

**The Agency for the Cooperation of Energy Regulators**, having its seat in Ljubljana (address: Trg republike 3, 1000 Ljubljana), represented for the purposes of the signature of this contract by Alberto Pototschnig, Director, hereinafter referred to as “the Agency” or the “Tenant” or the “Lessee”

And

**CEEREF Naložbe d.o.o.**, having its registered office in Ljubljana at Dunajska cesta 9, statutory registration number 1813277000, VAT registration number: SI20365071, represented for the purposes of the signature of this contract by [REDACTED], Director, hereinafter referred to as the “**Landlord**”,

Individually referred to as “**Party**” and collectively as “**Parties**”.

Have concluded the following

**CONTRACT OF LEASE**  
**no. ACER/NEG/ADMIN/04/2013**

**THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:**

The terms used in this Contract have the following meaning:

<b>Agency's Requirements</b>	Means construction and fit-out requirements of the Agency, which are described in details in Annex 1 hereto, in respect of the Fit-Out of the Premises pursuant to space plan constituting Annex 4, which may be changed from time to time by the Agency pursuant to Art. 2.5.
<b>Building</b>	Means a building owned by the Landlord with ID no. 1721-1 in the cadastral community of GRADIŠČE I, at the address Trg republike 3, Ljubljana, occupying lot. no. 30/5 of the cadastral community of 1721 GRADIŠČE I.
<b>Building Manager</b>	Means the legal entity providing the services as defined in Article 5 on behalf of the Landlord.
<b>Commencement Date</b>	Means the date on which the Lease Term will commence, pursuant to the provisions of Art. 6.1 hereof, that is 1 February 2014.
<b>Common Areas of the Building</b>	Mean the reception area(s), pedestrian ways, concourses, forecourts, squares, circulation areas, staircases, lifts, escalators, bridges, service roads and ramps, service areas and bays, goods handling areas, common loading areas, public lavatories and landscaped areas and all other areas, ways and amenities in the Building provided or designated by the Landlord for common use and enjoyment by the Agency and occupiers of the Building, and all persons expressly or by implication authorised by them, including their visitors.
<b>Contract</b>	Means this Contract together with all of the Annexes hereto which constitute an integral part of it.

<b>Cost of Non-amortised (non-depreciated) Fit-Out Works</b>	Means the cost of Fit-Out Works of the Leased Area concerned that have not yet been depreciated at the time of reduction or termination pursuant to Art. 8.2 or 17.1.4 of this Contract. The costs of the Fit-Out Works related to the Leased Area concerned are calculated pro rata on the basis of the five-year contract.
<b>Design</b>	<p>Means the architectural execution design of the Premises, to be prepared by the Landlord, at the Landlord's cost, containing the following drawings:</p> <ul style="list-style-type: none"> <li>a) walls together with the specification of the ironmongery, woodwork and types of walls,</li> <li>b) the ceilings together with the lighting and the types, makes and number of fixtures,</li> <li>c) carpeting,</li> <li>d) within the scope of the IT – the layout and location of the IT sockets and electrical sockets together with the detailed specification of types of power and types of computer sockets,</li> <li>e) kitchen units,</li> <li>f) plan of escape routes and fire signs.</li> </ul> <p>The Design does not include the branch drawings. The Landlord shall prepare the branch drawings, at the Landlord's cost, on the basis of the Design accepted by the Agency.</p>
<b>Design's Requirements</b>	Means the change of the Agency's Requirements and other requirements as may be required in order to prepare the Design.
<b>Expiry Date</b>	Means the date falling 5 years after the Commencement Date unless the lease is terminated earlier in accordance with the provisions of this Contract.
<b>Extension Option</b>	Means option to prolong the Lease Term as described in Art. 6 of this Contract.
<b>Final Hand-Over</b>	Means the hand-over of the entire Leased Area to the Agency according to the provisions of Art. 3 of this Contract.
<b>Final Hand-Over Date</b>	Means the date of Hand-Over of the entire Leased Area according to Art. 3.1 of this Contract.
<b>Fit-out Schedule</b>	Means a schedule of completion of the fit-out works constituting Annex 3 thereto.
<b>Fit-Out Works</b>	Means the works to be performed by the Landlord in the Leased Area according to space plan constituting Annex 4, as marked in red in Annex 1 to this Contract.
<b>Gross Premises Area</b>	Means the total area of the Premises increased by the add-on factor, for which area the Agency is obliged to pay the Service Charges to the Landlord, as defined in Art. 5 of this Contract.
<b>Hand-Over Protocol</b>	Means the document signed on the Partial Hand-Over Dates or the Final Hand-Over Date by both Parties, describing the state of the Premises concerned.

<b>Leasable Area of the Building</b>	Means the total area to be leased to lessees in the Building, increased by add-on factor.
<b>Lease Term</b>	Means the defined period of time of 5 years commencing on the Commencement Date.
<b>Leased Area</b>	Means jointly Premises, Parking Spaces and Storage Area.
<b>Net Premises Area</b>	Means jointly Premises and Storage Area.
<b>Normal Wear and Tear</b>	Means any regular use and all normal consequence of usage including situations of breakdowns and failures but excluding intentional damages.
<b>Parking Spaces</b>	Means parking spaces as specified in Art. 1 of this Contract, located in the Underground Garage.
<b>Parking Fee</b>	Means amounts due and payable by the Agency to the Landlord for the lease of the Parking Spaces.
<b>Partial Hand-Over</b>	Means the hand-over of the relevant floor included in the Plan of the Leased Area to the Lessee.
<b>Partial Hand-Over Date</b>	Means the date of handing over the relevant floor included in the Plan of the Leased Area to the Lessee.
<b>Parties</b>	Means the Agency and the Landlord.
<b>EUR</b>	Means the currency of the Republic of Slovenia.
<b>Premises</b>	Means office premises, leased to the Agency as specified in Art. 1 of this Contract, as marked on the plan constituting Annex 4 hereto.
<b>Project Change Request</b>	Means a written request to change the Agency' Requirements or, approved space plan or Design as may be delivered from time to time by the Agency; the form of the Project Change Request constitutes Annex 5 hereto.
<b>Punch List Items</b>	Means the list of defects which do not prevent the use of the Premises.
<b>Rent</b>	Means amounts due and payable by the Agency to the Landlord for the lease of Premises, to be paid as specified under Art. 4 of this Contract.
<b>Revaluation</b>	Means the revaluation of the Fit-Out Works, to be prepared by the Landlord on the basis of the Design.
<b>Service Charges</b>	Means amounts due and payable to the Landlord according to Art. 5 of this Contract in addition to the Rent.
<b>Storage Area</b>	Means storage, leased to the Agency as specified in Art. 1 of this Contract, as marked on the plan constituting Annex 4 hereto.
<b>Underground Garage</b>	Means underground garage located under the Buildings.

**VAT** Means the Value Added Tax.

**1. SUBJECT**

The Agency leases from the Landlord, and the Landlord leases to the Agency office space (including storage areas and the server room) which are located on 8 levels in the Building (XXXXXX) with a total net area of [2,750-3,000] m<sup>2</sup> according to the space plan constituting Annex 4 (the “**Premises**”) and [25-50] parking spaces ([0-25] reserved and [25-50] non reserved parking spaces) (“**Parking Spaces**”), that meet the requirements of the Agency throughout the term of the lease in accordance with this Contract.

**2. FIT-OUT**

**2.1 Scope of the Fit-Out Works**

2.1.1 The fit-out requirements of the Agency are detailed in Annex 1 of the Contract (“**the Agency Requirements**”).

2.1.2 The Landlord performs the Fit-Out Works marked in red in Annex 1 of the Contract on the basis of the space plan constituting Annex 4 and based on the Design (also based on space plan constituting Annex 4).

The Agency may request to modify the scope of the Fit-Out Works to be performed by the Landlord in line with Art. 2.5. Consequently, the Landlord performs the Fit-Out Works as agreed by the Parties.

**2.2 Budget**

2.2.1 The Landlord undertakes to cover the costs of Fit-Out Works up to the amount of [750,000-1,000,000] EUR net of VAT. The valuation of the Fit-Out Works marked in red in Annex 1 is attached hereto as Annex 2.

2.2.2 After the Commencement Date, the Landlord shall make a revaluation of the Fit-Out Works indicated in the Design (the “**Revaluation**”). The Revaluation shall be done based on the market prices as applicable at the time, and the Parties shall use all best efforts to ensure that the total cost of the Fit-Out Works is not higher than the amount of valuation indicated in Annex 2.

2.2.3 If, according to the Revaluation the total value of the Fit-Out Works is lower than the amount of [750,000-1,000,000] EUR net of VAT, then the difference shall be granted as a rebate as specified in Art. 4.4.

The terms of the financial settlement resulting from the Revaluation shall take place after the Commencement Date, but not later than 10.02.2014.

**2.3** The Landlord undertakes to prepare the Building in accordance with the Fit-Out schedule constituting Annex 3 hereto (“**Fit-Out Schedule**”).

**2.4** From the date of commencing the Fit-Out Works:

2.4.1 The Landlord shall provide the Agency, electronically, with fit-out works progress reports, no less frequently than once a month. The template of the progress report constitutes Annex 6 hereto.

- 2.4.2 The Agency has the right to participate in coordination meetings of which he or she is informed sufficiently in advance by the Landlord. The Landlord shall notify the Agency about any planned coordination meetings sufficiently in advance, by e-mail.

## 2.5 Project Change Request

- 2.5.1 The Agency may introduce changes to the Agency's Requirements up to 5% of the entire Fit-Out Costs, previously approved space plan or Design by submitting to the Landlord the Project Change Request - Part I.
- 2.5.2 Without delay, in any case not later than within 14 working days from receipt of the Project Change Request (Part I), the Landlord shall provide the Agency with the Analysis for Request (Project Change Request - Part II).
- 2.5.3 Within the deadline as provided for in the Analysis for Request, the Agency shall inform the Landlord whether the Agency accepts the conditions of implementation of the change requested by the Agency, as provided for in the Analysis for Request by submitting a Tenant Decision (Project Change Request – Part III) executed by the Agency.

The Landlord shall take all reasonable steps in order to indicate in the Analysis for Request (Project Change Request - Part II) the deadline for the decision to be taken by the Agency not shorter than 5 calendar days. However, if the decision immediately impacts the works conducted by the Landlord, the Landlord will be entitled to indicate in the Analysis for Request (Project Change Request - Part II) a shorter deadline for decision to be taken by the Agency than 5 calendar days.

- 2.5.4 The costs of changes requested by the Agency shall be evaluated by the Landlord in good faith taking into consideration the market prices applicable at the time of the Agency's submission to the Landlord of the Project Change Request – Part I.
- 2.5.5 Positive Tenant Decision (i.e., the approval of the conditions following the procedure laid down in Art. 2.5.3 above) shall constitute an amendment of this Contract within the scope as described in the Project Change Request Part I, Part II and Part III and authorization for the Landlord to conduct the Fit-Out Works amended pursuant to the Project Change Request. The Form of the Project Change Request Part I, Part II and Part III constitutes Annex 5. The Landlord is obliged to implement the requested changes if the Project Change Request is properly approved and duly signed by the authorized Agency representatives. Changes requested by the Agency causing delay of the Hand-Over Date and/or increase of costs of the Landlord's Fit-Out Works shall be implemented by the Landlord subject to the Agency's approval of the delay of the Hand-Over Date and/or costs increase related thereto.
- 2.5.6 The Landlord is also entitled to make changes to the Agency Requirements previously approved space plan or Design by submitting to the Agency the Project Change Request – Part 1. The procedure described above applies accordingly.

## 3. HAND OVER

- 3.1 The Landlord hands over the floors included in the Plan of the Leased Area to the Lessee. The Partial Hand-Over Dates should at the latest take place on the dates foreseen for the completion of said floors in the Fit-Out Schedule, as laid down in

Annex 3. The Final Hand-over Date of the entire Leased Area should at the latest take place on 1 January 2014. The Agency has the right to gradually start moving in accordance with the Fit-Out Schedule, so that it can be fully operational in the new premises as of 1 February 2014.

The Partial Hand-Over and the Final Hand-Over must each be confirmed by a Hand-Over Protocol, to be signed by the Landlord and the Agency at the latest at the above mentioned dates.

During the period starting from the Partial Hand-Over Dates and ending on the Commencement Date, the Agency will conduct its works to prepare the Premises to be used for office purposes.

The Agency shall have a right to enter the Leased Area prior to the Partial Hand-Over Dates ("Early Access Right") in order to install certain agreed equipment and conduct certain agreed works to the extent such items and works are not otherwise covered by the Fit-Out works described in Annex 3 of the Contract and provided that the construction works of the Building allow for such Early Access Right. The Agency agrees that the Early Access Right shall be for non-exclusive use and shall be conducted in a manner so as to avoid interference with any of the Landlord's Fit-Out works and shall in all respects be subject to Landlord's requirements including the appropriate scheduling of such works.

- 3.2 A template of the Hand-Over Protocol is attached to this Contract and constitutes its integral part as Annex 7. The signed Hand-Over Protocols become an integral part of the Contract. The area defined in the Hand-Over Protocol used for the Partial Hand-Over is the basis for the calculation of the Service Charges. The area defined in the Hand-Over Protocol used for the Final Hand-Over is the basis for the calculation of the Rent, the Service Charges and other payments under this Contract. Within 30 days following the Final Hand-Over Date, the Landlord shall deliver to the Tenant the final technical documentation as listed in Annex 10.

- 3.3 In relation to the Partial and Final Hand-Over of the Leased Area, the Agency:

- 3.3.1 accepts the Leased Area concerned and delivers the Punch List Items, if any. The Landlord is obliged to remedy the Punch List Items: (i) within 30 days from the date of signing of the Hand-Over Protocol or (ii) within a longer period of time if the nature of the defects justifies a delay in their remedying, but in any case not longer than within 60 days, unless a longer period to remedy the Punch List Items is agreed by the Parties<sup>1</sup> due to objective reasons beyond the Landlord's control, such as terms of delivery of the materials or equipment by third parties in which case the period to remedy a particular defect should be extended by the time equal to the time for delivery of the specific material or given equipment by a third party,

or

- 3.3.2 refuses to accept the Leased Area concerned due to substantial defects which prevent the use of the Leased Area concerned. The defects should be described in a protocol together with the remediation period.

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<sup>1</sup> The Agency will not refuse such agreement if the reasons are objectively justified.

- 3.4 In case of a delay in the Partial Hand-Over Dates, the Landlord shall grant the Agency a proportionate release from payment of the Rent unless such a delay was caused by the Agency. The proportionate release from payment of Rent shall be equal to 2 rent-free days for each day of the delay until the final Hand-Over Date.
- 3.5 Without prejudice to the possibility for the Agency to terminate the Contract on the basis of Art. 17.2.1, in case the delay in Partial and/or Final Hand-Over of the Leased Area would make it impossible for the Agency to move to the Premises not later than on 1 February 2014, the Landlord is – in addition to the obligation defined in Art. 3.4 above - obliged to cover all the costs the Agency incurred due to the delay, direct and indirect, to the Agency, as well as be liable to pay to the Agency a contractual penalty amounting to 3% of the monthly rent for each day of the delay. The Landlord is obliged to reimburse the costs within 30 days from receipt of documents evidencing the direct and/or indirect costs borne by the Agency.
- 3.6 In the case of the termination of the Contract under the procedure provided in Art. 17.2.1, the Landlord has no claims against the Agency.

#### 4. **RENT**

- 4.1 The payments for the Leased Area are to be paid in EUR ("**Rent**"). The Rent shall be paid as from the Commencement Date until the Expiry Date.
- 4.2 The Rent shall consist of the following amounts:
- 4.2.1 EUR [0-25] (██████████) net monthly for each square meter of the Net Premises Area ("**Rent**");
- 4.2.2 Monthly for each Parking Space ("**Parking Fee**") in the underground Garage:
- [0-250] EUR (██████████) per parking space net monthly for [0-25] Parking Spaces (reserved);
  - [0-250] EUR (██████████) per parking space net monthly for [25-50] Parking Spaces.
- 4.3 Payments will be made exclusive of VAT, as the Agency is exempt from all duties and taxes, including value added tax (VAT) under Art. 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.
- 4.4 If the value of the Fit-Out Works to be performed by the Landlord as provided for in the Revaluation is lower than the amount being equivalent to [750,000-1,000,000] EUR net of VAT, then the difference shall be deducted from the payment of the next due rent and considered as a rebate.
- 4.5 The amount of Rent is fixed and cannot be subject to revision during the first year of the Lease Term.
- 4.6 In February of each calendar year of the Lease Term starting from the Commencement Date of the Lease Term the Rent and Parking Fee may be revised upwards or downwards once a year, where such revision is requested by either of the Parties.

This revision shall be determined by the trend in the harmonised indices of consumer prices (HICP) MUICP for Slovenia published for the first time by the Eurostat monthly 'Data in Focus' publication at <http://www.ec.europa.eu/eurostat/>.

The revision shall be calculated in accordance with the following formula:

$$Ar = Ao \times Ir/Io$$

Where

Ar = revised amount

Ao = amount as defined in Art. 4.2

Ir = the index for the month corresponding to the date of receipt of the request to revise prices

Io = the index for the month corresponding to the final date for submission of tenders

The Landlord is obliged to notify the Agency on the new applicable index figure and the revised amounts of the Rent and the Fee for Parking Spaces after indexation. If the Agency does not send to the Landlord its remarks as to the chosen index figure and method of calculation of the revised amounts of the Rent and the Fee for Parking Spaces within 30 days from the receipt of the Landlord's notice, the figures indicated in the Landlord's notice shall be considered as accepted by the Agency. Until the index figure and the method of calculation are agreed by the Parties, the Landlord will issue the invoices for the same amounts of the Rent. When the index figure and the method of calculation are agreed by the Parties, the Landlord will correct invoices that should have been a subject of indexation as from 1 February of the given year and the Agency shall pay the respective amounts accordingly.

## 5. SERVICE CHARGES

- 5.1 The Service Charges for the Gross Premises Area are to be paid in EUR ("**Service Charges**"). The Gross Premises Area is calculated by multiplying the net Premises area with building add on factor of 20 % (i.e. a ratio determined by dividing the common areas in the Building with the total area of all premises located in the Building). The Service Charges shall be paid as from the Partial Hand-Over Dates for the Leased Area handed over to the Agency and during the Lease Term.

The Building Manager shall be expected to invoice the Service Charges that the Lessee is obliged to pay to the Landlord pursuant to this contract, by the 15<sup>th</sup> day of each month for the previous month, or immediately on receipt of the invoice for all services received in the previous month, the time limit for payment being 30 days after the date of receipt of the invoice.

Under Art. 3 and 4 of the Protocol on the privileges and immunities of the European Union and Art. 7 of the Seat Agreement between the Government of the Republic of Slovenia and the Agency for the Cooperation of Energy Regulators (Official Journal of the Republic of Slovenia no. 109/2010 dated 30 December 2010), the Lessee is exempt from all duties, taxes and other charges. In case the Lessee shall not be entitled to the exemption from the fee for municipal building land use, the Lessee, as the user of the rented premises, shall be liable to pay the annual fee for municipal building land use (NUSZ or any other tax that will replace it).



The Service Charges will cover all the costs arising from the proper upkeep, running and maintenance of the Building and the Project.

At the moment of execution of this Contract the Service Charges include:

- 5.1.1 the costs related to the functioning of the Building, which will be calculated on the basis of a ratio of the Gross Premises Area to the Leasable Area of the Building and which shall include the costs of:
- (a) inspections, maintenance, daily upkeep and repairs (including parts and replacement materials) of the Building, of the general facilities designed for use of all or individual tenants of the Building (including HVAC system, fire protection system, security and monitoring systems, lighting, electrical systems, etc.) common areas, car park, surroundings,
  - (b) de-snowing and cleaning of the Building (including cleaning materials),
  - (c) security and reception staff of the Building,
  - (d) pest control, disinfection,
  - (e) upkeep of greenery and decorative elements,
  - (f) technical inspection of the Building, including among others the costs of statutory inspections, inspections and upkeep of elevators and elevator shafts as well as the costs related to technical supervision,
  - (g) costs of management of the Building including the costs of remuneration of the Building's manager, upkeep of premises for the administration personnel, office materials and expenses and communication,
  - (h) costs of water and electricity consumption in the Building's common areas and surface and underground parking areas,
  - (i) removal of trash and refuse, services of cleaning of building installation, fat and grease separator,
  - (j) fire safety and guard service,
  - (k) provision for depreciation and renewal of equipment and expenditures for those purposes,
  - (l) costs accruing from the compliance with statutory requirements connected with the repair, maintenance, replacement or with the operation and/or utilization of the Building.

Within the scope of this part of the Service Charges, the Agency shall also cover its share in the costs of heating, ventilation and cooling of the Building, however this share will not be calculated on the basis given above, but on the basis of the share of the Gross Premises Area to the area of the premises occupied by all lessees of the Building (including the Agency). For the avoidance of doubt, the Parties agree that the Agency will not cover the costs of heating and cooling of the unoccupied areas.

- 5.2 The Service Charges will not cover the capital expenditures, that is expenditures creating future benefits, incurred as a result of acquisition of fixed assets adding to the

value of the Building, used by the Landlord to acquire or upgrade physical assets. The Service Charges will also not cover the costs of general repairs of the entire Building.

- 5.3 The change of the list of Service Charge as provided for in Art. 5.1.1 requires the Agency's prior consent, which shall not be unreasonably refused or rejected.
- 5.4 The Service Charges will not cover the following costs, which the Agency will pay in addition to the Service Charges directly to the Landlord or to the respective service provider or utility provider:

- 5.4.1 the costs of electricity used by the Agency; these costs will be calculated on the basis of the readings of separate electricity meters installed by the Landlord and payable directly to the Building Manager,

- 5.4.2 costs of cleaning the Premises payable to the Building Manager.

- 5.5 Without prejudice to the Agency rights specified in Art. 9 of this Contract, the Agency will be authorized to inspect documents concerning the calculation of the Service Charges once per calendar year, subject to sending a prior written notice of 30 (thirty) days. If the Agency inspection of the documents demonstrates inconsistency between the Service Charges amount calculated by the Landlord and the amount actually due, the Landlord is obliged to correct his calculations and issued invoices.

## 6. LEASE TERM, EXTENSION OPTION

- 6.1 The Lease Term commences on 1 February 2014 ("**Commencement Date**") and expires on 31 January 2019 ("**Expiry Date**").

- 6.2 The Agency has an Extension Option to extend the Lease Term after the expiry date on the same terms and conditions as applicable during the last month of the Lease Term, unless otherwise agreed by the Parties. This means that the amount of the Rent and Parking Fee for the Extension Period will be equal to the amount of the Rent and Parking Fee payable in the month immediately preceding the Extension Period (including all indexations accrued until this date). The rent for Premises and parking fee in the Extension Period will be indexed, invoiced and reconciled in the same manner as the Rent and Parking Fee during the original Contract, unless otherwise agreed by the Parties.

- 6.3 The Agency may exercise the Extension Option by serving written notice to the Landlord not later than 18 months before the end of the original Lease Term.

Without prejudice to the possibility for the Agency to exercise the Extension Option on the same terms and condition as in the original Contract on the basis of Art.6.2, the Agency also has a right to initiate the renegotiation of the terms and conditions of the new lease contract. In this case, the new terms and conditions of the new contract cannot be less favourable for the Agency than the corresponding terms and conditions of the original Contract. The new lease contract is signed by the Parties no later than 3 months before the expiry of the original Lease Term.

- 6.4 In the event the Extension Option has not been exercised, this Contract expires simultaneously to the lapse of the Lease Term.

- 6.5 The Extension Option may be exercised more than once for a fixed period/ periods of between 12 and 60 months immediately following the Lease Term ("**Extension Period**"), provided the total amount of the extended leases does not exceed 60 months. However, the first Extension Option may be exercised for a period shorter

than 12 months but in any case not shorter than 6 months. If the Agency decides to execute the Extension Option for the period shorter than 12 months, the right to extend for additional periods will expire.

- 6.6 Each time the Agency would like to extend the Lease Term the rules under Art. 6.2 and 6.3 apply.

## **7. THE AGENCY RIGHT TO ASSIGN / SUB-LEASE**

- 7.1 The Agency has the right to sublease or assign the Leased Area to any European Union's agency, body, institution, delegation or representation without the consent of the Landlord upon prior written notice.

- 7.2 The Agency has the right to sublease or assign the Premises to entities other than specified in Art. 7.1 above, only upon prior written consent of the Landlord which shall not be refused without justified reason.

## **8. EXPANSION OPTION, VACANT SPACE, REDUCTION OPTION**

### **8.1 Expansion Option**

Provided the conditions in the second subparagraph of Article 8.1 are met, the Agency has the right to request the Landlord to lease to the Agency any vacant space or space that will become vacant in the future in the Building during the original Lease Term on the same terms and conditions as applicable for this Lease, unless otherwise agreed by the Parties. In such cases, the Agency has a right for the Expansion Option to lease this space. In the event that the Agency informs the Landlord in writing about its will to exercise the Expansion Option, the Parties conclude an annex to this Contract.

The Lessee is informed that the Landlord has an obligation to one of the present tenants who has the right of first offer for vacant spaces having a surface area less than 100m<sup>2</sup> and for any vacant space for less than two years. If this tenant declines the space then the Agency has the right as described above.

### **8.2 Reduction Option**

After 3 years of Lease Term in case of reduction of the Agency's staff members in comparison to the status as of 1 February 2014:

- (a) up to 20 % - the Agency has the right to reduce the Leased Area by one or more floors, in any case not more than up to 20% of Leased Area, serving 12 months prior notice. In such case the Agency will pay to the Landlord the compensation in the amount equal to the cost of non-amortised (non-depreciated) fit out works covered by the Landlord.
- (b) up to 50 %, the Agency has the right to reduce the Leased Area by one or more floors in any case not more than up to 50% of Leased Area, serving 12 months prior notice. In such case the Agency will pay to the Landlord the compensation in the amount equal to: (i) 12 months of the Rent due for reduced area, and (ii) the cost of non-amortised (non-depreciated) fit out works within the reduced area covered by the Landlord.

## **9. CHECKS AND AUDITS**

- 9.1 Pursuant to Art. 161 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>2</sup>, the European Court of Auditors is empowered to audit the documents held by the natural or legal persons receiving payments from the budget of the Union from signature of the Contract up to five years after payment of the balance.
- 9.2 The Agency or an outside body of its choice has the same rights as the European Court of Auditors for the purpose of checks and audits from signature of the Contract up to five years after payment of the balance.
- 9.3 In addition, the European Anti Fraud Office is entitled carry out on-the-spot checks and inspections in accordance with Council Regulation (Euratom, EC) No 2185/96<sup>3</sup> and Parliament and Council Regulation (EC) No 1073/1999<sup>4</sup> from signature of the Contract up to five years after payment of the balance.


## 10. MANAGEMENT AND OPERATION OF THE BUILDING

The terms, conditions and provisions pertaining to the management and operation of the Building are defined in Annex 8 to this Contract.

## 11. PAYMENTS

- 11.1 Payments to the Landlord or his Building Manager will be executed only if the Landlord has fulfilled all his contractual obligations by the date on which the invoice is submitted.

Payments for the rent will be made to the Landlord's bank account identified as follows:

Payments in EUR:	
name of bank:	Nova Ljubljanska banka d.d.
address of branch in full:	Trg republike 2, 1000 Ljubljana, Slovenia
exact designation of account holder:	CEEREF NALOŽBE d.o.o.
full account number including codes:	

<sup>2</sup> OJ L 298, 26.10.2012, p.1.

<sup>3</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>4</sup> Regulation (EC) No 1073/99 of the European Parliament and of the Council of 25 May 1999 concerning investigations by the European Anti-Fraud Office (OLAF) (OJ L 136, 31.05.1999, p. 1).

Payments for Service Charges will be made to the Building Manager's bank account identified as follows:

Payments in EUR:	
name of bank:	BANKA CELJE d.d.
address of branch in full:	Vodnikova 2, 3000 Celje, Slovenia
exact designation of account holder:	CEEREF UPRAVLJANJE d.o.o.
full account number including codes:	██████████

- 11.2 The Landlord's or Building Manager's bank account may be changed upon three months written notice duly executed by the authorised representatives of the Landlord sent by registered letter with acknowledgement of receipt. Such a written notice shall contain a full bank account file. The changed of the bank account does not constitute a change of this Contract.
- 11.3 The rent shall be paid on the basis of a quarterly (three-month) invoice issued by the Landlord in EUR no later than the 5<sup>th</sup> day of the first month of the current quarter to the address of the Lessee, save the rent of the first two quarters as from the Commencement Date which shall be paid in one instalment, The Lessee shall remit the amount of lease within 30 (thirty) days from receipt of the invoice.
- 11.4 The Building Manager shall be expected to invoice the Service Charges that the Lessee is obliged to pay to the Landlord pursuant to this contract, by the 15<sup>th</sup> day of each month for the previous month, or immediately on receipt of the invoice for all services received in the previous month, the time limit for payment being 30 days after the date of receipt of the invoice.
- 11.5 Payments shall be deemed to have been made on the date on which the Agency account is debited.
- 11.6 The payment period referred to in Art. 11(4) *in fine* may be suspended by the Agency at any time if it informs the Landlord that his payment request is not admissible e.g. because the amount is not due or because the necessary supporting documents have not been properly produced. In case of doubt on the eligibility of the expenditure indicated in the payment request, the Agency may suspend the time limit for payment for the purpose of further verification, including an on-the-spot check, in order to ascertain, prior to payment, that the expenditure is eligible.

The Agency shall notify the Landlord accordingly and set out the reasons for the suspension by registered letter with acknowledgment of receipt or equivalent. Suspension shall take effect from the date of dispatch of the letter. The remainder of the period referred to in Art. 11(4) *in fine* shall begin to run again once the suspension has been lifted.

- 11.7 In the event of the Agency late payment the Landlord shall be entitled to interest, and the interest will be paid together with the payment, provided that the calculated interest exceeds EUR 200. In case interest does not exceed EUR 200, the Landlord may claim interest within two months of receiving the payment. Interest shall be calculated at the rate applied by the European Central Bank to its most recent main refinancing operations ("*the reference rate*") plus eight percentage points ("*the margin*"). The

reference rate in force on the first day of the month in which the payment is due shall apply. Such interest rate is published in the C series of the Official Journal of the European Union. Interest shall be payable for the period elapsing from the calendar day following expiry of the time limit for payment up to the day of payment. Suspension of payment by the Agency pursuant to this Article 11 may not be deemed to constitute late payment.

## **12. PERFORMANCE OF THE CONTRACT**

- 12.1 The Landlord performs the Contract to the highest professional standards. The Landlord has sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation. The Landlord has sole responsibility for taking the necessary steps to obtain any permit or license required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.
- 12.2 Without prejudice to Art. 23, if the Leased Area is or becomes incapable of practical use, the Landlord has to make all possible efforts to remedy the situation, including providing alternative temporary work space for the Agency staff, and has to repair the Leased Area accordingly. In such case, the Rent, the Service Charges and other payments must be adjusted accordingly on the pro-rata basis.
- 12.3 The Landlord has the sole responsibility for the acts of its staff members, as well as those of its subcontractors and subcontractor's staff members for the purpose of this Contract.
- 12.4 The Landlord must ensure that any of his staff members as well as subcontractors' staff members performing the Contract have the professional qualifications and experience required for the execution of the tasks assigned to them.
- 12.5 The Landlord neither represents the Agency nor behaves in any way that would give such an impression. The Landlord, where appropriate, informs third parties that he does not belong to the European public service.

## **13. POSSESSION AND USE OF THE LEASED AREA**

- 13.1 The Agency is entitled to an undisturbed and quiet possession and use of the Leased Area during the Lease Term. The Agency will have access to the Leased Area throughout the year. The Agency has in particular the following rights connected with its use of the Leased Area:
  - 13.1.1 use of the Leased Area for the permitted uses in an undisturbed manner, without impediments or interruptions by the Landlord or any other party;
  - 13.1.2 continuous use within the Building of all services and deliveries to be provided by the Landlord in accordance with this Contract;
  - 13.1.3 continuous entry into the Building and Common Areas of the Building;
  - 13.1.4 exclusive use of [0-25] of its Parking Spaces;
  - 13.1.5 continuous access to utility services if agreed so in the Contract including relevant Annexes, unless interruptions or temporary suspensions of such access is caused by circumstances which are beyond the Landlord's responsibility.

13.2 The Agency authorises the Landlord to inspect the Leased Area for regular maintenance or repairs in the presence of official representatives of the Agency whenever the Landlord justifies its request by a letter to the Agency at least 48 hours beforehand. In an emergency situation, the Landlord has the right to enter the Leased Area anytime, but must be accompanied by an Agency employee. The Agency shall procure that within the Leased Area, an Agency employee will be available 24 hours each day.

14. **ALTERATIONS, SECURITY, TELECOMMUNICATIONS INSTALLATIONS AND SIGNAGE**

14.1 The Landlord grants the Agency the right to install in the Leased Area, without any increase in the Rent but at the Agency's own expense and in conformity with the technical specifications of the equipment and the technical capacities of the Building, any security and telecommunications equipment considered necessary by the Agency, including, but not limited to, double entrance doors, a satellite dish or a radio mast only upon prior written consent of the Landlord, which shall not be refused without justified reason.

14.2 The Agency shall not carry out any other alterations, modifications or improvements to the Leased Area without the prior written approval of the Landlord. Such approval shall not unreasonably be withheld. In such written approval the Landlord will specify whether alterations, modifications or improvements to be completed by the Agency shall be removed at the end of the Lease Term.

14.3 The Agency undertakes to obtain any prior authorisation that may be necessary for the installation and use of the equipment installed, or carrying out alterations, modifications or improvements, and to pay any administrative charges and licence fees required by the authorities of Slovenia.

14.4 The Landlord shall place the Agency signage and 1 flag mast in front of the Building ("**the Agency Signage**"). Installation of the Agency Signage requires arrangements made with the Landlord with respect to the method and technology of the installation.

15. **INSURANCE AND LIABILITY**

15.1 The Landlord concludes with a reputable insurance company and keeps in force at all time during the Lease Term and during any extension thereof, an insurance to cover the following risks:

15.1.1 third party (civil) liability for personal injury or damage to third parties which are the legal responsibility of Landlord or Landlord's agents and are directly caused by their activities;

15.1.2 damage to the Leased Area due to fire, explosive materials, water or other such hazards.

15.2 the Agency shall at all times during the Lease Term and during any extension thereof, keep in force insurance to cover the risk of third party (civil) liability for personal injury or damage to third parties arising from the Agency occupation of the Leased Area or the Agency activities.

15.3 The Agency shall not be liable for damage sustained by the Landlord in performance of this Contract except in the event of wilful misconduct or gross negligence on the part of the Agency. This shall not apply as regards damages referred to in paragraph 2

of this Article. The Agency shall be liable for gross negligent use of the additional water installation and canalization for Agency – kitchenettes or for the damage caused by the malfunctioning of the Agency's appliances using the water installation.

- 15.4 The Landlord shall provide appropriate compensation in the event of any action, claim or proceeding brought against the Agency by a third party as a result of damage caused by the Landlord in performance of this Contract.

## **16. ASSIGNMENT BY THE LANDLORD AND SUBCONTRACTING**

- 16.1 With the exception of reservations of all rents as an insurance to NLB d.d. and NLB Propria d.o.o., the Landlord is not entitled to assign the rights and obligations arising from the Contract, in whole or in part, without prior written authorisation from the Agency. The Agency will not unreasonably refuse such authorisation for banks or financial institutions, provided that these banks or financial institutions are not included in the "Early Warning System and Central Exclusion Database of the EU"<sup>5</sup>. However, authorisation is not required in maintenance or normal technical reviews of the Building, provided that the Landlord guarantees that the subcontractor is not in any of the situations defined in Art. 17.2 and gives a written notification to the Agency.
- 16.2 In the absence of the authorisation referred to in Article 16.1 above, or in the event of failure to observe the terms thereof, assignment by the Landlord are not enforceable against and have no effect on the Agency.
- 16.3 Even where the Agency authorises the Landlord to subcontract to third parties, he none the less remains bound by his obligations to the Agency under the Contract and bears exclusive liability for proper performance of the Contract.
- 16.4 The Landlord makes sure that the subcontract does not affect rights and guarantees to which the Agency is entitled by virtue of the Contract, notably Checks and Audit.

## **17. TERMINATION**

- 17.1 After 2 years of Lease Term the Agency is entitled to terminate this Contract in the event of:
- 17.1.1 the closure of the Agency in the state or town where the Leased Area described in Art. 1 of this Contract is located, or
  - 17.1.2 the transfer of the Agency to another town than the one where the Leased Area is located, or
  - 17.1.3 reduction in the number of staff members in the Agency by 50% or more compared to the status as of 1 February 2014, or
  - 17.1.4 any significant increase in the number of staff members in the Agency that will require increase of the Premises area by at least 1,000 m<sup>2</sup>, provided that the Landlord is unable to offer at least 50% of the required increased office space in the Building or in the immediate vicinity within 12 months from receiving such a request and the remaining required area within the following 12 months and despite the fact that the Agency has duly exercised its Expansion Option, by giving 18 months' notice by registered or recorded-delivery letter.

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<sup>5</sup> [http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)



In case of termination pursuant to Art. 17.1.1, 17.1.2, 17.1.3 or 17.1.4 the Agency will pay compensation in the amount equal to 50% of the Rent due for the remaining period of the Lease Term, and will return to the Landlord an amount being equivalent of the value of non-amortised (non-depreciated) fit out works covered by the Landlord.

The Landlord is obliged to take all necessary steps to lease the Leased Area or a part of it immediately. If the Leased Area or part of it is leased to a new tenant within 3 years after termination, the part of this compensation concerning the lost Rent will be reduced accordingly taking into consideration the rent income obtained from a new tenant of the returned Leased Area until the remaining period of the Lease Term and the costs of leasing the space to a new tenant.

17.2 The Agency is also entitled to terminate the Contract in the circumstances described below in Art. 17.2. The Agency commits not to make use of this possibility in minor cases nor in an excessive or unreasonable way, but only in seriously substantiated cases. Before using such a possibility, the Agency agrees to fully take into consideration, where appropriate, the views of the Landlord as well as all relevant facts and the efforts made in good faith by the Landlord to remedy the situation within the time-limits of a cure period notified by the Agency, except in case of misrepresentation, fraud, corruption, involvement in a criminal organization or in illegal activities detrimental to the European Union's financial interest. The Agency is entitled to terminate this Contract in the following circumstances:

- 17.2.1 the Landlord is in default of Hand-Over of the Leased Area and such default exceeds 180 days;
- 17.2.2 where the Landlord is being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- 17.2.3 where the Landlord has not fulfilled his obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country applicable to the Contract or those of the country where the Contract is to be performed; the Agency shall be obliged to notify the Landlord in writing of its intention to terminate this Contract. The notification shall provide the final term of 30 days during which the Landlord shall be obliged to settle all overdue payments;
- 17.2.4 where the Agency has evidence or seriously suspects the Landlord or any related entity or person, of professional misconduct in respect of this Contract or European Union's interest;
- 17.2.5 where the Agency has evidence or seriously suspects the Landlord or any related entity or person having a decisive role over the Landlord, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Agency or detrimental to the European Union's financial interests;
- 17.2.6 where the Agency has evidence or seriously suspects the Landlord or any related entity or person having a decisive role over the Landlord, of substantial errors, irregularities or fraud in the award procedure or the performance of the Contract;

- 17.2.7 where the Landlord is in breach of his obligations under Art. 28 regarding Conflicts of Interest and does not remedy this breach within 30 days from the date of receipt of a written summons from the Agency;
  - 17.2.8 where the Landlord was guilty of misrepresentation in supplying the information required by the Agency as a condition of participation in the Contract procedure or failed to supply this information;
  - 17.2.9 where a change in the Landlord's legal, financial, technical or organisational situation, could, in the Agency opinion, have a negative effect on the performance of the Contract;
  - 17.2.10 where the Landlord is unable, through his own fault, to obtain any permit or license required for performance of the Contract, despite additional cure period not shorter than 30 days being given by the Agency;
  - 17.2.11 where the Landlord, after receiving notice of complaint, specifying the nature of the alleged failure, and after being given the opportunity to remedy the failure within a reasonable period, not shorter than 30 days following receipt of the notice, remains in serious breach of his contractual obligations.
- 17.3 Termination on the basis of Art. 17.2 takes effect on the date on which a registered letter with acknowledgment of receipt terminating the Contract is received by the Landlord, or on any other later date indicated in the letter of termination.
- 17.4 Consequences of termination by the Agency on the basis of Art. 17.2, except for Art. 17.2.1:
- 17.4.1 Without prejudice to any other measures provided for in the Contract, the Landlord waives any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the letter terminating the Contract, the Landlord takes all appropriate measures to minimise costs, prevent damage, and cancel or reduce his commitments. He draws up any documents if required by this Contract for the tasks executed up to the date on which termination takes effect, within a period not exceeding sixty days from that date.
  - 17.4.2 The Agency is entitled to claim compensation for any damage suffered and recover any costs due from the Landlord under the Contract.
- 17.5 If the Agency uses its Extension Option, the Agency is entitled after 2 years of the extended lease term, to terminate the extended Contract, without compensation or penalty, by giving 12 months' notice by registered letter with acknowledgment of receipt.
- 17.6 The Landlord is entitled to terminate with immediate effect the Contract in the following circumstances:
- 17.6.1 if the Agency is in delay with the payment of undisputed Rent for Leased Area or advances on the account of Service Charges (or part thereof) for 1 payment periods; the Landlord shall be obliged to notify the Agency in writing of its intention to terminate this Contract. The notification shall provide the final term of one month during which the Agency shall be obliged to settle all overdue payments, or

- 17.6.2 despite a written reminder of at least of 30 days from the Landlord, the Agency uses the Leased Area in such a manner that it may cause substantial damage to the Building, or
- 17.6.3 the Agency executes construction alterations, adaptations or improvements in the Premises or Storage Area that may have an impact on the structure or infrastructure of the Building without written consent of the Landlord and does not reinstate the Premises to the condition from before the breach within 30 days from the date of receipt of a written summons from the Landlord.

## **18. RETURN OF THE LEASED AREA**

- 18.1 At the Expiry Date, the Agency will quit and surrender the Leased Area and hand it over to the Landlord in non-deteriorated state, taking into account Normal Wear and Tear.
- 18.2 At the Expiry Date, the Agency will remove all of its movable property from the Premises and Parking Spaces. The Agency may leave in the Premises, without any additional costs, its fit-out, installations, alterations, modifications and improvements, except those which the Agency was obliged to remove in accordance with the Landlord's written approval as specified in Art. 14.2.

## **19. CONFIDENTIALITY**

- 19.1 The Landlord undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to performance of the Contract.
- 19.2 The Landlord obtains from each member of his staff, board and directors an undertaking that they will respect the confidentiality of any information which is linked, directly or indirectly, to the execution of the Contract and that they will not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after the Lease Term.
- 19.3 Notwithstanding other provisions of this Contract, the Landlord is authorized to inform banks, potential buyers, investors, funds and their advisors (including financial, technical and legal advisors) of the terms and conditions of this Contract. In such case the Landlord informs such entities of the obligation to respect the confidentiality of any information which is linked, directly or indirectly, to execution of the Contract and that they must not divulge to third parties or use for their own benefit or that of any third party any document or information not available publicly, even after the Lease Term.

## **20. USE, DISTRIBUTION AND PUBLICATION OF INFORMATION**

- 20.1 The Landlord authorises the Agency to process, use, distribute and publish, for whatever purpose, by whatever means and on whatever medium, any data contained in or relating to the Contract, in particular the identity of the Landlord, the subject matter, the duration, the amount paid and the reports.
- 20.2 Any distribution or publication of information relating to the Contract by the Landlord requires prior written authorisation from the Agency. The Parties will agree the content of all the Landlord's press releases informing about this Contract and information that can be used by the Landlord.

- 20.3 The use of information obtained by the Landlord in the course of the Contract for purposes other than its performance is forbidden, unless the Agency has specifically given prior written authorisation to the contrary.

## 21. GOVERNING LAW

- 21.1 This Contract is governed by the European Union law, complemented, where necessary, by the national substantive law of the Republic of Slovenia.
- 21.2 Any dispute between the Parties resulting from the interpretation or application of the Contract which cannot be settled amicably is to be settled by a court of Ljubljana, Slovenia, competent for the seat of the Agency at the time of bringing an action.

## 22. DATA PROTECTION

- 22.1 Any personal data included in the Contract is processed by the Agency pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>6</sup>. It is processed solely for the purposes of the performance, management and follow-up of the Contract by the Agency without prejudice to possible transmission to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the Union. The Landlord has the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the Landlord have any queries concerning the processing of his personal data, he addresses them to the Agency. The Landlord has right of recourse at any time to the European Data Protection Supervisor.
- 22.2 Any other personal data processed by the Landlord in the performance of this Contract must be processed according to the relevant national law implementing the legislative acts of the European Union, particularly Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>7</sup>.
- 22.3 The Landlord undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:
- 22.3.1 prevent any unauthorised person from having access to computer systems processing personal data, and especially:
    - (a) unauthorised reading, copying, alteration or removal of storage media;
    - (b) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data;
    - (c) unauthorised using data-processing systems by means of data transmission facilities;
  - 22.3.2 ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;

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<sup>6</sup> OJ L 8, 12.01.2001, p.1.

<sup>7</sup> OJ L 281, 23.11.1995, p.31.

- 22.3.3 record which personal data have been communicated, when and to whom;
- 22.3.4 ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body;
- 22.3.5 ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- 22.3.6 design its organisational structure in such a way that it meets data protection requirements.

## **23. FORCE MAJEURE**

- 23.1 Neither Party is liable for any failure to perform or delay in performing any provisions of this Contract, either partially or totally, if such performance is directly or indirectly prevented, restricted or delayed by any event which is the result of force majeure. For the purposes of this Contract, force majeure means any unforeseen extraordinary and unavoidable event, action or omission being out of the control of the relevant Party.
- 23.2 Strikes, labour disputes or staff illnesses are not covered by the force majeure. Lack of any official permission from the authorities is not covered by force majeure.
- 23.3 In the case of such event, the affected Party will be required as soon as possible and on its own initiative to record the problem and to notify the other Party accordingly about the time when it started and expected duration and informs the other Party of the steps taken to ensure full compliance with the obligations under the Contract. In such event the Landlord gives priority to solving the problem rather than determining liability.
- 23.4 Where the Landlord is unable to perform his contractual obligations owing to force majeure, he has the right to remuneration only for obligations actually fulfilled.
- 23.5 In any case, both Parties take the necessary measures to reduce damage of any of the Parties to a minimum.

## **24. LIQUIDATED DAMAGES**

Should the Landlord fail to perform his obligations under the Contract, the Agency may decide to impose liquidated damages of 0.3% of the monthly payments of the Basic Rent per each calendar day of delay in remedy of the failure. The Landlord may: (i) submit arguments against the Agency decision within thirty days of notification by registered letter with acknowledgement of receipt or equivalent and/or (ii) remedy such failure within the specified time limit and inform the Agency on taken actions. In the absence of reaction on the Landlord's part or of written waiver by the Agency within thirty days of the receipt of such arguments or information, the decision imposing the liquidated damages becomes enforceable. These liquidated damages will not be imposed where provisions in this Contract for specific compensations and/or sanctions are foreseen. The Agency and the Landlord expressly acknowledge and agree that any sums payable under this Article represent a reasonable estimate of fair compensation for the losses that may be reasonably anticipated from such failure to perform obligations. The Parties agree that before the Agency imposes the liquidated damages pursuant to this Article, the Agency itself will diligently analyse the facts or actions taken by the Landlord in relation with the alleged breach and in good faith take into consideration the imposition of the liquidated damages.

## **25. TAXATION**

- 25.1 The Landlord has sole responsibility for compliance with the tax laws which apply to him. Failure to comply makes the relevant invoices invalid.
- 25.2 The Landlord recognises that the Agency is, as a rule, exempt from all direct taxes and duties as well as from VAT, pursuant to the provisions of Art. 3 and 4 of the Protocol on the Privileges and Immunities of the European Union signed in Brussels on 8 April 1965, as last amended, and provisions of Art. 7 of the Seat Agreement between the Government of the Republic of Slovenia and the Agency for the Cooperation of Energy Regulators (Official Journal of the Republic of Slovenia no. 109/2010 dated 30 December 2010), or any other similar future agreement.
- 25.3 The Landlord completes accordingly all necessary formalities and other measures to ensure that the previous paragraph is properly applied.
- 25.4 Invoices presented by the Landlord shall exclude VAT.
- 25.5 In no circumstances the Agency directly bears the costs of levies, taxes, charges or sums deemed similar by national law and payable by the Landlord on the lease amount received.

## **26. RECOVERY**

- 26.1 If total payments made by the Agency exceed the amount actually due under the Contract or if recovery is justified in accordance with the terms of the Contract, the Landlord reimburses the appropriate amount on receipt of the debit note, in the manner and within the time limits set by the Agency.
- 26.2 In the event of failure to pay an amount due to the Agency pursuant to Art. 26.1 by the deadline specified in the debit note, the sum due bears interest at the rate indicated in Art. 78 of the Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1) and in Art. 83 of the Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union to the Agency Financial Regulation: the interest rate for amounts receivable not repaid by the deadline specified will be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the deadline falls, increased by eight percentage points. Interest is calculated from the day following the due date specified in the debit note up to the date on which the debt is repaid in full. Any partial payment first covers the interest.
- 26.3 The Agency may, after informing the Landlord, recover amounts established as certain, of a fixed amount and due by offsetting, in cases where the Landlord also has a claim on the Agency that is certain, of a fixed amount and due. The Agency may also claim against the guarantee, where provided for.

## **27. SUBSTANTIAL ERRORS AND FRAUD ATTRIBUTABLE TO THE LANDLORD**

The Landlord confirms that Art. 116 of Regulation (EU, Euratom) No 966/2012 is binding, and in cases described in this Art. 116 of Regulation (EU, Euratom) No

966/2012, the Agency may refuse to make payments, may recover amounts already paid or may terminate all the contracts concluded with the Landlord, in specific proportions.

## **28. CONFLICT OF INTERESTS**

- 28.1 The Landlord takes all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Agency in writing without delay. In the event of such conflict, the Landlord immediately takes all necessary steps to resolve it.
- 28.2 The Agency reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it sets. The Landlord ensures that his staff, board and directors are not placed in a situation which could give rise to conflict of interests. Without prejudice to Art. 12 the Landlord replaces, immediately and without compensation from the Agency, any member of his staff exposed to such a situation.
- 28.3 The Landlord refrains from any contact likely to compromise his independence.
- 28.4 The Landlord declares:
- (a) that he has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the Contract,
  - (b) that he has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to performance of the Contract.
- 28.5 The Landlord passes on all the relevant obligations in writing to his staff, board, and directors as well as to third parties involved in performance of the Contract. A copy of the instructions given and the undertakings made in this respect has to be sent to the Agency should it so request.

## **29. MISCELLANEOUS**

- 29.1 Any communications, notices, requests, records and other documents between the Parties which need to be drafted or delivered hereunder will be made in writing. All notices, requests and other communications required hereunder will be sent by courier, registered mail, electronic mail or fax (provided that any notice sent by electronic mail or fax is also sent by registered mail on the same day) to the addresses indicated herein below. Ordinary mail is to be deemed to have been received by the Agency on the date on which it is registered by the department responsible indicated below.
- 29.2 The Parties are obliged to notify each other of any change of their respective contact person or address or telephone or fax number. Should any Party fail to fulfil this obligation, any notice sent to the last address known to the other Party will be deemed effectively delivered.

From the day of signature till the day of reception of the notification(s) of change of address mentioned above, any correspondence between the Parties shall be addressed:

To the Landlord:

██████████ Director  
E-mail: ██████████  
Tel.: ██████████

██████████, Project Manager - CEEREF Upravljanje d.o.o.  
E-mail: ██████████  
Tel.: ██████████

Dunajska 9, 1000 Ljubljana, Slovenia  
Fax: +386 (0)1 3001 440

To the Agency:

Ms Olga Borissova, Head of Administration  
E-mail: [Olga.xxxxxxxx@xxxx.xxxxxx.xx](mailto:Olga.xxxxxxxx@xxxx.xxxxxx.xx)  
Tel.: +386 (0)8 2053 402

Ms Mateja Vavtar, Procurement and Facility Management Assistant  
E-mail: [Matexx.xxxxxx@xxxx.xxxxxx.xx](mailto:Matexx.xxxxxx@xxxx.xxxxxx.xx)  
Tel.: +386 (0)8 2053 399

Trg republike 3, 1000 Ljubljana, Slovenia  
Fax: +386 (0)8 2053 413

- 29.3 Should any clause of this Contract become invalid or unenforceable, this will not affect the legal validity of the remainder of the Contract. Such invalid or enforceable provision has to be replaced by a valid provision coming closest to the initial economic or substantive or procedural intention of the Parties. The same applies in case of omissions.
- 29.4 Each Party retains its own counsel in connection with the negotiation and execution of this Contract and each Party bears the costs of its own counsel.
- 29.5 In the event of a restructuring of the Landlord resulting in a change of ownership of the subject of lease, the Landlord must inform of all relevant facts related to its plans well in advance. The Landlord undertakes also to immediately make the necessary adjustments to this Contract in order to reflect such change. To this end the Landlord provides the Agency with all necessary excerpts from the relevant public registers. The Landlord guarantees the agreement of the new owner of the Building to the current lease terms and conditions defined in this Contract.



- 29.6 All Annexes listed in this Contract constitute an integral part hereof and should be interpreted in accordance with the following rules: the terms set out in the main body of the Contract take precedence over those in the other parts of the Contract. In case of discrepancies between the interpretation of the Contract and the Annexes, the Contract prevails. Subject to the above, the instruments forming part of the Contract are to be taken as mutually explanatory. Ambiguities or discrepancies within or between such parts are to be explained or rectified by a written instruction issued by the Agency, subject to the rights of the Landlord specified in Art. 21.2 should he dispute any such instruction.
- 29.7 Any amendments to this Contract must be agreed in writing by the Parties, otherwise being null and void.
- 29.8 This Contract has been executed in two identical copies in English.

On behalf of the Agency:

Alberto POTOTSCHNIG  
Director

On behalf of the Landlord:

XXXXXXXXXX  
Director

Signature: [Signed and stamped]

Signature:[Signed and stamped]

Date: 26.07.2013.....

Date: 26.07.2013.....

**LIST OF ANNEXES TO THE LEASE CONTRACT BETWEEN THE AGENCY AND THE LANDLORD**

<b>ANNEX no.</b>	<b>Title or description of the contents of the Annex</b>
1.	<b>The Agency's Requirements - Fit Out Works</b> Technical specification and description of the fit out works to be performed by the Landlord in the Leased Area indicating the works to be done by the Landlord.
2.	<b>Fit-Out Cost evaluation</b> Fit-out cost evaluation template.
3.	<b>Fit-out Schedule</b> Schedule of completion of the Building.
4.	<b>Plan of the Leased Area</b> Plans of the Leased Area indicating the Premises and the Parking Spaces.
5.	<b>Project Change Request</b> The form consisting of three parts to be completed by the Parties pursuant to Art. 2.5.
6.	<b>Template of the Progress report</b> Template of the Progress report to be delivered to the Agency by the Landlord.
7.	<b>Template of the Hand-Over Protocol</b>
8.	<b>Building Regulation</b> Description of the management and operation of the Building NLB d.d. and NLB Propria d.o.o.
9.	<b>ISO 9836: 2011 standards</b>
10.	<b>List of Final Technical Documentation</b> To be delivered by the Landlord 30 days after the Hand-Over Date.