

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

GENERAL CONDITIONS

WORKS

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I. Applicable law in the premises and grounds of the Council of Europe

The Council of Europe is an international organisation with 47 member states. The Organisation's activities are governed by its Statute¹. Procurement contracts are concluded by the Council of Europe in accordance with its Financial Regulations and with Rule No. 1333 of 29 June 2011 on the procurement procedures of the Council of Europe².

The Organisation enjoys privileges and immunities as provided for, in particular, in the General Agreement on Privileges and Immunities of the Council of Europe³ and the Special Agreement relating to the Seat of the Council of Europe⁴.

In accordance with the Special Agreement relating to the Seat of the Council of Europe, French law is, in principle, applicable in the premises, buildings and grounds of the Council of Europe headquarters. The Council of Europe may issue regulations applicable within its buildings and premises to facilitate full exercise of its responsibilities.

II. General provisions

Article 1 - Scope

1.1 General points

The provisions of these general conditions shall apply to contracts for works undertaken in the buildings or grounds of the Council which make express reference hereto.

Works contracts may provide for exceptions to certain of these provisions.

These exceptions shall be set out in the specific contractual documents such as special conditions or the Act of Engagement (AE). Special conditions shall include a list of the articles of the general conditions to which exceptions are made.

The consultation procedure and the conditions for submitting bids shall be set out in the tendering rules pertaining to the project.

1.2 Supplier's general conditions

Any general conditions applied by the Supplier shall never take precedence over these general conditions. Any provision set out in the Supplier's documents which conflicts with the provisions of the present document shall be deemed void, except where the Supplier's general conditions are more favourable to the Council.

¹ Statute of the Council of Europe: <http://www.conventions.coe.int/Treaty/fr/Treaties/Html/001.htm>

² Rule no. 1333 on the procurement procedures of the Council of Europe:
[https://wcd.coe.int/ViewDoc.jsp?Ref=SG/RULE\(2011\)1333&Language=lanFrench&Ver=original&BackColorInternet=99CCFF&BackColorIntranet=99CCFF&BackColorLogged=99CCCC](https://wcd.coe.int/ViewDoc.jsp?Ref=SG/RULE(2011)1333&Language=lanFrench&Ver=original&BackColorInternet=99CCFF&BackColorIntranet=99CCFF&BackColorLogged=99CCCC) (See www.coe.int - Useful Links / Calls for tender).

³ General Agreement on Privileges and Immunities of the Council of Europe:
<http://www.conventions.coe.int/Treaty/fr/Treaties/Html/002.htm>

⁴ Special Agreement relating to the Seat of the Council of Europe:
<http://www.conventions.coe.int/Treaty/fr/Treaties/Html/003.htm>

Article 2 - Definitions

For the purposes of this document and the specific contractual documents:

- The "Building Owner" is the contracting authority, ie the Council or its agent, for which the works are performed. It is hereby stipulated that, in all contractual documents, the term "Council" shall mean the Council of Europe.
- The "Project Manager" is the natural person or legal entity, public or private, who/which, by virtue of their technical expertise, is tasked by the Council with ensuring the architectural, technical and financial conformity of the performance of the works covered by the contract, to manage the execution of works contracts, to propose to the Council the settlement of financial statements and to assist the Council in acceptance operations; during the different warranty periods; and, more specifically, as regards the guarantee of completion. If the Project Manager is a legal entity, it shall designate the physical individual with sole capacity to represent it, in particular for accepting and signing orders.
- The "Supplier" is the economic operator which concludes the works contract with the contracting authority's representative. For a consortium of economic operators, "Supplier" shall mean the consortium as represented by its duly appointed agent. In the event of such representation, a general letter of agreement shall specify the distribution of responsibilities and powers.
- "Services" means all the services to be provided to the Council by the Supplier.
- "Notification" is the act of communicating information or a decision to a contracting party or parties by any physical or electronic means enabling the date and time of its receipt to be established with certainty. The date and time of receipt, which may be entered on a receipt acknowledgment, shall be considered to be the date and time of the notification.
- An "order" is the Council's decision laying down the terms of performance of all or part of the deliverables or works concerned by the contract.
- "Acceptance" is the act whereby the Council declares its acceptance of the work with or without reservation. This act constitutes the starting point of the warranty periods in the conditions established in section VI of the present general conditions.

Where the contract provides that a party shall give notification, notice, consent, approval, authorisation, a certificate or a decision, that notification, notice, consent, approval, authorisation, certificate or decision shall, except if stipulated otherwise, be given in writing, and the terms "notify", "give notice", "consent", "approve", "authorise" "certify" or "decide" shall have the same consequences. Consent, approval, authorisation, a certificate or a decision shall not be abusively withheld or delayed.

Article 3 - General obligations of the parties

3.1 Form of notifications and information

Notification to the Supplier of any decision or information given by the Council from which a time-limit is to be calculated shall be:

- delivered direct to the Supplier, or its duly authorised representative, against receipt;
- made by online communication or using electronic media;
- or made by any other means permitting certification of the date and time of receipt of the decision or information.

Such notification may be made to the Supplier's address as stipulated in the specific contractual documents or, failing that, to the Supplier's registered office, except if these documents require the Supplier to elect another domicile.

In the event of a consortium, the notification shall be made to the agent acting for the entire consortium.

3.2 Calculation of time-limits for the supply of deliverables

3.2.1 Any time-limit stipulated in the contract shall begin running at 00.00 hours on the day following the date of the event from which the time-limit is calculated.

The dates and times applicable are those used by the specific contractual documents for deliveries or the supply of deliverables.

3.2.2 When a time-limit is laid down in days, it shall be understood to be expressed in calendar days and shall expire at midnight on the last day of the time-limit.

3.2.3. When a time-limit is laid down in working days, it shall be understood to exclude Saturdays, Sundays and public holidays. If the last day of the time-limit is a Saturday, Sunday or public holiday, the time-limit shall be extended to the end of the first subsequent working day at midnight.

3.2.4 When a time-limit is laid down in months, it shall be reckoned from the start day to the same-numbered day of the month concerned. If there is no same-numbered day in the month during which the time-limit ends, it shall expire on the last day of that month at midnight. If the last day of the time-limit is a Saturday, Sunday or public holiday, the time-limit shall be extended to the end of the first subsequent working day at midnight.

3.3 Representation of the Council

As from notification of the contract, the Council shall appoint a natural person authorised to represent it in dealings with the Supplier for the purposes of performing the contract. Other natural persons may be authorised by the Council during the performance of the contract.

As from the notification of their name(s) to the Supplier, by the required date or contractual deadline, the representative(s) shall be deemed to have sufficient authority to take any necessary decisions binding the Council.

3.4 Supplier

3.4.1 Representation of the Supplier

When the contract is drawn up the Supplier shall appoint one or more natural persons authorised to represent it in dealings with the Council for the purpose of performing the contract. Other natural persons may be authorised by the Supplier during the performance of the contract.

As from the notification of their name(s) to the Council, by the required date or contractual deadline, the representative(s) shall be deemed to have sufficient authority to take any necessary decisions binding the Supplier.

3.4.2 Notification of changes in the Supplier's legal or business situation

The Supplier shall notify the Council without delay of any changes occurring during the performance of the contract which concern:

- persons authorised to enter into undertakings on its behalf;
- the legal form under which it pursues its activities;
- its business name;
- its address or registered office;
- the information it provided concerning acceptance of a sub-contractor or approval of terms of payment; and in general any significant changes in its operations which may affect the performance of the contract.

3.4.3 Health insurance, social security cover and travel insurance

The Supplier undertakes to take all necessary measures to obtain health insurance and social security cover for the entire duration of the performance of the contract. In this connection, the Supplier shall recognise and accept that the Council assumes no liability for health or social risks relating to sickness, pregnancy or an accident that might arise during the performance of the contract, or for their consequences.

3.4.4 Tax obligations of the Supplier

The Supplier undertakes to observe any applicable law and to comply with its tax obligations. To this end:

- the Supplier shall submit to the Council an invoice drawn up in French or in English, made out in Euros and complying with the legislation in force in its country of tax residence;
- the Supplier shall declare for tax purposes any sums paid to it by the Council in accordance with the legislation in force in its country of tax residence.

3.4.5 Other obligations of the Supplier

3.4.5.1 In performing this contract, the Supplier undertakes to comply with the applicable principles, rules and values of the Council.

3.4.5.2 The Council's Staff Regulations and rules relating to temporary staff shall not apply to the Supplier.

3.4.5.3 Nothing in this contract may be construed as conferring on the Supplier the capacity of a Council of Europe staff member or employee.

3.5 Project Management – Site Management

Project Management may be handled either by the Council or by a third party designated in the special conditions.

3.6 Co-contractors and sub-contractors

3.6.1 Appointment of co-contractors and sub-contractors

If the acceptance of one or more co-contractors or sub-contractors does not result from acceptance of the bid, their appointment shall be confirmed after the Council has given its agreement through a supplementary clause or specific document signed by the Council and the Supplier concluding the co-contracting or sub-contracting contract; if the Supplier is a co-contractor but is not the agent for its consortium, the supplementary clause or specific document shall be countersigned by the consortium's agent.

Furthermore, a sub-contractor may begin work on a site only on condition that, on the one hand, the Council has accepted it and approved its terms of payment and, on the other hand, the said sub-

contractor has submitted a specific health and safety plan to the work health and safety coordinator, where such a plan is required by law.

The firm sub-contracting part of the works assigned to it shall retain full liability for the performance of those works vis-à-vis the Council and is in no way discharged from any of its contractual obligations.

Upon signature of the specific document or supplementary clause establishing acceptance of the co-contractor or sub-contractor and approval of the terms of payment, the Council shall transmit to the Supplier and each sub-contractor concerned their respective copies of the specific document or supplementary clause. Upon receipt of this notification, the Supplier shall inform the Council of the name of the natural person authorised to represent a sub-contractor.

A Supplier using sub-contracting without prior acceptance of the sub-contract and prior approval of the terms of payment shall be subject to the application of the measures provided for in Article 39. The same applies to cases where the Supplier has knowingly given inaccurate information in support of its sub-contracting request.

3.6.2 Time-limits for the appointment and intervention of co-contractors and sub-contractors

The co-contracting or sub-contracting firm shall be granted the minimum time-limits imposed by French laws and decrees in the area of health and safety, to run from its appointment and acceptance by the Council, in order to prepare its worksite in the same conditions as the Supplier firm for the work package concerned. Late proposals of co-contracting or sub-contracting not permitting compliance with legal health and safety obligations shall not be accepted.

3.6.3 Direct payment

3.6.3.1 The signature of the draft statement of account by a consortium's agent shall be deemed as acceptance, for each co-contractor, of the amount of the deposit or final settlement payment to be paid to them directly from the part of the statement of account pertaining to the work package or part of a work package assigned to that co-contractor.

3.6.3.2 Unless otherwise provided for in the special conditions, there shall be no direct payment to the sub-contractors of a Supplier or a consortium.

3.7 Orders

3.7.1 Notification of the start-up of works shall be established by the person responsible for worksite scheduling.

3.7.2 Orders under framework contracts shall be established, signed, dated and numbered by the Council.

3.7.3 When the Supplier considers it necessary to submit reservations concerning the requirements of an order, it shall notify them to the Project Manager within fifteen (15) days, failing which the observations shall be time-barred.

3.7.4 The Supplier shall comply strictly with orders notified to it, whether or not it has submitted reservations concerning those orders.

3.7.5 In the event of co-contracting, orders shall be addressed to the consortium's agent, who alone shall be entitled to submit reservations to the Council.

3.7.6 Orders concerning sub-contracted deliverables shall be addressed to the Supplier, who alone shall be entitled to submit reservations.

3.8 Calling of the Supplier to meetings – site meetings

The Supplier or its representative shall go to the offices of the Building Owner or Project Manager or to the worksites whenever requested to do so and shall be accompanied, where applicable, by its sub-contractors.

In the case of a consortium, the obligation set out in the previous paragraph shall apply to all its members.

Article 4 - Confidentiality – loyalty

4.1 Obligation of loyalty and confidentiality

4.1.1 In the performance of the contract, the Supplier shall not seek or accept instructions from any government or any authority external to the Council and shall undertake to comply with the Secretary General's instructions for the performance of work required of it, to observe absolute discretion and to refrain from any statement or act that may be construed as committing the Council.

4.1.2 The Supplier shall observe the utmost discretion in all matters concerning the contract, and particularly any service matters or data that have been or are to be recorded which come to the Supplier's knowledge in the performance of the contract. Unless obliged to do so under the terms of the contract, or expressly authorised to do so by the Secretary General of the Council, the Supplier shall refrain in all circumstances from communicating to any person, legal entity, government or authority external to the Council any information which has not been made public and which has come to the Supplier's knowledge as a result of its dealings with the Council. Nor shall the Supplier seek to gain any private benefit from such information. Neither the expiry of the contract nor its termination by the Council shall end these obligations.

4.1.3 The Supplier shall inform sub-contractors of the confidentiality requirements and security measures imposed for the performance of the contract.

4.2 Conflict of interest

The Supplier shall take all necessary measures to prevent or end any situation likely to jeopardise the impartial, objective performance of the contract. The contractor shall ensure that members of its staff and its management and governing bodies do not find themselves in a situation that may lead to a conflict of interest. The Supplier shall avoid entering into any relationship that might pose a threat to its independence or that of any member of its staff.

Any conflict of interest arising during the performance of the contract shall be notified to the Council without delay. In the event of such a conflict, the Supplier shall immediately take all necessary measures to bring it to an end.

4.3 Use of the Council of Europe's name

The Supplier shall not use the Council's name, flag or logo without the prior authorisation of the Secretary General of the Council of Europe.

4.4 Protection of personal data

4.4.1 Each party to the contract shall be required to comply with the rules governing protection of the personal data to which that party has access for the performance of the contract.

4.4.2. In the event of a change in the legislation on protection of personal data during the performance of the contract, the Supplier shall comply with it as soon as possible.

4.5 Disclosure of the terms of the contract

4.5.1 The Supplier is informed and gives an authorisation of disclosure of all relevant terms of the contract, including identity and price, for the purposes of internal and external audit and to the Committee of Ministers and to the Parliamentary Assembly of the Council with a view to these latter discharging their statutory functions, as well as for the purpose of meeting the publication and transparency requirements of the Council of Europe or its donors. The Supplier authorises the publication, in any form and medium, including the websites of the Council of Europe or its donors, of the title of the contract/works, the nature and purpose of the contract/works, name and locality of the Supplier and amount of the contract/works.

4.5.2 Whenever appropriate, specific confidentiality measures shall be taken by the Council to preserve the vital interests of the Supplier.

Article 5 - Health and safety and working conditions

5.1 Obligations of the Supplier

The Supplier shall be required to comply with the laws and regulations on health and safety and working conditions of the country where its staff are employed. The Supplier shall also comply with the provisions of the eight fundamental conventions of the International Labour Organization (ILO), in cases where these are not integrated in the laws and regulations of the country where these staff are employed. It must be able to demonstrate proof of this compliance, while performing the Contract and during the deliverables warranty, upon request by the Council. The eight fundamental conventions of the ILO ratified by France are as follows:

- Convention concerning freedom of association and protection of the right to organise (C 87, 1948);
- Convention concerning the application of the principles of the right to organise and to bargain collectively (C 98, 1949);
- Convention concerning forced labour (C 29, 1930);
- Convention concerning the abolition of forced labour (C105, 1957);
- Convention concerning equal remuneration (C 100, 1951);
- Convention concerning discrimination (employment and occupation, C 111, 1958);
- Convention concerning minimum age for admission to employment (C 138, 1973);
- Convention concerning the worst forms of child labour (C 182, 1999).

5.2 Dignity

The Supplier shall ensure that each member of its staff behaves in a manner that respects others' freedom or dignity.

In particular, the Supplier shall be subject to Rule No. 1292 of the Council of Europe on the protection of human dignity at the Council of Europe, as published on the Council of Europe's website at the following address:

<http://www.coe.int/fr/web/portal/call-for-tenders>

5.3 Legislative changes

In the event of a change in the legislation on health and safety and working conditions during the performance of the contract, the Supplier shall comply with it as soon as possible.

5.4 Application to sub-contractors

The Supplier shall inform its sub-contractors that the obligations laid down in this Article apply to them. It shall remain responsible for compliance with these obligations throughout the contract's duration.

Article 6 - Protection of the environment – consideration of environmental issues – asbestos-related risk

The Supplier shall ensure that the deliverables comply with legislative and regulatory requirements in force concerning the environment, human health and safety (in particular regarding asbestos-related risks) and neighbourhood conservation. It shall furnish proof thereof at the Council's request at any time during the performance of the contract or the warranty period for the deliverables.

To this end, the Supplier shall take measures to control any potential adverse effects on the environment, in particular waste produced during the contract's performance, emissions of dust, smoke or pollutants, noise, repercussions for fauna and flora and the pollution of surface and/or ground water.

In the event of a change in environmental protection legislation during the performance of the contract, any modifications requested by the contracting authority's representative so as to comply with the new rules shall result in the signature of one or more supplementary clauses by the parties to the contract, in particular with regard to the prevention of asbestos-related risks.

Article 7 - Guarantee relating to industrial or commercial property

7.1 Guarantee of the Council

The Council shall guarantee the Supplier against claims from third parties regarding patents, licences, designs and models, trademarks or brand names whose use is imposed by the contract. In such cases, it shall be the responsibility of the Council to obtain, at its own expense, the necessary assignments, licences or authorisations.

The stipulations of the previous paragraph shall not be applicable if the contract specifies that the patents, licences, designs and models, trademarks or brand names have been proposed by the Supplier.

7.2 Guarantee of the Supplier

With the exception of the case provided for in the first paragraph of paragraph 7.1, the Supplier shall guarantee the Council and the Project Manager against claims from third parties regarding patents, licences, designs and models, trademarks or brand names used in the performance of the contract.

In such cases, it shall be the responsibility of the Supplier to obtain, at its own expense, the necessary assignments, licences or authorisations. The Council may subsequently seek any redress it feels necessary or instruct another party of its choosing to seek redress.

The Council shall own in perpetuity all the documents, products, references, studies, files or other elements specially established or produced to permit the performance of the works and their subsequent use. The Supplier may not issue any additional invoices for the subsequent use of that documentation.

Article 8 - Insurance – Performance bond – Civil liability

8.1 Insurance

The Supplier hereby declares that it holds professional liability insurance policies covering the legal guarantees and obligations such as those laid down in the applicable French legislation, or equivalent, notably in articles L. 241-1 and L. 241-2 of the French Insurance Code.

8.2 Certificate dated less than six months previously

Suppliers shall produce in support of their offer a certificate attesting to these insurance policies, which complies with French regulations and is less than six months' old.

8.3 Civil liability

The Council shall have no liability vis-à-vis the Supplier's operatives with regard to any risk of illness or accident which may arise during the performance of the contract.

The Supplier certifies that its status and legal situation are in conformity with applicable law and regulations and permit it to carry out the tasks provided for in the contract.

8.4 Retention bond – bank guarantee

A retention bond guaranteeing payment to the Council of any sums due to it in any respect whatsoever under the contract may be applied. The Supplier may be bound to constitute a bank guarantee of which the details shall be established in the Act of Engagement.

III. Prices and method of evaluating works – price adjustments – settlement of accounts - invoicing

Article 9 - Content and nature of prices

9.1 Content of prices

9.1.1 The prices entered in the Overall All-inclusive Price Breakdown (by the joint agent, the consortium or the firm that is the Supplier under contract) shall include, in addition to the costs of supplies, labour, overheads and various requirements, the worksite expenses indicated below:

- on-site provision of all the materials necessary for the correct performance of the works;
- implementation of all the equipment for temporary structures and installations, including the necessary transport and losses;
- scaffolding and all regulatory safety and signage arrangements;
- tool costs, including all necessary transport, rentals, damage, losses, power or fuel supplies*, maintenance, repair and operating costs;
- ** in the event of there being no electric panel for the site, of the site being distant from buildings or of works on installations with the power switched off.*

- all labour costs, including related charges and various allowances for travel and compensation for bad weather conditions, including all exceptional labour costs required to complete all the works within the prescribed deadlines (overtime, bonuses etc);
- insurance costs (cf. Article 8);
- incidental expenses for the installation of the site;
- costs of technical studies and document reproduction required for the site tender and of liaising with other building trades;
- costs of tests and trials;
- patent rights where applicable,
- all constraints of any kind of which the Supplier is expected to be aware before submitting its bid;
- site costs, overheads, central office overheads and profit;
- costs related to compliance with labour code safety rules and the decrees and various instructions implementing that code;
- The costs of establishing the original contracts shall be borne by the Council in respect of the written and graphic documents, with each firm receiving a specimen of the written documents (copy or original) concerning their work package. The cost of any additional copies shall be borne by the Supplier.

9.1.2 When a contract is concluded with a consortium of economic operators, the prices of the deliverables allocated to each supplier in the Act of Engagement shall be deemed to include the corresponding costs and margins, including charges which each supplier may be required to reimburse to the agent.

In this case, the prices of the works attributable to the agent shall be deemed to include, in addition, the costs and margins relating to the following additional deliverables:

- the construction and maintenance of means of access and service roads required for the shared areas of the site;
- the installation, functioning and maintenance of fencing and health and safety facilities for the shared areas of the site;
- security guarding, lighting and cleaning of the shared areas of the site, as well as their outside signposting;
- the installation and maintenance of the office made available to the Project Manager, where provided for in specific contractual documents;
- measures to compensate for any defaults by other members of the consortium and the consequences of those defaults.

If the contract does not specifically provide for paying the agent's expenses incurred by their coordination work for jointly and severally liable suppliers, those expenses shall be deemed to be covered by the prices of the works assigned to the agent. If the contract provides for such a specific provision and where that provision entails payment to the agent of a fixed percentage of the amount of the works allocated to the other members of the consortium, that amount shall be taken as meaning the amounts actually paid to the said members.

9.1.3. In the event of sub-contracting, the prices of the contract shall be deemed to cover the costs of coordination and supervision, by the Supplier, of its sub-contractors and of the consequences of any defaults on their part.

9.2 Knowledge of the site and surrounding area and elements relating to the performance of works

The Supplier shall be deemed to have familiarised itself with the site and surrounding area, and the prices shall be deemed to take into account all the elements relating to the performance of the works. In particular, the Supplier shall be deemed to:

- have gained a full and comprehensive knowledge of the site and surrounding area as well as the access conditions and the availability of roads and various networks and all the general or local elements relating to the performance of the works;
- have gauged all the difficulties inherent to the site, means of communication and labour resources, in particular the fact that the buildings will remain in operation during the period of the works or that works will be interrupted for the Sessions of the Parliamentary Assembly, the Committee of Ministers or the Congress of Local and Regional Authorities or other political events.
- have approached the Department responsible for the contract at the Council and the competent services or authorities in order to obtain any relevant further information;
- have checked that the site facilities are compatible with the visible or known servitudes of the site and the political calendar, in particular the Sessions of the Parliamentary Assembly, the Committee of Ministers or the Congress of Local and Regional Authorities;
- have checked the quantities indicated in the Overall All-Inclusive Price Breakdown in order to be able to submit an overall, all-inclusive price. The quantities therein are estimated by the Project Manager on the basis of their own study. These quantities are approximate, non-contractual and, in all cases, it shall be the responsibility of the firm to check and accept them so that they form the definitive and indisputable basis of the all-inclusive prices of the contract.
- Have familiarised itself with all the contractual documents, general documents and specific documents and all the clauses contained therein.

9.3 Price adjustments

9.3.1 Base index and updating of prices

The prices shown in the Overall All-Inclusive Price Breakdown shall be deemed to have been established on the basis of the conditions at m_0 , the month in which the firm submitted its tender.

The prices set out in the firm's bid shall be deemed firm and non-revisable for the entire duration of the works. The firm prices shall be updated in the conditions provided for in the specific contractual documents. The prices of any conditional tranches shall be updated in the same conditions. Where no specific provision is made, updates shall be calculated as follows:

- a. If the date of establishment of the contract or the supplementary clause ordering the start-up of works is more than one hundred and eighty (180) days after the effective date of tender, the price shall be updated using the formula below.
The ex. VAT price set out in the contract shall then be updated from the value date of that contract to the date of establishment of the contract or the supplementary clause.
- b. The date of effect of the commencing of works shall be taken as meaning the date of intervention of the firm as given in the implementation schedule.
- c. In the event of the firm having to make several successive interventions on the worksite, regardless of whether or not time-limits are set for each intervention, it shall be the date of the first intervention that shall be used as the update month for the same work package.
- d. Unless exceptions are made in the special conditions, the formula to be used to update prices shall be the following:

$$Pa = P_0 \times \frac{(BT_{xx})}{BT_{xx_0}}$$

Pa = updated Price of the contract.

P_0 = initial Price of the contract ex. VAT (price set out in the tender)

Index BT_{xx} = Index of the package concerned published on the date of the contract/supplementary clause for the start-up of works if this is more than 6 months after month m_0

Index BT_{xx_0} = Index of the package concerned published on the date of month m_0 defined in the Overall All-Inclusive Price Breakdown

- e. Unless exceptions are made in an article of the special conditions, providing for the revision of prices, they shall be revised according to the indexes set out in that article of the special conditions and applied using the formula below:

$$\text{Example } P = P_0 \times \frac{[(\text{reference index} \times 0.85) + 0.15]}{\text{Reference index}_o}$$

P_0 = Initial unit prices of the contract ex. VAT

P = Revised unit prices ex. VAT

Reference index $_o$ = Value of the last known index on the date of establishment of the bid

Reference index = Value of the last known index on 1 January of the year of revision

9.3.2 Distinction between all-inclusive prices and unit prices:

Prices shall be either all-inclusive prices or unit prices.

An all-inclusive price is any price paying the Supplier for works, part of works or a fixed set of deliverables defined by the contract and which is expressly mentioned in the contract as being all-inclusive or is applied in the contract only to a set of deliverables which is unlikely to recur.

A unit price is any price which is not all-inclusive in the sense defined hereinabove, including any price applied to a type of works or component of works whose characteristics are indicated solely for evaluation purposes.

9.3.3 Price breakdown and detailed price breakdown:

The details of prices shall be established using a breakdown of all-inclusive prices and a detailed breakdown of unit prices. The breakdown of an all-inclusive price shall be presented in the form of a evaluative detailed breakdown showing, for each type of works or each component of works, the quantity to be executed and the corresponding unit price and indicating which percentages of the unit prices in question correspond to overheads and to the risk and profit margin, with the latter percentage applying to the total of direct costs and overheads.

The detailed breakdown of a unit price shall indicate the content of the price, showing:

- disbursements or direct costs, broken down into outlay on salaries and staff allowances, social charges, expenditure on materials and consumables, expenditure on equipment;
- the overheads expressed in percentages of the disbursements above;
- the risk and profit margin, expressed as a percentage of the two previous items combined.

If the breakdown of an all-inclusive price or the detailed breakdown of a unit price is not included among the contractual documents and if the specific tender documents do not require it to be submitted within a certain time-limit, an order may be issued, ordering that it be submitted.

Article 10 - Payment of the Supplier

10.1 Settlement of accounts

The accounts pertaining to the contract shall be settled via statements of account and a balance, established and regulated as indicated in Article 11.

10.2 Prices of works

10.2.1 In the event of an all-inclusive price being applied, that amount is due once the relevant works, part of works or set of deliverables has been executed. Any differences observed, for each type of work or each element of work, between the quantities actually executed and the quantities indicated in the price breakdown, even though the latter has contractual value, cannot result in a modification of the price. The same shall apply to any errors contained in the breakdown.

10.2.2 In the event of a unit price being applied, the amount due shall be determined by multiplying this price by the quantity of types of work executed or the number of elements of work implemented.

10.2.3 In the event of a mixed formula combining all-inclusive prices and unit prices being used, the stipulations relating to each of these methods shall be applicable to the calculation of the amount due to the Supplier.

10.2.4 The price breakdown shall indicate what must be paid to the Supplier. If the contract does not establish the allocation of amounts to be paid to the Supplier and any sub-contractors respectively, that allocation may be derived from the evaluative detailed breakdowns appended to the contract.

10.3 Supplies

Unless otherwise specified in the special conditions, as a general rule, there shall be no deposits paid for supplies.

The only supplies that may qualify for any payment of a deposit shall be on-site supplies that have been duly recorded by the site supervisor and secured against any external risks. It is stipulated that, even after payment of its statements, the Supplier shall remain responsible for its works in their entirety until acceptance of the works.

10.4 Payment in the case of conditional tranches

Unless otherwise specified in the special conditions, the contract shall not fix a reverse termination fee in the event of non-performance of a conditional tranche.

Unless otherwise specified in the special conditions, the time-limit for performance laid down in the specific documents shall not give the supplier any entitlement to a tide-over allowance.

10.5 Payment in the case of a consortium

10.5.1. In the case of a contract concluded with a joint-liability-only consortium, payment for the works performed shall be made into a single account opened in the name of the consortium or its agent, unless the contract provides for the allocation of payments between the firms concerned and specifies the methods for that allocation.

10.5.2. In the case of a contract concluded with a consortium that is jointly and severally liable, payment for the works performed by each individual firm shall be made to those respective firms.

10.6 Pro-rata account

Where applicable, a pro-rata account may be set up under the procedures described in the specific documents.

10.7 Invoicing and payment

Invoicing shall refer to the stipulations of the present contract.

The Supplier undertakes to abide by all statutory provisions in force and to comply with its tax obligations. To that end, it shall present the Council of Europe with four copies of a duly drawn up and certified invoice, addressed to the Council of Europe, in compliance with the legislation of its country of tax residence. The payment deadline shall, in principle, be 60 days from the issue of the invoice, unless provided otherwise in the contract, and following acceptance of the deliverables by the Council.

The FIMS reference appearing after the order number shall obligatorily be indicated in the invoice.

Article 11 - Procedure for settling accounts

11.1 Claims for payment

11.1.1 The Supplier shall submit its claim for payment to the Project Manager, in the form of a draft statement of account.

This draft statement of account shall establish the total amount which the Supplier may claim in respect of works performed since the start of the contract.

This amount shall be established on the basis of the initial prices of the contract, with no updating or review of prices.

If additional deliverables have been supplied, the prices indicated on the order shall be applicable for as long as the definitive prices have not been established.

11.1.2 The amount to be paid for works shall be established as follows:

If the contract defines works implementation phases and indicates the amount to be paid upon completion of each phase, the draft statement of account shall include the corresponding amount for each phase implemented.

The Supplier shall send this claim for payment to the Project Manager by any means permitting certification of the date.

11.1.3 The Project Manager shall accept or rectify the draft statement of account drawn up by the Supplier.

11.2 Monthly payments

Unless otherwise specified in the special conditions, there is no provision for monthly payments.

11.3 Final claim for payment

11.3.1. After the completion of the works, the Supplier's final claim for payment shall be set out in a draft final statement of account establishing the total amount which the Supplier may claim in respect of performing the entirety of the works tendered for, basing its evaluation on the deliverables actually supplied.

The draft final statement of account shall be established on the basis of the initial prices of the contract.

11.3.2. The Supplier shall transmit its draft final statement of account to the Project Manager, by any means permitting certification of the date, within forty-five (45) days dating from the notification of the works acceptance decision or, in the absence of such notification, at the end of one of the time-limits set in paragraphs 33.1.3 and 33.3.

However, if the provisions of paragraph 33.5 are applied, the date of the report recording the performance of works referred to in that article shall be indicated in place of the date of notification of the works acceptance decision as the starting point of the aforementioned time-limits.

If the provisions of paragraph 33.6 are applied, the date of notification of the works acceptance decision shall be the date taken as the starting point of the aforementioned time-limits.

In the event of a delay in the transmitting of the draft final statement of account by the Supplier, and after formal notice that has not been acted upon, the Project Manager shall establish the final statement of account at their own initiative at the expense of the Supplier. This final statement of account shall then be notified to the Supplier with the general statement of account as defined in paragraph 11.4.

11.3.3. The Supplier shall be bound by the information indicated in the draft final statement of account.

11.3.4. The Project Manager shall either accept or rectify the draft final statement of account established by the Supplier. The accepted or rectified draft shall then become the final statement of account.

If the draft final statement of account is rectified, payment shall be made on the provisional basis of the amounts accepted by the Project Manager.

11.4 General statement of account - Final settlement payment

11.4.1. The Project Manager shall establish the draft general statement of account which shall give a summary of the deposits and the final settlement payment.

11.4.2. The draft general statement of account shall be signed by the Council and subsequently become the general statement of account.

The Council shall notify the general statement of account to the Supplier before one of the dates below, whichever is latest:

- forty (40) days after the Supplier submitted the draft final statement of account to the Project Manager;
- twelve (12) days after the publication of the reference index permitting review of the final settlement payment.
- If the Council does not notify the signed general statement of account to the Supplier within the time-limits stipulated above, the Supplier shall serve it with formal notice to do so.

11.4.3 As of the date of the Supplier's acceptance of the general statement of account, in accordance with the procedures laid down in paragraph 11.4.4, this document shall become the general and final statement of account, granting entitlement to the final settlement payment.

11.4.4. Within forty-five (45) days as of the notification of the general statement of account, the Supplier shall send the general statement of account duly signed, with or without reservations, back to the Council, with a copy to the Project Manager, or indicate the reasons why it refuses to sign.

If the general statement of account is signed without reservation by the Supplier, it shall then become the general and final statement of account of the contract.

If the Supplier disputes the amounts due, the Council shall pay the sums accepted in the final statement of account, within a time-limit starting on the date of receipt of the notification of the general statement of account with the Supplier's reservations attached or the date of receipt of the reasons why the Supplier refuses to sign. Upon settlement of the dispute, the Council shall pay any additional amount, if applicable. This dispute shall be settled in the conditions mentioned in Article 42 of these general conditions.

If the reservations are partial, the Supplier shall be bound by its implicit acceptance of the elements in the general statement of account on which it does not express reservations.

11.4.5 If the Supplier has not sent the signed general statement of account back to the Council, within the time-limit of forty-five days laid down in paragraph 11.4.4, or has sent it back within that time-limit but without giving reasons for its refusal thereof or, as the case may be, detailed reasons for its reservations, specifying the amount it is claiming, this general statement of account shall be deemed to have been accepted and shall become the general and final statement of account of the contract.

11.5 Payment in the case of a consortium

11.5.1. If the Supplier is a consortium that is jointly and severally liable and its members are therefore paid on an individual basis, the statement of accounts shall be broken down into as many sections as there are members to be paid on an individual basis, showing the amount due to each one.

11.5.2. If the Supplier is a joint-liability-only consortium, only the Supplier or the agent shall be authorised to submit draft statements of account and accept the general statement of account, and only the complaints formulated or submitted by that entity shall be admissible.

Article 12 - Settlement of the price of additional or changed deliverables

Certain deliverables not planned within the programme are mentioned for information purposes (as options). The Supplier shall propose the unit or all-inclusive price indicated and shall implement, where applicable, the quantities requested on the basis of that price.

The works included as options or conditional tranches shall, where applicable, be the subject of a confirmation letter.

For these optional works, the firm shall remain bound by the proposed amount for a period stipulated in the special conditions. It shall not be entitled to any compensation in the event of those works not being implemented.

Article 13 - Increase and reduction of the amount of works

13.1 Prerogatives of the Council

The Council reserves the right to reduce and/or increase the amount, weight and substance of the works and make any changes it considers necessary, under the following conditions:

- notification to the Supplier of the quantitative or qualitative change through a supplementary clause;
- each supplementary clause shall have appended to it the corresponding estimated price increase or reduction in relation to the prices set out in the Schedule of unit prices or the Overall All-Inclusive Price Breakdown and the new global amount of the contract.

13.2 Compensation

Unless otherwise specified in the special conditions, neither an increase nor a reduction in the amount of works in relation to the contractual amount shall entitle the Supplier to any compensation.

Article 14 - Loss or damage

14.1 No compensation for loss or damage

No compensation shall be awarded to the Supplier for any loss, damage or deterioration resulting from its negligence, lack of foresight, lack of resources or handling errors.

14.2 Obligations of the Supplier

The Supplier shall be liable at its own expense, risk and peril for the necessary arrangements to ensure that the supplies and worksite equipment and facilities, as well as the works being constructed cannot be removed or damaged by storms, flooding and any other natural phenomena normally foreseeable in the weather conditions and locality where the works are being carried out.

14.3 Unforeseeable natural phenomena – Force majeure

In the event of loss, damage or deterioration caused on its worksites by a natural phenomenon that was not normally foreseeable, or for any other force majeure, the Supplier may not claim any compensation, including for the complete or partial loss of its floating equipment, as the costs of insuring that equipment are deemed as being included in the prices indicated in the contract.

IV. Time-limits for performance – penalties and bonuses

Article 15 - Time-limits for performance

15.1 Time-limits

The time-limits set out in the project schedule shall cover the removal of equipment and cleaning of the site. They also cover periods of paid leave but do not include periods of adverse weather conditions (see below).

15.2 Contracts and supplementary clauses

The contractual time-limits for performance shall be specified in the schedule of the project. This document is incorporated in the contract and countersigned by the Supplier. Any modification of these time-limits by the Council shall be set out in a supplementary clause.

It is pointed out that the time-limits stipulated in the implementation schedule are independent of the preparation period, in that their start date may fall within or outside that period.

The Supplier shall maintain sufficient staff, equipment and supplies on the worksite, while the performance time-limit is running, to meet the deadlines set.

15.3 Extension of time-limits for performance

15.3.1 Works implementation schedule

Once the works implementation schedule for the project has been finalised, the Supplier shall report any circumstance or event that might provide grounds for extending the time-limit for implementation to the Council by registered letter with acknowledgment of receipt within seven (7) days. Any proof required by the Council to ascertain the genuine nature of the difficulties reported must be provided. Where no pertinent proof is provided, the Council shall not be under any obligation to grant a time-limit extension. Once the Council has agreed to the time-limit extension, it shall be the responsibility of the Supplier to

provide, within five (5) days, a new works implementation schedule taking account of this time-limit extension.

15.3.2 Adverse weather conditions

In the case of works whose execution could be affected by adverse weather conditions, an extension of the time-limit for the performance of works may be envisaged. That extension shall be equal to the number of days actually recorded during which work was stopped owing to adverse weather conditions. These days of full or partial stoppage shall be recorded in a special log kept by the Council or its representative.

This extension shall not exceed fifteen (15) additional days per operational phase.

15.3.3 Days of adverse weather conditions

For the recording of days of adverse weather conditions that may give rise to an extension of the time-limit for the performance of works, the Supplier (or its agent) shall report to the Council the days on which work was actually stopped which were not provided for in the implementation schedule.

15.3.4 Definition of adverse weather conditions

Depending on the nature of the works concerned, any day fulfilling one of the conditions defined below shall be considered as a day of adverse weather conditions that may give entitlement to an extension of the contractual time-limit:

A. Rain and snow

If over 15 mm of water (or the equivalent of snow measured in melt-water) has fallen between 6.00 and 18.00 hours.

B. Wind

If average wind speed is higher than 65 kmph for 5 hours between 7.00 and 18.00 hours.

C. Frost

If, at 7.00 hours, the outside temperature is below -6°C and is still below -5°C at 18.00 hours.

These conditions shall apply only to the outside works performed within the framework of the present contract. No deferral of time-limits on grounds of adverse weather conditions shall be accepted in the case of works carried out inside buildings unless there is prior agreement of the Council that adverse weather conditions actually impact on the smooth running of the works.

The Supplier shall make all necessary physical arrangements to protect its works and materials from adverse weather conditions. Where such protective arrangements are not made, no late performance shall be accepted. Any damage due to the poor protection of works shall not give rise to any compensation or extension of the time-limit for the performance of works.

For the application of conditions A, B and C above, only the observations recorded at the nearest weather station, communicated by Météo France, shall be taken into consideration.

15.3.5 Public holidays

The provisional project schedule shall be deemed to take account of all public holidays, religious festivals or French national holidays (for works carried out in France) occurring during the works. No extension of the overall time-limit shall be granted on grounds of public holidays, religious festivals or national holidays other than those indicated in the schedule.

15.4 Extension or deferral of time-limits relating to conditional tranches

Where the time-limit set by specific contractual documents for performing a conditional tranche is defined in relation to the origin of the time-limit for performing another tranche, it shall be extended, in the event of that other time-limit being extended or the establishment of late performance by the Supplier, by a duration equal to that of the extension or lateness.

Where the special conditions provide, in the case of a conditional tranche, for a tide-over allowance and define the starting point of the Supplier's entitlement to that allowance in relation to the origin of the time-limit for performing another tranche, the time-limit extension or the establishment of late performance by the Supplier shall defer the allowance entitlement for a period equal to that of the extension or lateness.

Article 16 - Late performance penalties – early completion bonuses – other bonuses

16.1 Late performance penalties

16.1.1 Any lateness in delivering works or a deliverable tranche thereof subject to a partial time-limit shall give rise, without prior formal notice, to the application of a penalty fixed in the special conditions. Penalties applied to a consortium that is jointly and severally liable shall be divided between the co-contractors following the agent's instructions. Pending those instructions, the full amount shall be withheld from the agent, without engaging the liability of the Council vis-à-vis the other suppliers. The penalties shall be applicable to the first statement of account following the establishing of lateness.

16.1.2. Penalties shall be incurred when the Project Manager establishes that deliverables are late.

16.1.3. In the event of termination, the penalties shall be applied up to and including the day of notification of the termination decision or up to and including the day when the Supplier ceases operations, if the termination results from one of the cases provided for in paragraph 37.1.

16.1.4. The provisions of the previous two sub-paragraphs shall be applicable to any penalties provided for in the specific contractual documents for the late performance of certain works, parts of works or sets of deliverables subject to partial or specific time-limits or deadline dates fixed in the contract.

16.2 Late submission of DOE and DIUO documents

The final implementation file (*dossier des ouvrages exécutés – DOE*, required under French tendering law) and the subsequent maintenance file (*Dossier d'Intervention Ulérieure sur l'Ouvrage - DIUO*, required under French tendering law) shall be submitted to the Council eight (8) days prior to acceptance at the latest.

Failure to submit these documents shall be considered as grounds for reservation. If this reservation is not lifted within the time-limit set in the acceptance report, the Supplier shall be notified of the Council's decision to have the entire file concerned prepared at the Supplier's expense.

The costs shall be deducted directly from the Supplier's final statement of account.

If failure to submit the final implementation file causes delay in the acceptance operations, the Supplier shall bear the resulting additional costs. Those costs shall be deducted directly from the final statement of account.

16.3 Delay in the lifting of reservations pertaining to acceptance operations

Delays in performing works to be carried out in connection with the lifting of reservations following acceptance operations shall be governed by the rules set out in paragraph 15.3.1.

16.4 Early completion bonuses

No bonuses shall be awarded in cases where deliverables are completed before expiry of the time-limit set. The Council may decide, however, that the gain made in relation to a partial time-limit compensates for all or part of late completion in respect of another partial time-limit.

16.5 Case of force majeure

Without prejudice to the provisions relating to adverse weather conditions:

16.5.1 In the event of a force majeure, the parties shall be released from any liability they may incur under this contract without the payment of any financial compensation. Force majeure is defined as including the following: exceptional weather problems, earthquakes, strikes affecting air travel, terrorist attacks, a state of war, health risks or other events, including of a budgetary nature, that would require the Council to cancel the contract.

16.5.2 If a case of force majeure arises, each party shall be required to notify the other party thereof in writing, within a period of five (5) days.

Article 17 - Failure to comply with health and safety observations

17.1 Compliance with the Prevention Plan

All the firms shall, where applicable, comply with the Prevention Plan drawn up at the beginning of the contract.

17.2 Coordination of Health and Safety matters

In cases requiring coordination of health and safety matters, the Supplier shall provide the health and safety coordinator, within the legally prescribed time-limits, with all the regulatory information and documents required for the fulfilment of the coordinator's mission and, in particular, keep the coordinator informed in good time of any difficulty encountered on the worksite.

In the event of repeated failure to comply with health and safety regulations or grave and imminent danger established by the Council, the Supplier shall be liable to a penalty of 5‰ (five per thousand) of the VAT-inclusive amount of the order(s) covering the project, updated and revised where applicable, per infringement.

Furthermore, the provisions of paragraph 25.2 must be complied with.

17.3 Substitution

At the Council's request, any supplier on the site might be required to act as an emergency substitute for other Suppliers having defaulted for the installation or restoration of health and safety arrangements.

In such cases, the intervention of the substitute supplier shall be paid by making a deduction from the amounts due to the defaulting supplier.

A refusal by a supplier to comply with an emergency request in a health and safety matter shall render them liable to the penalties indicated above.

Article 18 - Failure to comply with instructions for site cleaning and protection

In the event of a Supplier failing to comply with instructions for site cleaning and protection described in the Technical Specifications, the Supplier shall be liable to a penalty of €200 per day of default.

The Project Manager shall report the problems identified to the Supplier through formal notification.

The penalties shall be applied, on a provisional basis, by debiting each successive statement of the amounts due to the Supplier.

Article 19 - Clearing of site facilities and site restoration

19.1 Clearing of site facilities

The works implementation schedule includes the clearing of site facilities and site restoration. Consequently, any delay observed in these operations shall be sanctioned as a delay in the completion of works. In the event of a delay in these operations and after the serving of formal notice by registered letter with acknowledgement of receipt which has not been acted upon, the Council shall be entitled to remedy the situation at the Supplier's expense without prejudice to application of the penalty referred to in Article 18.

19.2 Cleaning prior to acceptance of works

The final cleaning of the delivered works prior to their acceptance shall be carried out by the Supplier. In the case of allocation of work packages, the package comprising such cleaning operations shall be designated in the special conditions, the corresponding costs being included in the Supplier's bid.

Article 20 - Lateness or absences at site meetings

The Supplier shall be represented at site meetings by an individual approved by the Site supervisor. The Site supervisor shall be entitled to demand that the agents or staff of the firm operating on the site be changed or replaced, on grounds of insubordination, incapacity or unethical conduct.

Any unjustified absence or lateness on the part of a Supplier's representative at coordination meetings and site meetings to which they have been duly convened through notification, may be sanctioned, at the proposal of the Site supervisor, by the following penalty:

- €50 for unjustified absence or over one hour of lateness, and per meeting,
- €100 after five (5) absences, and per meeting,
- €150 after ten (10) absences and per meeting.

The register of attendance shall be established by the Project Manager.

The penalties shall be applied, on a provisional basis, by debiting each successive statement of the amounts due to the Supplier.

V. Implementation of works

Unless otherwise specified in the Technical Specifications:

Article 21 - Sourcing of materials and products

21.1 Choice of source

The Supplier shall be free to choose the source of construction materials, products or components, on condition of being able to demonstrate that they fulfil the requirements laid down in the contract.

The Supplier shall provide the Project Manager with documents ensuring the traceability of the products and materials used.

21.2 Change of source

Where the source of construction materials, products or components is established in the contract, the Supplier may change it only if the Project Manager gives written authorisation. The corresponding prices may be changed only if the authorisation given states that the change of source entails the application of new prices, in which case the Project Manager shall give notification of the provisional prices within fifteen (15) days after giving the authorisation.

If the Project Manager makes authorisation conditional on acceptance by the Supplier of a specified price reduction, the Supplier may not dispute the prices resulting from that reduction.

Article 22 - Quality of materials and products – application of standards

22.1 Quality of materials

Construction materials, products and components must comply with the stipulations of the contract and present the specified characteristics, in particular in terms of categories, classes and performance levels specified with reference to standards.

The standards referred to in the contract are those in force three months before the first day of the month when the prices were established, except for the standards whose immediate application is rendered mandatory by French regulations.

22.2 Application of standards

In the event of the contract referring to French standards not derived from European standards, materials or products whose characteristics are established with reference to standards applicable in other States parties to the World Trade Organization Agreement on Government Procurement may be accepted if those characteristics are recognised as being equivalent to those specified.

Article 23 - Verification of quality of materials and products – Tests and trials

23.1 Conformity of materials

The conformity of construction materials, products and components with contractual specifications may be established by:

- a certificate issued by a body established within the European Economic Area and accredited as satisfying standards NF EN ISO/CEI 17025 and NF EN 45011 by the French Accreditation Committee (COFRAC) or any other accreditation body signatory to the relevant European multilateral agreement adopted within the framework of European coordination of accreditation bodies;
- tests and trials defined by the contract, in particular with reference to standards, regarding both the type of tests and their frequency and expected results.

Where there is no specification, in the contract or standards, of the methods to be used, the Supplier shall submit written proposals of methods for acceptance by the Project Manager.

23.2 Special case

If the contract refers to particular quality marks as being considered proof of conformity, certificates issued by other bodies fulfilling the requirements of paragraph 23.1 may also be accepted as proof of conformity if recognised as equivalent.

The provisions of paragraph 22.2 shall be applicable to requests relating to such equivalence.

23.3 Role of the Supplier

The Supplier shall store the construction materials, products and components in such a manner as to facilitate the verifications envisaged and take all appropriate steps to ensure that the materials, products and components may be easily distinguished as awaiting verification or being accepted or rejected; any rejected materials, products and components shall be swiftly removed from the site, with the provisions of Article 33 being applicable if necessary.

23.4 Verifications

Verifications shall be carried out according to the stipulations in the specific contractual documents; the Project Manager shall indicate whether they are to be carried out on the worksite or in the factories, stores or quarries of the Supplier and sub-contractors or their suppliers. Verifications shall be carried out by the Project Manager. The specific contractual documents may make provision for a laboratory or testing body to carry out verifications in the place of the Project Manager.

In the event of the Project Manager or their agent carrying out the tests personally, the Supplier shall provide the necessary equipment but shall not have to bear the cost of the Project Manager's or agent's remuneration.

The Supplier shall transmit to the Project Manager the certificates attesting to the results of the verifications carried out. In the light of those certificates, the Project Manager shall decide whether or not the construction materials, products or components may be used.

23.5 Samples and sample removal

The Supplier shall provide all the samples required for verification at its own expense.

If appropriate, the Supplier shall equip manufacturing equipment with devices for removing samples of materials at the different stages of production.

23.6 Further verifications

If supplies of construction materials, products or components cannot be accepted in the light of the results of verifications provided for in the contract or by standards, the Project Manager may prescribe further verifications, in agreement with the Supplier, that may make it possible to accept all or part of the supplies, with or without a price reduction; the expenses relating to these further verifications shall be borne by the Supplier.

23.7 Costs

The verifications carried out by a laboratory or testing body shall be organised and paid for by the Supplier. The costs of tests and trials which the Project Manager carries out or has carried out but which are not provided for in the contract shall not be borne by the Supplier.

23.8 Travel expenses

The Supplier shall not have to bear the travel and subsistence expenses incurred by the Council, the Project Manager or their agents in the course of verifications.

Article 24 - Verification of quantities of materials and products

Quantities of materials and products shall be counter-checked against the stated amounts.

For materials and products for which there are consignment notes, the indications of weight in those notes shall be presumed to be correct; nonetheless, the Project Manager is entitled to carry out, for each delivery, a counter-check on a scale. The costs of that counter-check shall be:

- borne by the Supplier if the weighing reveals a weight difference to the detriment of the Council that is higher than the normal allowance for transport
- borne by the Council if that is not the case.

Article 25 - Preparation of works

25.1 Preparation period

The time-limits stipulated in the works implementation schedule are independent of the preparation period, in that their start date may fall within or outside that period.

25.2 Worker health and safety

The measures and arrangements established by the French labour code regarding health and safety shall be covered by the plans stipulated therein, pursuant in particular to sections 2, 4 and 18 of chapter L. 4532 or article R. 4512-7 of that code. Where the responsibility for drawing up such plans lies with the Supplier, they shall be communicated to the health and safety coordinator and also, where required by the regulations, to the Council. Failure to submit such plans shall prevent commencing of any works.

The provisions of the present paragraph 25.2 shall be binding on each of the members of a consortium as well as on all their sub-contractors.

Moreover, the provisions of paragraph 17.2 shall also be complied with.

25.3 Quality management

The Supplier shall take any necessary steps to secure the required quality of works, including in terms of organisation, checks carried out on its own actions (or those of its sub-contractors), traceability of works supervision and traceability of the materials for which it is responsible and methods of communication with the other site operatives.

Article 26 - Execution studies

26.1 Documents provided by the Supplier

26.1.1 Suppliers may have to bear the cost of preparing all the construction drawings and corresponding design calculations serving as the basis for the work packages awarded to them.

Those drawings shall be produced on the basis of and using information from the project plans: general technical guide documents of the Project Manager.

All the construction drawings shall be submitted for endorsement by the Project Manager and approval by the Inspection Office (where applicable).

The construction drawings shall comprise the documents listed in the special conditions.

26.1.2 The purpose of the examination of project conformity of the execution studies carried out by Suppliers and their approval by the Project Manager is to give assurance to the Council that the documents produced by the Suppliers comply with the stipulations of the project prepared by the Building Owner.

This examination of project conformity shall comprise the detection of anomalies normally detectable by a skilled tradesman. It shall not include the checking or auditing of the documents prepared by the Suppliers. Endorsement of these documents does not release the Supplier from its own liability.

Suppliers shall bear the costs of preparing all the workshop and site plans concerning implementation methods, temporary structures and site equipment.

26.1.3 Suppliers shall also bear the costs of systematically updating all the plans, design calculations, equipment use and maintenance guides etc used in the preparation of the final implementation file (*dossier des ouvrages exécutés – DOE*, required under French tendering law) and the subsequent maintenance file (*Dossier d'Intervention Ulérieure sur l'Ouvrage - DIUO*, required under French tendering law).

The approved construction drawings prepared by the Suppliers shall be submitted in electronic form, as an AUTOCAD file complying with the Council's graphic charter and in hard copy form (2 copies).

26.2 Documents provided by the Project Manager

Where the tasks assigned to the Project Manager include the production of all or some of the documents required for the implementation of works, the contract shall be deemed to contain all those documents.

If the Project Manager is required, during the performance of the contract, to provide the Supplier with documents required for the implementation of the works, the Supplier shall not bear liability for the content of those documents. However, the Supplier shall have an obligation to check, prior to any execution, that those documents do not contain any errors, omissions or contradictions normally detectable by a skilled tradesman; it must report any such errors, omissions or contradictions in writing immediately to the Project Manager.

26.3 Allocation of the execution studies

Allocation of the execution studies is stipulated in the special conditions.

Article 27 - Installation, organisation, health and safety of the site

27.1 Site facilities

27.1.1 Where there is no pro-rata accounting arrangement, the site facilities required for the performance of the works undertaken within the scope of the contract shall be provided and paid for by the Supplier. A detailed site facility plan may be required for major operations.

The Council reserves the right to sanction any Supplier not complying with the arrangements established in that plan.

The Supplier shall comply with the following obligations:

- to complete, in a timely manner, all administrative formalities with the competent departments of the Council required for the functioning of the site, and in particular a request for temporary connections to water and electricity supplies;
- to provide signage and regulatory protection for the site;
- to maintain means of access to the site, with all the protection and signage installed;
- to generally provide all the services necessary to the collective organisation of works;
- to clean all the premises and areas made available to it;
- to restore to their original state all the surfaces used for the contractor's own site facilities, as recorded in an inventory prior to the start-up of works in the presence of the Council. Any abnormal damage to the premises or areas made available must be repaired at the expense of the Supplier responsible.

27.1.2 The Supplier shall bear all costs related to the setting up and maintenance of its site facilities, including service roads for pedestrian and vehicle access that are closed to the public.

Unless otherwise specified in the special conditions, the Council shall provide the Supplier, under normal conditions, with the supplies of power and fluids required for the implementation of the deliverables covered by this contract, notably water and electricity.

27.2 Other costs to be borne by the Supplier

The Supplier shall procure any sites, at its own expense and risk, which it may require for its site facilities, should those areas provided by the Council not be sufficient.

The Supplier shall procure any sites, at its own expense and risk, which it may need as a temporary depositing area for surplus spoil, in addition to any sites provided by the Council for definitive or temporary deposits.

27.3 Administrative permission

The Supplier shall take responsibility for all types of administrative permission, such as permission for the temporary occupation of public or private land, road access authorisations, crane oversail licences or permission for the anchoring necessary for the execution of the construction work covered by the contract.

The Council and the Project Manager shall provide assistance in order to help the Supplier obtain the other administrative permission it needs, including for areas required for the setting up of worksites and the temporary depositing of spoil.

27.4 Access measures

The Supplier shall comply with the safety, security and access measures in force at the Council.

The Supplier may not claim an extension of the time-limit for performance, compensation or a price supplement on this ground.

27.4.1 The Council shall guarantee the Supplier free access to all premises or areas where it must perform its task, subject to the condition that the Supplier's staff have accepted the access, security and safety rules in force at the Council.

27.4.2 Access to worksites in Strasbourg shall be via a single entrance per building, identified as follows:

- | | |
|--------------------------------|------------------------|
| • Palais de l'Europe: | Entrance II - PC Ouest |
| • D-Building: | Main entrance |
| • Human Rights Building: | Service entrance |
| • Agora: | PC Est |
| • M-Building: | Service entrance |
| • European Youth Centre (EYC): | Main entrance |

27.4.3 Deliveries of equipment shall be made using the goods unloading area(s) of the relevant building except if the Council has granted an ad hoc derogation. The equipment shall be moved within the buildings solely via the corridors and service lifts intended for this purpose. The Supplier shall be deemed to have included in its price all the constraints imposed by the clearance dimensions and the routings inside and outside the buildings covered by the contract.

27.4.4 The Supplier shall inform the Council of any materials delivery dates no later than two (2) days beforehand and shall supply the registration number of the delivery vehicle(s). The Supplier shall be responsible for providing all suitable handling equipment needed for unloading and transporting goods delivered to its worksite.

The Supplier's managers (supervisors, heads of team) shall be issued with passes, or badges, valid for all the buildings covered by the contract for the duration thereof.

Each firm shall submit the list of staff assigned to this worksite to the Council, if possible one month prior to the start of the works. Each worker shall be issued with a pass giving them access to the site, valid for the duration of the works.

In exchange for a currently valid identity document, the Supplier's other operatives shall be issued with a numbered temporary pass badge permitting them to move around the authorised building. The badge shall be returned at the end of each day or with each change of building, until works are completed. The Council's representative shall be informed of any operations concerned by such measures at least 24 working hours before the beginning of the works. The request shall specify:

- the firm's name
- the building concerned
- the type and duration of the work
- each operative's surname and first name
- any specific needs and obligatory regulatory formalities (welding and cutting permits, dust emissions etc)

Passes shall be strictly personal. Any misuse shall be severely sanctioned. The Supplier shall report, within fifteen (15) days, any change in the status of persons issued with a pass (changes of posting, persons having left its employment etc).

No firm or staff member of a firm shall be authorised to enter a building if the security officer is not in possession of an intervention request drawn up by the Project Manager.

27.5 Ban on smoking – alcohol-related risks

Suppliers shall be required to observe Rule No. 1267 prohibiting smoking inside all Council of Europe buildings and Rule No. 1294 on managing alcohol-related risks on Council of Europe premises, as published on the Council's website at the following address:

<http://www.coe.int/en/web/portal.call-for-tenders>

27.6 Action against undeclared work

27.6.1. The Supplier, or each of the members of the consortium where applicable, shall ensure that its staff wear a means of identification at all times indicating both the individual's name and the name of the employer when within the site area.

27.6.2. The Supplier, or each of the members of the consortium where applicable, shall establish an exhaustive log of all the individuals it employs on the site.

27.6.3. That log shall be kept up-to-date and made available for consultation by the Project Manager and any other competent authority. The Council may ask to see the log at any time.

27.6.4. The Supplier shall notify its sub-contractors that the obligations set out in the present Article are applicable to them. It shall remain responsible for compliance by sub-contractors for the entire duration of the contract.

27.7 Site health and safety and security measures

27.7.1. The Supplier shall take all security and safety measures to avoid any accidents involving staff or third parties on its site. It shall comply with all the regulations and instructions of the competent authority.

In particular it shall provide lighting and security for its site as well as both inside and outside signage. It shall also provide fencing around its sites where necessary.

It shall take all necessary precautions to avoid works causing danger to third parties, including for public traffic where this has not been diverted.

Points where there is a potential danger to passing traffic or pedestrians, along and across routes, must be protected by temporary barriers or any other appropriate arrangement; they must be lit and, if necessary, guarded.

27.7.2. The Supplier shall take the necessary steps to ensure the proper hygiene standards of site facilities intended for use by staff, including by setting up road, drinking water and sewer systems, where justified by the scale of the site.

27.7.3. All the security and health and safety measures stipulated above shall be the responsibility of the Supplier.

27.7.4. In the event of the Supplier failing to comply with the above stipulations and without prejudice to the powers of the competent authorities, the Project Manager may take the necessary measures at the expense of the Supplier after serving formal notice which is not acted upon.

In the event of an emergency or danger, such measures shall be taken without serving prior notice.

The intervention of the competent authorities or the Project Manager shall not discharge the Supplier from its liability.

27.7.5. The Project Manager shall inform the Supplier of any functional problems caused by the staff working on the site and hindering its smooth operation

It shall be the responsibility of the Supplier to take any necessary steps to remedy the functional problems reported.

27.8 Signage of sites with regard to public areas

When the works impinge on public areas, signage intended for the public must comply with relevant regulations. Signage shall be produced, under the supervision of the competent services, by the Supplier, which shall be responsible for supplying and installing signs and signalling devices, and without prejudice to the application of paragraph 27.7.4.

If the performance of works entails a diversion of traffic, the Supplier shall be responsible, under the same conditions, for the installation and maintenance of signage at the edges of areas where traffic is interrupted and for the signposting of diversion routes.

The policing of traffic around worksites or at the edges of areas where traffic is interrupted and along diversion routes shall be the responsibility of the competent services.

The Supplier shall notify the competent services, at least five (5) days in advance, of the date on which works are to commence, mentioning, where applicable, the mobile nature of the worksite.

The Supplier shall inform the competent services, along the same lines and within the same time-limits, of the clearing or moving of the worksite.

27.9 Maintaining routes and drainage

27.9.1 The Supplier shall conduct the works in such a way as to maintain in decent conditions any routes of whatever nature passing through the worksite, including those used as thoroughfares, and also the drainage system. This paragraph shall apply subject to the details provided, where applicable, in specific contractual documents relating to the conditions in which restrictions may be imposed on such routes and drainage.

27.9.2. In the event of the Supplier failing to comply with the above stipulations and without prejudice to the powers of the competent authorities, the Project Manager may take the necessary measures at the Supplier's expense after serving formal notice which is not acted upon.

In the event of an emergency or danger, such measures may be taken without serving prior notice.

27.10 Special constraints for works executed close to inhabited, frequented or protected areas

When works are executed close to inhabited or frequented areas or areas qualifying for protection under environmental conservation, the Supplier shall take the necessary steps, at its own expense and risk, to attenuate, as far as possible, the nuisance caused to users and neighbours, including potential nuisances of difficulties of access, machinery noise, vibrations, smoke and dust.

27.11 Demolition of built structures

27.11.1 Unless expressly authorised to do so, the Supplier may demolish built structures located in the area occupied by the worksite only after submitting a request to do so to the Project Manager eight (8) days beforehand.

27.11.2 In the area of waste sorting or disposal, the Supplier shall comply with the stipulations of Article 6 and the special provisions of the contract, where these exist, with a view to the reuse or some other form of recovery of materials and products resulting from demolition or dismantling work.

27.12 Inflammable and/or explosive materials

The Supplier shall ensure that no material at risk of exploding or catching fire remains on the worksite and shall be under obligation, in the event of any such material remaining, to process it.

27.13 Case of work packages

In the case of allocation of work packages requiring coordination, the obligations listed in the present Article 27 shall be shared between the suppliers of the different contracts in conformity with the stipulations set out in the specific contractual documents.

Article 28 - Damage caused by the works or the methods used to execute them

The Supplier shall be liable for damage of any kind it causes to staff or property of the Council as a result of the carrying out of works or the methods used to execute them, unless the Supplier demonstrates that the manner of carrying out the works or the methods used were imposed by stipulations of the contract or instructions.

The Council shall be liable for damage of any kind caused to the Supplier's staff or property in the event of a clear case of negligence by the Council linked to the performance of the contract.

Article 29 - Removal of equipment and unused materials

29.1 Clearance, cleaning and restoration

As the works progress, the Supplier shall clear, clean and restore the areas made available to it by the Council for the execution of the works.

29.2 Compulsory removal – costs

Should all or part of this stipulation not be implemented, and following failure to respond to notification given and the serving of formal notice by the Council, any equipment, installations, materials, rubble and waste not removed upon expiry of a period of thirty days after the serving of formal notice shall be compulsorily transported, depending on their characteristics, either to a depot or to sites appropriate to their classification, at the Supplier's expense and risk, or sold at public auction.

29.3 Penalties

The measures set forth in paragraph 29.2 shall be applied without prejudice to any specific penalties applicable to the Supplier that may have been stipulated in the contract.

Article 30 - Construction flaws

30.1 Measures

If the Project Manager has reason to believe that there is a construction flaw in a piece of work, they may, up to the expiry of the warranty, give notice of measures intended to identify that flaw. These measures may include, where appropriate, the partial or total demolition of that piece of work.

The Project Manager may also carry out these measures itself or have them carried out by a third party, but the Supplier must be present when these operations are carried out or have been duly convened.

30.2 Expenses and costs

If a construction flaw is found, the costs of making good the work in question in full or bringing it into conformity with the normally applicable standards and the contract specifications, as well as the expenses incurred by any operations aimed at identifying the flaw, shall be payable by the Supplier, without prejudice to the compensation which may then be claimed by the Council.

30.3 Reimbursement

If no construction flaw is found, the Supplier shall have the expenses defined in paragraph 30.1 reimbursed, in the event of having paid them.

Article 31 - Documents supplied after performance

In addition to the documents which it is under obligation to supply before or during the performance of works, the Supplier shall submit to the Project Manager, by the latest when requesting acceptance of the works in accordance with paragraph 33.1, the installation guides, operating manuals, instructions for maintenance of the equipment components used, the manufacturer's warranty conditions relating to that equipment and the waste disposal reports;

Failure to submit the documents mentioned in the present Article 31 within the prescribed time-limit shall result in the application of the penalties provided for in the special conditions.

Three copies of each of these documents shall be supplied, including one on a medium allowing reproduction, except for photographic documents; if the documents are supplied in electronic form, they shall comply with the format and characteristics defined in the contract and conform to the Council's graphic charter.

The contents of the final implementation file (DOE) shall include, at a minimum, the construction drawings in conformity with the executed works prepared by the Supplier, operating manuals and maintenance instructions.

The subsequent maintenance file (DIUO) shall compile information facilitating the prevention of occupational risks during subsequent operations, in particular during the maintenance of the executed works.

If transmitted in electronic form, all the documents of the final implementation file (DOE) and those required for the compilation of the subsequent maintenance file (DIUO) shall be secure, identifiable and compatible for use with the drawing and calculation software of the Project Manager and the Council specified in the specific contractual documents and conforming to the Council's graphic charter.

VI. Verifications, acceptance and warranty

Article 32 - Verifications of ongoing works

32.1 Inspection Office

The project may be subjected to a Technical Inspection of Building Compliance in accordance with Articles L111-23 to 26 and R111-29 to 42 of the French Code of Construction and Housing.

The inspection briefs opted for shall be described in detail and entrusted to the inspection office named in the special conditions.

32.2 Coordination of health and safety matters

The project shall be subject to a health and safety matters coordination brief, assigned to the firm indicated in the special conditions.

Article 33 - Acceptance

Unless otherwise specified in the special conditions,

33.1 Formalities

The Supplier shall notify both the Council and the Project Manager, in writing, of the date on which it considers that the works have been or will be completed.

The Project Manager shall carry out the pre-acceptance operations, having convened the Supplier, within one month dating from receipt of the aforementioned notification or from the date given in the notification for the completion of works, should this be a later date.

33.1.1 The Council, once notified by the Project Manager of the date of these operations, may attend them or send a representative. The report provided for in paragraph 33.2 shall mention either the Council's presence or, in its absence, the fact that the Project Manager had notified it.

If the Supplier is not in attendance during these operations, the report shall mention the fact that it had been notified.

33.1.2 In the event of the Project Manager failing to establish the date of these operations, the Supplier shall inform the Council by registered letter with acknowledgement of receipt. The Council shall then establish the date of the pre-acceptance operations within thirty days of receiving the registered letter sent by the Supplier at the latest and notify the Supplier and the Project Manager thereof; it shall also inform them that it will attend or send a representative on that day and be assisted, if it considers it useful, by an expert, so that the following specific provisions may be applied:

- if the Project Manager, having been duly convened, is not present or represented on the date set, this absence shall be recorded and pre-acceptance operations shall be carried out by the Council and any assistant it appoints;
- if the attending or represented Project Manager refuses to carry out these operations, this fact shall be recorded.

33.1.3 If the Council fails to set a date for these operations, the works shall be deemed accepted upon expiry of the aforementioned time-limit of thirty (30) days.

33.2 Acceptance operations

The operations carried out prior to the acceptance decision shall comprise, as may be necessary:

- acknowledgement of the works performed;
- any testing provided for in the contract;
- any observation of non-performance of the services provided for in the contract;
- verification of the conformity of equipment installation with the specifications on which supplier warranties are conditional;
- any observation of imperfections or sub-standard workmanship;
- observation of the removal of site facilities and the restoration of land and premises;
- observations concerning the completion of the works.

These operations shall be recorded in a report drawn up on the spot by the Project Manager and signed by them and by the Supplier. If the Supplier refuses to sign the report, this fact shall be mentioned therein. One copy of the report shall be given to the Supplier.

Within five (5) days after the date of the report, the Project Manager shall inform the Supplier whether or not they have proposed that the Council declare its acceptance of the works and, if so, the works completion date proposed, as well as any reservations to which they propose making acceptance subject.

In the event of the Project Manager failing to comply with the aforementioned time-limit of five (5) days, the Supplier may transmit a copy of the report to the Council, so that the latter may declare acceptance of the works, where applicable.

In the event of application of paragraph 33.1.2, the report shall be drawn up, dated and signed by the Council, which shall then give notification thereof to the Project Manager. One copy of the report shall be given to the Supplier.

33.3 Declaration of acceptance

In the light of the report of the pre-acceptance operations and the Project Manager's proposals, the Council shall decide whether or not acceptance is declared or whether it is declared with reservations. If it declares acceptance with reservations, it shall set a date for the lifting of the reservations. Its decision shall be notified to the Supplier within fifteen (15) days after the date of the report.

Acceptance shall take effect on the date set for the completion of works.

With the exception of the case provided for in paragraph 33.1.3, should the Council fail to give notification of its decision within the aforementioned time-limit, the Project Manager's proposals shall become binding on the Council and the Supplier.

33.4 Trials

In the event of certain trials having to be carried out, in line with the stipulations of specific contractual documents, after the executed works have been in service for a fixed period or at certain times of year, acceptance may be declared only subject to the conclusive conducting of those trials.

If such trials, run during the warranty period defined in paragraph 35.1 are not conclusive, acceptance shall be deferred.

33.5 Deliverables yet to be executed

If it transpires that certain deliverables provided for in the specific contractual documents and yet to be paid for have not been executed, the Council may decide to declare acceptance, subject to the Supplier undertaking to execute those deliverables within a period not exceeding three (3) months. The ascertaining of the execution of those deliverables shall result in a report drawn up in the same conditions as the report of the pre-acceptance operations provided for in paragraph 33.2.

33.6 Reservations

Where acceptance is subject to reservations, the Supplier shall remedy the corresponding imperfections or sub-standard workmanship within the time-limit set by the Council or, if no time-limit has been set, three (3) months before the expiry of the warranty period defined in paragraph 35.1.

In the event of those works not having been carried out within the prescribed time-limit, the Council may have them carried out at the Supplier's expense and risk, after formal notice to do so has not been acted upon.

33.7 Non-Conformity

If certain executed works or parts thereof do not entirely conform to the specifications of the contract but the imperfections observed are not such that they would adversely affect the safety, performance or use of the works concerned, the Council may, in view of the minor nature of the imperfections and the difficulties that compliance work would present, desist from ordering the making good of the works considered to be defective and propose a price reduction to the Supplier.

If the Supplier agrees to the price reduction, the imperfections that gave rise to it shall be covered by this fact, and acceptance shall be declared without reservation.

If the Supplier does not agree, it remains under obligation to remedy these imperfections, with acceptance being declared subject to them being remedied.

33.8 Taking possession

Before taking possession of executed works, the Council must first accept them.

However, where there is an urgent need, it may take possession of executed works prior to acceptance, on condition of drawing up a joint inventory beforehand. Taking possession of the executed works in these circumstances shall not constitute acceptance.

Article 34 - Partial acceptance

34.1 Cases of partial acceptance

The setting in the contract of a time-limit for a tranche of works, an individual piece of work or part thereof which is distinct from the time-limit for the performance of all the works shall entail partial acceptance of that tranche of works, individual piece of work or part thereof.

The provisions of Article 33 shall apply to partial acceptance, subject to the application of paragraphs 34.3 and 34.4.

34.2 Conditions

The taking of possession by the Council of certain works or parts thereof prior to the completion of all the works must be preceded by partial acceptance, for which the conditions shall be established by specific contractual documents. Those conditions must, at a minimum, include the establishment of a joint inventory. This partial taking of possession of executed works or part thereof shall not constitute acceptance.

34.3 Warranty period

For the tranche of works, individual piece of work or part thereof for which partial acceptance is effected, the warranty period shall run from the date on which that partial acceptance takes effect if this is mentioned in the specific document.

34.4 General statement of account

In all cases, there shall be a single general statement of account for all the works, with notification of the last partial acceptance decision triggering the start of the time-limit provided for in paragraph 11.3.2.

34.5 Performance bonds

In all cases, the general stipulations on the release of performance bonds shall be applicable only upon expiry of the warranty period for all the works.

Article 35 - Contractual guarantees

35.1 Duration of guarantees

The guarantees provided for in articles 1792 and following of the French Civil Code (ten-year and two-year guarantees) shall be applicable, depending on the damage suffered. These guarantees shall take effect on the day of signature of the final acceptance report for the works, unless otherwise specified in the special conditions.

The duration of the completion guarantee shall be fixed at one (1) year.

35.1.1 The completion guarantee places the Supplier under obligation to fulfil the following requirements:

- to carry out any finishing and making good of works and services requested by the Project Manager;
- to remedy any problems reported by the Council so that the executed work is restored to the state in which it was upon acceptance or after correction of the imperfections observed at that time;
- to carry out, where applicable, consolidation or modification work that prove to be necessary at the end of the trials provided for in the Technical Specifications;
- to submit to the Project Manager the plans of built structures as per their execution in the conditions set out in Article 31.

The costs of further work demanded by the Council or the Project Manager to remedy the aforementioned defects shall be borne by the Supplier only if the cause of those defects is attributable to it.

The obligation of completion shall not extend to works necessary to remedy the effects of normal wear and tear.

Upon expiry of the warranty period, the Supplier shall be released from its contractual obligations, with the exception of specific guarantees that may be provided for in specific contractual documents. Any performance bonds shall be released in the conditions established in the relevant regulations.

If the Council blocks the release of performance bonds, it shall, at the same time, inform the Supplier by any means making it possible to establish a certain date.

35.2 Extension of the warranty period

If, upon expiry of the warranty period, the Supplier has not performed the works and services stipulated in paragraph 35.1 as well as those required, where applicable, pursuant to Article 30, the warranty period may be extended by decision of the Council until the full performance of works and services, whether by the Supplier or at the Council's own initiative in accordance with the stipulations of paragraph 33.6.

35.3 Specific guarantees

Guarantees for certain executed works, and also guarantees of the operation of certain installations, the duration of those guarantees and the specific arrangements for them shall be established by the Technical Specifications.

VII. Amendment and termination of the contract

Article 36 - Amendments

36.1 Supplementary clauses

The provisions of this contract may be amended only by means of written supplementary clauses accepted by both parties.

36.2 Assignment

This contract may not be assigned in full or in part, whether for a consideration or free of charge, without the Council's prior written agreement.

Article 37 - Termination

37.1 Termination on account of extraneous events

37.1.1. Death or legal incapacity of the Supplier

In the event of the death or legal incapacity of the Supplier, the Council may terminate the contract or agree to its pursuit by the Supplier's heirs or trustee. A transfer clause shall be drawn up to this end.

Termination, if pronounced, shall take effect on the date of death or legal incapacity. The Supplier or its heirs shall have no entitlement to compensation.

37.1.2. Receivership or judicial liquidation

The contract shall be terminated in the event of receivership if, after serving of notice to the judicial administrator in the conditions stipulated in article L. 622-13 of the French Commercial Code, the judicial administrator does not undertake to subscribe to the Supplier's obligations.

In the event of the Supplier's judicial liquidation the contract shall be terminated after formal notice served by the Council has not been acted upon. The Supplier shall not be entitled to any compensation.

37.1.3. Physical incapacity or default of the Supplier

In the event of manifest, lasting physical incapacity of the Supplier, such as to jeopardise the proper performance of the contract, the Council may terminate the contract.
Termination shall not entitle the Supplier to any compensation.

In the event of default by the Supplier that is not covered under the force majeure provisions, the Council shall have the service provided by another Supplier and using any appropriate means, at the Supplier's expense and risk.

37.2 Termination on grounds of the Supplier's negligence

37.2.1 In addition to the conditions laid down by the Act of Engagement, the Council may terminate the contract on grounds of negligence by the Supplier or, for a contract divided into work packages, by each Supplier separately, in the following situations:

- a. The Supplier has breached legal or regulatory requirements in the fields of labour law or protection of the environment;
- b. The Supplier has refused to hand back or hand over the buildings, land, equipment, construction products, facilities and supplies entrusted to it or damaged or misused the buildings, land, equipment, construction products, facilities and supplies in question;
- c. The Supplier has failed to perform its obligations within the contractual time-limits as required by Article 39, after this failure has been established in a joint inspection and an opinion issued by the Project Manager, and if the Supplier has not received notification authorising it to resume performance of the works; in this case, the contract may simply be terminated or terminated at the Supplier's expense and risk, with the provisions of Article 39 being applied in the latter case;
- d. The Supplier has sub-contracted work in breach of the legislative and regulatory provisions on sub-contracting or fails to comply with the obligations relating to sub-contractors as required under paragraph 3.6;
- e. The Supplier has failed to produce the insurance certificates as required under the contract;
- f. The Supplier has declared, independently of the cases provided for in paragraph 37.1.1, that it is unable to honour its commitments;
- g. The Supplier has failed to notify the modifications referred to in paragraph 3.4.2 and these modifications are such as to jeopardise the proper performance of the contract;
- h. The Supplier has committed acts of fraud in the performance of the contract;
- i. The Supplier or sub-contractor has failed to comply with the obligations relating to loyalty and confidentiality, personal data protection and security, as required by Article 4;
- j. Following the signature of the contract, the Supplier is prohibited from exercising an industrial or commercial occupation;
- k. Following the signature of the contract, the information or documents produced by the Supplier in support of its application or bid, or which the Supplier was required to produce before the contract was awarded, prove to be inaccurate.

37.2.2 Except in the cases covered by points f, h, j and k above, the Supplier shall have been served with prior notice, together with a time-limit to comply, which has remained without effect.

Upon serving notice, the Council shall inform the Supplier of the sanction envisaged and invite the Supplier to submit observations.

37.2.3 Termination of the contract shall not rule out any civil or criminal action that may be taken against the Supplier.

37.2.4 In the cases of termination provided for above, the Council shall pay only the amount corresponding to the services actually supplied to its full satisfaction at the time of the contract's termination and shall require the reimbursement of any amounts already paid in respect of services not supplied.

37.2.5 Amounts remaining due shall be paid into the Council's bank account within sixty (60) days following written notice served by the Council on the Supplier.

37.3 Specific clauses

Termination of a Supplier's contract on grounds of the Supplier's death or legal incapacity, where that Supplier is not the joint agent, shall place the joint agent under obligation to take the place of the Supplier whose contract is terminated, with no change possible to the performance time-limit for the works.

Termination of a joint agent's contract declared on the same grounds shall place the jointly and severally liable suppliers under obligation to appoint a new agent within one month, with no change possible to the performance time-limit for the works.

In all cases where termination of the contract of any one of a consortium's jointly and severally liable suppliers results in a stoppage of work on site, the measures required for the safekeeping of the site shall

be the responsibility of the joint agent. These measures shall be ordered by the Project Manager after the serving of formal notice to the agent granting a time-limit of no more than eight (8) days.

Article 38 - Statement of account on termination of the contract

38.1 Report

In the event of termination, an ascertainment of the works and parts of works performed, an inventory of materials supplied and also a descriptive inventory of the equipment and facilities on the worksite shall be carried out, with the Supplier or its heirs or trustee, receiver or judicial administrator in attendance or having duly been convened. A report of these operations shall be drawn up. That report shall include the opinion of Project Manager on the conformity of the works and parts of works performed with the stipulations of the contract.

This report shall be signed by the Council. It automatically entails acceptance of the works and parts of works performed, with the date of effect of termination serving as the effective starting point of the warranty period defined in Article 35.

38.2 Measures prior to site closure

Within ten (10) days following the date of signature of this report, the Council shall establish the measures to be taken prior to site closure to ensure that the works or parts of works performed are properly conserved and made safe. Such measures may entail the demolition of certain parts of works.

If the Supplier fails to take those measures within the time-limit set by the Council, the Project Manager shall have them carried out at their own initiative.

Except in cases of termination giving entitlement to compensation, these measures shall be at the expense of the Supplier.

38.3 Possibility of repurchase

The Council shall be entitled to repurchase, in full or in part:

- the temporary structures implemented under the contract that are of use in the performance thereof;
- the materials, construction products, hardware, software packages, software and tools supplied, purchased or created for the needs of the contract, insofar as these are required for the worksite.

It shall furthermore be entitled, for the continuation of the works, either to repurchase or to retain at its disposal the equipment specially built for the performance of the contract.

In the event of the previous two indents being applied, the price of repurchase of the temporary structures and the equipment shall be equal to the unamortised portion of their value. If the equipment is retained at the Council's disposal, its rental price shall be determined on the basis of the unamortised portion of its value.

The materials, construction products, hardware, software packages, software and tools supplied, purchased or created shall be repurchased at the contract prices, or otherwise prices derived from the application of Article 11.

38.4 Withdrawal from sites and premises

The Supplier shall withdraw from the sites and premises within the time-limit set by the Project Manager.

Article 39 - Coercive measures

39.1 Formal notice served by the Council

With the exception of the cases provided for in Article 38, if the Supplier does not conform to the stipulations of the contract or orders issued to it, the Council shall serve it with formal notice to comply within a fixed time-limit, by a decision notified to it in writing.

That time-limit, except in an emergency, shall not be less than fifteen (15) days from the date of serving of formal notice.

39.2 Continuation of works

If the Supplier does not comply with formal notice issued to it, the continuation of works may be ordered by the Council, at the Supplier's expense and risk. The Council shall be entitled to terminate the contract.

39.3 Ascertainment of work performed and inventories

For the continuation of works in the place of the Supplier, an ascertainment of the work performed and existing supplies shall be carried out, with the Supplier in attendance or having duly been convened, as well as a descriptive inventory of the Supplier's equipment and the handing back to the Supplier of any equipment that will not be of use in the completion of the works.

Within one month following notification of the decision to continue the works in the place of the Supplier, the latter may be authorised to resume performance of the works if it can demonstrate that it has the necessary means of completing them.

After the expiry of that time-limit, the Council shall declare termination of the contract.

39.4 Alternative contract

In the event of termination at the Supplier's expense and risk, the measures taken pursuant to paragraph 39.3 shall be at the expense of the Supplier. For the completion of works in conformity with the regulations in force, a contract shall be concluded with another firm. This alternative contract shall be transmitted for information to the defaulting Supplier. The general statement of account pertaining to the terminated contract shall be notified to the Supplier only after final settlement of the new contract concluded for the completion of the works.

39.5 Presence of the Supplier

The Supplier whose works are subject to the application of paragraphs 39.2 and 39.3 shall be authorised to monitor the performance of works but it shall not be allowed to impede the orders of the Project Manager or their representatives.

The same shall apply to any new contract concluded at its expense and risk.

39.6 Expenses

The Supplier shall be liable for the surplus expenses ensuing from a new contract concluded following the termination decision provided for in paragraphs 39.2 or 39.3. Those expenses shall be deducted from any amounts due to it or otherwise from any retention bonds constituted by it, with no prejudice to the rights to be exercised against it, should such funds be insufficient.

The Supplier may not benefit from any reduced expenses, even partially.

VIII. Disputes and litigation

Article 40 - Dispute settlement

Unless otherwise provided for in the special conditions, and in accordance with the provisions of Article 21 of the General Agreement on Privileges and Immunities of the Council of Europe, all disputes between the Council and the Supplier as regards the validity, the interpretation and the application of this contract shall be submitted, if a mutual agreement cannot be reached between the parties, to arbitration as laid down in Rule No. 481 of the Secretary General reproduced below.

Rule No. 481 of 27 February 1976 on the arbitration procedure of any disputes between the Council of Europe and private persons

The Secretary General of the Council of Europe,

Having regard to the Statute of the Council of Europe, of 5 May 1949, and in particular its Articles 11 and 40,

Having regard to the General Agreement on Privileges and Immunities of the Council of Europe signed on 2 September 1949, and in particular its Articles 1, 3, 4 and 21, as well as the Special Agreement relating to the seat of the Council of Europe signed on 2 September 1949,

Considering that it is appropriate to determine the arbitration procedures for any disputes between the Council and private persons regarding supplies furnished, services rendered or immovable property purchased on behalf of the Council,

Having regard to the decision of the Committee of Ministers of the Council of Europe at the 253rd meeting of the Deputies,

Decides:

Article 1

Any dispute relating to the execution or application of a contract covered by Article 21 of the General Agreement on Privileges and Immunities of the Council of Europe shall be submitted, failing a friendly settlement between the parties, for decision to an Arbitration Board composed of two arbitrators each selected by one of the parties, and of a presiding arbitrator, appointed by the other two arbitrators; in the event of no presiding arbitrator being appointed under the above conditions within a period of six months, the President of the Tribunal de Grande Instance of Strasbourg shall make the appointment.

Article 2

However, the parties may submit the dispute for decision to a single arbitrator selected by them by common agreement or, failing such agreement, by the President of the Tribunal de Grande Instance of Strasbourg.

Article 3

The Board referred to in Article 1 or, where appropriate, the arbitrator referred to in Article 2 shall determine the procedure to be followed.

Article 4

If the parties do not agree upon the law applicable the Board or, where appropriate, the arbitrator shall decide ex aequo et bono having regard to the general principles of law and to commercial usage.

Article 5

The arbitral decision shall be binding upon the parties and there shall be no appeal from it.

Strasbourg, 27 February 1976
Signature