



CODE OF CONDUCT FOR CONTRACTORS

ETHICAL PRINCIPLES AND STANDARDS

By this Code of Conduct, the Contracting Authority outlines the ethical principles and standards which contractors are required to follow and uphold. The Contracting Authority is a rights-based organisation that works for people's rights to a dignified life and equality and we expect our contractors to act in a socially responsible manner, with respect for human and Labour rights and the environment.

This Code of Conduct are aligned with recommendations from the Danish Ethical Trading Initiative (DIEH)¹, the UN Global Compact principles² and ECHO's Humanitarian Aid Guidelines for Procurement 2011³.

General Conditions

The Code of Conduct is applicable for all contractors who supply goods, services and works to our operations and projects. It defines the expectations to contractors to act in accordance with applicable law and to conduct themselves responsibly, ethically and with integrity. This includes taking appropriate due diligence measures towards minimising adverse impacts on human- and labour rights, environment and anti-corruption principles. By signing the Code of Conduct contractors agree to ensure due diligence and placing ethics central to their business.

The provision of the ethical standards constitutes minimum rather than maximum standards. International and national laws shall be complied with, and where the provisions of law and the Contracting Authority's standards address the same subject, the highest standard shall apply.

It is the responsibility of the contractor to assure that their contractors and subcontractors comply with the ethical requirements and standards set forth in this Code of Conduct.

The Contracting Authority acknowledge that implementing ethical standards and ensuring ethical behaviour in our supply chain is a continuous process and a long-term commitment for which we also have a responsibility. To achieve high ethical standards, we are willing to engage in dialogue and collaboration with our contractors. In addition, we expect our contractors to be open and willing to engage in dialogue.

Unwillingness to co-operate or serious violations of the Code of Conduct will lead to rejection of bids or termination of contracts.

Human Rights and Labour Rights

Contractors must protect and promote human- and labour rights and work actively to address issues of concern as they arise. As a minimum they are required to comply with national laws and actively work to secure alignment to international Human and Labour Rights standards and frameworks:

Respect for Human- and Labour Rights (The International Bill of Human Rights, ILO Declaration on Fundamental Principles and Rights at Work and the UN Guiding Principles on Business and Human Rights): The basic principles of the International Bill of Human Rights are that all human beings are born free and equal in dignity and in rights within all spheres of life. Everyone has the right to life, liberty, dignity, freedom and security of the person. Contractors must not flaunt their responsibility to

uphold and promote such rights toward employees, contractors, sub-contractors and the community in which they operate.

Non-exploitation of Child Labour (UN Child Convention on the Rights of the Child, and ILO C138 & C182):

Contractors must not engage in the exploitation of child labour⁴ and contractors must take the necessary steps to prevent the employment of child labour. A child is defined as a person under the age of 18 and children shall not be engaged in labour that compromise their health, safety, mental and social development, and schooling. Children under the age of 15 (in developing countries 14) may not be engaged in regular work, but children above the age of 13 (in developing countries 12) can be engaged in light work if it does not interfere with compulsory schooling and is not harmful to their health and development.

Employment is freely chosen (ILO C29 & C105):

Contractors must not make use of forced or bonded labour and must respect workers freedom to leave their employer.

Freedom of association and the right to collective bargaining (ILO C87, C98 & C154):

Contractors must recognise workers right to join or form trade unions and bargain collectively and should adopt an open attitude towards the activities of trade unions (even if this is restricted under national law).

Living wages are paid (ILO C131):

As a minimum, national minimum wage standards or ILO wage standards must be met by contractors. Additionally, a living wage must be provided. A living wage is contextual, but must always meet basic needs such as food, shelter, clothing, health care and schooling, and provide a discretionary income⁵.

Non-discrimination in employment (ILO C100 & C111 and the UN Convention on Discrimination against Women):

Contractors must not practice discrimination in hiring, salaries, job termination, retiring, and access to training or promotion - based on race, national origin, caste, gender, sexual orientation, political affiliation, disability, marital status, or HIV/AIDS status.

No harsh or inhumane treatment of employees (ILO C105):

The use of physical abuse, disciplinary punishment, sexual abuse, the threat of sexual and physical abuse, and other forms of intimidation and abuse may never be practiced by contractors.

Working conditions are safe and hygienic (ILO C155 & C168):

Contractors shall provide safe and hygienic working conditions for its employees and put in place adequate measure to prevent accidents and injury to health associated with or occurring in the course of work.

Working hours are not excessive (ILO C1, C14, C30 &, C106):

Contractors must ensure that working hours comply with national law and international standards. A working week of 7 days should not exceed 48 hours and employees must have one day off per week. Overtime shall be compensated, limited and voluntary.

¹ <https://www.dieh.dk/om-dieh/etiksk-handel/hvordan-etisk-handel/dieh-guidelines/>

² <https://www.unglobalcompact.org/what-is-gc/mission/principles>

³ http://ec.europa.eu/echo/files/partners/humanitarian_aid/Procurement_Guidelines_en.pdf

⁴ The definition of Child Labour can be found at: <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-5> and

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

⁵ Discretionary income is the amount of an individual's income that is left for spending, investing, or saving after taxes and personal necessities (such as food, shelter, and clothing) have been paid.

Regular and contractual employment (ILO C143, C183 & C132):

All work performed must be on the basis of a recognised employment relationship via written contracts, established through international conventions and national laws. Contractors shall provide leave, benefit and employment protection, and protect vulnerable group's regular employment under these laws and conventions.

International Humanitarian Law

Contractors linked to armed conflicts or operating in armed conflict settings shall respect civilian's rights under International Humanitarian Law and not be engaged in activities which directly or indirectly initiate, sustain, and/or exacerbate armed conflicts and violations of International Humanitarian Law⁶ as defined in the Geneva Conventions I-IV and Additional Protocols. Contractors are expected to take a 'do no harm' approach to people affected by armed conflict.

Non-Involvement in Weapon- and Criminal Activities

The Contracting Authority advocates for the Ottawa Convention against landmines and the Convention on Cluster Munitions. Contractors shall not engage in any development, sale, manufacturing or transport of anti-personnel mines, cluster bombs or components, or any other weapon which feed into violations of International Humanitarian Law covered by the Geneva Conventions and Protocols.

Contractors shall not be engaged in any illegal or criminal activity and must never be associated with, provide support to or be involved in any terrorist activities.

Protection of the Environment

The Contracting Authority wishes to minimise the environmental damages applied to nature via our procurement activities and we expect our suppliers and contractors to act in an environmentally responsible manner. This involves respecting applicable national and international environmental legislation and acting in accordance with the Rio Declaration on Environment and Development. As a minimum, contractors must never support or be involved in illegal foresting and shall actively address issues related to proper waste management, ensuring recycling, conservation of scarce resources and efficient energy use.

Anti-Corruption

Corruption is by the Contracting Authority defined as the misuse of entrusted power for private gain and it includes bribery, fraud, embezzlement and extortion. The Contracting Authority holds a great responsibility to avoid corruption and ensure high standards of integrity, accountability, fairness and professional conduct in our business relations. Contractors are expected to have the same approach by undertaking good and fair business ethics and practices, take action to prevent and fight corruption, and abide by international conventions as well as international and national laws.

Complaints

Contractors and contractor's employees who are confronted with corrupt practices, violations of human- or labour rights, or any of the standards laid down in this Code of Conduct, are encouraged to file a complaint with the Contracting Authority⁷.

⁶ This includes pillage/looting which is the unlawful taking of private property for personal or private gain based on force, threats, intimidation, pressure and through a position of power accomplished due to the surrounding conflict.

⁷ DCA's Complaint Handling System is accessed on our website.

SUP 12: GENERAL TERMS AND CONDITIONS FOR SUPPLY CONTRACTS – VER5 2020

DEFINITIONS

In these general terms and conditions, the terms:

- a) "Purchase Order" and "Contract" are used interchangeably and cover also "purchase contract" and/or "supply contract" or any other contract, whichever its denomination, to which these general terms and conditions are made applicable,
- b) "Seller" and "Contractor" are used interchangeably and shall also cover the term "Supplier" used in any contract as defined above.
- c) "Buyer" and "Contracting Authority" are used interchangeably.
- d) "Goods" and "supplies" are used interchangeably, to designate the supplies object of the Contract as defined above.
- e) The Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked.

1. DELIVERY TERMS

Notwithstanding any Incoterm used in a purchase order or similar document, it is the responsibility of the Seller to obtain any export license or other governmental authorisation for export.

2. PAYMENT

Payment will be as indicated in the purchase order.

Payment made by the Contracting Authority does not imply any acceptance of Goods or related services. Unless otherwise stated in the purchase order, prices are fixed.

3. INSPECTION AND ACCEPTANCE OF THE GOODS

3.1. All Goods shall be subject to inspection and testing by the Contracting Authority or its designated representatives, to the extent practicable, at all times and places, including the period of manufacture and, in any event, prior to formal acceptance by the Contracting Authority.

3.2. Neither the carrying out of any inspections of the Goods nor any failure to undertake any such inspections shall release the Seller of any of its warranties or the performance of any obligations under the Contract.

3.3. The Goods shall be taken over by the Contracting Authority when they have been delivered to final destination in accordance with the Contract, have satisfactorily passed the required tests, or have been successfully installed and commissioned as the case may be, and a certificate of acceptance has been issued.

3.4. Under no circumstances shall the Contracting Authority be required, or deemed to, accept any Goods that do not conform to the specifications or requirements of the Contract. The Contracting Authority may condition acceptance of the Goods to the successful completion of acceptance tests. In no case shall the Contracting Authority be obligated to accept any Goods unless and until the Contracting Authority has had a reasonable opportunity to (i) inspect the Goods following their delivery at final destination, (ii) proceed with and complete satisfactory tests, or (iii) be satisfied of installation and commissioning of the equipment, as the case may be, and whichever is the latest. Payment by the Contracting Authority does not imply acceptance of the Goods.

3.5. If the Contracting Authority fails to issue an acceptance certificate within a period of 45 days from actual delivery of the Goods at final destination, successful completion of the tests, successful installation and commissioning, whichever is the latest, the Contracting Authority shall be deemed to have issued the acceptance certificate on the last day of that 45-day period. The issue of the acceptance certificate shall not release the Seller of any of its warranties under the Contract, including those of article 4.

3.6. Notwithstanding any other rights of, or remedies available to, the Contracting Authority under the Contract, in case any of the Goods are defective or otherwise do not conform to the Contract, the Contracting Authority may, at its sole option, reject or refuse to accept the Goods, and the Seller shall promptly proceed in accordance with article 4.3.

4. WARRANTY OBLIGATIONS

4.1. Without limitation of any other warranties stated in or arising under the Contract, or resulting from statutory rights under applicable product liability law, the Seller warrants and represents that:

- a) the Goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such Goods are ordinarily used and for the purposes expressly made known to the Seller, and shall be of even quality, free from faults and defects in design, material, manufacture and workmanship under normal use in the conditions prevailing in the country of final destination;

- b) that the Goods are securely contained, packaged and marked, taking into consideration the mode(s) of shipment in a manner so as to protect the Goods during delivery to their ultimate destination;
- c) if the Seller is not the original manufacturer of the Goods, the Seller shall provide the Contracting Authority with the benefit of all manufacturers' warranties in addition to the present warranties;
- d) the Goods are of the quality, quantity and description required by the Contract;
- e) the Goods are new and unused; and
- f) the Goods are free from any right of claim by any third-party and unencumbered by any title or other rights, including any liens or security interests and claims of infringement of any intellectual property rights, including, but not limited to, patents, trademarks, copyright and trade secrets.

4.2. Unless provided otherwise in the Contract, all warranties shall remain fully valid for a period of one year after acceptance of the Goods by the Contracting Authority.

4.3. During any period in which the Seller's warranties are effective, upon notice by the Contracting Authority that the Goods do not conform to the requirements of the Contract, the Seller shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective Goods with goods of the same or better quality or fully reimburse the Contracting Authority for the purchase price paid for the defective goods including freight costs to the final destination. The Seller shall pay all costs relating to the repair or return of the Goods as well as the costs relating to the delivery to final site of any replacement goods to the Contracting Authority. If having been notified by any means, the Seller fails to remedy the defect within 30 days, the Contracting Authority may proceed to take such remedial action as may be necessary, at the Seller's risk and expense and without prejudice to any other rights which the Contracting Authority may have against the Seller under the Contract.

4.4. The Seller shall indemnify and hold harmless the Contracting Authority from and against any and all suits, actions or administrative proceedings, claims and demands from third-parties, losses, damages, costs, and expenses of any nature, including legal fees and expenses, which the Contracting Authority may suffer as a result of any infringement by the Seller of the warranties specified in article 4.1.

5. AFTER SALES SERVICE

The Seller shall be able to handle requests from the Contracting Authority for technical assistance, maintenance, service and repairs of the Goods supplied.

6. LIQUIDATED DAMAGES FOR DELAY

Subject to force majeure, if the Seller fails to deliver any of the Goods or to perform any of the services within the time period specified in the Contract, the Contracting Authority may, without prejudice to any other rights and remedies, deduct from the total price stipulated in the Contract an amount of 2.5% of the price of such goods for each commenced week of delay. However, the ceiling of these penalties is 10% of the total Contract price.

7. FORCE MAJEURE

Neither Party shall be considered to be in default nor in breach of its obligations under the Contract if the performance of such obligations is prevented by any event of force majeure arising after the date of the Contract becomes effective.

For the purposes of this Article, the term "force majeure" means acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar unforeseeable events which are beyond the Parties' control and cannot be overcome by due diligence.

If either Party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other Party and the Contracting Authority, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the Contracting Authority in writing, the Seller shall continue to perform its obligations under the Contract as far as is reasonably practicable and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent it from performing. The Seller shall

not employ such alternative means unless directed to do so by the Contracting Authority.

8. TERMINATION FOR CONVENIENCE

The Contracting Authority may, for its own convenience and without charge, cancel all or any part of the Contract. If the Contracting Authority terminate this Contract in whole or in part upon written notice to the Seller. The Contracting Authority shall be responsible for the actual costs incurred by the Seller as a direct result of such termination which are not recoverable by either (i) the sale of the goods affected to other parties within a reasonable time, or (ii) the exercise by the Seller, in a commercially reasonable manner, of other mitigation measures. Any claim by the Seller for such actual costs shall be deemed waived by the Seller unless submitted in writing to the Contracting Authority within thirty (30) calendar days after the Contracting Authority notified the Seller of the termination.

9. VARIATIONS

The Contracting Authority may at any time by written instruction vary the quantities of the Goods by 25 percent above or below the original Contract price. The Contracting Authority may also order variations including additions, omissions, substitutions, changes in quality, form, character, and kind of the Goods, related services to be provided by the Seller, as well as method of shipment, packing, place of delivery and sequence and timing of delivery. No order for a variation may result in the invalidation of the Contract, but if any such variation causes an increase or decrease in the price of or the time required for performance under this Contract, and except where a variation is necessitated by a default of the Seller, an equitable adjustment shall be made in the Contract price, or delivery schedule, or both, and the Contract shall be amended by way of an addendum. The unit prices used in the Seller's tender or quotation shall be applicable to the quantities procured under the variation.

10. APPLICABLE LAW AND DISPUTES

The Contract is governed by and shall be construed in accordance with the laws of the country of establishment of the Contracting Authority.

Any dispute or breach of contract arising under this Contract shall be solved amicably if at all possible. If not possible and unless provided otherwise in the Contract, it shall be submitted to, and settled by, the competent court in the country of establishment of the Contracting Authority, in accordance with the national law of that country.

11. REMEDIES FOR DEFAULT

11.1. The Seller shall be considered in default under the Contract if:

- he fails to deliver any or all of the Goods within the period specified in the Contract;
- he fails to perform any other obligations under the Contract;
- his declarations in respect of his eligibility (article 15) and/or in respect of article 13 (Child labour and forced labour) and article 14 (Mines), appear to have been untrue, or cease to be true;
- he engages in the practices described in article 16 (corrupt practices).

11.2. Upon occurrence of an event of Seller's default, and without prejudice to any other rights or remedies of the Contracting Authority under the Contract, the Contracting Authority shall be entitled to one or several of the following remedies:

- liquidated damages for delay under article 7;
- any of the remedies specified in article 4.3;
- refuse to accept all or part of the Goods;
- general damages;
- termination of the Contract.

11.3. Upon termination of the Contract by the Contracting Authority under this article, the Seller shall follow the Contracting Authority's instructions for immediate steps to bring to a close in a prompt and orderly manner the performance of any obligations under the Contract, in such a way as to reduce expenses to a minimum. The Contracting Authority shall have no other liability than paying the Seller the goods which have already been accepted in accordance with article 3, and shall be entitled to deduct from any such sums:

- any liquidated or general damages due by the Seller;
- and/or any sums due by the Seller under article 4.3;
- and/or any excess cost occasioned by a replacement procurement from other sources.

The Contracting Authority shall also be entitled to call any pre-financing or performance guarantee provided by the Seller under the Contract.

12. OFFICIALS

The Seller warrants that no official of the Contracting Authority and/or its partner has received or will be offered by the Seller any direct or indirect benefit arising from this Contract.

13. HUMAN RIGHTS AND LABOUR RIGHTS

The Seller warrants that it, and its affiliates, respect and uphold Human and Labour Rights defined in national law, the International Bill of Human Rights and the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998). Furthermore, the Seller warrants that it and its affiliates comply with the UN Convention on the Rights of the Child - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the Forced labour Convention C29 and in the Abolition of Forced Labour Convention C105 of the International Labour Organization. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

14. MINES AND OTHER WEAPONS

The Seller warrants that it, and its affiliates are NOT engaged in any development, sale, manufacture or transport of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of antipersonnel mines and/or cluster bombs. Furthermore, the Seller warrants that it and its affiliates are NOT involved in the sale and/or production of weapons, which feed into violations of International Humanitarian Law covered by the Geneva Conventions I-IV and Additional Protocols; and the UN Convention on Certain Conventional Weapons (1980). Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

15. INELIGIBILITY

By signing the purchase order, the Seller certifies that he is NOT in one of the situations listed below:

- (a) He is bankrupt or 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;
- (b) He has been convicted of an offence concerning his professional conduct by a judgement that has the force of res judicata;
- (c) He has been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- (d) He has not fulfilled 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 of the Contracting Authority or those of the country where the Contract is to be performed;
- (e) He has been the subject of a judgement that has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
- (f) Following another procurement procedure or grant award procedure financed by the European Community budget or other donor or following another procurement procedure carried out by the Contracting Authority or one of their partners, he has been declared to be in serious breach of contract for failure to comply with his contractual obligations.
- (g) He has been guilty of creating an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of his registered office, central administration or principal place of business.
- (h) They are involved in terrorism activities, providing support to individuals or organizations that support terrorism activities, condone the use of terrorism or involved in the provision of arms to individuals or organizations involved in terrorism.
- (i) They are on a list of sanctioned parties issued by United States government, UN, EU or other government issued terrorism and sanction lists.

16. CORRUPT PRACTICES

The Seller and his personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the

Contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the Contract or any other contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the Contract or any other contract with the Contracting Authority.

The payments to the Contractor under the Contract shall constitute the only income or benefit the Seller may derive in connection with the Contract and neither he nor his personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, his obligations under the Contract.

The execution of the Contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the Contract or not stemming from a properly concluded contract referring to the Contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

17. DISCRETION AND CONFIDENTIALITY

The Seller shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract or the project without the prior consent in writing of the Contracting Authority. It shall, in particular, refrain from making any public statements concerning the project or the delivery without the prior approval of the Contracting Authority.

18. CHECKS AND AUDITS

The Seller shall permit the Contracting Authority or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit the Contracting Authority or any person authorized by it, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the Contract is financed by the European Community budget, at any time, to have access to its financial accounting documents and to audit such records and accounts both during and after the implementation of the Contract. In particular, the Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses

19. LIABILITY

Under no circumstances or for no reason whatsoever will the Back donor entertain any request for indemnity or payment directly submitted by the (Contracting Authority's) contractors

20. DATA PROTECTION

If the Contracting Authority is subject to EU Directive 95/46/EC (General Data Protection Regulation) and the Contractor is processing personal data in the context of submitting an offer (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) the Contractor shall do so accordingly to EU Directive 95/46/EC (General Data Protection Regulation) and inform the data subjects of the details of the processing and communicate the Contracting Authority's Privacy Policy to them.

SER 8: GENERAL TERMS AND CONDITIONS FOR SERVICE CONTRACTS – VER3 2020

1. DEFINITIONS

In these general terms and conditions:

- a) "contract" is the agreement entered into by the Contracting Authority and the Contractor for the performance of the services described in the terms of reference, to which these general terms and conditions are made applicable; the contract is constituted of the documents listed in the Service Contract.
- b) The Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked;
- c) "personnel" is any person assigned by the Contractor to the performance of the services or any part hereof, whether through employment, sub-contracting or any other agreement; and "key experts" are those members of the personnel whose involvement is considered instrumental in the achievement of the contract objectives;
- d) "beneficiary country" is the country where the services are to be performed, or where the project to which the services relate is located.

2. RELATIONS BETWEEN THE PARTIES

Nothing contained in the contract shall be construed as establishing a relation of master and servant or of agent and principal as between the Contracting Authority and the Contractor. Except if otherwise provided in the contract, the Contractor shall under no circumstances act as the representative of the Contracting Authority or give the impression that the Contractor has been given such authority. The Contractor has complete charge of the personnel and shall be fully responsible for the services performed by them.

3. SCOPE OF SERVICES

The scope of the services including the methods and means to be used by the Contractor, the results to be achieved by him and the verifiable indicators are specified in the Terms of Reference. The Contractor shall be responsible for everything which is required for the performance of the services in accordance with what is specified in the contract, or which must otherwise be regarded as forming part of the services.

4. COMPLIANCE WITH LAWS AND RESPECT OF TRADITIONS

The Contractor shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement by the Contractor, its personnel and their dependants of such laws and regulations.

The Contractor, its personnel and their dependants shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country.

5. CODE OF CONDUCT

The Contractor shall at all times act loyally and impartially and as a faithful adviser to the Contracting Authority and shall perform the services with due care, efficiency and diligence, in accordance with the best professional practice.

6. DISCRETION AND CONFIDENTIALITY

The Contractor shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority. It shall, in particular, refrain from making any public statements concerning the project or the services without the prior approval of the Contracting Authority,

7. CONFLICT OF INTEREST

The Contractor shall refrain from engaging in any activity which conflicts with his obligations towards the Contracting Authority under the contract.

The Contractor shall take all necessary measures to prevent or end 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 in writing to the Contracting Authority without delay. The Contractor shall replace, immediately and without compensation from the

Contracting Authority, any member of its personnel exposed to such a situation.

8. CORRUPT PRACTICES

The Contractor and the personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the contract or any other contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the contract or any other contract with the Contracting Authority.

The payments to the Contractor under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.

The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

The Contractor further warrants that no official of the Contracting Authority and/or their partner has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract.

9. JOINT VENTURE OR CONSORTIUM

If the Contractor is a joint venture or a consortium of two or more legal persons, all such persons shall be jointly and severally bound to fulfil the terms of the contract. The person designated by the joint venture or consortium to act on its behalf for the purposes of this contract shall have the authority to bind the joint venture or consortium.

For the purposes of performance of the contract, the joint venture or consortium shall act as, and be considered, a single person and in particular, shall have bank account opened in its name, shall submit to the Contracting Authority single guarantees if required, and shall submit single invoices and single reports.

The composition of the joint venture or a consortium shall not be altered without the prior written consent of the Contracting Authority.

10. SPECIFICATIONS AND DESIGNS

The Contractor shall prepare all specifications and designs using accepted and generally recognised systems acceptable to the Contracting Authority and taking into account the latest design criteria.

11. INFORMATION

The Contractor shall furnish the Contracting Authority, or any person authorised by the Contracting Authority with any information relating to the services and the project as the Contracting Authority may at any time request.

12. REPORTS

The frequency, deadlines, format and contents of the reports to be drawn up by the Contractor in relation to the performance of the contract shall be described in the Terms of Reference.

13. CONTRACTOR'S PERSONNEL

13.1. The Contractor shall employ and provide such qualified and experienced personnel as are required to carry out the services, and the Contractor shall be responsible for the quality of the personnel.

The names, outputs, duties and CVs of key experts and the titles, job descriptions, minimum qualifications, estimated periods of engagement in the carrying out of the services of each of the personnel and key experts are described in the Organisation and Methodology part of the contract. The Contractor must inform the Contracting Authority of all non-expert personnel it intends to use for the implementation of the contract.

The Contracting Authority shall have the right to oppose the Contractor's choice of personnel.

13.2. No changes shall be made in the personnel without the prior consent of the Contracting Authority. The Contractor shall provide a replacement with at least equivalent qualifications and experience and acceptable to the Contracting Authority if:

a) on account of death, sickness or accident, a member of the Personnel is unable to continue providing his services,

b) any member of the personnel is found by the Contracting Authority to be incompetent in discharging or unsuitable for the performance of his duties under the Contract,

c) for any reasons beyond the control of the Contractor, it becomes necessary to replace any member of the Personnel.

The request for replacement must be made in writing and state the reason therefore. The Contractor shall proceed swiftly with the request and propose a replacement with at least equivalent qualifications and experience. The remuneration to be paid to the replacement cannot exceed that received by the replaced member of the personnel.

Failure by the Contractor to propose a replacement for a key expert satisfactory to the Contracting Authority, shall give the right to the Contracting Authority to terminate the contract.

Additional costs arising out of a replacement shall be borne by the Contractor.

13.3. Working hours

The days and hours of work of the Contractor or/and its personnel in the beneficiary country shall be fixed on the basis of the laws, regulations and customs of the beneficiary country and the requirements of the services.

13.4. Leave entitlement

Any taking of holiday leave by the personnel during the period of implementation of the contract must be at a time approved by the Contracting Authority.

Overtime, sick leave, pay and holidays leave pay are deemed to be covered by the Contractor's remuneration.

14. SUB-CONTRACTING

Except from the subcontractors listed in the contract, the Consultant shall not subcontract to nor engage another independent contractor to perform any part of the services without the prior written consent of the Contracting Authority. Subcontractors must satisfy the eligibility criteria applicable for the award of the contract.

The Contracting Authority shall have no contractual relations with the subcontractors. The provisions of the contract, including these general terms and conditions, and in particular article 13.2 shall, where practicable, apply to the subcontractors and their personnel.

15. LIABILITY

At its own expense, the Contractor shall indemnify, protect and defend, the Contracting Authority, its agents and employees, from and against all actions, claims, losses or damages arising from any act or omission by the Contractor in the performance of the services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

Approval by the Contracting Authority of the Contractor's reports and issue of Completion Certificate shall not relieve the Contractor of its liability and shall not prevent the Contracting Authority from claiming damages.

The Contractor shall remain liable for any breach of its obligations under the contract for such period after the services have been performed as may be determined by the law governing the contract (the "liability period"). This time limit does not however apply when the damage arises from gross negligence or wilful misconduct of the Contractor.

During the liability period, or as soon as practicable after its expiration, the Contractor shall, at its expense, upon instruction of the Contracting Authority, remedy any deficiencies in the performance of the services. In case of default on the part of the Contractor to carry out such instructions, the Contracting Authority shall be entitled to hire another contractor to carry out the same, at the Contractor's expense.

16. INSURANCE

Within 20 days of signing the contract, the Contractor shall take out and maintain, at its own cost, a full indemnity insurance policy covering its professional liability under the contract and article 15 above, from the commencement date and until the end of the liability period.

Within 20 days of signing the contract, the Contractor shall take out and maintain a full indemnity insurance policy for a sum up to the higher of the maximum amount foreseen by the legislation of the country of the Contracting Authority and the amount foreseen by the legislation of the country in which the Contractor has its headquarters and covering, during the period of implementation of the contract, the following risks:

- a) loss of or damage to property purchased with funds provided under the contract, or produced by the Contractor;
- b) loss or damage to equipment, material and office facilities made available to the Contractor by the Contracting Authority;
- c) civil liability for accidents caused to third parties arising out of acts performed by the Contractor, its personnel and their dependents;
- d) employer's liability and workers' compensation in respect of the personnel as well as sickness, accident or death affecting the personnel and their dependents, including the cost of repatriation on health grounds;
- e) such other insurance as required by the laws in force in the beneficiary country.

Prior to the commencement date, the Contractor shall provide evidence to the Contracting Authority that the above insurances have been effectuated. During execution of the contract, the Contractor shall, when required, provide the Contracting Authority with copies of the insurance policies and the receipts for payment of premiums.

17. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

All reports and data such as maps, diagrams, drawings, specifications, plans, statistics, calculations, databases, software and supporting records or materials acquired, compiled or prepared by the Contractor in the performance of the contract shall, with the copyright thereto, be the absolute property of the Contracting Authority. The Contractor shall, upon completion of the contract, deliver all such documents and data to the Contracting Authority. The Contractor may not retain copies of such documents and data and shall not use them for purposes unrelated to the contract without the prior written consent of the Contracting Authority.

The Contractor shall not publish articles relating to the services or refer to them when carrying out any services for others, or divulge information obtained from the Contracting Authority, without the prior written consent of the Contracting Authority.

18. RECORDS

The Contractor shall keep separate, accurate and systematic records and accounts in respect of the services in such form and detail as is customary in the profession and sufficient to establish accurately that the number of working days and the actual reimbursable expenditure identified in the Contractor's invoice(s) have been duly incurred for the performance of the services.

For a fee-based contract, timesheets recording the days worked by the Contractor's personnel must be maintained by the Contractor. The timesheets must be approved by the Contracting Authority or any person authorised by the Contracting Authority or the Contracting Authority itself on a monthly basis. The amounts invoiced by the Contractor must correspond to these timesheets. In the case of long-term experts, these timesheets must record the number of days worked. In the case of short-term experts, these timesheets must record the number of hours worked. Time spent travelling exclusively and necessarily for the purpose of the Contract may be included in the numbers of days or hours, as appropriate, recorded in these timesheets.

Such records must be kept for a 7-year period after the final payment made under the contract. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for reimbursable expenditure. Failure to maintain such records constitutes a breach of contract and will result in the termination of the contract.

19. OBLIGATIONS OF CONTRACTING AUTHORITY

19.1. The Contracting Authority shall provide the Contractor as soon as possible with any information and/or documentation at its disposal which may be relevant to the performance of the contract.

On all matters properly referred to it in writing by the Contractor, the Contracting Authority shall give its decisions so as not to delay the services, and within a reasonable time.

19.2. The contract shall specify whether the Contracting Authority is to provide the Contractor with equipment, facilities, counterpart personnel or specific assistance, and shall detail under which conditions. If the provision of such agreed counterpart personnel, equipment, facilities and assistance is delayed or not forthcoming, the Contractor shall endeavour to perform the Services as far as is possible. The parties shall agree on how the affected parts of the services shall be carried out, and the additional payments, if any is due, to be made by the Contracting Authority to the Contractor as a result of additional expenditures.

20. CONTRACT PRICE AND PAYMENTS

Contracts are either "global price" or "fee-based".

20.1. Fee-based contract

In consideration of the services performed by the Contractor under the contract, the Contracting Authority shall make to the Contractor such payments of fees and such reimbursement of costs as provided in the contract.

Fees shall be determined based on time actually spent by the key experts in the performance of services at the fee rates specified in the contract. Fee rates are deemed to remunerate all the activities of the Contractor in the performance of the services and to cover all expenses and costs incurred by the Contractor which are not included in the agreed reimbursable costs.

The Contracting Authority shall reimburse to the Contractor the reimbursable costs and expenses specified in the contract, actually and reasonably incurred in the performance of the services.

Costs and expenses which are not mentioned in the contract shall be deemed covered by the overhead of profit included in the fees.

The currency of payments of fees and reimbursable costs and applicable exchange rates are set out in the contract.

20.2. Global price contract

The global price covers both the Contractor's and its personnel's fees and all expenses to be incurred for the performance of the contract. The global price is in consideration for all obligations of the Contractor under the contract and all matters and things necessary for the proper execution and completion of the services and the remedying of any deficiencies therein.

20.3. Revision

Unless otherwise stipulated in the contract, the global price of a global price contract and the fee rates of a fee-based contract shall not be revised.

20.4. Guarantees

In the case an advance payment for fees and for reimbursable costs (fee-based contract) or a pre-financing payment (global price contract) is agreed in the contract, its payment by the Contracting Authority shall be subject to the prior presentation by the Contractor to the Contracting Authority of an approved performance security, advance payment or pre-financing guarantee, if so agreed and under the conditions specified in the Service Contract.

20.5. Conditions of Payment

Payments will be made by the Contracting Authority with the frequency, instalments, time limits, amounts and currencies, and under the conditions, in particular on the contents of invoices, specified in the special conditions of the contract. Payment of the final balance shall be subject to performance by the Contractor of all its obligations under the contract and the issue by the Contracting Authority of the completion certificate described in article 25.

20.6. Late payment

If the time periods laid down for payments by the Contracting Authority have been exceeded by more than two months and where the Contracting Authority cannot invoke a case of suspension or withholding of payments provided for in these terms and conditions, the Contractor may claim interest calculated on any amount due, prorata on the number of days of delay at the official bank rate of the beneficiary country (if amounts due are in the currency of that country), or at the rate applied by the European central bank (where amounts due are in Euro), plus 2% per year.

21. DELAYS IN PERFORMANCE

If the Contractor does not perform the services within the period of implementation specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day, or part thereof, which shall elapse between the end of the period of implementation specified in the contract and the actual end of the period of implementation.

The daily rate for liquidated damages is calculated by dividing the contract value by the number of days of the period of implementation. If these liquidated damages exceed more than 15% of the contract value, the Contracting Authority may, after giving notice to the Contractor:

- a) terminate the contract; and
- b) complete the services at the Contractor's own expense

22. BREACH OF CONTRACT

Either party commits a breach of contract where it fails to discharge any of its obligations under the contract.

Where a breach of contract occurs, the party injured by the breach shall be entitled to the following remedies:

- a) liquidated damages; and/or
- b) termination of the contract.

In any case where the Contracting Authority is entitled to damages, it may deduct such damages from any sums due to the Contractor or call on the appropriate guarantee.

The Contracting Authority shall be entitled to compensation for any damage which comes to light after the contract is completed in accordance with the law governing the contract.

23. SUSPENSION OF PERFORMANCE

The Contractor shall, on the request of the Contracting Authority, suspend the performance of the services or any part thereof for such time and in such manner as the Contracting Authority may consider necessary.

In such event of suspension, the Contractor shall take immediate action to reduce the costs incident to the suspension to a minimum. During the period of suspension, and except where the suspension is due to any default of the Contractor, the Contractor shall be reimbursed for additional costs reasonably and necessarily incurred by it as a result of the suspension.

24. AMENDMENT OF THE CONTRACT

Substantial modifications to the contract, including modifications to the total contract amount, must be made by means of an addendum.

25. Completion Certificate

Upon completion of the services, and once (a) the Contracting Authority has approved the Contractor's completion report, (b) the Contracting Authority has approved the Contractor's final invoice and final audited statement, the Contracting Authority shall deliver a completion certificate to the Contractor.

26. TERMINATION BY THE CONTRACTING AUTHORITY

26.1 The Contracting Authority may terminate the contract after giving a 7 days' notice to the Contractor in any of the following cases:

- a) the Contractor is in breach of its obligations under the contract and/or fails to carry out the services substantially in accordance with the contract;
- b) the Contractor fails to comply within a reasonable time with the notice given by the Contracting Authority requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely performance of the services;
- c) the Contractor refuses or neglects to carry out instructions given by the Contracting Authority;
- d) the Contractor's declarations in respect of its eligibility (article 33) and/or in respect of article 31 and article 32, appear to have been untrue, or cease to be true;
- e) the Contractor takes some action without requesting or obtaining the prior consent of the Contracting Authority in any case where such consent is required under the contract;
- f) any of the key experts is no longer available, and the Contractor fails to propose a replacement satisfactory to the Contracting Authority;

- g) any organisational modification occurs involving a change in the legal personality, nature or control of the Contractor or the joint venture or consortium, unless such modification is recorded in an addendum to the contract;
- h) the Contractor fails to provide the required guarantees or insurance, or the person providing the underlying guarantee or insurance is not able to abide by its commitments.

26.2 Termination by Contracting Authority for convenience

The Contracting Authority may terminate the contract in whole or in part for its convenience, upon not less than 14 days' notice. The Contracting Authority shall not use this right of termination in order to arrange for the services to be executed by another contractor, or to avoid a termination of the contract by the Contractor.

27. TERMINATION BY THE CONTRACTOR

The Contractor may terminate the contract after giving a 7 days' notice to the Contracting Authority in any of the following cases:

- a) the Contractor has not received payment of that part of any invoice which is not contested by the Contracting Authority, within 90 days of the due payment date;
- b) the period of suspension of the performance of the contract under article 23 has exceeded six months;
- c) the Contracting Authority is in material breach of its obligations under the Contract and has not taken any actions to remedy the same within 30 days following the receipt by the Contracting Authority of the Contractor's notice specifying such breach.

If the Contractor is a natural person, the contract shall be automatically terminated if that person dies.

28. RIGHTS AND OBLIGATIONS UPON TERMINATION

28.1. Upon termination of the contract by notice of either party to the other, the Contractor shall take immediate steps to bring the services to a close in a prompt and orderly manner and in such a way as to keep costs to a minimum.

28.2. If the Contracting Authority terminates the contract in accordance with article 26.1 it may, thereafter, complete the services itself, or conclude any other contract with a third party, at the Contractor's expense.

The Contracting Authority shall, as soon as is possible after termination, certify the value of the services and all sums due to the Contractor as at the date of termination. It shall, subject to article 28.1 and 28.3, make the following payments to the Contractor:

- (a) remuneration pursuant to the contract for services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable costs (if fee-based contract) for costs actually incurred prior to the effective date of termination;
- (c) except in the case of termination pursuant to article 26.1 reimbursement of any reasonable cost incident to the prompt and orderly termination of the contract;
- (d) in case of termination under article 26.2 and 27, reimbursement for the actual and reasonable costs incurred by the Contractor as a direct result of such termination and which could not be avoided or reduced by appropriate mitigation measures.
The Contractor shall not be entitled to claim, in addition to the above sums, compensation for any loss or injury suffered.

28.3. In case of termination of the contract for any reason whatsoever, any pre-financing guarantee which might have been granted to the Contracting Authority under article 20.4, may be invoked forthwith by the Contracting Authority in order to repay any balance still owed to the Contracting Authority by the Contractor, and the guarantor shall not delay payment or raise objection for any reason whatever.

28.4. If the Contracting Authority terminates the contract under article 26.1, it shall be entitled to recover from the Contractor any loss it has suffered up to that part of the contract value which corresponds to that part of the services which has not, by reason of the Contractor's default, been satisfactorily completed.

29. FORCE MAJEURE

Neither party shall be considered to be in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of signature of the contract by both parties.

The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics,

landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.

A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Contracting Authority in writing, the Contractor shall continue to perform its obligations under the contract as far as is reasonably practicable and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The Contractor shall not put into effect such alternative means unless directed so to do by the Contracting Authority.

30. APPLICABLE LAW AND DISPUTES

The contract is governed by and shall be construed in accordance with the laws of the Contracting Authority's country.

Any dispute or breach of contract arising under this contract shall be solved amicably if at all possible. If not possible and unless provided in the Service Contract, it shall be settled finally by court decision, which shall be held under the law of the Contracting Authority's country. Any ruling by the court will be final and directly executable in the country of the Contractor.

31. HUMAN RIGHTS AND LABOUR RIGHTS

The Contractor warrants that it, and its affiliates, respect and uphold Human- and Labour Rights defined in national law and in the UN Universal Declaration of Human Rights (1948) and the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998). Furthermore, the Contractor (and each member of a joint venture or a consortium) warrants that it and its affiliates comply with the UN Convention on the Rights of the Child - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the Forced Labour Convention C29 and in the Abolition of Forced Labour Convention C105 of the International Labour Organization. Furthermore, the Contractor warrants that it, and its affiliates, respect and uphold basic social rights and working conditions for its employees. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

32. MINES AND OTHER WEAPONS

The Contractor (and each member of the joint venture or a consortium) warrants that it and its affiliates is NOT engaged in any development, sale, manufacture or transport of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs. Furthermore, the Contractor warrants that it and its affiliates are NOT involved in the sale and/or production of weapons which feed into violations of International Humanitarian Law covered by the Geneva Conventions I-IV and Additional Protocols; and the UN Convention on Certain Conventional Weapons (1980). Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this contract immediately upon notice.

33. INELIGIBILITY

By signing the purchase order, the Contractor (or, if a joint venture or a consortium, any member thereof) certifies that they are NOT in one of the situations listed below:

- (a) They are bankrupt or being wound up, are having their affairs administrated by courts, have entered into an agreement with creditors, have suspended business activities, are the subject of proceedings concerning house matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) They have been convicted of an offence concerning their professional conduct by a judgement that has the force of *res judicata*;
- (c) They have been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- (d) They have not fulfilled obligations relating to the payment of social security contributions or payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the contract is to be performed;

- (e) They have been the subject of a judgement that has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Contracting Authority or the European Communities' financial interests;
- (f) Following another procurement procedure or grant award procedure financed by the European Community budget or following another procurement procedure carried out by the Contracting Authority or one of their partners, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.
- (g) He has been guilty of creating an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of his registered office, central administration or principal place of business.
- (h) They are involved in terrorism activities, providing support to individuals or organizations that support terrorism activities, condone the use of terrorism or involved in the provision of arms to individuals or organizations involved in terrorism.
- (i) They are on a list of sanctioned parties issued by United States government, UN, EU or other government issued terrorism and sanction lists.

34. CHECKS AND AUDITS

The Contractor shall permit the Contracting Authority or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit the Contracting Authority or any person authorized by it, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the contract is financed by the European Community budget, at any time, to have access to its financial accounting documents and to audit such records and accounts both during and after the provision of the services. In particular, it may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses

35. LIABILITY

Under no circumstances or for no reason whatsoever will the Back donor entertain any request for indemnity or payment directly submitted by the (Contracting Authority's) Contractors.

36. DATA PROTECTION

If the Contracting Authority is subject to EU Directive 95/46/EC (General Data Protection Regulation) and the Contractor is processing personal data in the context of submitting an offer (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) the Contractor shall do so accordingly to EU Directive 95/46/EC (General Data Protection Regulation) and inform the data subjects of the details of the processing and communicate the Contracting Authority's Privacy Policy to them.

WOR 5: GENERAL TERMS AND CONDITIONS FOR WORKS CONTRACTS – VER3 2020

GENERAL

1. DEFINITIONS

In these general terms and conditions:

- a) "Contract" is the agreement entered into by the Contracting Authority and the Contractor for the execution and completion of the Works, to which these general terms and conditions are made applicable; the Contract is constituted of the documents listed in the Contract;
- b) "Works" are what the Contract requires the Contractor to construct, install and turn over to the Contracting Authority, as described in the Technical Specifications;
- c) "Temporary Works" include items to be constructed by the Contractor which are not intended to be permanent and form part of the Works;
- d) "Engineer", "Supervisor" and "Project Manager" might be used interchangeably in the Contractual documents; each term means the person responsible for supervising the execution of the Works, and monitoring and administering the execution of the Contract on behalf of the Contracting Authority;
- e) "beneficiary country" is the country where the Works are to be constructed;
- f) "breakdown of the overall price" is the heading-by-heading list of the rates and costs making up the price for a global price Contract;
- g) "bill of quantities" is the document in which the costs of the Works are indicated, on the basis of the foreseen quantities of items of work and the fixed unit prices applicable to them;
- h) "Contract Price" is the sum agreed in the Contract as payable to the Contractor for the execution and completion of the Works and for the remedying of any defects therein in accordance with the Contract;
- i) "Site" is the land and other places on, under, in or through which the Works are to be constructed;
- j) the Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked.

2. LANGUAGE AND LAW

The Contract, all documents relating to the Contract and all written communications between the parties shall be in English.

Unless specified otherwise in the Contract, the law governing the Contract shall be the law of the country of the Contracting Authority.

3. GENERAL DUTIES AND POWERS OF THE ENGINEER

3.1. The Engineer shall provide administration and monitoring of the Contract and supervision of the Works as provided in the Contract. In particular, he shall perform the functions described in these general terms and conditions.

3.2. The Engineer shall be the Contracting Authority's representative vis-à-vis the Contractor during construction and until final payment is due. The Engineer shall advise and consult with the Contracting Authority. The Contracting Authority's instructions to the Contractor shall be forwarded through the Engineer. The Engineer shall have authority to act on behalf of the Contracting Authority only to the extent provided in the Contract Documents as they may be amended in writing in accordance with the Contract. The duties, responsibilities and limitations of authority of the Engineer as the Contracting Authority's representative during construction as set forth in the Contract shall not be modified or extended without the written consent of the Contracting Authority, the Contractor and the Engineer.

3.3. The Engineer shall visit the Site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Works and to determine in general if the Works are proceeding in accordance with the Contract. On the basis of his on-Site observations as an Engineer, he shall keep the Contracting Authority informed of the progress of the Works.

3.4. The Engineer shall have authority to issue to the Contractor, on behalf of the Contracting Authority, administrative orders incorporating

such supplementary documents and instructions as are necessary for the proper execution of the Works and the remedying of any defects therein.

3.5. The Engineer shall not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Works or the Temporary Works. The Engineer shall not be responsible for or have control or charge over the acts or omissions of the Contractor (including the Contractor's failure to carry out the Works in accordance with the Contract) and of Sub-contractors or any of their agents or employees, or any other persons performing services for the Works, except if such acts or omissions are caused by the Engineer's failure to perform his functions in accordance with the contract between the Contracting Authority and the Engineer.

3.6. Except where expressly stated in the Contract, the Engineer shall not have authority to relieve the Contractor of any of his obligations.

3.7. The Contractor shall ensure that the Engineer has at all times free access to the Site or any other place where the Works are carried out or prepared. The Contractor shall provide facilities for such access so that the Engineer may perform his functions under the Contract.

3.8. Based on the Engineer's observations and an evaluation of the documentation submitted by the Contractor together with the invoices and requests for payment, the Engineer shall determine the amounts owed to the Contractor and shall issue Payment Certificates as appropriate.

3.9. The Contractor shall provide the Engineer with any information he might require. The Engineer may arrange for the supervision and inspection of any item being prepared and manufactured for supply under the Contract. To this end, he may apply such tests as he considers necessary in order to establish whether the materials and objects are of the requisite quality and quantity. He may require the replacement or repair, as the case may be, of items, which do not conform with the Contract, even after their installation. The Contractor may not rely on the fact that such supervision and inspection have been effectuated in order to evade his responsibility in the event of the Works being rejected by the Engineer.

3.10. In the performance of his duties, the Engineer shall not disclose information on the methods of manufacture and operation of the undertakings which he has obtained by reason of his supervision and inspection, except to those authorities that need to know it.

4. ASSIGNMENT AND SUBCONTRACTING

4.1. The Contractor shall not, except after obtaining the prior written authorization of the Contracting Authority, assign, transfer, pledge or make other disposition of the Contract or any part thereof or of any of the Contractor's rights, claims or obligations under the Contract.

4.2. The Contractor shall not subcontract without the prior written authorisation of the Contracting Authority. Subcontractors must satisfy the eligibility criteria of article 60, as well as the conditions of articles 58 and 59. The approval by the Contracting Authority of the subcontracting of any part of the Contract or of the subcontractor to perform any part of the Works shall not relieve the Contractor of any of his obligations under the Contract.

5. SUPPLY OF DOCUMENTS

The Contracting Authority shall provide the Contractor, free of charge, with a copy of the drawings prepared for the implementation of the Contract and a copy of the specifications. The Contract shall list the documents and items which may be placed at the disposal of the Contractor, at the latter's request, to facilitate his work.

Unless it is necessary for the purposes of the Contract, the drawings, specifications and other documents provided by the Contracting Authority shall not be used or communicated to a third party by the Contractor without the prior consent of the Engineer.

6. ACCESS TO SITE

6.1. The Contracting Authority shall, in due time and in conformity with the progress of the Works, place the Site and access thereto at the disposal of the Contractor in accordance with the programme of implementation referred to in these General Terms and Conditions.

6.2. Land procured for the Contractor by the Contracting Authority shall not be used by the Contractor for purposes other than the implementation of the Contract.

6.3. The Contractor shall keep any premises placed at his disposal in good condition while he is in occupation.

6.4. The Contractor shall allow the Engineer and any person authorized by the Engineer or the Contracting Authority access to the Site and to any place where work in connection with the Contract is being carried out.

7. CONTRACTOR'S GENERAL OBLIGATIONS

7.1. The Contractor shall, with due care and diligence, and in accordance with the provisions of the Contract, design the Works to the extent stated in the Contract, and execute, complete and remedy any defects in the Works. The Contractor shall provide all superintendence, personnel, materials, plant, equipment and all other items, whether of a temporary or permanent nature, required for the design, execution and completion of Works, and for remedying any defects, in so far as is specified in, or can be reasonably inferred from, the Contract. The Contractor shall take full responsibility for the adequacy, stability and safety of all operations and methods of construction under the Contract.

7.2. The Contractor shall comply fully with any administrative orders given to him by the Engineer and shall ensure that the specifications and administrative orders are adhered to by his own employees and by his sub-contractors and their employees.

8. PROGRAMME OF IMPLEMENTATION

8.1. Within the time specified in the Contract, the Contractor shall submit a programme of implementation of the Contract for the approval of the Engineer. The programme shall contain at least the following:

- a) the order in which the Contractor proposes to carry out the Works;
- b) the deadlines for submission and approval of the drawings, if applicable;
- c) a general description of the methods which the Contractor proposes to adopt for carrying out the Works; and
- d) such further details and information as the Engineer may reasonably require.

The approval of the programme by the Engineer shall not relieve the Contractor of any of his obligations under the Contract.

8.2. No material alteration to the programme of implementation shall be made without the approval of the Engineer. If, however, the progress of the Works does not conform to the programme, the Engineer may instruct the Contractor to revise the programme and submit the revised programme to him for approval.

9. CONTRACTOR'S STAFF AND EMPLOYEES

The staff and workmen employed by the Contractor must be sufficient in number, and each must have the qualifications necessary to ensure due progress and satisfactory execution of the Works. The Contractor shall immediately replace all persons indicated by the Engineer, in a letter stating reasons, as hampering the proper execution of the Works. The Contractor shall make his own arrangements for the engagement of all staff and labour. He shall comply with all the relevant labour laws applying to his employees, shall duly pay them and afford them all their legal rights. The Contractor shall comply with article 58, Child Labour and Forced Labour.

10. EQUIPMENT

The equipment, which the Contractor has at the Site, shall be deemed to be for the purpose of carrying out the Works. The Contractor shall not be entitled to remove it without the written consent of the Engineer unless he shows that the said equipment is no longer required for the performance of the Works.

11. CONTRACTOR'S DRAWINGS

11.1. The Contractor shall submit to the Engineer for approval:

- a) the drawings, documents, samples and/or models, according to the time limits and procedures laid down in the Contract;

- b) such drawings as the Engineer may reasonably require for the implementation of the Contract.

The approval of the drawings, documents, samples or models by the Engineer shall not relieve the Contractor from any of his obligations under the Contract.

11.2. Before the issue of the Certificate of Substantial Completion of the Works by the Engineer, the Contractor shall supply operating and maintenance manuals together with drawings, which shall be detailed enough to enable the Contracting Authority to operate, maintain, adjust and repair all parts of the Works.

11.3. These detailed drawings, documents and items may not be reproduced or used for another purpose by the Contracting Authority, nor communicated to third parties, except with the Contractor's and on payment of fair compensation.

12. SAFETY ON SITE AND NON-DISTURBANCE

12.1. The Contractor shall ensure the safety of the Site and the safety of all activities on the Site in accordance with national laws and the Occupational Safety and Health Convention C155 of the International Labour Organization throughout the period of execution. The Contractor shall be responsible for taking the necessary steps, in the interests of his employees, agents of the Contracting Authority and third parties, to prevent any loss or accident which may result from carrying out the Works. The Contractor shall, on his own responsibility and at his own expense, do his utmost to ensure that existing structures and installations are protected, preserved and maintained. He shall be responsible for providing and maintaining at his own expense all lighting, protection, fencing and security equipment that proves necessary for the proper implementation of the Works or that the Engineer may reasonably require.

12.2. On his own responsibility and at his expense, the Contractor shall take all the precautions required by good construction practice and by the prevailing circumstances to safeguard adjacent properties and avoid causing any abnormal disturbance therein.

12.3. The Contractor shall ensure that all operations necessary for the execution of the Works are carried on so as not to interfere unnecessarily or improperly with the public convenience, and in particular with traffic or communication links, underground cables, conduits and installations.

12.4. The Contractor shall hold harmless and indemnify the Contractor in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to the Contractor's failure to comply with his obligations under this article.

13. SETTING-OUT

13.1. The Contractor shall be responsible for:

- a) the accurate setting-out of the Works in relation to the original marks, lines and reference levels provided by the Engineer;
- b) the accuracy of the positioning, levelling, dimensioning and alignment of all parts of the Works;
- c) the provision of all necessary instruments, accessories and labour in connection with the foregoing responsibilities; and
- d) the review of the Engineering design and details of the Works; he shall inform the Contracting Authority of any mistakes or incorrectness in such design and details which would affect the Works.

13.2. If, at any time during the execution of the Works, any error appears in the positioning, levelling, dimensioning or alignment of any part of the Works, the Contractor shall, if the Engineer so requires, rectify such errors at his own cost and to the satisfaction of the Engineer, unless the error is based on inaccurate data supplied by the Engineer, in which case the Contracting Authority shall be responsible for the cost of rectification.

13.3. The checking of any setting-out or of any alignment or levelling by the Engineer shall in no way relieve the Contractor of his responsibility for the accuracy of these operations. The Contractor shall carefully protect and preserve all markers, sight rails, pegs and other items used in setting out the Works.

14. TEMPORARY WORKS

The Contractor shall carry out at his expense all the Temporary Works to enable the Works to be carried out. He shall submit to the Engineer drawings of Temporary Works, which he intends to use, such as cofferdams, scaffolding, trusses and shuttering. He shall take account of

any observations made to him by the Engineer, while remaining responsible for these drawings.

15. DISCOVERIES

Discoveries of any interest whatsoever made during excavation or demolition work shall immediately be brought to the attention of the Engineer. The Engineer shall decide how such discoveries are to be dealt with, taking due account of the law of the beneficiary country.

16. RESPONSIBILITY FOR LOSS OR DAMAGE

From the commencement date of the Works to the date of substantial completion as stated in the Certificate of Substantial Completion, the Contractor shall take full responsibility for the care of the Works and of all Temporary Works. In the event that any damage or loss should happen to the Works or to any part thereof or to any Temporary Works from any cause whatsoever (save and except as shall be due to *Force Majeure* as defined in article 56, the Contractor shall at his own cost repair and make good the same so that, at completion, the Works shall be in good order and condition and in conformity in every respect with the requirements of the Contract and the Engineer's instructions. The Contractor shall also be liable for any damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under article 49.

17. INSURANCE

17.1. Without limiting his obligations and responsibilities under the Contract, the Contractor shall take out the insurances specified in articles 17.2., 17.3 and 17.4. Each insurance shall be effectuated with insurers and in terms approved by the Contracting Authority. Before the commencement date, the Contractor shall submit to the Engineer copies of the policies. When each premium is paid, the Contractor shall submit evidence of payment to the Engineer. The Contractor shall comply with the conditions stipulated in each of the insurance policies. Such insurance shall take effect from the commencement of the Works and remain in force until the issue by the Engineer of the Certificate of Final Completion of the Works. Each insurance shall be taken in the joint names of the Contracting Authority' and the Contractor.

17.2. The Contractor shall take out insurance against any loss or damage for which the Contractor is liable under the Contract arising from a cause occurring prior to the issue of the Certificate of Substantial Completion, and for loss or damage caused by the Contractor in the course of any other operation (including those under article 49). Such insurance shall cover:

- a) the Works, together with materials and plant for incorporation therein and drawings, to the full replacement cost against all loss or damage from whatever cause arising other than from *force majeure*;
- b) an additional sum of 10% of such replacement cost or any other amount specified in the Contract, to cover all the additional direct or indirect costs of making good losses or damage, including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatever nature;
- c) the Contractor's equipment, plant and other things brought onto the Site by the Contractor, for a sum sufficient to provide their replacement at the Site.

17.3. The Contractor shall insure against each party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under article 17.2) or to any person (except persons insured under article 17.4), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Certificate of Final Completion. Unless provided otherwise in the Contract, this insurance shall be extended to cover liability for all loss and damage to the Contracting Authority's property (except things insured under article 17.2).

17.4. The Contractor shall take out insurance against both his own liability, and the Contracting Authority and Engineer's liability, for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of the Contractor's representative, all personnel whom the Contractor utilises on Site, including staff of the Contractor and of each sub-contractor, and any other personnel assisting the Contractor in the execution of the Works. The insurance shall remain in full force and effect during the whole time that these personnel are assisting in the execution of the Works or the remedying of defects.

18. COMPLIANCE WITH LAWS AND RESPECT OF TRADITIONS

18.1. The Contractor shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees and sub-contractors also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement of such laws and regulations.

18.2. The Contractor, its personnel and sub-contractors shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country.

19. DISCRETION AND CONFIDENTIALITY

The Contractor shall treat all documents and information received in connection with the Contract as private and confidential and shall not disclose any particulars of the Contract without the prior consent in writing of the Contracting Authority. It shall in particular refrain from making any public statements concerning the project or the Works without the prior approval of the Contracting Authority.

20. CONFLICT OF INTEREST

The Contractor shall refrain from engaging in any activity which conflicts with his obligations towards the Contracting Authority under the Contract. The Contractor shall take all necessary measures to prevent or end 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. In particular, the Contractor and his employees or any other company with which the Contractor is associated or linked may not, even on an ancillary or sub-contracting basis, supply other services, carry out works or supply equipment or materials for the project to which the Works relate. Any conflict of interests which could arise during performance of the Contract must be notified in writing to the Contracting Authority without delay. The Contractor shall replace, immediately and without compensation from the Contracting Authority, any member of its personnel exposed to such a situation.

21. CORRUPT PRACTICES

21.1. The Contractor and his personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the Contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the Contract or any other Contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the Contract or any other Contract with the Contracting Authority.

21.2. The payments to the Contractor under the Contract shall constitute the only income or benefit it may derive in connection with the Contract and neither he nor his personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the Contract.

21.3. The execution of the Contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the Contract or not stemming from a properly concluded contract referring to the Contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

22. JOINT VENTURE OR CONSORTIUM

If the Contractor is a joint venture or consortium of two or more persons, all such persons shall be jointly and severally bound to fulfil the terms of the Contract. The person designated by the joint venture or consortium to act on its behalf for the purposes of this Contract shall have the authority to bind the joint venture or consortium.

For the purposes of performance of the Contract, the joint venture or consortium shall act as, can be considered, a single person and, in particular, shall have bank account(s) opened in its name, shall submit to the Contracting authority single guarantees if required, and shall submit single requests for payment and single reports.

The composition of the joint venture or consortium shall not be altered without the prior written consent of the Contracting Authority.

23. GUARANTEES

23.1. If specified in the Contract, and as guarantee for his proper and efficient performance of the Contract, the Contractor shall on signature of the Contract provide the Contracting Authority with a performance guarantee issued for the benefit of the Contracting Authority. The amount and character of such performance guarantee shall be as indicated in the Contract.

23.2. In the case where prepayment is agreed in the Contract, its payment by the Contracting Authority shall be subject to the prior presentation by the Contractor to the Contracting Authority of an approved performance security or prepayment guarantee, if so agreed and under the conditions specified in the Contract t.

COMMENCEMENT OF IMPLEMENTATION AND DELAYS

24. COMMENCEMENT DATE

The date on which implementation of the Contract by the Contractor is to commence shall be specified in the Contract or shall be determined by an administrative order issued by the Engineer to the Contractor within a time period specified in the Contract.

25. PERIOD OF IMPLEMENTATION

The period of implementation of the Works shall commence on the date fixed in accordance with Article 24. The period of implementation shall be specified in the Contract, without prejudice to extensions of the period, which may be granted under Article 26.

26. EXTENSION OF THE PERIOD OF IMPLEMENTATION

26.1. The Contractor may request the Contracting Authority an extension of the period of implementation if his implementation of the Contract is delayed, or expected to be delayed, for any of the following reasons:

- a) exceptional weather conditions in the beneficiary country;
- b) artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor;
- c) administrative orders affecting the date of completion other than those arising from the Contractor's default;
- d) failure of the Contracting Authority to fulfil its obligations under the Contract;
- e) any suspension of the Works which is not due to the Contractor's default;
- f) *force majeure* in accordance with article 56.

26.2. The Contracting Authority shall, upon such request for extension, determine whether the extension is justified, and if so, the period of any such extension of time.

27. DELAYS IN IMPLEMENTATION

If the Contractor fails to complete the Works by the deadline(s) specified in the Contract and in his programme of implementation approved by the Engineer in accordance with article 8, the Contracting Authority shall, without formal notice and without prejudice to any other remedies under the Contract, be entitled to liquidated damages for every day or part thereof which elapses between the end of the period of implementation or extended period of implementation and the actual date of completion, at the rate and up to the maximum amount specified in the Contract .

28. MODIFICATIONS

28.1. The Engineer may within his powers introduce any variations to the form, type or quality of the Works or any part thereof which he considers necessary and for that purpose or if for any other reasons it shall, in his opinion be desirable, he shall have power to order the Contractor to do and the Contractor shall do any of the following:

- a) increase or decrease the quantity of any work under the Contract;
- b) omit any such work;
- c) change the character or quality or kind of any such work;
- d) change the levels, lines, positions and dimensions of any part of the Works;
- e) execute additional work of any kind necessary for the completion of the Works.

No such variation shall in any way vitiate or invalidate the Contract.

28.2. The Engineer shall, however, obtain the written approval of the Contracting Authority before giving any order for any variations which may result in an increase of the Contract Price or in an essential alteration of the quantity, quality or character of the Works.

28.3. No variations shall be made by the Contractor without an order in writing from the Engineer. Variations requiring the written approval of the Contracting Authority under article 28.2 shall be made by the Contractor only upon written order from the Engineer accompanied by a copy of the Contracting Authority's approval. Provided that, subject to the provisions of the Contract, no order in writing shall be required for any increase or decrease in the quantity of any work where such increase or decrease is not the result of an order given under this article but is the result of the quantities exceeding or being less than those stated in the Bill of Quantities.

28.4. The Engineer shall estimate to the Contracting Authority the amount to be added or deducted from the Contract Price in respect of any variation, addition or omission. The value of any variation, addition or omission shall be calculated on the basis of the unit prices contained in the Bill of Quantities or the Breakdown of Overall Price.

29. EXCEPTIONAL RISKS

29.1. If, during the execution of the Works, the Contractor encounters artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor, and if the Contractor is of the opinion that additional costs will be incurred and/or an extension of the period of implementation of the Contract will be necessary as a result of this, he shall notify the Engineer as soon as possible. The Contractor's notification shall specify the artificial obstructions and/or physical conditions, giving details of the expected effects thereof, the measures he is taking or intends to take and the extent of the expected delay in, or interference with, the execution of the Works.

29.2. On receipt of notification, the Engineer may inter alia give written instructions to the Contractor as to how the artificial obstructions or physical conditions are to be dealt with; and he may order that the Contract be modified, suspended or terminated.

29.3. In so far as he considers that some or all of the said artificial obstructions or physical conditions could not reasonably have been foreseen by an experienced Contractor, the Engineer shall:

- a) take into account any delay suffered by the Contractor as a result of such obstructions or conditions in determining any extension of the period of implementation to which the Contractor is entitled under these General Terms and Conditions; and/or
- b) calculate, in the event of artificial obstructions or physical conditions other than weather conditions, the additional payments due to the Contractor.

29.4. If the Engineer decides that some or all of the artificial obstructions or physical conditions could reasonably have been foreseen by an experienced Contractor, he shall so inform the Contractor as soon as practicable.

29.5. Weather conditions shall not entitle the Contractor to claim additional payments under Article 29. Where the Engineer judges that weather conditions that are normally foreseeable or specified in the Contract make the smooth execution of the Works difficult, he may decide to suspend such Works in accordance with article 30.

30. SUSPENSION

30.1. The Contractor shall, on the order of the Engineer, suspend the progress of the Works or any part thereof for such time or times and in such manner as the Engineer may consider necessary.

30.2. During the period of suspension, the Contractor shall take such protective measures as may be necessary to safeguard the Works, plant, equipment and Site against any deterioration, loss or damage.

30.3. Additional expenses incurred in connection with such protective measures shall be added to the Contract Price, unless such suspension is:

- a) necessary owing to some default of the Contractor; or
- b) necessary owing to normal weather conditions on Site; or
- c) necessary for the safety or the proper execution of the Works or any part thereof insofar as such necessity does not arise from any act or default by the Engineer or the Contracting

Authority or from any of the exceptional risks referred to in Article 29.

30.4. The Engineer, after consultation with the Contracting Authority and the Contractor, shall determine such extra payment and/or extension of the period of implementation to be made to the Contractor in respect of such claim as shall, in the opinion of the Engineer, be fair and reasonable.

30.5. If the period of suspension exceeds 180 days and the suspension is not due to the Contractor's default, the Contractor may, by notifying the Engineer and the Contracting Authority, either request permission to restart or terminate the Contract within 14 days.

31. INSPECTION AND TESTING

31.1. All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Engineer's instructions and shall be subjected from time to time to such tests as the Engineer may direct at the place of manufacture or fabrication, or on the Site or at all or any of such places. The Contractor shall provide such assistance, instruments, machines, labour and materials as are normally required for examining, measuring and testing any work and the quality, weight or quantity of any materials used and shall supply samples of materials before incorporation in the Works for testing as may be selected and required by the Engineer. All testing equipment and instruments provided by the Contractor shall be used only by the Engineer or by the Contractor in accordance with the instructions of the Engineer.

31.2. All samples shall be supplied by the Contractor at his own cost.

31.3. The Contractor shall bear the costs of any of the following tests:

- a) Those clearly intended by or provided for in the Contract;
- b) Those involving load testing or tests to ensure that the design of the whole of the Works or any part of the Works is appropriate for the purpose which it was intended to fulfil.

31.4. Components and materials which are not of the specified quality shall be rejected. Rejected components and materials shall be removed by the Contractor from the Site within a period which the Engineer shall specify. Any Works incorporating rejected components or materials shall be rejected.

31.5. The Engineer shall, during the progress of the Works and before the issue by him of the Certificate of Substantial Completion, have the power to order or decide:

- a) the removal from the Site, by a deadline specified in the administrative order, of any components or materials which, in the opinion of the Engineer, are not in accordance with the Contract;
- b) the substitution of proper and suitable components or materials; or
- c) the demolition and proper re-execution, or satisfactory repair, notwithstanding any previous test thereof or interim payment therefore, of any Works which, in respect of components, materials, workmanship or design for which the Contractor is responsible, is not, in the opinion of the Engineer, in accordance with the Contract.

32. OWNERSHIP OF PLANT AND MATERIALS

32.1. All equipment, temporary Works, plant and materials provided by the Contractor shall, when brought on the Site, be deemed to be exclusively intended for the execution of the Works, and the Contractor may not remove the same or any part thereof, except for the purpose of moving it from one part of the Site to another, without the consent of the Engineer. Such consent shall not, however, be required for vehicles engaged in transporting any staff, labour, equipment, temporary Works, plant or materials to or from the Site.

32.2. All materials and equipment covered by payments made by the Contracting Authority to the Contractor shall thereupon become the sole property of the Contracting Authority, without limiting the Contractor's liability for their care.

32.3. Title to any equipment and supplies provided by the Contracting Authority shall rest with the Contracting authority.

32.4. Upon termination of the Contract, the equipment, Temporary

Works, plant and materials on the Site shall be disposed of in

accordance with article 55.4.

CONTRACT PRICE AND PAYMENTS

33. SUFFICIENCY OF PROPOSED PRICES

33.1. The Contractor shall be deemed to have inspected and examined the Site and its surroundings and to have satisfied himself as to the nature of the ground and the subsoil before submitting his proposal or tender. He shall also be deemed to have taken into account the form and nature of the Site, the extent and nature of the work and materials necessary for the completion of the Works, the means of communication with and access to the Site, the accommodation he may require and in general to have obtained for himself all necessary information as to the risks, contingencies and any other circumstances influencing or affecting his proposal or tender.

33.2. The Contractor shall be deemed to have satisfied himself before submitting his proposal or tender as to the correctness and sufficiency of the proposal or tender and of the rates and prices stated in the bill of quantities or breakdown of the overall price, which shall, save where otherwise provided in the Contract, cover all his obligations under the Contract.

33.3. Since the Contractor is deemed to have determined his prices on the basis of his own calculations, operations and estimates, he shall, at no additional charge, carry out any work that is the subject of any item whatsoever in his proposal or tender for which he indicates neither a unit price nor a lump sum.

34. PRICE REVISION

Unless otherwise stipulated in the Contract, no adjustment of the Contract Price shall be made in respect of fluctuations of market, prices of labour, materials, plant or equipment, neither due to fluctuation in interest rates nor devaluation or any other matters affecting the Works.

35. TAXATION

The Contractor shall be responsible for the payment of all charges and taxes arising from the execution of the Works and the Contracting Authority shall have no obligation or responsibility in connection with taxes or levies payable by the Contractor in its country of establishment or in the beneficiary country in connection with his performance of the Contract. The Contractor shall be deemed to have satisfied himself regarding the application of all relevant tax laws. However, the Contracting Authority shall provide the Contractor with reasonable assistance in case the Contractor is requested to obtain the benefit of tax exemptions.

36. CURRENCY OF PAYMENTS

Payments shall be made in the currency(ies) specified in the Contract. Where currency conversion is necessary, in particular for reimbursable costs arising in one currency but reimbursable in another currency, the following rates shall apply (unless otherwise specified in the Contract):

- a) for a conversion into Euro, the rate published on the Infor-Euro on the first working day of the month in which the payment is made;
- b) for a conversion into a national currency, the rate published by the central bank of the beneficiary country on the first working day of the month in which the payment is made.

37. CONDITIONS OF PAYMENT

37.1. Payments will be made by the Contracting Authority to the Contractor in accordance with these General Terms and Conditions. The Contract shall specify the frequency and the instalments of payments, the payment dates, amounts and currencies, practical arrangements and specific requirements for presentation of payment requests if any.

37.2. Payments due by the Contracting Authority shall be made to the Contractor's bank account specified in the Contract.

37.3. Sums due shall be paid within no more than 30 calendar days from the date of issue of an interim payment certificate by the Engineer in accordance with article 40, or of the issue of the final statement of account by the Engineer in accordance with article 41.

38. PREPAYMENT

38.1. The Contracting Authority shall make a prepayment to the Contractor of the amount, and by the dates, specified in the Contract, against provision by the Contractor of a guarantee in accordance with article 23.2, if provided so in the Contract.

38.2. The Contractor shall use the prepayment only to pay for equipment, plant, materials, and mobilization expenses required

specifically for execution of the Contract. The Contractor shall demonstrate that the prepayment has been used in this way by supplying copies of invoices or other documents to the Engineer. Should the Contractor misuse any portion of the prepayment, it shall become due and repayable immediately

38.3. Unless otherwise provided in the Contract, the prepayment shall be repaid by way of reduction of proportionate amounts from interim payments. The amount of reduction in each interim payment shall be calculated in accordance with the method specified in the Contract.

39. MEASUREMENT

The following principles shall apply to the measurement of the Works:

39.1. For a global price contract, the amount due under the Contract shall be determined on the basis of the breakdown of the overall price, or on the basis of a breakdown expressed as a percentage of the Contract Price corresponding to completed stages of the Works. Where items are accompanied by quantities, these shall be firm quantities for which the Contractor has submitted a global price and shall be paid for irrespective of the quantities of Works actually carried out.

39.2. For a unit price Contract:

- a) the amount due under the Contract shall be calculated by applying the unit rates to the quantities actually executed for the respective items, in accordance with the Contract;
- b) the quantities set out in the Bill of Quantities shall be the estimated quantities of the Works, which shall not be taken as the actual and correct quantities of the Works to be executed by the Contractor in fulfilment of his obligations under the Contract;
- c) the Engineer shall determine by measurement the actual quantities of the Works executed by the Contractor, and these shall be paid for in accordance with the provisions of article 40, Interim Payments. Save where otherwise provided in the Contract, no additions may be made to the items in the Bill of Quantities, save as a result of a variation in accordance with Article 28 or another provision of the Contract entitling the Contractor to additional payment;
- d) the Engineer must, when he requires any parts of the Works to be measured, give the Contractor reasonable notice to attend or send a qualified agent to represent him. The Contractor or his agent shall assist the Engineer in making such measurements and shall furnish all particulars required by the Engineer. Should the Contractor fail to attend or to send an agent, the measurement made or approved by the Engineer shall be binding on the Contractor;
- e) the Works shall be measured net, notwithstanding any general or local custom, save where otherwise provided for in the Contract.

40. INTERIM PAYMENTS

40.1. At the end of each period specified in the Contract, the Contractor shall submit an application for interim payment to the Engineer in a form approved by the Engineer. The application shall as a minimum include the following items, as applicable:

- a) the estimated Contract value of the permanent Works executed up to the end of the period in question;
- b) an amount to be deducted for the repayment of prepayment under Article 38.

40.2. Within 30 days of receiving an application for interim payment, it shall be approved or amended in such a way that it reflects, in the Engineer's opinion, the amount due to the Contractor under the Contract. In cases where there is a difference of opinion as to the value of an item, the Engineer's view shall prevail. After calculating the amount due to the Contractor the Engineer shall send the Contracting Authority and the Contractor an interim payment certificate for the amount due to the Contractor and shall inform the Contractor of the Works for which payment is being made.

40.3. The Engineer may, by an interim payment certificate, make any corrections or modifications to any previous certificate issued by him and shall have power to modify the valuation in, or withhold the issue of, any interim payment certificate if the Works or any parts thereof are not being carried out to his satisfaction.

41. FINAL STATEMENT OF ACCOUNT

41.1. Not later than 45 days after the issue of the Certificate of Final Completion in accordance with article 51, the Contractor shall submit to the Engineer a draft final statement of account with supporting documents showing in detail the value of the work done in accordance

with the Contract, together with all further sums which the Contractor considers to be due to him under the Contract in order to enable the Engineer to prepare the final statement of account.

41.2. Within 45 days of receiving the draft final statement of account and of all information reasonably required for its verification, the Engineer shall prepare the final statement of account, which determines:

- a) the amount which, in his opinion, is finally due under the Contract;
- b) after establishing the amounts previously paid by the Contracting Authority and all sums to which the Contracting Authority is entitled under the Contract, the balance, if any, due, from the Contracting Authority to the Contractor, or from the Contractor to the Contracting Authority, as the case may be.

41.3. The Engineer shall issue the Contracting Authority and the Contractor, with the final statement of account showing the final amount to which the Contractor is entitled under the Contract. The Contracting Authority and the Contractor shall sign the final statement of account as an acknowledgement of the full and final value of the work performed under the Contract and shall promptly submit a signed copy to the Engineer.

41.4. The final statement of account signed by the Contractor shall constitute a written discharge of the Contracting Authority confirming that the total in the final statement of account represents full and final settlement of all monies due to the Contractor under the Contract. However, such discharge shall become effective only after any payment due to the Contractor under the final statement of account has been made.

42. REPAYMENT BY CONTRACTOR

42.1. The Contractor undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 30 days of receiving a request to do so. Should the Contractor fail to make repayment within this time period, the Contracting Authority may, within two months of late payment, claim late-payment interests from the Contractor calculated in the same conditions as in article 43.

42.2. Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Contractor.

43. DELAYED PAYMENTS

43.1. If the Contracting Authority fails to make payments within the periods specified in **article 37.3**, the Contractor may, within two months of late payment, claim late-payment interest:

- at the rediscount rate applied by the issuing institution of the country of the Contracting Authority where payments are in national currency;
- at the rate applied by the European Central Bank to its main refinancing transactions in Euro, as published in the Official Journal of the European Union, where payments are in Euro,

on the first day of the month in which the deadline expired, plus three and a half percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

43.2. Any default in payment of more than 90 days from the expiry of the period laid down in Article 37.3 shall entitle the Contractor either not to perform the Contract or to terminate it, with 30 days' prior notice to the Contracting Authority and the Engineer.

COMPLETION OF WORKS

44. TESTS AND VERIFICATION OPERATIONS

The Works shall not be declared substantially completed until the verifications and tests on completion prescribed in the Contract have been carried out in accordance with article 31 at the expense of the Contractor. The Contractor shall notify the Engineer of the date on which such verification and tests may commence.

45. CERTIFICATE OF SUBSTANTIAL COMPLETION

45.1. When the whole of the Works has been substantially completed and have satisfactorily passed any verification and test on completion prescribed by the Contract, the Contractor may give a notice to that effect to the Engineer accompanied by an undertaking to finish any outstanding work during the Defects Liability Period. Such notice and undertaking

shall be in writing and shall be deemed to be a request by the Contractor, for the Engineer to issue a Certificate of Substantial Completion in respect of the Works. The Engineer shall, within 21 days of the date of delivery of such notice either issue to the Contractor, with a copy to the Contracting Authority, a Certificate of Substantial Completion stating the date on which, in his opinion, the Works were substantially completed in accordance with the Contract or give instructions in writing to the Contractor specifying all the work which, in the Engineer's opinion, requires to be done by the Contractor before the issuance of such Certificate. The Engineer shall also notify the Contractor of any defects in the Works affecting substantial completion that may appear after such instructions and before completion of the work specified therein. The Contractor shall be entitled to receive such Certificate of Substantial Completion within 21 days of completion, to the satisfaction of the Engineer, of the work so specified and making good any defect so notified. Upon issuance of the Certificate of Substantial Completion of the Works, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work during the Defects Liability Period.

46. SUBSTANTIAL COMPLETION OF SECTIONS OR PARTS OF THE WORKS

In accordance with the procedure in article 45 and on the same conditions as provided therein, the Contractor may request the Engineer to issue, and the Engineer may issue, a Certificate of Substantial Completion in respect of any Section or part of the Works which has been substantially completed and has satisfactorily passed any tests on completion prescribed by the Contract, if:

- a) a separate time for completion is provided in the Contract in respect of such Section or part of the Works;
- b) such Section or part of the Works has been completed to the satisfaction of the Engineer and is required by the Contracting Authority for his occupation or use.

47. DEFECTS LIABILITY PERIOD

The expression "Defects Liability Period" shall mean the period of 365 days (or any other period specified in the Contract), calculated from the date of completion of the Works stated in the Certificate of Substantial Completion issued by the Engineer or, in respect of any Section or part of the Works for which a separate Certificate of Substantial Completion has been issued, from the date of completion of that Section or part as stated in the relevant Certificate. The expression "the Works" shall, in respect of the Defects Liability Period, be construed accordingly.

48. COMPLETION OF OUTSTANDING WORK AND REMEDYING OF DEFECTS

During the Defects Liability Period, the Contractor shall finish the work, if any, outstanding at the date of the Certificate of Substantial Completion, and shall execute all such work of repair, amendment, reconstruction, rectification and making good defects, imperfections, shrinkages or other faults as may be required of the Contractor in writing by the Engineer during the Defects Liability Period and within 14 days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to expiration of the Defects Liability Period.

49. COST OF EXECUTION OF WORK OF REPAIR

All such outstanding work shall be carried out by the Contractor at his own expense if the necessity thereof shall, in the opinion of the Engineer, be due to the use of material or workmanship not in accordance with the Contract, or to neglect or failure on the part of the Contractor to comply with any obligation expressed or implied, on the Contractor's part under the Contract.

50. REMEDY ON CONTRACTOR'S FAILURE TO CARRY OUT WORK REQUIRED

If the Contractor shall fail to do any such work outstanding on the Works, the Contracting Authority shall be entitled to employ and pay other persons to carry out the same, and all expenses consequent thereon or incidental thereto shall be recoverable from the Contractor by the Contracting Authority, and may be deducted by the Contracting Authority from any sums due or which may become due to the Contractor or from guarantees held against the Contractor.

51. CERTIFICATE OF FINAL COMPLETION

Upon satisfactory completion of the work outstanding on the Works, the Engineer shall within 30 days of the expiration of the Defects Liability Period issue a Certificate of Final Completion to the Contractor. The Contract shall be deemed to be completed upon issuance of such Certificate, provided that the provisions of the Contract which remain

unperformed and the settlement of disputes provision in the Contract shall remain in force for as long as is necessary to dispose of any outstanding matters or issues between the parties.

BREACH OF CONTRACT AND TERMINATION

52. BREACH OF CONTRACT

52.1. A Party shall be in a breach of Contract if it fails to discharge any of its obligations under the Contract. Where a breach of Contract occurs, the injured Party shall be entitled to damages and/or termination of the Contract.

52.2. Where a breach of Contract is attributable to the Contractor, the Contracting Authority shall also be entitled to the following remedies as of right:

- a) implementation of all or part of the Works using directly-employed labour;
- b) termination of all or part of the Contract;
- c) conclusion of a contract with a third party replacing the Contractor, after prior termination of the original Contract.

52.3. In addition to the above-mentioned measures, the Contracting Authority may claim the application of article 27 and the award of liquidated damages, as well as the award of general damages.

52.4. In the event of the Works being executed by directly employed labour or by a Contract with a third party replacing the Contractor, provisions of article 55.5 shall apply.

52.5. Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be effectuated by deduction from the sums due to the Contractor, from the deposit, or by payment under the guarantee.

53. TERMINATION BY THE CONTRACTING AUTHORITY

The Contracting Authority may, after giving the Contractor 7 days' notice, terminate the Contract in any of the following cases:

- a) the Contractor is in breach of his obligations under the Contract;
- b) the Contractor fails to comply within a reasonable time with a notice given by the Engineer requiring him to make good any neglect or failure to perform his obligations under the Contract;
- c) the Contractor refuses or neglects to carry out administrative orders given by the Engineer;
- d) the Contractor takes some action without requesting or obtaining the authorisation of the Contracting Authority or the Engineer, when such prior authorisation is required under the Contract;
- e) the Contractor's declarations and warranties in respect of his eligibility (article 59) and/or in respect of article 57 and article 58, appear to have been untrue, or cease to be true;
- f) any organizational modification occurs involving a change in the legal personality, nature or control of the Contractor (or the members of the joint venture or consortium), unless such modification is recorded in an addendum to the Contract;
- g) any other legal disability of the Contractor hindering execution of the Contract occurs;
- h) the Contractor fails to provide the required guarantee or insurance, or if the person providing the earlier guarantee or insurance required under the present Contract is not able to abide by his commitments;
- i) for convenience, if this is in the interest of the Contracting Authority.

54. TERMINATION BY THE CONTRACTOR

The Contractor may, after giving 14 days' notice to the Contracting Authority, terminate the Contract in any of the following cases:

- a) in the circumstances specified in article 43.2; or
- b) if the Contracting Authority is in material breach of his obligations under the Contract and has not taken any actions to remedy the same within 30 days following the receipt by the Contracting Authority of the Contractor's notice specifying such breach; or
- c) if the Contracting Authority suspends the progress of the Works or any part thereof for more than 180 days, for reasons not specified in the Contract or not attributable to the Contractor.

55. RIGHTS AND OBLIGATIONS UPON TERMINATION

55.1. Termination shall be without prejudice to any other rights or powers of the Contracting Authority and the Contractor under the Contract.

55.2. The Engineer shall, upon the issue of the notice of termination of the Contract, instruct the Contractor to take immediate steps to bring the Works to a close in a prompt and orderly manner and to reduce expenditure to a minimum. The Contractor shall make the Site safe and secure and leave the Site as soon as reasonably possible.

55.3. The Engineer shall, as soon as possible after termination, take the following actions:

- a) certify the value of the Works and all sums due to the Contractor at the date of termination;
- b) draw a report on work performed by the Contractor after inspection of the Works, and inventory taken of temporary structures, materials, plant and equipment. The Contractor shall be summoned to the inspection and the taking of the inventory.

55.4. The Contracting Authority shall have the option of acquiring in whole or in part temporary Works and structures which have been approved by the Engineer, plant, equipment and materials specifically supplied or manufactured in connection with the execution of Works under the Contract. The purchase price of such Temporary Works, structures, equipment, plant and materials shall not exceed the unpaid portion of the expenditure incurred by the Contractor, such expenditure being limited to that required for the implementation of the Contract under normal conditions. The Contracting Authority may purchase, at market prices, the materials and items supplied or ordered by the Contractor and not already paid for by the Contracting Authority on such conditions as the Engineer considers appropriate.

55.5. The Contracting Authority may upon termination of the Contract complete the Works itself by using directly employed labour or conclude another contract with a third party replacing the Contractor. Additional expenditure resulting from the use of directly employed labour or of a contract with a third party replacing the Contractor shall be borne by the Contractor in the cases of termination by the Contracting Authority under article 53 (a) to (h).

55.6. If the Contracting Authority terminates the Contract under article 53 (a) to (h), it shall be entitled to recover from the Contractor any loss it has suffered up to the maximum amount stated in the Contract. If no maximum amount is stated, the Contracting Authority shall not be entitled to recover more than the part of the Contract price corresponding to the value of that part of the Works which cannot, by reason of the Contractor's failure, be put to their intended use.

55.7. In case of termination under article 52(i) and 53, the Contractor shall be entitled to claim, in addition to sums owing to him for Works already satisfactorily completed, and for sums owing to him under article 55.4, the reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract and substantiated costs resulting from commitments entered into prior to the date of termination. The Contractor shall not be entitled to receive any other payment or damages.

56. FORCE MAJEURE

56.1. Neither party shall be considered to be in breach of its obligations under the Contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of signature of the Contract by both parties.

56.2. The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.

A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

56.3. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Engineer in writing, the Contractor shall

continue to perform his obligations under the Contract as far as is reasonably practicable and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent him from performing. The Contractor shall not employ such alternative means unless directed to do so by the Engineer.

56.4. If the Contractor incurs additional costs in complying with the Engineer's directions or using alternative means under Article 56.3, the amount thereof shall be certified by the Engineer.

56.5. If circumstances of force majeure have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the Works that the Contractor may by reason thereof have been granted, either party shall be entitled to serve the other with 30 days' notice to terminate the Contract. If, on the expiry of the period of 30 days, the situation of force majeure still applies, the Contract shall be terminated and, by virtue of the law governing the Contract, the parties shall be released from further execution of the Contract.

57. HUMAN RIGHTS AND LABOUR RIGHTS

The Contractor warrants that it, and its affiliates, respect and uphold Human- and Labour Rights defined in national law and in the UN Universal Declaration of Human Rights (1948) and the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998). Furthermore, the Contractor (and each member of a joint venture or a consortium) warrants that it and its affiliates comply with the UN Convention on the Rights of the Child - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the Forced Labour Convention C29 and in the Abolition of Forced Labour Convention C105 of the International Labour Organization. Furthermore, the Contractor warrants that it, and its affiliates, respect and uphold basic social rights and working conditions for its employees. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

58. MINES AND OTHER WEAPONS

The Contractor (and each member of the joint venture or a consortium) warrants that it and its affiliates is NOT engaged in any development, sale, manufacture or transport of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs. Furthermore, the Contractor warrants that it and its affiliates are NOT involved in the sale and/or production of weapons which feed into violations of International Humanitarian Law covered by the Geneva Conventions I-IV and Additional Protocols; and the UN Convention on Certain Conventional Weapons (1980). Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this contract immediately upon notice.

59. INELIGIBILITY

By signing the Contract, the Contractor (or, if a joint venture or consortium, any member thereof) certifies that he and/or his affiliates are not in one of the situations listed below:

- a) They are bankrupt or being wound up, are having their affairs administrated by courts, have entered into an agreement with creditors, have suspended business activities, are the subject of proceedings concerning house matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) They have been convicted of an offence concerning their professional conduct by a judgement that has the force of *res judicata*;
- c) They have been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- d) They have not fulfilled obligations relating to the payment of social security contributions or payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the Contract is to be performed;
- e) They have been the subject of a judgement that has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
- f) Following another procurement procedure or grant award procedure financed by the European Community budget or another donor or following another procurement procedure carried out by the Contracting Authority or one of its partners,

- they have been declared to be in serious breach of Contract for failure to comply with their Contractual obligations.
- g) He has been guilty of creating an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of his registered office, central administration or principal place of business.
 - h) They are involved in terrorism activities, providing support to individuals or organizations that support terrorism activities, condone the use of terrorism or involved in the provision of arms to individuals or organizations involved in terrorism.
 - i) They are on a list of sanctioned parties issued by United States government, UN, EU or other government issued terrorism and sanction lists.

60. CHECKS AND AUDITS

For the purpose of checks and audit the Contractor shall permit the Contracting Authority and the Engineer to inspect, at any time, the records including financial and accounting documents and to make copies thereof and shall permit the Contracting authority, the Engineer, or any person authorized by them, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the Contract is financed by the European Community budget, at any time, to audit such records and accounts both during and after the execution of the Works. These inspections may take place up to 7 years after the final payment. The Contracting Authority and the Engineer may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

61. SETTLEMENT OF DISPUTES

61.1. The parties shall make every effort to settle amicably any dispute, which may arise between them. Once a dispute has arisen, the parties shall notify each other in writing of their positions on the dispute and any solution, which they consider possible. If either party deems it useful, the Parties shall meet and try and settle the dispute. A party shall respond to a request for amicable settlement within 30 days of such a request. The maximum period laid down for reaching such a settlement shall be 120 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a party fail to respond in time to requests for a settlement, either party shall be free to proceed to the next stage of the dispute settlement procedure by notifying the other.

61.2. If no settlement is reached within 120 days of the start of the amicable dispute settlement procedure, each party may seek:

- a) either a ruling from a national court
- b) or an arbitration ruling in accordance with the Contract.

62. ASSIGNMENT OF RIGHTS AND OBLIGATIONS BY THE CONTRACTING AUTHORITY

The Contracting Authority reserves the right to transfer and assign to any of its partners, or other beneficiary, any right and any obligation the Contracting Authority has against the Contractor under the Contract.

63. LIABILITY

Under no circumstances or for no reason whatsoever will the Back donor entertain any request for indemnity or payment directly submitted by the (Contracting Authority's) contractors.

64. DATA PROTECTION

If the Contracting Authority is subject to EU Directive 95/46/EC (General Data Protection Regulation) and the Contractor is processing personal data in the context of submitting an offer (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) the Contractor shall do so accordingly to EU Directive 95/46/EC (General Data Protection Regulation) and inform the data subjects of the details of the processing and communicate the Contracting Authority's Privacy Policy to them.