply is the date of signature of the relevant protocol.

# TIME AND PLACE FULFILLMENT

* 1. The place of performance is the areas and premises designated by the Client at the ZEVO facility, Jedovnická 4247/2, 628 00 Brno.
  2. The Work shall be carried out during the regular technological shutdown of both boilers. The expected shutdown windows for both boilers (K2 and K3) are September–October 2026 and September–October 2027. The exact date of shutdown of the relevant boiler will be specified 200 days prior the requested start of performance – the Client will provide this information to the Contractor indicating the planned date for the start of Work.
  3. The Work will be executed according to the following partial rules:

1. Preparatory Work may, in an agreement with the Client's technical supervision, take place at any time after this Agreement comes into effect.
2. The duration of assembly and dismantling Work during the boiler shutdown shall not exceed [TO BE COMPLETED BY CONTRACTOR] calendar days.
   1. The Contractor is obliged to start, carry out and complete the Work on each shutdown equipment in accordance with the detailed schedule prepared by the Contractor. The schedule prepared by the Contractor must respect the maximum length of assembly and disassembly duration offered for the relevant boiler and take into account the activities that the Client will perform or ensure during the shutdown of the boiler; the Client will inform the Contractor about these activities well in advance before preparing the detailed schedule. The Contractor will submit the draft detailed schedule to the Client for approval or for comments at least 50 days before the planned shutdown date of the relevant boiler. The Client is obliged to apply its comments within a period of 10 days or approve the detailed schedule within the same period; the Contractor is obliged to incorporate the comments applied within a period of 5 days and submit them to the Client for new approval. The Client undertakes to approve the submitted detailed schedule within the same period after incorporating the comments.
   2. By way of derogation from Section 2604 of the Civil Code, the Parties agree that the Work shall be deemed completed once it has been finished, handed over by the Contractor and accepted by the Client. The Client does not have the right to refuse acceptance for minor defects that, by themselves or in combination with others, do not prevent functional or aesthetic use of the subject of the Work or his use substantial in a way they do not limit.
   3. The Parties will agree on an adequately extension deadlines of performance upon this Agreement if it is not possible to commence or continue the performance of the Work for reasons attributable to the Client.
   4. The Client reserves the right to unilaterally change the dates of performance of the Work according to paragraph 7.4 of this Agreement, namely from due to particularly adverse climatic or operational conditions, which are demonstrably preventing implementation of the parts of the Work, for the duration of such conditions.

# HANDOVER AND ACCEPTANCE

* 1. The completion of the Work and its handover and acceptance takes place as a procedure, the subject of which is an investigation of the actual condition of the Work, or a part thereof, or demonstration of its suitability to serve its purpose, namely in place fulfillment according to paragraph 7.1 this Agreement with participation of the Client and the Contractor by the persons duly authorized in writing by each Party (hereinafter referred to as the "**Acceptance Procedure**"). The Work is handed over and accepted in parts corresponding to individual Boilers K2 and K3. The Contractor shall handover the part of the Work to the Client and Client shall accept the part of the Work from the Contractor based on Protocol on handover and acceptance completed parts of the Work. The Contractor shall announce in writing to the Client, that the relevant part of the Work is ready for completion, handover and acceptance at the latest 3 calendar days in advance, unless the Parties agree on a shorter period. The Contractor and the Client shall agree detailed schedule of the Acceptance Procedure. In case the Parties fail to agree on the process of the Acceptance Procedure and/or on his schedule, the Client sets the rules of the Acceptance Procedure and its schedule unilaterally, appropriately to with his possibilities and needs.
  2. The Contractor is obliged to hand over to the Client at least three copies (original + 2 copy) of all necessarily documents relating to the part of the Work being accepted and the Work as a whole upon the handover of the second completed part of the Work, especially:

1. records and protocols on the performance of prescribed tests,
2. records and certificates of tests of equipment and materials used, if required,
3. warranty certificates and operating instructions for the supplied equipment, if required,
4. documents on the performance of other prescribed tests, attestations, certificates, declarations of conformity of materials and products used, if required,
5. handling and operating manuals, instructions for operation and maintenance of the equipment and maintenance documentation, if required,
6. unless the Contractor has previously provided these documents to the Client. If only part of the Work is being provided, the Contractor shall provide the Client with the documents relating to such part of the Work.
   1. The Contractor is obliged to submit the following documentation to the Client no later than the Acceptance Procedure, in relation to the handover of the part of the Work and the Work Work as a whole upon the handover of the second completed part:
7. project documentation including drawings and calculations (strength, expansion, circulation, etc.),
8. accompanying technical documentation (authorizations, certificates, inspection and testing plan, technological procedures, WPS, welder certificates, material certificates, NDT protocols, pressure test protocols, etc.),
9. Construction Site Diary,
10. photo documentation of the assembly process,
11. record of ecological waste disposal,

The documentation will be submitted in Czech in the form of:

* + - 1 set in digital form on a flash drive,
    - 2 sets of printed hard copies,

All documentation must be submitted in editable format in DXF, DWG, DOC, etc.

* 1. In the Acceptance Procedure, the Contractor will write Protocol on Handover and Acceptance of the Work or its part, which shall contain:

1. designation of the part of the Work,
2. identification of the Client and the Contractor, number, and date of conclusion of this Agreement,
3. commencement and completion of works on the part of the Work being constructed,
4. the Client's declaration of acceptance of a part of the Work, with defects (including the deadline for their removal) or without defects, or a declaration of refusal to accept a part of the Work,
5. date and place of drafting the protocols,
6. names and signatures of representatives of the Contractor’s and the Client’s authorized persons to hand over and take over a part of the Work,
7. list of submitted documentation,
8. a list of costs from commencement to completion of the Work section,
9. construction site clearance deadline.
   1. In case the Client will take over part of the Work with defects or incomplete Work, the Client shall determine the deadlines for the removal of these defects or incomplete items specified in the Protocol on the Handover and Acceptance of part of the Work. Failure to comply with the agreed deadline by the Contractor shall be subject to a sanction by the Client under this Agreement.
   2. The Contractor is authorized to hand over parts of the Work before deadline stated in this Agreement; however, this must not affect or jeopardize the Client's Work on the relevant boilers during their shutdown.

# RIGHTS AND OBLIGATIONS FROM DEFECTIVE FILLING, WARRANTY FOR QUALITY

* 1. The Contractor provides the Client with a quality Warranty for the Work performed within the meaning of Section 2619 and Section 2113 et seq. of the Civil Code (hereinafter referred to as the “**Warranty**”) for a period of 24 months; the Contractor also provides a Warranty for a period of 36 months that the Inconel welds will meet the parameters required by the Client  (further also "**Warranty period**").
  2. The Warranty period runs separately for each part of the Work (Boiler K2 and Boiler K3) and begins on the day the Client takes over the relevant part of the Work without defects and incomplete items, otherwise from the day of removal. Last reproached defects who’s unfinished by the Client at acceptance of the relevant part of the Work. Warranty period be suspended for the duration of time which the Client cannot safely use the relevant part of the Work due to defects, for which carries responsibility the Contractor. The conditions set out below shall apply to the notification and rectification of defects under the Warranty.
  3. During the Warranty period, the Contractor is responsible for quality and operability of Work within the scope of the individual Warranties listed above, and ensures, that the Work will have the characteristics specified in this Agreement, otherwise the usual characteristics, and that the Work will be eligible to use for purpose to the above in paragraph 2.7 this Agreement, otherwise to purpose usual, all taking into account the nature of the Client's operation.
  4. The Client is in case of emergency defects during the Warranty period authorized to require the Contractor to:

1. remove defects by delivering replacement performance (in the case of defects in materials, equipment, etc.), or
2. remove the defect through repair, if the defect is repairable, or
3. provide a reasonable discount from the agreed price of the Work under this Agreement, if the defect can only be removed by restricting the use of the Work for its intended purpose or if it is an irremovable defect, which, however, does not prevent or restrict the use of the Work for its intended purpose, or
4. removal of the defect by the Client, or by a third party designated by the Client, at the Contractor's expense.
   1. f the defective performance constitutes a material breach of the Agreement, the Client has a right, next to rights arising from defects and under the Warranty, to withdraw from the Agreement. The Client has the right to choose a claim arising from defective performance according to this Article, while in deviation from provision § 2106 Civil Code, it is agreed that the Client is authorized to modify chosen rights arising from defects, without obtaining the Contractor’s consent.
   2. In deviating from provision § 2112 Civil Code, it is agreed, that the Client is authorized to notify a defect at any time during the Warranty Period,, regardless when the defect was discovered or should have been discovered This arrangement shall also apply to latent defects The defect shall be notified in writing, with written notice also deemed to include notification by e-mail, provided that the notice includes a specification of the identified defect.
   3. In case that the Client will apply the right to removal defects according to paragraph 9.4 letters a), b) of this Agreement, the Contractor is obliged to begin with removing defects at the latest to 2 Working days from delivery of the defect notice, unless the Parties agree otherwise in writing. In the event of an accident, the repair will begin immediately upon delivery of a notification of defect. If the Contractor does not start with removing defects in determined deadline, the Client is authorized to ensure removal defects himself, or through a third-party person, at the expense of the Contractor. The defect will be removed no later than 5 Working days from day of delivery a notification of defect; in case of an accident at the latest to 48 hours from delivery of a notification of defect, if the Parties will not agree otherwise in writing. About repair and her handover to the Client it will be written down a written protocol or other record. The Contractor shall provide the Warranty for quality for the repair performed, in a scope and duration similar to that agreed in paragraph 9.1 until 9.3 of this Article.

# CONSTRUCTION SITE

* 1. Construction site shall mean the area within a ZEVO intended by the Client.
  2. The Contractor shall take over the construction site no later than 5 days prior to the scheduled commencement of the Work according to paragraph 7.2 this Agreement, if with the Parties will not agree otherwise.
  3. A protocol on handover and takeover of the construction site shall be signed by authorized persons representatives of both Parties, whereby the effective date of the handover and takeover of the construction site shall be deemed to be the day on which the handover and takeover process commenced. The protocol shall include a list of authorized representatives of the Client and the Contractor for the handover and takeover of the Site, as well as a list of the Client’s organizational requirements.
  4. The Contractor is obliged to maintain the construction site and the Work in a clean and orderly condition, without accumulation of waste or surplus material. The Contractor shall handle waste in compliance with general binding legal regulations, in particular the provisions of Act No. 541/2020 Coll., Waste Management Act (hereinafter referred to as the " Waste Management Act "), and its implementing regulations. The Contractor is obliged to submit to the person authorized by the Client to act in technical matters documents evidencing the disposal of waste arising from the provision of performance under this Agreement, in accordance with the Waste Management Act.
  5. The Contractor is obliged at the latest to 2 days after the day of a termination of Work to clear and to hand over the construction site to the Client. Upon clearing the the construction site, the Contractor shall restore the surrounding areas to the condition in which they were prior to the commencement of the Work.

# CONSTRUCTION DIARY

* 1. The Contractor is obliged to keep a construction diary from the day work on the construction site commences until the day all defects and unfinished works are remedied. Thereafter, the Contractor shall hand over the construction diary to the Client.
  2. The Contractor will ensure the maintenance of the construction diary in accordance with binding legal regulations. The Construction diary will be accessible to the construction site during a working time of the Client, i.e., in working days from 06.00 to 18.00. The Contractor shall record to the construction diary all important circumstances relating to the execution of the Work. Entries in the construction diary shall be dated and signed by the Contractor.
  3. Entries in the construction diary are always made by the construction manager on the day when work was carried out or when the circumstances that are the subject of the entry occurred. In addition to the construction manager, only the Client is authorized to make records or entries to the construction diary, respectively a person authorized to act in technical matters, or a representative authorized in writing by them, or authorized state administration bodies.
  4. The Contractor is obliged to submit the construction diary daily (or at any time upon request) to a person authorized by the Client to act on technical matters for inspection and shall simultaneously provide without undue delay copies of the completed pages of the construction diary to such a person.
  5. The Client is authorized to control the content of the construction diary and least once per week will confirm control with his by signature and to connect his opinion to records. If the Contractor disagrees with an entry in the construction diary, he must attach his statement to the entry no later than within 3 working days. No entry in the construction diary shall amend the content of this Agreement. The Contractor is obliged to organize and participate in regular inspection (control) days for the purpose of checking the execution of the Work. The inspection days will be focused on compliance with the expected time schedule and regarding the quality of the work performed.
  6. The above-mentioned inspection days are not affected regularly continuous controls of the execution of the Work by the Client or his authorized persons on the construction site, which will be recorded in the construction diary.
  7. Entries in the construction diary or records from the inspection days shall not be considered as amendments to this Agreement nor do they establish a right to change the Agreement.

# EXECUTION OF THE WORK

* 1. The Contractor shall have full control over the performance of the Work, shall effectively manage and supervise it to ensured that the Work will be in conformity with this Agreement.
  2. The Contractor will be exclusively responsible for safety of the works during the execution of the Work according to the Occupational Health and Safety Act, Government Regulation No. 591/2006 Coll., on closer minimum requirements on safety and health protection at construction sites, in wording later regulations (further just "**Government Regulation on OHS**") and with which he has been familiarized and will comply with the regulations of the OHS coordinator provided by the Client, if the obligation to appoint an OHS coordinator arises from special legal regulations.
  3. The Contractor is for this purpose obliged to observe conditions cited legal regulations and further, in particular (not however only):

1. to do all necessary measures to protection persons using buildings and premises and all persons authorized to movement on construction site, to protection construction site himself and to protection of the Work itself. The Contractor is also obliged maintain the construction site and unfinished Work in such a condition, so that any danger to persons, in particular to those present on or near the construction site, is eliminated,
2. secure and maintain at its own expense warning signs, fencing and supervision at times and places where it is absolutely necessary or where it is requested by a person authorized by the Client to act on technical matters, relevant regulations or by the competent authorized public administration body for the safety of persons, Work or the maintenance of public order,
3. take all necessary measures to protect the environment, both directly on the construction site and beyond, to the extent necessary to effectively prevent damage or threat health or life of people and property caused by emissions, noise or any other effects directly related to the execution of the Work,
4. The Contractor's activities must not cause any damage to buildings or utility netWork. Any damage incurred shall be covered by the Contractor, including to third parties, if the damage is caused by the Contractor's actions,
5. If the Contractor uses machines that cause vibrations and shocks, he will ensure that measures are taken to ensure that no damage is caused to nearby existing buildings because of construction activities. Any damage incurred will be covered by the Contractor.
   1. Before starting the execution of the Work, the Contractor shall familiarize itself with the subject of the Work and if he finds any defects, irregularities, mistakes in planned activities, he shall proceed in accordance with relevant provisions of the Civil Code and will not be continue in Work whose deliveries until he receives corrected or missing data and instructions. The Contractor will process and will be according to needs whose requirements of the Client continuously updated timetable of the execution of the Work and compare procedure of the Work with data about progress in the execution of the Work in compliance with all deadlines of the execution of the Work.
   2. The Contractor undertakes to promptly and continuously remove waste and pollution from the construction site, on his own expense.
   3. The Contractor shall notify the person authorized by the Client’s to act on technical matters at least 3 working days in advance of a term of implementation of exams and functionality of the Work and the Contractor shall inform the Client of the results in writing.
   4. The Contractor is fully responsible for:
6. correctness location level, dimensions and focus all parts Work;
7. security of all devices, tools, works, and deliveries necessary to ensure activities listed in this Agreement.
   1. If, during the execution of the Work, any error is discovered in the location, level, dimensions or orientation of any part of the Work, the Contractor shall be obliged to immediately, upon the request of the Client, eliminate such deficiencies at his own expense, in the manner specified by the Client.
   2. The Client undertakes by this Agreement:

* provide initial training for the Contractor's employees,
* to define space for the Contractor to equip the construction site,
* provide electrical connections according to the Contractor's requirements,
* provision of sanitary facilities and showers for the Contractor's Workers,
* provide the necessary cooperation during tests (operating the Client 's technology),
* carry out the construction and dismantling of scaffolding according to the Contractor's instructions,
* dismantle and reassemble the insulation and sheet metal,
* remove and reinstall the lining on the pins/mandrels prepared by the Contractor at the location of the modifications made.

# RIGHTS AND OBLIGATIONS OF THE PARTIES

* 1. The Contractor confirms that he will demonstrably familiarize his authorized employees entering to the areas and premises of the Client with documents ”*Instructions for Employees of Contractors, Visitors and Other Persons Present at the SAKO Brno, a.s. Workplace, Jedovnická 2, 628 00 Brno*”, and "*Transport order of SAKO Brno, a. s*.", (Available for download: [www.sako.cz,](http://www.sako.cz,) link Documents download​ / Instructions). The Contractor will prove the acceptance of above mention byContractor properly filled form of "*confirmation*" which will be signed by workers, for which will be required enter to areas and premises of the Client. The Contractor shall deliver the confirmation in advance to a technician of Health and safety and Fire Protection at SAKO (TO BE COMPLETED BY CLIENT). The confirmation shall be issued in the original to headquarters of the company SAKO or in electronic form in format .pdf, with the electronic signature of a person authorized to act on behalf of the Contractor.

For granting permission of entrance to Contractor’s vehicles, the license plate numbers of the vehicles must also be fulfilled in the submitted confirmation.

Without handover properly filled in and signed Confirmation will not be granted permission of entrance to premises of SAKO.

* 1. The Client is obliged to ensure during a handover construction site:

1. delimitation of the area for construction site facilities,
2. provision of an electrical connections according to requirements of the Contractor.
3. provision of sanitary facilities and showers for the Contractor’s workers,
4. cooperation during tests (the Client’s technology operators).
   1. The Client’s authorized persons, listed in paragraph 1.1 Article 1 this Agreement, is authorized to delegate the duties of a Technical Supervision of Construction and a coordinator of Health and safety to the third person in compliance with this Agreement. The Client shall inform the Contractor of these people no later of the date of handover of the construction site.
   2. The Client is obliged to appoint Technical Supervision of Construction if this obligation arises from special legal regulations. The Technical Supervision of Construction shall not be performed by the Contractor or a person of entity which is connected to the Contractor.
   3. The Client is entitled to inspect the execution of the Work himself or through the Technical Supervision of Construction. If the Client discovers that the Contractor is performing the Work in violation of his obligations under this Agreement, the Client is entitled to demand that the Contractor eliminate the defects resulting from the defective execution and perform the Work in a proper manner. If the Contractor fails to do so within a reasonable period provided for it, the Client is entitled to withdraw from this Agreement. The Contractor undertakes to perform the Work with professional care. He undertakes to comply with binding regulations, technical standards, and the provisions of this Agreement. The Contractor undertakes to comply with the Client's initial documents, the Client's instructions, and the decisions of the relevant administrative authorities.
   4. The Contractor is obliged to ensure the immediate removal of waste and impurities arising in connection with the performance of the Work throughout the entire period of performance of the subject matter of this Agreement.
   5. The Contractor is obliged to use subcontractors in the performance of this Agreement, who have proven to meet the eligibility and/or qualification conditions in the tender procedure that preceded the conclusion of this Agreement. The Contractor is entitled to change such subcontractors during the term of this Agreement only with the prior written consent of the Client. The new subcontractor must have at least the same qualifications as the original subcontractor demonstrated for the Contractor; the Contractor must duly document the fulfillment of the stated conditions together with the request for a change of subcontractor. The Client shall issue a written consent to the change of the subcontractor within 10 days of the delivery of the request and the necessary documents, if it is proven that the new subcontractor has the necessary qualifications. The Client may not refuse consent to the change of subcontractor without objective reasons.
   6. The Contractor is obliged to ensure supervision of the execution of the Work by a professionally qualified construction manager.
   7. The Contractor is obliged to use the members of the implementation team, with whom it demonstrated compliance with the technical qualification conditions in the tender procedure preceding the conclusion of this Agreement, in the performance of this Agreement. The Contractor is entitled to change these members of the implementation team during the term of this contract only for serious reasons and only with the prior written consent of the Client. The new person or persons must have at least the same qualifications as the Client requested in the tender procedure for the relevant person; the Contractor must provide evidence of the fulfillment of the stated conditions together with the request. The Client shall issue a written consent to the change of person within 10 days of the delivery of the request and the necessary documents, if the new person (or new persons) has the necessary qualifications. The Client may not refuse consent to the change of person without objective reasons.
   8. The Contractor undertakes that the Work will have the usual qualities of a flawless Work of a similar nature to the Work under this Agreement, it shall possess the characteristic specified by the technical standards applicable to the materials and Work performed under this Agreement and will be suitable for unlimited use for the purpose under this Agreement.
   9. The Parties have agreed that if goods are supplied as part of the Work, it will be supplied new, unused and of first quality. The quality of the supplied materials and structures will be documented in the prescribed manner during inspections and upon handover and acceptance of the Work.

# OWNERSHIP RIGHT TO THE WORK PERFORMED, INSURANCE OF THE WORK, RISK OF DAMAGE

* 1. **Ownership right and risk of damage** – the owner of the Work, the execution of which is subject of this Agreement, is the Client from beginning, whereby ownership rights are acquired progressively during the execution of the Work to the extent that the Work has been completed. After handover of the construction site to the Contractor for the performance of the Work under this Agreement, liability for damage caused to the Work and for damage caused by its operation shall pass to the Contractor, until the time of return takeover of the Work by the Client according to paragraph 10.5 this Agreement. The Contractor shall be responsible as the waste generator and undertakes not to cause the release of toxic or other harmful substances in connection with the execution of the Work.
  2. **Insurance** – the Contractor has provided the Client, prior to the conclusion of this Agreement, with proof of insurance of liability for damages caused by the Contractor's activities on the Work being performed or completed or incurred by the Client due to the Contractor's breach of obligations under this Agreement in the amount of at least the total price of the Work within the meaning of paragraph 5.1 of the Agreement, while the agreed insurance coverage must be sufficient to ensure that the Work can be repaired or re-made in the event of damage; the corresponding insurance shall be maintained in force from the date of commencement of the execution of the Work until the expiration of the Warranty Period. The Contractor is obligated to fully compensate the Client for any damage incurred during the realization and use of the Work in connection with or as a result of the Contractor's breach of obligations under this Agreement. The Contractor shall submit proof of insurance to the Client, upon written request, before the conclusion of the Agreement and thereafter upon written Client 's request at any time during the performance of the Work.
  3. **Compensation for damages** –claims for damage compensation shall be governed by the Civil Code.

# LIABILITY – CONTRACTUAL PENALTIES

* 1. In the event of the Contractor's delay in commencing the Work or in the event of a delay in completing the Work in accordance with the relevant detailed schedule pursuant to paragraph 7.4 of this Agreement, the Contractor is obliged, in each of these cases, to pay the Client a contractual penalty of 1 % of the price of the relevant part of the Work (boiler), excluding VAT, for each day of delay, even if only part of the day is delayed. The maximum of the above-mentioned penalty shall be limited to 20% of the total price of the Work excluding VAT.
  2. In the event of a delay by the Contractor in starting to remove the claimed defects under the Warranty, the Contractor is obliged to pay the Client a contractual penalty of CZK 10,000 for each calendar day of delay. The Contractor shall pay the same amount of the contractual penalty in the event of a delay in meeting the agreed deadline for removing the claimed defects under the Warranty, for each calendar day of delay.
  3. If the Contractor materially breaches this Agreement, the Contractor shall pay the Client a contractual penalty of CZK 50,000 for each individual breach of obligation (contract).
  4. In the event that the Contractor violates any obligation regarding work safety during the performance of the Work, as stipulated by this Agreement or the documents that the Contractor is required to follow during the performance of the Work, the Contractor shall pay the Client a contractual penalty of CZK 5,000 for each detected case of violation.
  5. If the Contractor violates the obligation to submit insurance documents, the Contractor shall pay the Client a contractual penalty of CZK 5,000 for each day of delay in fulfilling this obligation.
  6. If the Contractor breaches the obligations under paragraph 13.7. or 13.9 . of this Agreement, the Contractor shall pay the Client a contractual penalty of CZK 50,000 for each individual case of breach.
  7. The Contractor is entitled to demand from the Client payment of interest on delay in the event of the Client's delay in paying the Price according to the duly issued and delivered invoice to the Client in the amount of 0.015% of the outstanding amount for each day of delay.
  8. The contractual penalties agreed under this Article shall in no way affect the right to compensation for damages under the same title. The contractual penalty shall be payable on the first day after the breach of the obligation it is intended to secure.
  9. If the obligation to perform the Work ceases upon proper performance of the Work, the right to a contractual penalty related to a previous breach of obligations does not cease.
  10. The application of sanctions does not affect the possibility of claiming compensation for damages by the Client arising from the Contractor's failure to meet the deadline or any other breach of obligations by the Contractor.

# TERMINATION OF THE CONTRACTUAL RELATIONSHIP

* 1. The Parties may terminate this Agreement at any time by written agreement.
  2. The Client is entitled to terminate this Agreement after the completion of part of the Work (Work in relation to one of the boilers), and only in relation to the remaining part of the Work; the rights and obligations of the Parties relating to the already completed and handed over part of the Work (for example, the Warranty) are not affected. The Client is entitled to terminate the contract in this way by written notice delivered to the Contractor no later than the deadline for specifying the date of shutdown of the remaining boiler in accordance with paragraph 7.2. of this Agreement.
  3. This Agreement may be withdrawn for reasons stated in general binding legal regulations or for reasons stated further in this Agreement. A breach of obligation by a contracting party, which was the reason for withdrawal from the Agreement, establishes the right of the Parties to compensation for the damage incurred even if the Agreement had not been withdrawn. By way of derogation from the provisions of Section 2002, paragraph 1 of the Civil Code, it is agreed that if a party breaches the contract in a material way, the other party may withdraw within 3 months from the moment it became aware of the breach. The Parties are entitled to withdraw from this Agreement only with effect for the future.
  4. The Parties consider as a material breach, in particular, the failure to comply with the following contractual obligations:

1. delay the Contractor longer than 5 days from end deadlines specified in Article 7 of this Agreement,
2. unauthorized stoppage or interruption of works on the Work by the Contractor for a period longer than 5 days,
3. failure to prove the existence of liability insurance for damage caused by the Contractor during its activities with a minimum limit of insurance benefits pursuant to Article 14 of this Agreement, other cases of material breach of contract by the Contractor expressly designated in this Agreement as material breach of contract(Agreement),
4. the Client's delay in handing over the construction site to the Contractor contrary to the schedule longer than 3 days,
5. the Client's delay in paying the outstanding amount for more than 60 days.
   1. Any other act of the Contractor, which is by this Agreement expressly designated as a breach of contract. The Client is further authorized by this Agreement to resign in these cases:
6. the Contractor proceeds with the performance of the Work in a manner that clearly does not correspond to the agreed scope of the Work and the agreed deadline for completing the Work and handing it over to the Client,
7. if the competent court has ruled that the Contractor is bankrupt within the meaning of Act No. 182/2006 Coll., on bankruptcy and methods of its resolution (Insolvency Act), as amended (regardless of the legal force of this decision),
8. if insolvency proceedings were initiated based on the debtor's proposal of the Contractor.
   1. Withdrawal is effective from the date of delivery of written notification to the other contracting party.
   2. Withdrawal from the Agreement does not affect the right of the entitled party to pay a contractual penalty, interest on arrears or compensation for damage resulting from a breach of the Agreement, or other arrangements which, due to their nature, are intended to bind the Parties even after withdrawal from the Agreement or which are intended to continue according to an express agreement in other parts of this Agreement. Withdrawal from the Agreement does not affect the contractual Quality Warranty, which shall apply to the extent specified in this Agreement to the part of the Work performed so far. Withdrawal from the Agreement does not affect the liability for defects which exist in the part of the Work performed as far as of the date of withdrawal.

# FINAL ARRANGEMENT

* 1. This Agreement is executed in 2 copies, each of which has the validity of an original, and the Client and the Contractor will each receive one copy of this Agreement.
  2. The Agreement may be amended or supplemented only by written, consecutively numbered amendments, agreed upon based on an agreement between the Parties.
  3. The rights and obligations of the Parties not expressly regulated in this Agreement are governed by the relevant provisions of the Civil Code.
  4. The Contractor may not assign its rights and obligations arising from the Agreement to a third party without the consent of the Client.
  5. The Client is entitled to unilaterally set off any of its monetary claims against the Contractor against the Contractor's monetary claims against the Client, regardless of their maturity, and the Contractor is not entitled to unilaterally set off its claims against the Client.
  6. If any provision of this Agreement proves to be invalid, ineffective, or unenforceable, or if any provision is missing, the remaining provisions of this Agreement shall remain unaffected by this fact. The Parties undertake to agree on the replacement of such invalid, ineffective or unenforceable provision with another provision that corresponds to the purpose of this Agreement and the purpose of the invalid, ineffective or unenforceable provision.
  7. The Agreement shall enter into force on the date of its signing by the Parties and shall become effective upon publication in the register of contracts pursuant to Act No. 340/2015 Coll., on special conditions for the effectiveness of certain contracts, publication of such contracts and the register of contracts (the Act on the Register of Contracts). The Client shall ensure the publication of the Agreement in the register of contracts and shall inform the Contractor of this fact without undue delay after its publication.
  8. By signing this Agreement, the Contractor acknowledges that SAKO Brno a.s. is a mandatory entity pursuant to Act No. 106/1999 Coll. and that it is also a mandatory entity pursuant to Act No. 340/2015 Coll.
  9. The Parties have agreed that SAKO Brno, a.s. is entitled to publish the content of this entire Agreement without further notice, both through the register of contracts pursuant to Act No. 340/2015 Coll., and in any other manner, except for provisions containing trade secrets.
  10. The Parties expressly state that this Agreement does not contain any of their trade secrets or other information that could not be published or provided pursuant to Act No. 106/1999 Coll., except for the provision on [TO BE ADDED], which will not be published through the register of contracts.
  11. The Parties will not pay or otherwise compensate or provide anything for the above-mentioned arrangements or the procedure according to these arrangements. These arrangements shall remain in force even in the event of termination of this Agreement or in the event of its invalidity, since according to the will of the Parties these arrangements shall remain valid and effective regardless of the Agreement itself.
  12. The Contractor acknowledges that SAKO Brno, a.s. reserves the final right to decide which information will be published.
  13. The Parties declare that this Agreement is a manifestation of their real, free, and serious will, that they have read this Agreement properly, understood its contents and as proof thereof, they attach their signatures.
  14. The Agreement shall be concluded in both Czech and English versions. In the event of a conflict between the language versions, the Czech version shall prevail. All written communication and written deliverables shall be in the Czech language; the Client may accept communication in the English language in individual cases.
  15. If this Agreement is executed in electronic form, it must be executed in PDF/A format and signed with valid, qualified electronic signatures of the Parties based on qualified certificates. Each Party shall receive the Agreement in electronic form with recognized electronic signatures of the Parties.
  16. This contract includes the following annexes:

*Annex No. 1 – Call – Public contract “Optimization of existing boilers K2 and K3” dated [*TO BE ADDED*]*

*[Considering that the said annex is known to the Parties; it is not an integral part of this contract]*

*Appendix No. 2 – Offer of the Contractor – Optimization of existing K2 and K3 boilers.*

*[Considering that the said annex is known to the Parties; it is not an integral part of this contract]*

*Annex No. 3 - Technical specification and Project documentation, including detailed drawings.*

*[This is Annex No. 2 of the call for tenders and tender documentation.]*

In Brno on [TO BE ADDED] In [TO BE ADDED] on [TO BE ADDED]

For the Client For the Contractor

………………………………………………………………………………………… ​

SAKO Brno, a.s. [TO BE ADDED]

Ing. Karel Jelinek, general director