

Naša št.:  
Vaša št.:  
Datum:

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### Vprašanja LISM 1. sklop

1. We do not see in either the tender documentation or the draft framework agreement, any mention of Limitation of Liability, and would like to request to make this clear.

**Answer:** *The Contracting Authority amends this provision in such a way as to limit direct and indirect liability in the implementation phase to a total of 100% of the implementation value (the basis for the calculation is the overall implementation value **in the 1st lot of the tender pro-forma invoice**).*

*In the maintenance phase, direct and indirect liability is limited to a total of 50% of the value (the basis for the calculation is the overall maintenance costs for a 5-year period – the value of the 2nd lot according to the tender pro-forma invoice).*

2. We do not see in either the tender documentation or the draft framework agreement, any mention of indirect damages, but could you please confirm that the Contractor is exempt of this?

**Answer:** *Answer given in the previous question.*

3. Please confirm that Liquidated Damages should be limited as a sole remedy.

**Answer:** *We do not understand the question; if you are asking whether the only consequence of a breach of this contract is the tenderer's liability for damages, the answer is that liability for damages is not the only consequence. For example, if liability for a potential criminal offense or a minor offence has been established pursuant to the law of the Republic of Slovenia, the perpetrator shall be liable for a criminal offense or a minor offence directly under the regulations of the Republic of Slovenia, and thus regardless of the fact that this is not contained in the contract.*

*At the same time, the contract contains a provision on the contractual penalty in the event of a delay or default. The contractual penalty shall be charged in the event of a delay or default on the basis of the contractual provision and the identified breach, regardless of whether the Contracting Authority incurred damage or not. However, when the Contracting Authority suffers damage and it exceeds the agreed contractual penalty, the Contracting Authority may also require, in addition to the contractual penalty (where it is not necessary to prove the incurring of damage or its amount; only the breach shall be proven), the payment of the difference between the contractual penalty and full compensation.*

4. Under 1.11 Price, it is stated that "Individual items shall contain all the costs of services and goods. The Contracting Authority shall not accept any additional costs."



However, we think that this is contradictory to the third paragraph of 1.13 Contract, and also not fair given the circumstances under the third paragraph of 1.13 Contract, so would like to ask that this text be deleted from 1.11 Price, or to modify this text in 1.11 Price as follows;

"Individual items shall contain all the costs of services and goods. The Contracting Authority shall not accept any additional costs, except for circumstances described under the third paragraph of Article 1.13 Contract."

**Answer:** *The Contracting Authority agrees with the proposal, but points out that section 1.13 deals with the possibility of amending the contract (under special conditions and circumstances) in accordance with the Slovenian Public Procurement Act, while section 1.11 focuses on charging for services in accordance with the contract signed, and therefore this does not constitute a discrepancy in the documentation.*

5. Under 1.11 Price, IT hardware and software, it is stated that "Free information system upgrades shall be provided for a period of at least ten (10) years after the successful completion of the SAT test."

However, we think that this is rather unrealistic in this day and age where technical advancements occur on almost a daily basis, let alone a free upgrade over such a long period of time, so we kindly request that this text be deleted.

**Answer:** *The Contracting Authority hereby amends this requirement in such a way as to require the provision of free upgrades only during the warranty period of the system.*

6. Could you please clarify how long the validity of the Performance Bond, under 1.18 Security – bank guarantees should be?

**Answer:**

- **Advance payment guarantee:** *The Contractor shall present an original bank guarantee in the amount of the received advance payment (10% of the estimated implementation value) to the Contracting Authority after signing this contract and no later than the advance payment date. The bank guarantee shall be valid at least until the components of the machine are delivered to the machine installation site.*
- **Performance bond:** *The selected tenderer shall present an original performance bond amounting to 10% of the estimated implementation value, regardless of the value of the tender, no later than ten days after receiving the Contracting Authority's request to begin to implement the contractual activities. The performance bond must still be valid for 30 days after the completion of the implementation or after the signing of the handover report.*
- **Warranty bond** *The warranty bond shall be submitted by no later than 10 days after the start of maintenance, i.e. the 3rd milestone (after the successfully performed SAT test) and shall be valid for a further 30 days after the expiry of the warranty period.*

7. Under the first paragraph of 2 CONDITIONS OF PARTICIPATION, it is stated that "Tenders that do not fulfil (provide evidence of meeting) all of the criteria described below shall be deemed unacceptable and excluded from the procedure. In order to meet the criteria in this phase, the tenderer is required to submit ONLY (to satisfy the conditions C1–C8) a completed ESPD form for this public contract (in the event of partnership tenders, an ESPD form shall be submitted for each separate partner, and an ESPD form shall also be submitted

for each registered subcontractor).” While under the second paragraph of 3 INSTRUCTIONS FOR COMPILING THE TENDER it is stated that “During the application submission phase (Phase I), the tenderer shall submit all of the required proofs of meeting the conditions and requirements, and the documents and data on the subject of the public contract and the technical characteristics, except for the tender quote (prices), which shall be submitted during the tender submission phase (Phase II) after receipt of a request from the Contracting Authority.”

Could you please clarify exactly which documents are needed to be submitted on the January 27th deadline. Is it correct to understand that only the ESPD form is required, and the items C8 through C10 requested under SPECIAL TERMS AND CONDITIONS are not required on January 27th?

**Answer:** *On the date of submission of tenders (27 January 2021), tenderers shall submit:*

- *A completed ESPD form suffices as evidence of the fulfilment of conditions C 1 do C 9, but tenderers based abroad are also requested by the Contracting Authority to submit the evidence that they meet condition C 1 (clean criminal record), i.e. a proof of absence of conviction), and*
- *Tenderers shall submit evidence (C 9: References, C 9 and C 10: Declaration) of the fulfilment of conditions C 9 to C 10.*

*Tenderers shall therefore submit all documents, except the price, on 27 January 2021. They shall submit the price after being requested to do so by the Contracting Authority.*

8. Under Section 1.3 Characteristics and efficiency of the operation of the loader and entire machine of 1. General Description of the system, is it correct to understand that misdirected mail 0.01% includes only mechanical misdirected mail, and it does not include misread mail by BCR/OCR?

**Answer:** *That is true. Error rates for BCR/OCR are provided separately, in section “5.7.1 Read rate”.*

9. Under Section 1.6 Noise of 1. General Description of the system, it is stated that “A certificate shall be enclosed with the sale tender stating that the proposed device has undergone testing and approval for the requirement in question.”, but could you please clarify when this is to be? Is this after the SAT and handover of the equipment to the Contracting Authority?

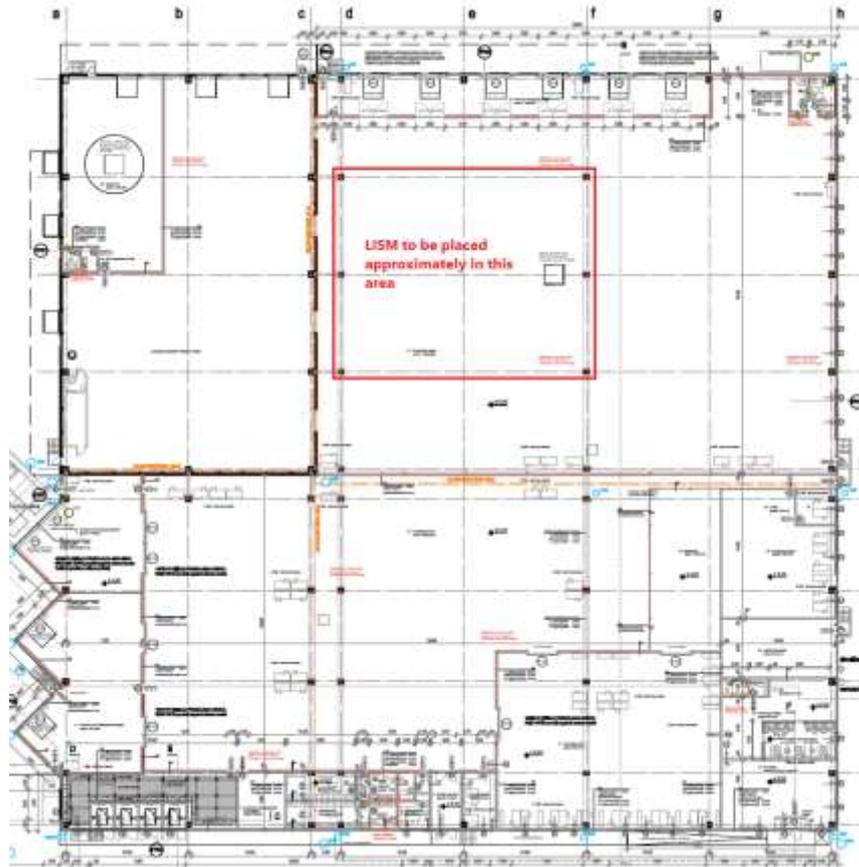
**Answer:** *The required Noise Certificate confirming that the noise level does not exceed 75 dB shall be provided at the time of the SAT test or during the trial period, and definitely before the signing of the **handover report**. The costs shall be borne by the tenderer.*

10. For Section 1.11 Surface dimensions of the device of 1. General Description of the system, could you please;
- a. Provide us with the CAD drawings.
  - b. Tell us the height of the installation area.
  - c. Tell us the flow of items and people in this building (ex. from arrival dock to Sorter, from Sorter to shipping dock, communication paths, evacuation routes)

**Answer:** *As a supplement to the answers provided, the Contracting Authority attaches the plans of the building in PDF format, where the dimensions of the building and interior are visible.*

The Contracting Authority will define the flow of items in conjunction with the selected tenderer after the signing of the contract.

The figure below shows the space provided for the installation of the LISM machine:



11. For Section **1.12 Cybersecurity** of **1. General Description of the system**, it is stated that the system needs to be "appropriately protected in terms of information security.", but could you please specify in detail what "Appropriately protected information security" would be?

**Answer:** *The tenderer is not limited in the use of ICT systems that it installs in its devices provided that adequate security of its system is ensured. We are aware that such systems include ICT components, in particular operating systems and application software, which are old (even more than 10 years old) and are no longer provided with adequate support from manufacturers and therefore have vulnerabilities (commonly known, and there are tools available to exploit them) that need to be protected with the so-called compensatory controls. Therefore, the contractor shall be expected to have performed a risk assessment and analysis of the risks of its system, and to accurately list and record all vulnerabilities, and to prescribe appropriate controls for each of them, which prevent the exploitation of these vulnerabilities. The following are some concrete approaches to ensuring information security:*

- *restriction of network traffic between the system and other devices based on a policy to allow only what is indispensable for the system to function;*
- *remote access is limited to specific systems and supported only at a request for a limited time;*
- *authorisation of access to the systems, both for users and the communication between the systems, even when another device is connected to the system – or it is authorised to communicate with the system;*
- *consistent encryption of communication always and everywhere (clear-text communication between systems is not allowed);*

- event logging is performed in a separate system with very limited access;
- a control system that automatically notifies of events considered deviations;
- regular archiving of the settings and systems so that recovery is possible in the shortest possible time;
- established protocols and procedures for extraordinary events (business continuity plan);
- antivirus software;
- integrity monitoring system for the key components (e.g. file integrity monitoring for key system files, change alert);
- regular penetration testing of the system to detect vulnerabilities and eliminate them.

12. For Section 1.12 Cybersecurity of 1. General Description of the system, could you please confirm that there are no other IT security policies or standards which the Contractor needs to follow when considering the Cybersecurity, other than the document "ICT Standards and Guidelines for the PS Information System" provided by the Contracting Authority?

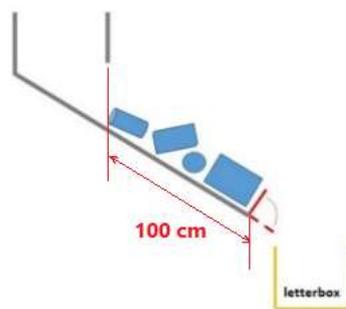
**Answer:** We gave the answer within the previous question.

13. Under Section **2.2 Indicators for the functioning of the device** of **2. Graphical user interface, warnings, operation, statistics**, it is stated that "The data must also be accessible to controllers via remote access.", but could you please tell us whether this is foreseeing some kind of connection to SCADA with a remote desktop for example?

**Answer:** Remote viewing of the graphical user interface (GUI) is planned for supervisors at three locations via VPN or web client mode, but this only includes a status view without control of machine functions.

14. Under Section **3.2 Operating method of chutes** of **3. Output trays**, it is stated that "The chutes must be at least one meter long.", but could you please tell us from which part of the chute to where must be one meter long? A drawing would be appreciated in order to better understand this requirement.

**Odgovor:**

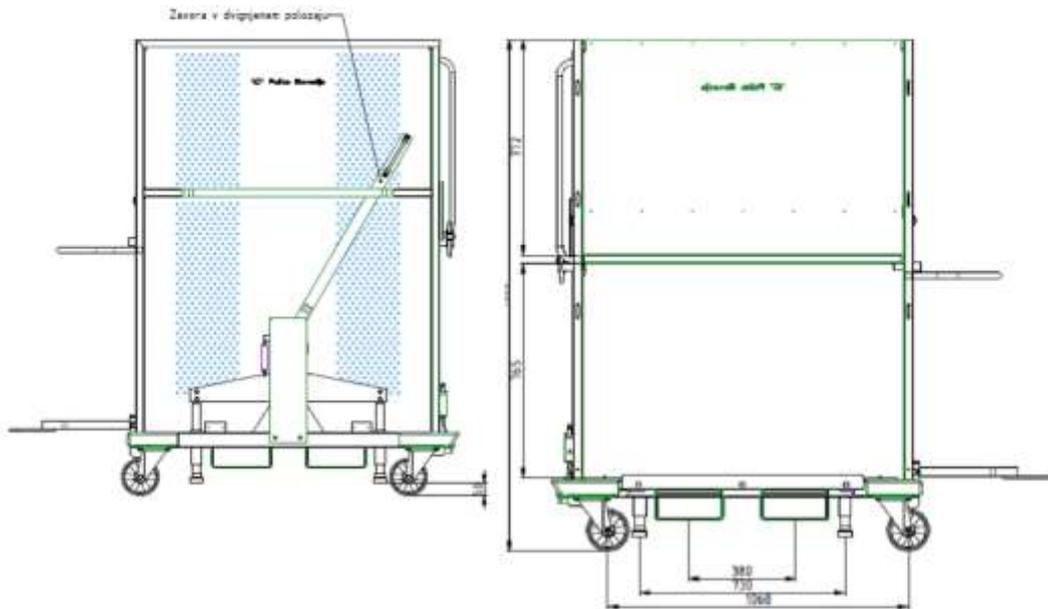


15. Under **First type of a loader – tipper** of Section **4.1 Types of loaders to achieve the throughput** of **4. Loaders**, it is stated that "The tenderer will inspect the containers during a mandatory inspection of the site of the LISM device installation which will be organised by the Contracting Authority as part of the public contract procedure. The exact date and time are published in the tender documentation.", but could you please provide us with the container specifications and drawings if already available.

**Answer:** The dimensions of containers are given here. In the light of the COVID pandemic, the Contracting Authority waives the requirement of a mandatory inspection of the site of the LISM machine installation. In previous answers, the Contracting Authority attached the plans of the building to enhance understanding of the spatial layout.

**OUTER dimensions**

<u>length max*</u>	1.790 mm
<u>width</u>	1.010 mm
<u>hight</u>	1.846 mm



16. Under **Second type of a loader – manual loader** of Section **4.1 Types of loaders to achieve the throughput of 4. Loaders**, it is stated that *"This type of loader must allow operators to empty the content of letter trays directly onto the conveyor. Only items will travel along the conveyor, and letter trays will not."*, but could you please tell us how many pieces of items you foresee per a letter tray?

**Answer:** *On average, each letter tray contains 30 items of the type that will be sorted on the LISM machine.*

17. In 3.a. of the second bullet point of Section **5.7.2 Three sorting modes and OCR operation protocols** of **5.7 Optical character reader (OCR)**, it is stated that *"When the item status is YES, the OCR reads the address (postal code and destination post office) and directs the item based on the sorting plan; When the system fails to read the addressee data, the item is subject to video coding (VCS);"*, but could you please tell us if there are items (sorted in mode2) which have handwritten country names? If yes, could you please let us know the percentage of such items?

**Answer:** *We estimate that the items include approximately 2% of hand-written addresses.*

18. In 2. of the third bullet point of Section **5.7.2 Three sorting modes and OCR operation protocols** of **5.7 Optical character reader (OCR)**, it is stated that *"2. The OCR reads the address (the addressee's country) and directs the item based on the addressee data. The basis for determining whether the OCR has read a valid hit will be a "list of country names and alternative names" compiled and imported into the LISM system by the Contracting Authority (the exact structure is determined jointly by the Contracting Authority and the Contractor during the implementation phase). The editing and updating of this list directly in the LISM system must be enabled"*, but could you please tell us if there are items (sorted in mode3)

which have handwritten country names? If yes, could you please let us know the percentage of such items?

**Answer:** *We estimate that the items include approximately 30% of hand-written addresses.*

19. In 4. of the third bullet point of Section **5.7.2 Three sorting modes and OCR operation protocols** of **5.7 Optical character reader (OCR)**, it is stated that "If the system fails to read the addressee data and there is no visible CN-23 declaration on the item, the item is subject to video coding (VCS).", but could you please tell us how many destination countries there are? Are the country codes alphabetic?

**Answer:** *Currently, there are 251 countries and regions on the list, but in practice items will be sorted to no more than 40 destinations. The list contains the following data:*

CODE	SHORT	SLOVENIAN NAME OF COUNTRY	ENGLISH NAME OF COUNTRY	ISO
36	AUS	Avstralija	Australia	AU
40	AUT	Avstrija	Austria	AT
208	DNK	Danska	Denmark	DK
276	DEU	Nemčija	Germany	DE

20. Under IT hardware and software of **4. Warranty period**, it is stated that "Free information system upgrades shall be provided for a period of at least ten (10) years after the successful completion of the SAT test.

However, we think that this is rather unrealistic in this day and age where technical advancements occur on almost a daily basis, let alone a free upgrade over such a long period of time, so we kindly request that this text be deleted.

**Answer:** *The Contracting Authority hereby amends this requirement in such a way as to require the provision of free upgrades only during the warranty period of the system.*

21. Under **5. Device SW (Optional part of the tender)**, it is stated that "The tenderer shall also provide in the tender (as optional) the price for all software of the device which it will (in the case of purchasing this optional part of the tender) provide to the Contracting Authority on a data medium (DVD, USB data carrier, etc.) when the device is handed over for use. The tenderer shall indicate the price for this part in the table "Pro forma invoice" which is an appendix to this documentation.", but could you please let us know the purpose of this media? Is it a backup media used for maintenance?

**Answer:** *Yes, the client needs it if SW needs to be reinstalled – after the end of the HW IT equipment warranty (server failure, HDD etc.).*

22. For "Test deck" for domestic postal items of **6. SAT test**, are there SAT test for OCR mode 2 and mode 3, and if so, please let us know the test specifications. Furthermore, is there a "test deck" for OCR mode 2 and mode 3?

**Answer:** *The SAT test will only be performed in mode 2.*

23. Under 1.11 Price of 0026-2020-0026-JNB-6\_TENDER DOCUMENTATION.docx, it is stated that adequate CFI works to arrange the existing premises to match the needs of the new devices; shall be included in the price. However, as we currently do not possess the detailed information of the building, even if CFI works are in the scope of work, we request that the Contracting Authority confirm that if any additional construction or reinforcement works to

the building are needed, that it will not be in the scope or the price of this contract, and if there are any additional costs due to this additional work, the Contracting Authority will pay the Contractor for this, if the additional work can be supplied by the Contractor.

**Answer:** *The Contracting Authority does not agree with the proposal. As a supplement to the answers provided, the Contracting Authority attaches the plans of the building in PDF format. In this way the tenderer can anticipate any additional work or can minimise a risk of the need for additional work. If there are special circumstances as specified in Article 95 of the Public Procurement Act and in section 1.13 of the tender documentation, the circumstances will be adequately addressed.*

24. Under 1.11 Price of 0026-2020-0026-JNB-6\_TENDER DOCUMENTATION.docx, it is stated that Individual items shall contain all the costs of services and goods. The Contracting Authority shall not accept any additional costs. However, in case additional construction works are needed, we request that the Contracting Authority confirm that this will be the scope and responsibility of the Contracting Authority, and not of the Contractors. Furthermore, we also request that the Contracting Authority confirm that in case there is a delay on the readiness of the building, and additional costs, such as storage costs occur on the Contractors side, that the Contracting Authority will bear these costs.

**Answer:** *The Contracting Authority does not agree with the proposal. As a supplement to the answers provided, the Contracting Authority attaches the plans of the building in PDF format. In this way the tenderer can anticipate any additional work or can minimise the risk of the need for additional work. The Contracting Authority accepts that in the event of delays attributable to the Contracting Authority, the latter will cover additional costs (including storage and warehousing).*

25. Under First type of a loader tipper of Section 4.1 Types of loaders to achieve the throughput of 4. Loaders of 0026-2020-0026-JNB-6\_TENDER DOCUMENTATION.docx, it is stated that The tenderer will inspect the containers during a mandatory inspection of the site of the LISM device installation which will be organised by the Contracting Authority as part of the public contract procedure. The exact date and time are published in the tender documentation., but could you please provide us with the container specifications (especially dimensions, weight when empty and full) and drawings if already available.

**Answer:** *The answer is provided in responses to previous questions.*

26. With reference to Section 3.5 Printers and information displays of 0026-2020-0026-JNB-6\_TENDER DOCUMENTATION.docx, please tell us if the Contracting Authority has a specific printer and/or roll paper the Contracting Authority wishes to use. Please tell us the product specifications and model number if there is such preference.

**Answer:** *The Contracting Authority has no preferences regarding printers. Only the width of the ribbon or the dimensions of the printed and cut labels are important (which are given in the tender documentation). At this point we add that labels are not self-adhesive. The gram weight of the paper currently used for this purpose is a minimum of 100g/m<sup>2</sup>.*

27. Under Contract implementation schedule: of Section 8. LISM documentation of 0026-2020-0026-JNB-6\_TENDER DOCUMENTATION.docx, it is stated that Upon the planned signing of the contract (February 2021), the tenderer shall manufacture parts of the device in the

factory by the end of 2021, i.e. in 10 months. The Contracting Authority briefs the tenderer that the newly built hall (in which the device will be installed) will be available to tenderers in January 2022 at the earliest. Installation and SAT test: in the first and second quarters of 2022, 3-month trial operation and completion of the project following the handover and final report: in the second quarter of 2022., but as the schedule of installation and SAT test fully depends on whether the newly built hall will be available on schedule, which the Contractor has no control over, could you please confirm that if this schedule is delayed and any additional costs occur including storage fees, the Contracting Authority will bear these costs.

**Answer:** *The Contracting Authority agrees with the above, and in the event of delays attributable to the Contracting Authority the latter will cover additional costs (including storage and warehousing).*

28. Under Article 16 Obligations of the Contractor of 0026-2020-0026-JNB-6\_FRAMEWORK AGREEMENT.docx, it is stated that The Contractor shall undertake to: protect all of the Contracting Authority's data as a trade secret even after the expiration of this contractual relationship.

However, we think that it would be better for the Contracting Authority and the Contractor that the data and the term of protection are specified, for example, applying this to data which is specifically mentioned in writing as "Confidential".

Furthermore, we also request that Contractor's data will also be protected by the Contracting Authority as well.

**Answer:** *The Contracting Authority does not agree with the first part of the proposal, i.e. everything remains a trade secret, even if not explicitly indicated. The Contracting Authority therefore agrees with the second part of the proposal that the provisions on trade secrets apply to both parties.*

29. With regards to Article 27 Force majeure of 0026-2020-0026-JNB-6\_FRAMEWORK AGREEMENT.docx, given the unclarity of when exactly the present COVID-19 pandemic situation will improve, we request that the Contracting Authority confirm that COVID-19 or other pandemic related events will also be considered as force majeure.

**Answer:** *The general rule is that a party that was in breach of contract or failed to meet its contractual obligations or provided defective performance shall compensate the other party for the damage caused thereby. These are cases where the contract remained in effect and was not terminated or amended. **Force majeure** is an exception to this rule, i.e.:*

- circumstances which arise after the contract conclusion,*
- which the party could not prevent, rectify or avoid. The case law has added the condition that it must be an external event, i.e. an event over which the party claiming force majeure has no control.*

*The Code of Obligations obliges the party claiming force majeure to notify the counterparty. The party invoking force majeure can still be liable for the damage incurred by the counterparty because of having failed to notify it in good time of the occurrence of force majeure, and therefore the counterparty could not react and was unable to alter its conduct accordingly, e.g. undertake a timely search for an alternative supplier of goods or service provider.*

*It is impossible to generalise that the COVID-19 pandemic is a case of force majeure (or changed circumstances or that it is impossible to fulfil a certain obligation as a result of it). Whether this is true or not depends on all the circumstances of a particular case: when the contract was concluded, what the obligation is, what the party has done to avoid its consequences, etc. The answer is that COVID-19 does not automatically constitute force majeure, as the circumstances are no longer unpredictable. Force majeure will be assessed on a case-by-case basis, including COVID; and COVID-related circumstances cannot be generally defined as force majeure in advance.*