



**NISPAcee PROJECT “Effective Project Management in the Water Sector
in Georgia: Implementation of the EU and EBRD Methodologies”**

Supported by the SlovakAid

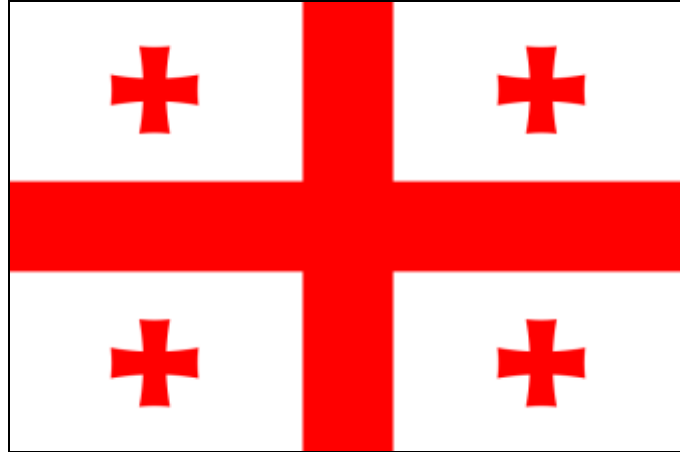
Manual Part B1 - Methodology of projects under the terms of the EC

(Works)

Author: Milan Oleriny

Date: May 2016

GEORGIA



INFRASTRUCTURE PROJECT

**TENDER DOCUMENT
FOR PROCUREMENT - WORKS (EC)**

**PROCUREMENT OF:
REHABILITATION AND EXTENSION
OF WWTP, GEORGIA**

MONTH/YEAR

Tender Document for Procurement

Procurement of: REHABILITATION AND EXTENSION OF WWTP - WORKS

Issued on: Month/Year

Tender No:

Contracting Authority: United Water Supply Company of Georgia

Country: Georgia

Table of Contents

VOLUME I

Instructions to tenderers	5
Tender form - appendix to the tender	43
Tender guarantee form.....	52
Questionnaire.....	54
General information about the tender.....	56
Organisation chart.....	58
Power of attorney	59
Financial statement	61
Financial identification	64
Legal entity - individual.....	66
Legal entity - private company.....	70
Legal entity - public entity.....	74
Technical qualifications	76

VOLUME II

Contract form	108
Special conditions	112
General contract conditions.....	134
Specimen prefinancing payment guarantee	191
Specimen performance guarantee	193
Specimen retention guarantee	196
Tax and customs arrangements	199

VOLUME III

Technical specifications	201
--------------------------------	-----

VOLUME IV

Financial bid templates.....	202
Financial offer templates	205
Lump sum contracts.....	205

VOLUME V

Design documents, including drawings.....	235
---	-----

VOLUME I

THE TENDER

VOLUME 1
SECTION 1

INSTRUCTIONS TO TENDERERS

Public document to be completed by the Contracting Authority

WORKS CONTRACT PRIOR INFORMATION NOTICE

Rehabilitation and Extension of WWTP, Georgia

Location: Tbilisi County, Georgia

1. Publication reference

< Publication reference >

2. Procedure

[Open] [Restricted]

3. Programme title

< Please specify the programme title mentioned in the applicable financing agreement / financing decision >

4. Financing

< Budget line / Financing agreement / Other >

5. Contracting Authority

[For direct management: The European Union, represented by the European Commission on behalf of and for the account of <the partner country/countries>]

[For indirect management: <The partner country>]

6. Description of the contract

< Maximum: 5 lines >

7. Indicative number and titles of lots

< As appropriate >

8. Scheduled publication date of the contract notice

< To be specified >

9. Other information

< As appropriate >

10. Legal basis¹

[BUDGET: for calls where the CIR applies: Regulation (EU) N°236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and <please introduce here the reference of the Regulation or other instrument under which this contract is to be financed (e.g. DCI, ENPI, ENI, Ifs)> - See Annex A2 of the Practical Guide]

[BUDGET: for calls where the CIR does not apply (e.g. for IPA I): < Regulation or other instrument under which this contract is to be financed> - See Annex A2 of the Practical Guide]

[EDF: Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.]

¹ Please state any specificity that might have an impact on rules on participation (such as geographic or thematic or long/short term).

Document for completion and publication by the Contracting Authority

WORKS CONTRACT NOTICE

Rehabilitation and Extension of WWTP, Georgia

Location: Tbilisi County, Georgia

[Only in case of suspension clause

Please note that the awarding of the contract is subject to the condition of:

- [the prior adoption of a financing decision and the prior conclusion of a financing agreement]
- [the prior adoption of a financing decision]
- [the prior conclusion of a financing agreement,]

which does not modify the elements of the procurement procedure (this will be the case, for instance, if the budget initially foreseen is different or if the timeframe, the nature or the condition of the implementation are altered).

If the precedent condition is not met, the Contracting Authority will either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation.]

1. Publication reference

< Publication reference of the corresponding prior information notice >

2. Procedure

Open

3. Programme title

< Please specify the programme title mentioned in the applicable financing agreement/ financing decision >

4. Financing

< Budget line / Financing agreement / Other >

5. Contracting Authority

[For direct management: European Commission, on behalf of and for the account of <the partner country/countries >]

[For indirect management: < The partner country >]

< Address >

CONTRACT SPECIFICATIONS

6. Description of the contract

< Recommended maximum: 10 lines >

7. Number and titles of lots

[One lot only]

[If more than one lot: (min =2 max=20) < number> lots

Lots Titles:

01 <title>

02 <title>

<no. and title>]

TERMS OF PARTICIPATION

8. Eligibility and rules of origin

[BUDGET for calls where the CIR applies: Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium - of tenderers) which are effectively established in a Member State of the European Union or in an eligible country or territory as defined under the Regulation (EU) N°236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable Instrument under which the contract is financed (see also heading 22 below) . Participation is also open to international organisations. All supplies under this contract must originate in one or more of these countries. However, they may originate from any country when the amount of the supplies to be purchased is below 100, 000 euros per purchased.]

[BUDGET for calls where the CIR does not apply (e.g. for IPA I): Participation is open to all legal persons (participating either individually or in a grouping - consortium - of tenderers) which are established in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed (see item 22 below). All goods supplied under this contract must originate in one or more of these countries. Participation is also open to international organisations. Participation of natural persons is directly governed by the specific instruments applicable to the programme under which the contract is financed].

[10th/11th EDF: Participation in tendering is open on equal terms to all natural and legal persons (participating either individually or in a grouping - consortium - of tenderers) which are established in one of the Member States of the European Union, ACP States or in a country or territory authorised by the ACP-EC Partnership Agreement under which the contract is financed (see also heading 22 below). Participation is also open to international organisations. All supplies and materials under this contract shall originate from one or more of those eligible countries. However, they may originate from any country when the amount value of the supplies and materials to be purchased is below 100,000 euros]

[Other (including 9th EDF, which may apply different eligibility rules)]

9. Grounds for exclusion

Tenderers must submit a signed declaration, included in the Tender Form for a Works Contract, to the effect that they are not in any of the situations listed in point 2.3.3 of the **Practical Guide**.

10. Number of tenders

Tenderers may submit only one tender per lot. Tenders for parts of a lot will not be considered. Any tenderer may state in its tender that it would offer a discount in the event that its tender is accepted for more than one lot. Tenderers [may] [may not] submit a tender for a variant solution in addition to their tender for the works required in the tender dossier.

11. Tender guarantee

[Tenderers must provide a tender guarantee of < amount to be specified within the range 1% - 2% of the budget available for the contract, indicating lots separately if necessary > euros when submitting their tender. This guarantee will be released to unsuccessful tenderers once the tender procedure has been completed and to the successful tenderer[s] upon signature of the contract by all parties.]

OR [No tender guarantee is required.]

12. Performance guarantee

The successful tenderer will be asked to provide a performance guarantee of <insert percentage between 5 and 10%>of the amount of the contract at the signing of the contract. This guarantee must be provided together with the return of the countersigned contract no later than 30 days after the tenderer receives the contract signed by the Contracting Authority. If the selected tenderer fails to provide such a guarantee within this period, the contract will be void and a new contract may be drawn up and sent to the tenderer which has submitted the next cheapest compliant tender.

[For amounts of €345.000 or below, on the basis of objective criteria such as the type and value of the contract, the Contracting Authority may decide not to require such a guarantee. No performance guarantee required])

13. Information meeting and/or site visit

[No information meeting is planned.]

OR [[A mandatory] [An optional] information meeting [and/or] site visit will be held on < Date, venue and contact details to confirm attendance to be specified >.]

14. Tender validity

Tenders must remain valid for a period of 90 days after the deadline for submission of tenders. In exceptional circumstances, the Contracting Authority may, before the validity period expires, request that tenderers extend the validity of tenders for a specific period.

15. Period of implementation of tasks

<Specify the period from contract signature, or alternative date, until the provisional acceptance>

SELECTION AND AWARD CRITERIA

16. Selection criteria

< To be specified - according to the criteria used in section 12.2 of the Instructions to Tenderers >

17. Award criteria

[Where no technical scoring is given to the offers: The most economically advantageous tender is the technically compliant tender with the lowest price].

[Where very exceptionally a technical scoring is given to the offers: The most economically advantageous tender is the technically compliant tender with the best price-quality ratio.]

TENDERING

18. How to obtain the tender dossier

The tender dossier is available from < Specify address(es) > upon payment of < Amount and currency >, which [includes] [excludes] courier delivery. It is also available for inspection at the premises of the Contracting Authority, address as in point 5 above. Tenders must be submitted using the standard tender form included in the tender dossier, whose format and instructions must be strictly observed.

Tenderers with questions regarding this tender should send them in writing to < insert specific e-mail and postal addresses > (mentioning the publication reference shown in item 1) at least 21 days before the deadline for submission of tenders given in item 19. The Contracting Authority must reply to all tenderers' questions at least 11 days before the deadline for submission of tenders. Eventual clarifications or minor changes to the tender dossier will be published at the latest 11 days before the submission deadline on the EuropeAid website at <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome>.

19. Deadline for submission of tenders

< Time and date to be specified - must be a working day at least (-) in case of international open tender 90 calendar days/ (-) in case of local open procedure 60 calendar days, after the date of publication of this procurement notice (e.g., 10:00 Central European Time on <date>). The deadline for submission of tenders should, if possible, be combined with the public opening session. The Contracting authority's opening hours must also be specified.>

Any tender received by the Contracting Authority after this deadline will not be considered.

20. Tender opening session

< Date and venue of tender opening session >

21. Language of the procedure

All written communications for this tender procedure and contract must be in English.

22. Repetition of similar works

Subsequent to the initial contract resulting from the current tender procedure, new works consisting in the repetition of similar works, up to the estimated amount of <amount>, may be entrusted to the initial contractor by negotiated procedure without prior publication of a contract notice, provided the new works are in conformity with the same basic project.

23. Legal basis²

[BUDGET: for calls where the CIR applies: Regulation (EU) N°236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and <please introduce here the reference of the Regulation or other instrument under which this contract is to be financed (e.g. DCI, ENPI, ENI, Ifs) - See Annex A2 of the Practical Guide]

[BUDGET: for calls where the CIR does not apply (e.g. for IPA I), -< Regulation or other instrument under which this contract is to be financed> - See Annex A2 of the Practical Guide]

[EDF: Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.]

² Please state any specificity that might have an impact on rules on participation (such as geographic or thematic or long/short term).

Standard advertisement for local publication
of local open tender procedures

<Contract title >

<Publication reference >



United Water Supply Company of Georgia intends to award a work contract for **Rehabilitation and Extension of WWTP in Tbilisi County, Georgia** with financial assistance from the [<Programme of the European Union>] [EDF]. The tender dossier is [available for inspection at <address>] [published on the EuropeAid website:

<http://ec.europa.eu/europeaid/prag/document.do>]

The deadline for submission of tender is <time and date of deadline - must be at least 60 calendar days after the date of publication of this advertisement>. Possible additional information or clarifications/questions shall be published on the EuropeAid website:

<http://ec.europa.eu/europeaid/prag/document.do> [and <indicate relevant media>].

<LETTER OF INVITATION TO TENDER>

Use Letterhead of the Contracting Authority

<Place and date>

<Name and address of potential tenderer>

Our ref.: < Publication reference >

Dear Mr/Ms <Name of contact person>

SUBJECT: Invitation to Tender for Rehabilitation and Extension of WWTP, Georgia

Further to your enquiry regarding the publication of the above-mentioned invitation to tender, please find enclosed the following documents, which constitute the tender dossier:

VOLUME 1

SECTION 1: INSTRUCTIONS TO TENDERERS

SECTION 2: TENDER FORM

Annex 1 - Declaration of honour on exclusion and selection criteria.....Form a.15

Annex 2 - to be used only by NEAR only in FIDIC contracts:[Appendix to the Tender]

SECTION 3: TENDER GUARANTEE FORM

SECTION 4: QUESTIONNAIRE

Additional notice to tenderers

General information about the tendererForm 4.1

Organisation chart.....Form 4.2

Power of attorney.....Form 4.3

Financial statementForm 4.4

Financial identification form Forms 4.5 a) + b)

Technical qualifications:

Overview of the tenderer's staffForm 4.6.1.1

Staff to be employed on the contractForm 4.6.1.2

Professional experience of key staff

Curriculum vitaeForm 4.6.1.3

PlantForm 4.6.2

Work plan and programmeForm 4.6.3

Experience as contractorForm 4.6.4

Data on joint venturesForm 4.6.5

Litigation history.....Form 4.6.6

Quality assurance system(s).....Form 4.6.7

Accommodation for the supervisor.....Form 4.6.8

Further informationForm 4.6.9

SECTION 5: ADMINISTRATIVE COMPLIANCE GRID AND EVALUATION GRID

Administrative compliance grid

Evaluation grid

VOLUME 2

SECTION 1: CONTRACT FORM

SECTION 2: GENERAL CONDITIONS FOR WORKS CONTRACTS

SECTION 3: SPECIAL CONDITIONS

SECTION 4: SPECIMEN PERFORMANCE GUARANTEE

SECTION 5: SPECIMEN PREFINANCING PAYMENT GUARANTEE

SECTION 6: SPECIMEN RETENTION GUARANTEE

[EDF: SECTION 7: TAX AND CUSTOMS ARRANGEMENTS]

VOLUME 3

TECHNICAL SPECIFICATIONS

VOLUME 4

[FINANCIAL OFFER LUMP SUM CONTRACTS]

[FINANCIAL OFFER UNIT PRICE CONTRACTS]

VOLUME 5

DESIGN DOCUMENTS, INCLUDING DRAWINGS

For full information about procurement procedures please consult the Practical Guide and its annexes, which can be downloaded from the following web page:
<http://ec.europa.eu/europeaid/prag/document.do>

We look forward to receiving your tender [optional: and the accompanying tender guarantee].

By submitting a tender you accept to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received by you on the date upon which the contracting authority sends it to the electronic address you referred to in your offer.

If you decide not to submit a tender, we would be grateful if you could inform us in writing, stating the reasons for your decision.

Yours sincerely,

< Name and signature >

VOLUME 1
SECTION 1: INSTRUCTIONS TO TENDERERS

SECTION I INSTRUCTIONS TO TENDERERS

PUBLICATION REF.: _____

In submitting a tender, the tenderer accepts in full and without restriction the special and general conditions governing the contract as the sole basis of this tendering procedure, whatever its own conditions of sale may be, which it hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline will lead to rejection of the tender. No account can be taken of any reservation in the tender as regards the tender dossier; this may result in immediate rejection of the tender without further evaluation.

These Instructions set out the rules for the submission, selection and implementation of contracts financed under this call for tenders, in conformity with the provisions of the Practical Guide, which is applicable to this call (available on the internet at this address: <http://ec.europa.eu/europeaid/prag/document.do>).

CONTENTS

GENERAL PART	20
1.GENERAL INSTRUCTIONS	20
2.FINANCING	20
3.PARTICIPATION.....	20
4.ONLY ONE TENDER PER TENDERER	22
5.TENDER EXPENSES.....	22
6.SITE VISIT AND CLARIFICATION MEETING	22
TENDER DOCUMENTS	23
7.CONTENT OF TENDER DOCUMENTS	23
8.EXPLANATIONS CONCERNING TENDER DOCUMENTS	23
9.MODIFICATIONS TO TENDER DOCUMENTS.....	23
TENDER PREPARATION.....	24
10.LANGUAGE OF TENDERS	24
11.CONTENT AND PRESENTATION OF TENDER	24
12.INFORMATION/DOCUMENTS TO BE SUPPLIED BY THE TENDERER	25
13.TENDER PRICES	31
14.PERIOD OF VALIDITY OF TENDERS.....	32
15.TENDER GUARANTEE	32
16.VARIANT SOLUTIONS	33
SUBMISSION OF TENDERS.....	34
17.SEALING, MARKING AND SUBMITTING TENDERS.....	34
18.EXTENSION OF THE DEADLINE FOR SUBMITTING TENDERS	34
19.LATE TENDERS.....	35
20.ALTERING AND WITHDRAWING TENDERS	35
OPENING AND EVALUATING TENDERS.....	35
21.OPENING TENDERS	35
22.EVALUATING TENDERS	36
23.CORRECTING ERRORS.....	37
CONTRACT AWARD	37
24.AWARD CRITERIA.....	37
25.NOTOFICATION OF AWARD, CONTRACT CLARIFICATIONS	37
26.CONTRACT SIGNING AND PERFORMANCE GUARANTEE	38
27.CANCELLATION OF THE TENDER PROCEDURE.....	39
28.ETHICS CLAUSES	39
29.APPEALS	41

GENERAL PART

GENERAL INSTRUCTIONS

- 1.1. Tenderers must tender for the whole of the works required by the dossier. Tenders will not be accepted for incomplete lots.
- 1.2. Timetable

	DATE	TIME*
Clarification meeting	< Date >	< Time >
Site visit	< Date >	< Time >
Deadline for requesting any additional information from the Contracting Authority	< 21 days before deadline for tenders >	< Time >
Last date on which additional information are issued by the Contracting Authority	< Date 11 days before deadline for tenders >	-
Deadline for submitting tenders	<Date>	< Time >
Tender opening session	<Date>	< Time >
Notification of award to the successful tenderer	< Date at most 90 days after deadline for tenders > ³	-
Signature of the contract	< Date at most 150 days after deadline for tenders > ³	-

* All times are in the time zone of the country of the Contracting Authority Provisional date

FINANCING

The project is [co-financed] [financed] by the European Union, in accordance with the rules of <specify the programme and the Regulation 236/2014 if applicable> programme.

[The project is co-financed by < Specify financing body >.]

PARTICIPATION

- 1.3. [BUDGET for calls where the CIR applies: Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping - consortium - of tenderers) which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) N° 236/2014 establishing

common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable Instrument under which the contract is financed (see also heading 22 of the contract notice). Participation is also open to international organisations. All supplies under this contract must originate in one or more of these countries. However, they may originate from any country when the amount of the supplies to be purchased is below 100 000 euros.]

[BUDGET for calls where the CIR does not apply (e.g. for IPA I): Participation is open to all legal persons (participating either individually or in a grouping – consortium - of tenderers) which are established in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed (see item 22 of the contract notice). All goods supplied under this contract must originate in one or more of these countries. Participation is also open to international organisations. Participation of natural persons is directly governed by the specific instruments applicable to the programme under which the contract is financed.]

[EDF: Participation in the call for tender is open on equal terms to natural and legal persons (participating either individually or in a grouping (consortium) of tenderers) established in one of the Member States of the European Union, ACP States or in a country or territory authorised by the ACP-EC Partnership Agreement under which the contract is financed. Participation is also open to international organisations. All supplies and materials under this contract shall originate from one or more of those eligible countries. However, they may originate from any country when the amount value of the supplies and materials to be purchased is below 100,000 euros]]

- 1.4. These terms refer to all nationals of the above states and to all legal entities, companies or partnerships established in the above states. For the purposes of proving compliance with this rule, tenderers being legal persons, must present the documents required under that country's law.
- 1.5. The eligibility requirement detailed in subclauses 3.1 and 3.2 applies to all members of a joint venture/consortium and all subcontractors, as well as to all entities upon whose capacity the tenderer relies for the selection criteria. Every tenderer, member of a joint venture/consortium, every capacity-providing entity, every subcontractor providing more than 10% of the works and every supplier providing more than 10% of the works must certify that they meet these conditions. They must prove their eligibility by a document dated less than one year earlier than the deadline for submitting tenders, drawn up in accordance with their national law or practice or by copies of the original documents stating the constitution and/or legal status and the place of registration and/or statutory seat and, if it is different, the place of central administration. The Contracting Authority may accept other satisfactory evidence that these conditions are met.
- 1.6. Natural persons, companies or undertakings falling into a situation set out in section 2.3.3.1 ('exclusion from participation in procurement procedures') and section 2.3.3.2 ('rejection from a given procedure') of the Practical Guide, are not entitled to participate in this tender procedure or be awarded a contract. Should they do so, their tender will be considered unsuitable or irregular respectively. Tenderers must provide declarations to the effect that they are not in any of the exclusion situations listed in section 2.3.3 of the Practical Guide. The declarations must cover all the members of a joint venture/consortium. Tenderers guilty of making false declarations may also incur financial penalties and exclusion in accordance with section 2.3.4 of the Practical Guide.

1.7. The exclusion situation referred to in subclause 3.4 applies to all members of a joint venture/consortium, all subcontractors and all suppliers to tenderers, as well as to all entities upon whose capacity the tenderer relies for the selection criteria.

1.8. The upper limit authorised for subcontracting is 30 % of the value of the tender³.

[EDF only: In the selection of subcontractors, preference must be given by the **Contractor** to natural persons, companies or firms of ACP States capable of **performing the work** required on similar terms.]

ONLY ONE TENDER PER TENDERER

A company may not tender for a given contract both individually and as a member of a joint venture/consortium. Participation by a tenderer in more than one tender for a contract will result in the disqualification of all those tenders for that contract in which the party is involved. The same company may only participate as subcontractor in different tenders if that is justified by the specific nature of the market and cleared by the Contracting Authority.

TENDER EXPENSES

1.9. The tenderer will bear all costs associated with preparing and submitting the tender. The Contracting Authority will not be responsible or liable for such costs, whatever the conduct or outcome of the procedure.

1.10. The Contracting Authority will neither be responsible for, nor cover, any expenses or losses incurred by the tenderer through site visits and inspections or any other aspect of its tender.

SITE VISIT AND CLARIFICATION MEETING

1.11. The tenderer is [strongly advised] [obliged] to visit and inspect the site of the works and its surroundings for the purpose of assessing, at its own responsibility, expense and risk, the factors necessary for preparing its tender and signing the contract for the works. (Date, time and place, see point 13 of the contract notice.)

1.12. A clarification meeting and/or a site visit [will] [will not] be held by the Contracting Authority (Date, time and place, see point 13 of the contract notice).

1.13. [The minutes of the [clarification meeting and the site visit] [site visit] will be published on the EuropeAid website. As proof of participation, tenderers will receive a certificate of their site visit.]

³ If the tender includes subcontracting, it is recommended that the contractual arrangements between the tenderer and its subcontractors include mediation, according to national and international practices, as a method of dispute resolution.

TENDER DOCUMENTS

CONTENT OF TENDER DOCUMENTS

The set of tender documents comprises the documents specified in the invitation letter.

Tenderers bear sole liability for examining with appropriate care the tender documents, including design documents available for inspection and any modification to the tender documents issued during the tendering period, and for obtaining reliable information on any conditions and obligations that may in any way affect the amount or nature of the tender or the execution of the works. In the event that the tenderer is successful, no claim for altering the tender amount will be entertained on the grounds of errors or omissions in the obligations of the tenderer described above.

EXPLANATIONS CONCERNING TENDER DOCUMENTS

- 1.14. Tenderers may submit questions in writing up to 21 days before the deadline for submission of tenders, specifying the publication reference and the contract title:

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

<Fax>

<E-mail>

The Contracting Authority has no obligation to provide additional information after this date.

The Contracting Authority must reply to all tenderers' questions at least 11 days before the deadline for receipt of tenders.

- 1.15. The questions and answers will be published on the EuropeAid website at <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome> [and <enter other media, as applicable>].

MODIFICATIONS TO TENDER DOCUMENTS

- 1.16. The Contracting Authority may amend the tender documents by publishing modifications up to 11 days before the deadline for submitting tenders.
- 1.17. Each modification published will constitute a part of the tender documents and will be published on the EuropeAid website <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome> [and <enter other media, as applicable>].
- 1.18. The Contracting Authority may, as necessary and in accordance with Clause 18, extend the deadline for submitting tenders to give tenderers sufficient time to take modifications into account when preparing their tenders.

TENDER PREPARATION

LANGUAGE OF TENDERS

- 1.19. The tender and all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority must be written in the language of the procedure, which is English. All correspondence relating to payments, including invoices and interim and final payment certificates, must also be sent to the Contracting Authority in English.
- 1.20. If supporting documents are not written in one of the official languages of the European Union, a translation into the language of the call for tender must be attached. Where the documents are in an official language of the European Union other than English, it is strongly recommended to provide a translation into the language of the call for tenders, in order to facilitate the evaluation of the documents.

CONTENT AND PRESENTATION OF TENDER

- 1.21. Tenders must satisfy the following conditions:

Tenders must comprise the documents and information in clause 12 below.

The tender must be signed by a person or persons empowered by power of attorney submitted in accordance with Form 4.3 in Volume 1, Section 4 of the tender dossier.

The relevant pages of the documents specified in clause 12 must be signed as indicated.

The tenderer must provide all documents required by the tender dossier. All such documents, without exception, must comply strictly with these conditions and provisions and contain no amendments made by the tenderer. Tenders which do not comply with the requirements of the tender dossier may be rejected.

- 1.22. Either [The works are not divided into lots. Tenders must be for all the quantities indicated.]

Or [Where works have been divided into lots: The tenderer may submit a tender for [one lot only] [several or all of the lots].

Each lot will form a separate contract and the quantities indicated for different lots will be indivisible. The tenderer must offer the entire quantity or quantities indicated for each lot. Under no circumstances will tenders for part of the quantities required be taken into consideration.

[A tenderer may include in its tender the overall discount it would grant in the event of some or all of the lots for which it has submitted a tender being awarded to it. The discount should be clearly indicated in such a way that it can be announced at the public tender opening session].

Contracts will be awarded lot by lot, but the Contracting Authority must choose the most favourable overall solution taking account of the discounts offered.]

INFORMATION/DOCUMENTS TO BE SUPPLIED BY THE TENDERER

To be customised to the requirements of the tender dossier

1.23. All tenders must comprise the following information and duly completed documents:

Tender form, together with its Annex 1 'Declaration of honour on exclusion criteria and selection criteria' Appendix to be used only by NEAR only in FIDIC contracts: [and its Annex 2 'Appendix'], using the form provided in Volume 1, section 2;

Documentation as required in the questionnaire in Volume 1, Section 4, including all forms attached;

The forms provided in Volume 4:

[for lump-sum contracts:

Volume 4.2.2 - Summary;

Volume 4.2.3 - Breakdown of the lump-sum price;

[Volume 4.2.4 - if applicable: Daily work schedule;]

Volume 4.2.5 - Detailed Breakdown of Prices.

The Breakdown of the Lump-sum Price and the Detailed Breakdown of Prices do not derogate in any way to the clause stating that, in a lump-sum contract, the total contract price remains fixed irrespective of the quantity of work actually carried out.]

[for unit price contracts:

Volume 4.3.2 - Bill of Quantities;

Volume 4.3.3 - Price Schedule;

[Volume 4.3.4 - if applicable: Daily work Schedule;]

Volume 4.3.5 - Detailed Breakdown of Prices.]

1.23.1.1. The prices in Volume 4 are deemed to have been set on the basis of the conditions in force 30 days prior to the deadline for submitting tenders.

The Detailed Breakdown of Prices must be used when required for any purpose under the contract, notably to provide the coefficients for applying the price revision formula referred to in Article 48.2 of the Special Conditions. The tenderer must provide clear arithmetical calculations for the proposed coefficients. For tenders below the international threshold (5000000 Euros) it is not compulsory for the Contracting Authority to request tenderers to provide the information required in the Detailed Breakdown of Prices in Volume 4. However, given that the price revision formula referred to in Article 48.2 of the Special Conditions uses the

coefficients provided by the Detailed Breakdown of Prices, the decision not to ask for the detailed breakdown of prices implies that the Contracting Authority will use its own established price revision formula.

Cash flow statements.

Copies of the most recent documents showing the organisation chart, legal status and place of registration of the tenderer's headquarters, a power of attorney empowering the person signing the tender and all related documentation. These documents must follow the forms in Volume 1, Section 4 of the tender dossier:

To be completed in accordance with the questionnaire in Volume 1, Section 4

- general information about the tenderer (Form 4.1)
- organisation chart (Form 4.2)
- power of attorney (Form 4.3).

Evidence showing that the liquid assets and access to credit facilities are adequate for this contract, confirmed by a financial statement for the last three years verified by a chartered accountant. This evidence must be provided using Form 4.4, Financial statement, in Volume 1, Section 4 of the tender documents.

Financial projections for the two years ahead. This information must follow Form 4.4, Financial statement, provided in accordance with Volume 1, Section 4 of the tender documents.

Financial identification form (Form 4.5a, Volume 1) and Legal Entity File (Form 4.5b, Volume 1). If the tenderer has already signed another contract financed by the European Union, it may provide instead of the forms and supporting documents either the file numbers received or copies of the forms provided on that occasion, unless a change occurred in the meantime.

Information about the tenderer's technical qualifications. This information must follow the forms in Volume 1, Section 4 of the tender documents and include:

- a presentation of the tenderer's organisation, including the total number of staff employed (Form 4.6.1.1),
- a list of the staff proposed for execution of the contract, with the CVs of key staff (Forms 4.6.1.2 and 4.6.1.3),
- a list of plant for execution of the contract. The descriptions must demonstrate the tenderer's ability to complete the works and should include amongst others, the following elements:
 - < Trenching machines
 - Dewatering plant
 - Concrete mixing and placing plant
 - Cranes and lifting equipment ...>

The tenderer must indicate whether this equipment is owned, hired or used by a subcontractor. Manufacturer's documents fully describing the equipment must be submitted with the tender (Form 4.6.2);

- a list of materials and any supplies intended for use in the works, stating their origin;
- a work plan with brief descriptions of the main tasks (Form 4.6.3), showing the sequence and proposed timetable for implementing the tasks. In particular, the proposal must detail the temporary and permanent works to be constructed. The tenderer must take account of weather conditions and the requirement to prepare designs and obtain building permits prior to carrying out construction works. The tenderer must also submit a comprehensive method statement, with drawings if necessary, showing the methods by which it proposes to carry out the works. In particular, the tenderer must indicate the numbers, types and capacities of the plant and staff it proposes to use on the main areas of work;
- a critical milestone bar chart showing times and duties allocated for employees for this contract (Form 4.6.3);
- data on subcontractors and the percentage of works to be subcontracted (Form 4.6.3);
- evidence of relevant experience in carrying out works of a similar nature, including the nature and value of the contracts, works in hand and contractually committed (Form 4.6.4). The evidence must include successful experience as the prime contractor in construction of at least <X> projects of the same nature and complexity comparable to the works concerned by the tender during the last <either: eight years, or in sectors subject to rapid evolution: five> years;
- information regarding the proposed main site office (Form 4.6.3);
- an outline of the quality assurance system(s) to be used (Form 4.6.7).
- if applicable, information on tenderers involved in a joint venture/consortium (Form 4.6.5);
- details of their litigation history over the last <X> years (Form 4.6.6);
- details of the accommodation and facilities to be provided for the Supervisor (Form 4.6.8);
- any other information (Form 4.6.9).

Proof documents, declarations and undertakings according to clauses 3.1-3.6 above. These documents should cover all members of a joint venture/consortium and all subcontractors as specified.

Unless otherwise provided in the contract, all goods purchased under the contract must originate in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme specified in clause 3.1 above. **[BUDGET for calls where the CIR applies + EDF:** However, they may originate from any country when the amount value of the supplies and materials to be purchased is below 100,000 euros.] For these purposes, ‘origin’ means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the relevant international agreements (notably WTO agreements), which are reflected in EU legislation on rules of origin for customs purposes: the

Customs Code (Council Regulation (EEC) No 2913/92) in particular its Articles 22 to 26 thereof, and the Code's implementing provisions (Commission Regulation (EEC) No 2454/93.

[EDF: Goods originating in the EU include goods originating in the Overseas Countries and Territories.]

Tenderers must provide an undertaking signed by their representative certifying compliance with this requirement. For more details, see point 2.3.1 Practical Guide.

[Modifications (if any);]

[Tender guarantee is always optional: Tender guarantee, using the form provided in Volume 1, Section 3;]

[If obligatory site visit: Site visit certificate.]

- 1.24. In order to be eligible for the award of the contract, tenderers must provide evidence that they meet the selection criteria. This must be provided by tenderers using the forms described in 12.1 above and any additional forms tenderers may wish to use.

If a tender is submitted by a consortium, unless specified, the selection criteria will be applied to the consortium as a whole.

[In case of either a contract with no Lots, or a contract divided into Lots whereby no different minimum levels of capacity are set for each Lot:

The selection criteria for each tenderer are as follows:]

[In case of contracts divided into Lots whereby different minimum levels of capacity are set for each Lot: Lot n° ... (for example Lot 1)

The selection criteria for tenderers to Lot n° ... (for example Lot 1) are as follows:]

The selection criteria should be clear and non-discriminatory and may not go beyond the scope of the contract. The reference period for financial capacity may not go beyond the last 3 years for which accounts have been closed. The reference period for professional and technical capacity may not go beyond 8 years counting from the submission deadline (5 years for economic sectors subject to rapid evolution). Consider which proof documents should be requested for each selection criteria. See point 2.4.11 of the Practical Guide.

Economic and financial capacity of candidate:

The objective of this criterion is to examine whether or not the candidate (i.e. the consortium as a whole, for applications from consortia):

- will not be economically dependent on the Contracting Authority if the contract is awarded to it; and
- has sufficient financial stability to take on the proposed contract.

Examples of financial criteria:

- the average annual turnover of the tenderer in the past 3 years must be at least [EUR] [<ISO code of national currency> only for indirect management] (minimum yearly turnover requested may not exceed 2 times the estimated annual contract value, except in duly justified cases motivated in the tender dossier)<.....>
 - if it is the sole tenderer, it must have access to sufficient credit and other financial facilities to cover the required cash flow for the duration of the contract. In any case, the amount of credit available must exceed the equivalent of [EUR] [<ISO code of national currency> only for indirect management] <.....>
 - a) <insert reference criterion>
 - b) <insert reference criterion>
- <etc.>

Technical and professional capacity of candidate:

The objective of this criterion is to examine whether or not the tenderer:

- has sufficient on-going staff resources, expertise and experience to be able to take on the proposed contract;
- is not a so-called ‘body shop’, i.e. a candidate with no real expertise in fields related to the contract but which simply identifies and proposes experts to fit the project description.

Examples of professional and technical criteria:

- it must have completed at least <X> projects of the same nature/amount/complexity as the works concerned by the tender and implemented during the following period: <8 years (5 years, for economic sectors subject to rapid evolution) from the submission deadline, please specify the dates>. The Contracting Authority reserves the right to ask for copies of certificates of final acceptance signed by the supervisors/contracting authority of the projects concerned.

(This means that the project the tenderer refers to could have been started/implemented/completed at any time during the indicated period but it does not necessarily have to be started and completed during that period, nor implemented during the entire period.)

- it must carry out at least 70 % of the contract works using its own resources, which means that it must have the equipment, materials, human and financial resources necessary to carry out that percentage of the contract.
- if it is the lead member of a joint venture/consortium, it must be able to carry out at least 50 % of the contract works using its own means.
- if it is a partner of a joint venture/consortium (i.e. not the lead member) it must be able to carry out at least 10 % of the contract works using its own means.
- all its key staff must have at least <X> years’ appropriate experience and proven qualifications relevant to works of a similar nature to this project.
 - a) <insert reference criterion>
 - b) <insert reference criterion>

<etc.>

[In case of contracts divided into Lots whereby different minimum levels of capacity are set for each Lot: Lot n° ... (for example Lot 2)

The selection criteria for tenderers to Lot n° ... (for example Lot 2) are as follows:]

Idem as above

Economic and financial capacity of candidate (to be detailed as above):....

Technical and professional capacity of candidate (to be detailed as above):]

[In case of contracts divided into Lots whereby additional levels of capacity are added for the case several Lots are awarded to the same tenderer: for example

<In case a tenderer applies to (for example, both Lot n° 1 and Lot n° 2, ...), the tenderer must comply with the following selection criteria:

Economic and financial capacity of candidate (to be detailed as above):....

Technical and professional capacity of candidate (to be detailed as above):]

Capacity-providing entities:

An economic operator may, where appropriate and for a particular contract, rely on the capacity of other entities, regardless of the legal nature of the links which it has with them. Some examples of when it may *not* be considered appropriate by the Contracting Authority are when the tenderer relies mostly on the capacity of other entities or when it relies on key criteria. If the tenderer relies on other entities, it must prove to the Contracting Authority that it will have at its disposal the resources necessary to perform the contract, for example by producing a commitment on the part of those entities to place resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator. Furthermore, the tender should include a separate document providing data on this third entity for the relevant selection criterion. Proof of capacity must be furnished at the request of the Contracting Authority.

With regard to technical and professional criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies, become jointly and severally liable for the performance of the contract.

[Optional: Critical tasks

The Contracting Authority requires that the following critical tasks be performed directly by the tenderer itself, or where the tender is submitted by a joint venture/consortium, by one of its participating members: (to be defined)]

- 1.25. Tenders submitted by companies in partnerships forming a joint venture/consortium must also fulfil the following requirements:

- The tender must include all the information required in 12.1 above for each member of the joint venture/consortium and summary data for execution of works by the tenderer.
- The tender must be signed in a way that legally binds all members. One member must be appointed lead member and that appointment confirmed by submission of powers of attorney signed by legally empowered signatories representing all members. See Form 4.6.5 in Volume 1 and the tender form.
- All members of the joint venture/consortium are bound to remain in the joint venture/consortium for the whole execution period of the contract. See the declaration in the tender form.

[For tenders below EUR 5 000 000:

Documentary evidence of financial and economic standing and technical and professional capacity, referred to in 12.2 of these Instructions to Tenderers, is not obligatory for tenders below EUR5 000 000. However, it is obligatory if a pre-financing payment is requested]

TENDER PRICES

- 1.26. The currency of the tender is the [EUR] [<ISO code of national currency>] only for indirect management in the following cases: (i) when legal or local constraints exceptionally impose using the national currency; (ii) when needed, for contracts within the imprest component of a programme estimate].⁴
- 1.27. The tenderer must provide [for unit-price contracts: a Bill of Quantities and Price Schedule] [for lump-sum contracts: Breakdown of the Lump-sum Price] in [euro] [<national currency>] only for indirect management]. The tender price must cover all works as described in the tender documents. All sums in [for unit-price contracts: the Bill of Quantities and Price Schedule] [for lump-sum contracts: Breakdown of the Lump-sum Price], the questionnaire and other documents must also be expressed in this currency, with the exception of originals of bank and annual financial statements.
- 1.28. Tenderers must quote all components of [for unit-price contracts: the Bill of Quantities and Price Schedule] [for lump-sum contracts: Breakdown of the Lump-sum Price]. No payment will be made for items which have not been costed; such items will be deemed to be covered by other items on the [for unit-price contracts: Bill of Quantities and Price Schedule] [for lump-sum contracts: Breakdown of the Lump-sum Price].
- 1.29. If a discount is offered by the tenderer, it must be clearly specified in [for unit-price contracts: the Bill of Quantities and Price Schedule] [for lump-sum contracts: Breakdown of the Lump-sum Price] in Volume 4 and indicated in the tender form in Volume 1, Section 1.2. The discount must be quoted for all works.

⁴ The currency of tender will be the currency of the contract and of payment.

- 1.30. If the tenderer offers a discount, the discount must be included on each interim payment certificate and calculated on the same basis as in the tender.

PERIOD OF VALIDITY OF TENDERS

- 1.31. Tenders must remain valid for a period of 90 days after the deadline for submitting tenders indicated in the contract notice, the invitation to tender or as amended in accordance with Clauses 9 and/or 18.
- 1.32. In exceptional circumstances, the Contracting Authority may, before the validity period expires, request that tenderers extend the validity of tenders for a specific period, which may not exceed 40 days. Such requests and the responses to them must be made in writing. A tenderer may refuse to comply with such a request without forfeiting its tender guarantee. If the tenderer decides to accept the request, it may not amend its tender and it is bound to extend the validity of its tender guarantee for the revised period of validity of the tender. In case the contracting authority is required to obtain the recommendation of the panel referred to in section 2.3.3.1 of the Practical Guide, the contracting authority may request an extension of the validity of the tenders up to the adoption of that recommendation.
- 1.33. The successful tenderer must maintain its tender for a further 60 days. This period is in addition to the validity period, irrespective of the date of notification.

TENDER GUARANTEE

EITHER:

- 1.34. [The tenderer must provide, as a part of its tender, a tender guarantee in the form set out in Volume 1, Section 3 of the tender dossier, or in another form acceptable to the Contracting Authority that meets the essential requirements set out therein. The tender guarantee must be for an amount of <amount indicated in the contract notice>. The original guarantee must be included in the original tender.
- 1.35. It may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a guarantee provided by an insurance and/or guarantee company or an irrevocable letter of credit made out to the Contracting Authority.
- 1.36. The tender guarantee must remain valid for 45 days beyond the period of validity of the tender, including any extensions, and be issued to the Contracting Authority for the requisite amount.
- 1.37. The tender guarantees of unsuccessful tenderers will be returned together with the information letter that the tenderer has been unsuccessful.
- 1.38. The tender guarantee of the successful tenderer must be released when the tenderer has signed the contract and provided the requisite performance guarantee.]

OR: [No tender guarantee is required.]

VARIANT SOLUTIONS

[If variant solutions are not allowed: Variant solutions will not be taken into consideration.]

[If variant solutions for a price equal to or below the price of the original tender of the selected tenderer are allowed:

Variant solutions will be taken into consideration only if the variant solution has a price equal to or below the price of the original tender of the selected tenderer.

Tenderers must submit tenders in accordance with the requirements of the tender dossier. If the invitation to tender provides for variants to be submitted, the technical specifications must specify the subject, limits and basic conditions applicable. If tenderers wish to submit variant technical proposals, they may do so. **Only variants proposed by the selected tenderer will be considered by the Contracting Authority.**

Variant solutions must include all the details necessary for their full evaluation, including the proposed drawings, design calculations, technical specifications, price schedule and methods. Any variant solution must comprise:

- (a) an individual tender for the variant solution;
- (b) a demonstration of the advantages of the variant solution over the initial solution, including a quantifiable justification of any economic and/or technical advantages;
- (c) the drawings and specifications provided for in the initial solution which are not affected by the variant solution;
- (d) the drawings and specifications affected by the variant solution;
- (e) a technical note on the design of the variant solution and, where appropriate, drawings and calculations;

The rates and prices inserted in the budget breakdown must correspond to the conditions laid down in the tender documents. Tenderers must clearly indicate in their variants what additions and subtractions are to be made for each rate and price if the Contracting Authority accepts the variant and its specific features.

Any variant proposals must be submitted in a separate inner envelope, clearly marked 'variant', and it must contain a technical and a financial offer. The prices inserted in [for unit-price contracts: the Bill of Quantities and Price Schedule] [for lump-sum contracts: Breakdown of the Lump-sum Price] must tally with the conditions laid down in the tender documents.]

[The tenderer must state clearly in its variant proposals any additions or deductions to be made to all relevant prices in the event that the Contracting Authority accepts the variant and the details of its construction. For lump-sum contracts, it must include an itemised Breakdown of the Lump-sum Price as amended by the variant solution. For unit-price contracts, it must include a Bill of Quantities and Price Schedule as amended by the variant solution.]

SUBMISSION OF TENDERS

SEALING, MARKING AND SUBMITTING TENDERS

- 1.39. The complete tender must be submitted in one original, clearly marked ‘original’ and < insert number (for environmental reasons, request as few copies as possible)> copies, clearly marked ‘copy’. In the event of any discrepancy between them, the original will prevail. [add other specifications regarding the submission of tenders]
- 1.40. The technical and financial offers must be placed together in a sealed envelope. The envelopes should then be placed in another sealed envelope/package, unless their volume requires a separate submission for each lot.
- 1.41. All tenders must be received by the Contracting Authority before the deadline set in point 19 of the Contract notice, by registered letter with acknowledgement of receipt or hand-delivered against receipt signed by <...> or its representative.

The tender must be sent to the following address:

<full postal address of Contracting Authority>

If tenders are hand delivered they should be delivered to the following address:

< full delivery address including opening hours >

- 1.42. Tenders, including annexes and all supporting documents, must be submitted in a sealed envelope bearing only:
- (a) the above address;
 - (b) the reference code of this tender procedure, (i.e., <publication reference>);
 - (c) where applicable, the number of the lot(s) tendered for;
 - (d) the words ‘Not to be opened before the tender opening session’ in the language of the tender dossier and <equivalent phrase in the local language>.
 - (e) the name of the tenderer.

EXTENSION OF THE DEADLINE FOR SUBMITTING TENDERS

The Contracting Authority may, on its own discretion, extend the deadline for submitting tenders by issuing an amendment in accordance with Clause 9. In such cases, all rights and obligations of the Contracting Authority and the tenderer regarding the original date specified in the contract notice will be subject to the new date.

LATE TENDERS

- 1.43. All tenders received after the deadline for submission specified in the contract notice or these instructions will be kept by the Contracting Authority. The guarantees will be returned to the tenderers.
- 1.44. No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

ALTERING AND WITHDRAWING TENDERS

- 1.45. Tenderers may alter or withdraw their tenders by written notification prior to the above deadline. No tender may be altered after the deadline for submission. Withdrawals must be unconditional and will end all participation in the tender procedure.
- 1.46. Any notification of alteration or withdrawal must be prepared and submitted in accordance with Clause 17, and the envelope must be marked 'alteration' or 'withdrawal', as appropriate.
- 1.47. Withdrawal of a tender in the period between the deadline for submission and the date of expiry of the validity of the tender will result in forfeiture of the tender guarantee.

OPENING AND EVALUATING TENDERS

OPENING TENDERS

- 1.48. The purpose of opening and examining tenders is to check whether the tenders are complete, whether the requisite tender guarantees have been furnished, whether the required documents are included and whether the tenders are generally in order.
- 1.49. Tenders will be opened in public session on the date and venue specified in point 20 of the Contract notice by the committee appointed for that purpose. The committee will draw up minutes of the meeting, which must be available to tenderers on request.
- 1.50. At the tender opening session, the tenderers' names, the tender prices, any discounts offered, written notifications of alteration and withdrawal, the presence of the tender guarantee (if required) and such other information the Contracting Authority may consider appropriate may be announced.
- 1.51. After the public opening of the tenders, no information relating to the examination, clarification, evaluation or comparison of tenders or recommendations concerning the award of contract can be disclosed until after the contract has been awarded.

Any attempt by a tenderer to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the Contracting Authority in its

decision concerning the award of the contract will result in the immediate rejection of its tender.

EVALUATING TENDERS

The Contracting Authority reserves the right to ask a tenderer to clarify any part of its tender that the evaluation committee considers necessary to evaluate it. Such requests and the responses to them must be made in writing. They may in no circumstances alter or try to change the price or content of the tender, except to correct arithmetical errors discovered by the evaluation committee when analysing tenders.

The Contracting Authority reserves the right to check information submitted by the tenderer if the evaluation committee considers it necessary.

1.52. Examination of the administrative compliance of tenders

The aim at this stage is to check that tenders comply with the requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of the Contracting Authority or the tenderer's obligations under the contract or distort competition for tenderers whose tenders do comply. Decisions to the effect that a tender is not administratively compliant must be duly justified in the evaluation minutes.

The evaluation committee will check that each tender:

- has been properly signed;
- includes a correct tender guarantee (if required);
- meets the requirements as set out in the administrative compliance grid;
- has complete documentation and information;
- substantially complies with the requirements of these tender documents.

If a tender does not meet the requirements set out in the administrative compliance grid, it may be rejected by the evaluation committee when checking admissibility.

1.53. Technical evaluation

The evaluation committee must evaluate only those tenders considered substantially compliant in accordance with Clause 22.1.

At this step of the evaluation procedure, the Committee will analyse the tenders' technical conformity in relation to the technical specifications, classifying them technically compliant or non-compliant.

[Only very exceptionally, subject to derogation, the technical requirements for the works will limit themselves to minima above which the tenderers can propose own solutions: only in such cases, the offers which comply with those minimum quality levels, should be technically scored. If so, add the following sentence:

Subsequently, the Committee will evaluate the technically compliant offers in accordance with the technical evaluation grid (setting out the technical criteria, subcriteria and weightings)

attached to the tender dossier.] (in such case, an ad hoc to be determined grid needs to be added in Annex D4m, which details how the technical evaluation is conducted for the technically compliant offers)

1.54. Financial evaluation

Once the technical evaluation has been completed, the evaluation committee checks that the financial offers contain no arithmetical errors. If the tender procedure contains several lots, financial offers are compared for each lot. The financial evaluation will have to identify the best financial offer for each lot, taking due account of any discounts offered.

When analysing the tender, the evaluation committee will calculate the final tender price after adjusting it on the basis of Clause 23.

CORRECTING ERRORS

1.55. Possible errors in the financial offer will be corrected by the evaluation committee as follows:

- where there is a discrepancy between amounts in figures and in words, the amount in words will prevail;
- except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will prevail.

1.56. The amount stated in the tender will be adjusted by the evaluation committee in the event of error, and the tenderer will be bound by that adjusted amount. If the tenderer does not accept the adjustment, its tender will be rejected and its tender guarantee forfeited.

CONTRACT AWARD

AWARD CRITERIA

[Where no technical scoring is given to the offers: The most economically advantageous tender is the technically compliant tender with the lowest price].

[Where very exceptionally a technical scoring is given to the offers: The most economically advantageous tender is the technically compliant tender with the best price-quality ratio. The best price-quality ratio is established by weighing technical quality against price on an (to be assessed on a case by case basis, for example 80/20, 70/30, 60/40, etc. : <... >basis.

[EDF only: To encourage the widest participation of natural or legal persons of ACP States in the performance of contracts, special preference measures must be taken in order to permit the optimisation of the physical and human resources of those States. See section 2.4.10 of the Practical Guide.]

Notification of award, contract clarifications

Prior to the expiry of the validity period of tenders, the Contracting Authority will notify the successful tenderer, in writing, that its tender has been selected and draw its attention to any arithmetical errors corrected during the evaluation process. This notification may take the form of an invitation to clarify certain contractual questions raised therein, to which the tenderer must be prepared to reply. This clarification will be confined to issues that had no direct bearing on the choice of the successful tender. The outcome of such clarification will be set out in a memorandum of clarification, to be signed by both parties and incorporated

into the contract.

For tenders below EUR 5 000 000, the documentary evidence described below is optional, see section 2.3.3 of the Practical Guide:

[Documentary evidence required from the successful tenderer:

Before the Contracting Authority signs the contract with the successful tenderer, the successful tenderer must provide the **documentary proof** or statements required under the law of the country in which the company (or, for consortia, each of the companies) is established, to show that it does not fall into any of the exclusion situations listed in section 2.3.3 of the Practical Guide. This evidence, documents or statements must carry a date, which cannot be more than one year before the date of submission of the tender. In addition, a statement must be furnished stating that the situations described in these documents have not changed since then. The above-mentioned documents must be submitted for the tenderer, every member of a joint venture/consortium, all subcontractors providing more than 10% of the works and every supplier providing more than 10% of the works. For any other subcontractor or supplier, the successful tenderer must submit a declaration from the intended subcontractor or supplier that it is not in one of the exclusion situations. In the event of doubt on this declaration of honour, the Contracting Authority must request documentary evidence that they are not in a situation of exclusion.]

[For contracts below EUR 5 000 000, the Contracting Authority may, depending on its assessment of the risks, decide not to require proof for selection criteria, but then no pre-financing must be made, see point 2.4.11 of the Practical Guide.

Evidence of financial, economic, technical and professional capacity according to the selection criteria specified in subsection 12.2 above will be requested unless satisfactory documents are already included in the tender.

If the successful tenderer fails to provide this documentary proof or statement within 15 calendar days following notification of award or if the successful tenderer is found to have provided false information, the award will be considered null and void. In this case, the Contracting Authority may award the tender to the next lowest tenderer or cancel the tender procedure.]

After the contract has been signed and the successful tenderer has provided the performance guarantee, in accordance with Clause 26, the Contracting Authority will promptly notify the other tenderers that their tenders have not been successful and release their tender guarantees.

By submitting a tender, each tenderer accepts to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the offer.

CONTRACT SIGNING AND PERFORMANCE GUARANTEE

- 1.57. Within 30 days of receipt of the contract already signed by the Contracting Authority, the selected tenderer must sign and date the contract and return it, with the performance guarantee (if applicable) to the Contracting Authority. On signing the contract, the successful tenderer will become the Contractor and the contract will enter into force.
- 1.58. If it fails to sign and return the contract and any financial guarantee required within 30 days after receipt of notification, the Contracting Authority may consider the acceptance of the tender to be cancelled, without prejudice to the Contracting Authority's right to invoke the guarantee,

claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.

- 1.59. The performance guarantee referred to in the General Conditions is set at <insert a percentage between 5 and 10 % as specified in the contract notice> of the amount of the contract and must be presented in the form specified in the annex to the tender dossier, except where it takes the form of a certified cheque or a cash deposit. It will be released in accordance with the Special Conditions.

[For amounts of EUR 345 000 or below, on the basis of objective criteria such as the type and value of the contract, the relevant services of the Commission may decide not to require this guarantee.]

CANCELLATION OF THE TENDER PROCEDURE

In the event of cancellation of a tender procedure, tenderers will be notified by the Contracting Authority. If the tender procedure is cancelled before the tender opening session, the sealed envelopes will be returned, unopened, to the tenderers.

Cancellation may occur, for example, where:

- the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no valid response at all;
- the economic or technical parameters of the project have been fundamentally altered;
- exceptional circumstances or force majeure render normal execution of the project impossible;
- all technically compliant tenders exceed the financial resources available;
- there have been irregularities in the procedure, in particular where these have prevented fair competition;
- the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market.

In no event will the Contracting Authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if the Contracting Authority has been informed of the possibility of damage. Publication of a contract notice does not commit the Contracting Authority to implement the programme or project announced.

ETHICS CLAUSES

- 1.60. Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its candidacy or tender and may result in administrative penalties.
- 1.61. Without the Contracting Authority's prior written authorisation, the Contractor and its staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for

the project. This also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.

- 1.62. When putting forward a candidacy or tender, the candidate or tenderer must declare that it is not affected by any conflict of interest, and that it has no equivalent relation in that respect with other tenderers or parties involved in the project. Should such a situation arise during execution of the contract, the Contractor must immediately inform the Contracting Authority.
- 1.63. The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of its profession. It must refrain from making public statements about the project or services without the Contracting Authority's prior approval. It may not commit the Contracting Authority in any way without its prior written consent.
- 1.64. For the duration of the contract, the Contractor and its staff must respect human rights and undertake not to offend the political, cultural and religious mores of the beneficiary state.
- 1.65. The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and its staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 1.66. The Contractor and its staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor are confidential.
- 1.67. The contract governs the Parties' use of all reports and documents drawn up, received or presented by them during execution of the contract.
- 1.68. The Contractor must refrain from any relationship likely to compromise its independence or that of its staff. If the Contractor ceases to be independent, the Contracting Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.
- 1.69. The Commission reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process and if the Contracting Authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, 'corrupt practices' are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Contracting Authority.
- 1.70. All tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

- 1.71. The Contractor undertakes to supply the Commission on request with all supporting documents relating to the conditions of the contract's execution. The Commission may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.
- 1.72. Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds.
- 1.73. The Contracting Authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to substantial errors, irregularities or fraud. Where such substantial errors, irregularities or fraud are discovered after the award of the Contract, the Contracting Authority may refrain from concluding the Contract.

APPEALS

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See section 2.4.15 of the Practical Guide.

[To be included only in case of direct management:

30. DATA PROTECTION

If processing your reply to the invitation to tender involves the recording and processing of personal data (such as names, addresses and CVs), it will be processed⁵ solely for the purposes of the performance management and monitoring of the tender and of the contract by the data controller without prejudice to possible transmission to the bodies charge with monitoring or inspection tasks in application of Union law. Details concerning processing of your personal data are available on the privacy statement at:

<http://ec.europa.eu/europeaid/frag/annexes.do?chapterTitleCode=A>⁶

[For EuropeAid: The Controller of call for tenders is the Head of Unit R3⁷]

[For NEAR: The Controller of your call for tender is <please add the name of your Controller>]

[For any other DG: <please add the name of your Controller >]]

To be included only in case of direct management:

⁵ Pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

⁶ This link will lead you to the new "EuropeAid privacy statement" published among the Prag General Annexes.

⁷ The data controller may be the unit or directorate in charge of the contract, or the entity declared to the Data Protection Officer as data controller for all procurements in a given DG.

[31. EARLY DETECTION AND EXCLUSION SYSTEM

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations of early detection or exclusion, their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the Early Detection and Exclusion System (EDES) and communicated to the persons and entities concerned in relation to the award or the execution of a procurement contract.]

* * *

**VOLUME 1
SECTION 2
TENDER FORM**

**[APPENDIX TO BE USED ONLY BY NEAR ONLY IN FIDIC CONTRACTS]
[APPENDIX TO THE TENDER]**

TENDER FORM FOR A WORKS CONTRACT

< Publication reference >

Name of contract: Rehabilitation and Extension of WWTP, Georgia

[In case of an EI works contract, this should be clearly indicated in the title]

<Place and date>

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

One signed form must be supplied (for each lot, if the tender procedure is divided into lots), together with the number of copies specified in the Instruction to Tenderers. The form must include a signed declaration using the annexed format from each legal entity making the application. **All data included in this form must concern only the legal entity or entities making the application.** The attachments to this form (i.e. declarations, statements, proofs) may be in original or copy. If copies are submitted, the originals must be sent to the Contracting Authority upon request. For economical and ecological reasons, we strongly recommend that you submit your files on paper (no plastic folder or divider). We also suggest you use double-sided printing as much as possible.

Any additional documentation (brochures, letters, etc.) sent with the form will not be taken into consideration. Applications submitted by a **consortium** (i.e. either a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure) must follow the instructions applicable to the consortium leader and its members.

1 SUBMITTED BY

	Name(s) of tenderer(s)	Nationality⁸
Leader⁹		
Member 2*		
Etc ...		

2 CONTACT PERSON (for this tender)

Name	
Address	
Telephone	
Fax	
E-mail	

3 TENDERER'S DECLARATION(S)

As part of their tender, each legal entity identified under point 1 of this form, including every consortium member, as well as each capacity-providing entity and each subcontractor providing more than 10% of the works, must submit a signed declaration using this format, together with the Declaration of honour on exclusion and selection criteria (Annex 1) (insert Form a.14).

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

⁸ Country in which the legal entity is established.

⁹ Add/delete additional lines for members as appropriate. Note that a subcontractor is not considered to be a member for the purposes of this tender procedure. If this tender is being submitted by an individual tenderer, the name of the tenderer should be entered as 'leader' (and all other lines should be deleted).

1. We have examined and accept in full the content of the dossier for invitation to tender No [.....] of [../..]. We hereby accept its provisions in their entirety, without reservation or restriction.
2. We offer to execute, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction, the following works:

Lot No 1: *[description of works]*

Lot No 2: *[description of works]*

Etc.

3. The price of our tender *[excluding the discounts described under point 4]* is:

Lot No 1: [.....]

Lot No 2: [.....]

Etc.

4. We will grant a discount of [%], or [.....] *[in the event of our being awarded Lot No ...and Lot No]*.
5. This tender is valid for a period of 90 days from the final date for submission of tenders.
6. [For contracts worth up to 345 000 EUR, and on the basis of objective criteria such as the nature and value of the contract, the contracting authority may decide not to demand such a guarantee: If our tender is accepted, we undertake to provide a performance guarantee, as required by Article 15 of the Special Conditions.]

7. Our firm/company *[and our subcontractors]* has/have the following nationality:

<.....>

8. We are making this tender *[on an individual basis/as member of the consortium led by < name of the leader / ourselves >]*. We confirm that we are not tendering for the same contract in any other form. *[We confirm, as a member of the consortium, that all members are jointly and severally bound in respect of the obligations under the contract, including any recoverable amount, that the lead member is authorised to bind, and receive instructions for and on behalf of, each member, that the execution of the contract, including payments, is the responsibility of the lead member, and that all*

members in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's execution].[We confirm, as capacity-providing entity to be jointly and severally bound in respect of the obligations under the contract, including for any recoverable amount.]

9. In the event that our tender is successful, we undertake, if required, to provide the proof usual under the law of the country in which we are effectively established that we do not fall into any of the exclusion situations. The date on the evidence or documents provided will be no earlier than one year before the date of submission of tender and, in addition, we will provide a statement that our situation has not altered in the period which has elapsed since the evidence in question was drawn up. We also understand that if we fail to provide this proof within 15 calendar days after receiving the notification of award, or if the information provided is proved false, the award may be considered null and void.
10. We agree to abide by the ethics clauses in Clause 28 of the instructions to tenderers and, in particular, have no professional conflicting of interests and/or any equivalent relation with other candidates or other parties in the tender procedure or behaviour which may distort competition at the time of the submission of this application according to Section 2.3.6 of the Practical Guide. We have no interest of any nature whatsoever in any other tender in this procedure.
11. We will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the implementation of the contract. We also fully recognise and accept that any inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts funded by the EU/EDF.
12. We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to award only part of the contract. It will incur no liability towards us should it do so.
13. We fully recognise and accept that if the above-mentioned persons participate in spite of being in any of the situations listed in Section 2.3.3.1 of the Practical Guide or if the declarations or information provided prove to be false, they may be subject to rejection from this procedure and to administrative sanctions in the form of exclusion and financial penalties representing 2 % to 10 % of the total estimated value of the contract being awarded and that this information may be published on the Commission website in accordance with the conditions set in Section 2.3.4 of the Practical Guide..
14. We are aware that, for the purposes of safeguarding the EU's financial interests, our personal data may be transferred to internal audit services, to the Early Detection and Exclusion System, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office.

[* Delete as applicable]

Name and first name: [.....]

Duly authorised to sign this tender on behalf of:

[.....]

Place and date: [.....]

Stamp of the firm/company:

This tender includes the following annexes:

[Numbered list of annexes with titles]

ANNEX 1 - DECLARATION OF HONOUR ON EXCLUSION AND SELECTION CRITERIA

Insert Form a.14

[ANNEX 2 - APPENDIX TO BE USED ONLY BY NEAR ONLY IN FIDIC CONTRACTS]

APPENDIX TO TENDER FOR A WORKS CONTRACT

[.....]

< Publication reference >

Title of contract: **Rehabilitation and Extension of WWTP, Georgia**

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

(Note: Tenderers are required to fill in the blank spaces in this Appendix)

	Subclauses of General Conditions or Special Conditions	
Name and address of the Contracting Authority	To be completed by the Contracting Authority	
Name and address of the tenderer	To be completed by the tenderer	
Name and address of the representative of the Contracting Authority	To be completed by the Contracting Authority	
Financing authority	To be completed by the Contracting Authority	
Deadline for notice to commence	....
Period of Implementation	....

Currency		
Law of the contract		
Language of the contract		
Language of communication		
Period of access to the site		
Amount of performance guarantee		
Deadline for submitting the programme		
Normal working hours		
Period after the effective date during which the Contracting Authority's representative must issue notice to commence the works		
Liquidated damages for the works		
Limit of liquidated damages for delays		
Percentage of retention monies		
Minimum amount of interim payment certificates		
Percentage for adjustment of provisional sums		
Amount of insurance for design		

Amount of third-party insurance		.....per accident with the number of occurrences unlimited
Periods for submitting insurance		

	Sub-clauses of General Conditions or Special Conditions	
Number of members of dispute-settlement committee		
Member of dispute-settlement committee (if not agreed) to be nominated by		
Arbitration rules		
Number of arbitrators		
Language of arbitration		
Place of arbitration		
.....		

Signature _____

Capacity _____

duly authorized to sign for and on behalf of _____

VOLUME 1

SECTION 3

TENDER GUARANTEE FORM

Works contract

(To be completed on paper bearing the letterhead of the financial institution)

For the attention of

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

referred to below as the 'Contracting Authority'

Title of contract: Rehabilitation and Extension of WWTP, Georgia

Identification number: <Publication reference>

We, the undersigned, [name and address of financial institution], hereby irrevocably declare that we will guarantee, as primary obligor, and not merely as a surety on behalf of **United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi**, payment to the Contracting Authority of <amount of the tender guarantee>, this amount representing the guarantee referred to in [if open procedure: Article 11 of the Procurement Notice.]

[if restricted procedure: Article 15 of the Instructions to Tenderers]

Payment shall be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) if the Tenderer does not fulfil all obligations stated in its tender. We shall not delay the payment, nor shall we oppose it for any reason whatsoever. We shall inform you in writing as soon as payment has been made.

We note that the guarantee will be released at the latest within 45 days of expiry of the tender validity period, including any extensions, in accordance with Article 15 of the Instructions to Tenderers [and in any case at

the latest on (one year after the deadline for submitting tenders)].¹⁰

The law applicable to this guarantee shall be that of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: < the country in which the financial institution issuing the guarantee is established>]. Any dispute arising out of or in connection with this guarantee shall be referred to the courts of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>]
The guarantee will enter into force and take effect from the submission deadline of the tender.

Done at, ././..

Name and first name: On behalf of:

Signature:

[stamp of the body providing the guarantee]

¹⁰ This mention has to be inserted only where required, for example where the law applicable to the guarantee stipulates a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee without expiry date.

VOLUME 1 SECTION 4 QUESTIONNAIRE

CONTENTS

Additional notice to tenderers

Form 4.1 **General information about the tenderer**

Form 4.2 **Organisation chart**

Form 4.3 **Power of attorney**

Form 4.4 **Financial statement**

Form 4.5 **a) Financial identification form**
b) Legal entity files

Form 4.6 **Technical qualifications**

4.6.1 Staff

4.6.2 Plant

4.6.3 Work plan and programme

4.6.4 Experience as contractor

4.6.5 Information on joint ventures

4.6.6 Litigation history

4.6.7 Quality assurance system(s)

4.6.8 Accommodation for the supervisor

4.6.9 Further information

These documents may be adapted as required by the project.

VOLUME 1

SECTION 4

ADDITIONAL NOTICE TO TENDERERS

1. Tenderers must answer all questions contained in the forms.
2. Additional sheets may be attached as necessary.
3. If a question does not apply to the tenderer, 'not applicable' should be entered alongside with a brief explanation.
4. Every page of each form must be numbered consecutively in the bottom right-hand corner.
5. Financial data and declarations submitted by the tenderer must be given in euro or national currency. Original bank statements may be also attached for reference.
6. If the requested supporting documents/certificates are not written in one of the official languages of the European Union, a translation into the language of the call for tender must be attached. If the documents are in an official language of the European Union, other than the procedural language, it is however strongly recommended to provide a translation into the language of the call for tenders in order to facilitate the evaluation of the documents.
7. Each member of a joint venture/consortium must fill in and submit every form.
8. Firms applying as a joint venture/consortium must also complete Form 4.6.5 concerning joint ventures/consortia.
9. The person signing this questionnaire guarantees the truthfulness and accuracy of all the statements made.
10. The accuracy of the answers to the questionnaire, their completeness and the attached documentation will be taken into account in the tender evaluation. Please be aware that a lack of data may result in their non-compliance in the related item of evaluation.

VOLUME 1
SECTION 4
FORM 4.1

GENERAL INFORMATION ABOUT THE TENDERER

- 4.1.1. Name of company
.....
.....
- 4.1.2. Registered address
.....
.....Telephone
- 4.1.3. Names and nationalities of principals/directors and associates.....
.....
.....
- 4.1.4. Type of company (natural person, partnership, corporation, etc.).....
- 4.1.5. Description of company (e.g. general civil engineering contractor)
- 4.1.6. Company's nationality
- 4.1.7. Number of years' experience as contractor
- in own country.....
- internationally.....
- 4.1.8. Registration details
.....

Please attach copy of the registration certificate
- 4.1.9. Equity in the company
Shares (%).....
- 4.1.10. Name(s) and address(es) of companies involved in the project and whether parent/subsidiary/subcontractor/other:.....
.....
- 4.1.11. If the company is a subsidiary, what involvement, if any, will the parent company have in the project?
.....
- 4.1.12. Foreign companies must state whether they are established in the state of the Contracting Authority in accordance with applicable regulations (for information only)

Signature:

(a person or persons authorised to sign on behalf of the tenderer)

Date:.....

VOLUME 1

SECTION 4

FORM 4.2
ORGANISATION CHART

Please give details here below of the organisation chart of your company, showing the position of directors, key staff and functions.

Signature.....

(a person or persons authorised to sign on behalf of the tenderer)

Date.....

VOLUME 1

SECTION 4:

FORM 4.3

POWER OF ATTORNEY

Please attach here the power of attorney empowering the signatory of the tender and all related documentation.

Signature:

(a person or persons authorised to sign on behalf of the tenderer)

Date:

VOLUME 1
SECTION 4
FORM 4.4
FINANCIAL STATEMENT

Please provide all of the information required in euro or national currency (NC) equivalent.

4.4.1 Basic capital

Amount..... Euro or NC
 Currency..... Euro or NC
 Authorised..... Euro or NC
 Issued..... Euro or NC

4.4.2 Annual value of construction work undertaken for each of the last three years, and projected for the next two years.

Euro or NC	Year-3	Year-2	Last year	Current year	Year +1	Year +2
At home						
Abroad						
Total						

4.4.3 Approximate value of works in hand (at home and abroad)

..... (euro or national currency)

4.4.4¹¹ Please attach copies of the company’s certified statements of account for the previous three years (with translations into the procedural language, if necessary) from which the following basic data will be abstracted. Please provide estimates of the same information for the next two years.

¹¹ Please see point 4 in Instructions to Tenders if documentary evidence/proof is needed.

Euro or NC	Year-2	Year-1	Last year	Current year	Year+1	Year+2
1.Total assets
2.Total liabilities
<i>Net Value (1 minus 2)</i>

3.Liquid assets
4.Short-term debts
<i>Working capital (3 minus 4)</i>

5.Pre-tax profits
6.Losses

4.4.5 Name and address of banks (principal/others):

.....

4.4.6 Please enclose a reference/certificate about the financial situation of the company and its access to credit facilities (maximum amount of credit facility to be stated in euro or NC equivalent).

Signature:

(person(s) authorised to sign on behalf of the tenderer)

Date:



FINANCIAL IDENTIFICATION

PRIVACY STATEMENT

http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm#en

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

BANKING DETAILS ①	
ACCOUNT NAME ②	[REDACTED]
IBAN/ACCOUNT NUMBER ③	[REDACTED]
CURRENCY	[REDACTED]
BIC/SWIFT CODE	[REDACTED] BRANCH CODE ④ [REDACTED]
BANK NAME	[REDACTED]
ADDRESS OF BANK BRANCH	
STREET & NUMBER	[REDACTED]
TOWN/CITY	[REDACTED] POSTCODE [REDACTED]
COUNTRY	[REDACTED]

ACCOUNT HOLDER'S DATA	
AS DECLARED TO THE BANK	
ACCOUNT HOLDER	[REDACTED]
STREET & NUMBER	[REDACTED]
TOWN/CITY	[REDACTED] POSTCODE [REDACTED]
COUNTRY	[REDACTED]

REMARK	[REDACTED]
--------	------------

BANK STAMP + SIGNATURE OF BANK REPRESENTATIVE ⑤	DATE (Obligatory)
	SIGNATURE OF ACCOUNT HOLDER (Obligatory)

① Enter the final bank data and not the data of the intermediary bank.

② This does not refer to the type of account. The account name is usually the one of the account holder. However, the account holder may have chosen to give a different name to its bank account.

- ③ Fill in the IBAN Code (International Bank Account Number) if it exists in the country where your bank is established
- ④ Only applicable for US (ABA code), for AU/NZ (BSB code) and for CA (Transit code). Does not apply for other countries.
- ⑤ It is preferable to attach a copy of RECENT bank statement. Please note that the bank statement has to confirm all the information listed above under 'ACCOUNT NAME', 'ACCOUNT NUMBER/IBAN' and 'BANK NAME'. With an attached statement, the stamp of the bank and the signature of the bank's representative are not required. The signature of the account-holder and the date are ALWAYS mandatory.



THIS "LEGAL ENTITY" SHEET MUST BE COMPLETED AND SIGNED, AND SUBMITTED TOGETHER WITH A LEGIBLE PHOTOCOPY OF THE IDENTITY DOCUMENT

LEGAL ENTITY

PRIVACY STATEMENT

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm#en

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

NATURAL PERSON

I. PERSONAL DATA

FAMILY NAME(S) ①	<input type="text"/>		
FIRST NAME(S) ①	<input type="text"/>		
DATE OF BIRTH	<input type="text"/>	<input type="text"/>	<input type="text"/>
	DD	MM	YYYY
PLACE OF BIRTH (CITY, VILLAGE)	<input type="text"/>	COUNTRY OF BIRTH	<input type="text"/>
TYPE OF IDENTITY DOCUMENT			
	IDENTITY CARD	PASSPORT	DRIVING LICENCE ②
			OTHER ③
ISSUING COUNTRY	<input type="text"/>		
IDENTITY DOCUMENT NUMBER	<input type="text"/>		
PERSONAL IDENTIFICATION NUMBER ④	<input type="text"/>		
PERMANENT PRIVATE ADDRESS	<input type="text"/>		
POSTCODE	<input type="text"/>	P.O. BOX	<input type="text"/>
		CITY	<input type="text"/>
REGION ⑤	<input type="text"/>	COUNTRY	<input type="text"/>
PRIVATE PHONE	<input type="text"/>		
PRIVATE E-MAIL	<input type="text"/>		

II. BUSINESS DATA

If YES, please provide business data and attach copies of official supporting documents

Do you run your own business without a separate legal personality (e.g. sole traders, self-employed etc.) and you provide as such services to the Commission, other Institutions, Agencies and EU-Bodies? YES NO	BUSINESS NAME	<input type="text"/>
	(if applicable)	<input type="text"/>
	VAT NUMBER	<input type="text"/>
	REGISTRATION NUMBER	<input type="text"/>
	PLACE OF REGISTRATION: CITY	<input type="text"/>
	COUNTRY	<input type="text"/>

DATE

SIGNATURE

-
- ① As indicated on the official document.
 - ② Accepted only for Great Britain, Ireland, Denmark, Sweden, Finland, Norway, Iceland, Canada, United States and Australia.
 - ③ Failing other identity documents: residence permit or diplomatic passport.
 - ④ See table with corresponding denominations by country.
 - ⑤ To be completed with Region, State or Province by non EU countries only, excluding EFTA and candidate countries

TABLE WITH CORRESPONDING FIELD DENOMINATION BY COUNTRY

ISO CODE	PERSONAL IDENTIFICATION NUMBER
AT	N/A
BE	N° d'identification du Registre national / Identificatienummer van het Rijksregister
BG	ЕГН- Единен граждански номер (ЕГН) Edinen grazhdanski nomer
CY	N/A
CZ	Rodné číslo (RČ)
DE	N/A
DK	Personnummer (Da. CPR, Det Centrale Personregister)
EE	Isikukood (IK)
ES	Documento Nacional de Identidad (DNI)/Numero de identificacion fiscal(NIF)/Id.N°
FI	Finnish: Henkilötunnus (HETU), Swedish: Personbeteckning
FR	N/A
GR	N/A
HR	Osobni identifikacijski broj (OIB)
HU	N/A
IE	N/A
IT	Codice fiscale
LT	Asmens kodas
LU	N/A
LV	Personas kods
MT	Identify card number
NL	Burgerservicenummer (BSN)
PL	Powszechny Elektroniczny System Ewidencji Ludności (PESEL)
PT	N° identificação civil
RO	Cod Numeric Personal (CNP)
SE	Personnummer
SI	Enotna matična številka občana (EMŠO)

SK	Rodné číslo (RČ)
-----------	------------------



PLEASE COMPLETE AND SIGN THIS FORM AND ATTACH COPIES OF OFFICIAL SUPPORTING DOCUMENTS (REGISTER(S) OF COMPANIES, OFFICIAL GAZETTE, VAT REGISTRATION, ETC.)

LEGAL ENTITY

PRIVACY STATEMENT

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm#en

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

PRIVATE/PUBLIC LAW BODY WITH LEGAL FORM

OFFICIAL NAME ①	[REDACTED]		
BUSINESS NAME (if different)	[REDACTED]		
ABBREVIATION	[REDACTED]		
LEGAL FORM	[REDACTED]		
ORGANISATION TYPE	FOR PROFIT NON FOR PROFIT NGO ② YES NO		
MAIN REGISTRATION NUMBER ③	[REDACTED]		
SECONDARY REGISTRATION NUMBER (if applicable)	[REDACTED]		
PLACE OF MAIN REGISTRATION	CITY	[REDACTED]	
	COUNTRY	[REDACTED]	
DATE OF MAIN REGISTRATION	DD	MM	YYYY
VAT NUMBER	[REDACTED]		
ADDRESS OF HEAD OFFICE	[REDACTED]		
POSTCODE	P.O. BOX	CITY	[REDACTED]
COUNTRY	[REDACTED]	PHONE	[REDACTED]
E-MAIL	[REDACTED]		

DATE [REDACTED]

STAMP [REDACTED]

SIGNATURE OF AUTHORISED REPRESENTATIVE [REDACTED]

--	--

-
- ① National denomination and its translation in EN or FR if existing.
 - ② NGO = Non Governmental Organisation, to be completed if NFPO is indicated.
 - ③ Registration number in the national register of companies. See table with corresponding field denomination by country

TABLE WITH CORRESPONDING FIELD DENOMINATION BY COUNTRY

ISO CODE	MAIN REGISTRATION NUMBER
AT	Firmenbuchnummer (FN) ZentraleVereinregister (ZVR-Zahl) Ordnungsnummer
BE	Numéro d'entreprise Ondernemingsnummer Unternehmensnummer
BG	Булстат (Bulstat Code) Единен идентификационен код (ЕИК/ПИК) Unified Identification Code (UIC)
CY	Αριθμός Εγγραφής Αριθμός Μητρώου
CZ	Identifikační číslo (IČO)
DE	Handelsregister Genossenschaftsregister (Nummer de Firma) Vereinsregister (Nummer des Vereins) Nummer der Partnerschaft (Partnerschaftsregister)
DK	Det centrale virksomhedsregister (CVR-nummer)
EE	Registrikood
ES	HOJA number
FI	Yritys- ja yhteisötunnus (Y-tunnus) Företags- och organisationsnummer (FO-nummer) Business Identity code (Business ID)
FR	Immatriculation au Registre de Commerce et de Sociétés (RCS) Système Informatique du Répertoire des Entreprises (SIRENE)
GB	Company number
GR	ΑΡΙΘΜΟΣ Γ.Ε.ΜΗ (Γενικού Εμπορικού Μητρώου) Δικηγορικός Σύλλογος Αθηνών (.Σ.Α)
HR	Matični broj subjekta(MBS) Pod registarskim Brojem Matični broj obrta (MBO) Registarski Broj kakladnog
HU	Cégjegyzékszám
IE	Company number Grouping registration number in Ireland
IT	Repertorio Economico Amministrativo (REA)
LT	Kodas
LU	Registre de commerce et des sociétés RCS Numéro d'immatriculation Handelsregisternummer
LV	Vienotais Reģistrācijas Numurs

MT	Registration number Register of Voluntary Organisation (Identification number)
NL	Kamer van Koophandel (KvK-nummer) Dossiernummer
PL	REGON
PT	Numero de identificação de pessoa colectiva (NIPC)
RO	Numar de ordine in registrul comertului Numarul inscrierii in registrul special
SE	Organisationsnummer
SI	Matična številka
SK	Identifikačné číslo (ICO)



LEGAL ENTITY

PRIVACY STATEMENT

http://ec.europa.eu/budget/library/contracts_grants/info_contracts/privacy_statement_en.pdf

Please use CAPITAL LETTERS and LATIN CHARACTERS when filling in the form.

PUBLIC LAW BODY ①

OFFICIAL NAME ②	[REDACTED]				
ABBREVIATION	[REDACTED]				
MAIN REGISTRATION NUMBER ③	[REDACTED]				
SECONDARY REGISTRATION NUMBER (if applicable)	[REDACTED]				
PLACE OF MAIN REGISTRATION	CITY	[REDACTED]	[REDACTED]	COUNTRY	[REDACTED]
DATE OF MAIN REGISTRATION	[REDACTED]	[REDACTED]	[REDACTED]		
	DD	MM	YYYY		
VAT NUMBER	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
OFFICIAL ADDRESS	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
POSTCODE	[REDACTED]	P.O. BOX	[REDACTED]	CITY	[REDACTED]
COUNTRY	[REDACTED]	[REDACTED]	[REDACTED]	PHONE	[REDACTED]
E-MAIL	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

DATE

STAMP

SIGNATURE OF AUTHORISED REPRESENTATIVE

PLEASE COMPLETE AND SIGN THIS FORM AND ATTACH COPIES OF OFFICIAL SUPPORTING DOCUMENTS (RESOLUTION, LAW, REGISTER(S) OF COMPANIES, OFFICIAL GAZETTE, VAT REGISTRATION, ETC.)

- ① Public law body WITH LEGAL PERSONALITY, meaning a public entity being able to represent itself and act in its own name, i.e. being capable of suing or being sued, acquiring and disposing of property, entering into contracts. This legal status is con-firmed by the official legal act establishing the entity (a law, a decree, etc.).
- ② National denomination and its translation in EN or FR if existing.
- ③ Registration number in the national register of the entity.

VOLUME 1

SECTION 4

FORMS 4.6.1 TO 9

TECHNICAL QUALIFICATIONS

VOLUME 1

SECTION 4

FORM 4.6.1.1 OVERVIEW OF THE TENDERER'S STAFF

i - Overview

a - Directors and management	.....
b - Administrative staff	.....
c - Technical staff	
- Engineers	.....
- Surveyors	
- Foremen	.....
- Mechanics	
- Technicians	.....
- Machine operators	
- Drivers	.....
- Other skilled staff	
- Labourers and unskilled staff	.....

Total	=====
-------	-------

ii - Site operatives to be employed on the contract (if relevant)

a - Site management	.....
b - Administrative staff	.....
c - Technical staff	
- Engineers	.....
- Surveyors	
- Foremen	.....
- Mechanics	
- Technicians	.....
- Machine operators	
- Drivers	.....
- Other skilled staff	
- Labourers and unskilled staff	.....

Total	=====
-------	-------

Signature
(*person(s) authorised to sign on behalf of the tenderer*)

Date

VOLUME 1

SECTION 4

FORM 4.6.1.2

STAFF TO BE EMPLOYED ON THE CONTRACT

Position/Name	Nationality	Age	Education	Years of experience (with the company/in construction)	Major works for which responsible (project/value)
Quality control				/	
Others responsible for				/	
Others responsible for				/	

Signature

(person(s) authorised to sign on behalf of the tenderer)

Date.....

VOLUME 1

SECTION 4

FORM 4.6.1.3

PROFESSIONAL EXPERIENCE OF KEY STAFF

CURRICULUM VITAE

(Maximum 3 pages + 3 pages of annexes)

Proposed position in the contract:

1. Surname:
2. Name:
3. Date and place of birth:
4. Nationality:
5. Civil status:
Address (phone/fax/e-mail):
6. Education:

<i>Institutions:</i>	
<i>Date:</i> <i>From (month/year)</i> <i>To (month/year)</i>	
<i>Degree or qualification:</i>	

7. Language skills
Indicate on a scale of 1 to 5 (1 - excellent; 5 - basic):

<i>Language</i>	<i>Level</i>	<i>Passive</i>	<i>Spoken</i>	<i>Written</i>
	<i>Mother tongue</i>			

8. Membership of professional bodies:
9. Other skills (e.g. computer literacy):
10. Current position:
11. Years of professional experience:
12. Key qualifications:
13. Specific experience in non-industrialised countries:

<i>Country</i>	<i>Date: from (month/year) to (month/year)</i>	<i>Name and brief description of the project</i>

14. Professional experience:

<i>Date: from (month/year) to (month/year)</i>	
Place	
Company/organisation	
Position	
Job description	

15. Others:

15a. Publications and seminars:

15b. References:

Signature

(person(s) authorised to sign on behalf of the tenderer)

Date.....

VOLUME 1

SECTION 4

FORM 4.6.2

PLANT

Plant proposed and available for implementation of the contract¹²

	DESCRIPTION (type/make/model)	Power/ capacity	No of units	Age (years)	Owned (O) or hired (H)/ and percentage of ownership	Origin (country)	Current approximate value in euro or national currency
A)	CONSTRUCTION PLANT						
					/		
					/		
					/		

¹² Not all the plant owned by the company.

	DESCRIPTION (type/make/model)	Power/ capacity	No of units	Age (years)	Owned (O) or hired (H)/ and percentage of ownership	Origin (country)	Current approximate value in euro or national currency
B)	VEHICLES AND TRUCKS						
					/		
					/		
					/		
C)	OTHER PLANT				/		
					/		
					/		
					/		
					/		
					/		
					/		
					/		
					/		

Signature

(person(s) authorised to sign on behalf of the tenderer)

Date.....

VOLUME 1

SECTION 4

FORM 4.6.3

WORK PLAN AND PROGRAMME

- 4.6.3.1 State the proposed location of your main office on the site, stations (steel/concrete/asphalt structures), warehouses, laboratories, accommodation, etc. (sketches to be attached as required).
- 4.6.3.2 Give a brief outline of your programme for completing the works in accordance with the required method of construction and stated time of completion.
- 4.6.3.3 Attach a critical milestone bar chart (schedule of execution) representing the construction programme and detailing relevant activities, dates, allocation of labour and plant resources, etc.
- 4.6.3.4 If the tenderer plans to subcontract part of the works, he must provide the following details:

Work intended to be subcontracted	Name and details of subcontractors	Value of subcontracting as percentage of the total cost of the project	Experience in similar work (details to be specified)

Signature
(person(s) authorised to sign on behalf of the tenderer)

Date

VOLUME 1

SECTION 4

FORM 4.6.4

EXPERIENCE AS CONTRACTOR

4.6.4.1 List of contracts of similar nature and scale performed during the past <insert number> years

Name of project/type of works	Total value of works the Contractor was responsible for ²	Period of contract	Start date	Percentage of works completed	Contracting authority and place	Prime contractor (P) or subcontractor (S)	Final acceptance issued? - Yes - Not yet (current contracts) - No
<i>A) In home country</i>							

Name of project/type of works	Total value of works the Contractor was responsible for ¹³	Period of contract	Start date	Percentage of works completed	Contracting authority and place	Prime contractor (P) or subcontractor (S)	Final acceptance issued? - Yes - Not yet (current contracts) - No
B) Abroad							

4.6.4.2¹⁴ Please attach here available references and certificates from the relevant Contracting Authorities

Signature

(person(s) authorised to sign on behalf of the tenderer)

Date

¹³ Amounts actually paid, without the effect of inflation.

¹⁴ Please see point 4 in Instructions to Tenders if documentary evidence/proof is needed.

VOLUME 1

SECTION 4

FORM 4.6.5

DATA ON JOINT VENTURES

- 4.6.5.1** Name
- 4.6.5.2** Managing board's address
-
- Telex
- TelephoneFax.....E-mail....
- 4.6.5.3** Agency in the state of the Contracting Authority, if any (for joint ventures/consortia with a foreign lead member)
- Office address
-
- Telex
- TelephoneFax.....
- 4.6.5.4** Names of members
- i)
- ii)
- iii)
- 4.6.5.5** Name of lead member
-
- 4.6.5.6** Agreement governing the formation of the joint venture/consortium
- i) Date of signature:
- ii) Place:
- iii) Enclosure - joint venture/consortium agreement
- 4.6.5.7** Proposed division of responsibilities between members (in %) with an indication of the type of work to be performed by each
-
-

Signature:

(person(s) authorised to sign on behalf of the tenderer)

Date:

VOLUME 1

SECTION 4

FORM 4.6.6

LITIGATION HISTORY

Please provide information on any history of litigation or arbitration resulting from contracts executed during the last X years or currently under execution.

A separate sheet should be used for each partner of a joint venture/consortium.

Year	Ruling FOR or AGAINST tenderer	Name of client, cause of litigation, and matter in dispute	Disputed amount (current value in euro or NC)

Signature
(person(s) authorised to sign on behalf of the tenderer)

Date

VOLUME 1

SECTION 4

FORM 4.6.7

QUALITY ASSURANCE SYSTEM(S)

Please provide details of the quality assurance system(s) you propose using to ensure successful completion of the works.

Signature

(person(s) authorised to sign on behalf of the tenderer)

Date

VOLUME 1

SECTION 4

FORM 4.6.8

ACCOMMODATION FOR THE SUPERVISOR

General requirements on office space

From the commencement of a Works till a Provisional Acceptance Certificate issued by Supervisor, the Contractor shall established, maintain, relocate and remove from the Site appropriate accommodation for Supervisor's Staff.

The Supervisor shall be provided with a furnished office (min. 15 m²) for his disposal upon retribution with the Contractor agreed upon with Contracting Authority (including expenses on electric power, heating and cleaning, water and sewage charges). The retribution shall not include expenses on printing and copying and telecommunication fees (local and international).

The Contractor shall provide and maintain functional 2 site cabins for the Supervisor's activities, for the whole period of implementations of the tasks, located on Site (2 additionally offices serving also as a meeting room).

The Contractor shall build, furnish and maintain, within his deliveries and works, an office for the construction in accordance with following conditions.

Office equipment (mobile cabins)

Site cabins shall be in the form of steel containers with adequate (or additional if necessary) thermal insulation. All rooms shall be equipped with adequate ventilation, day/artificial lighting, including emergency lighting, and heating. All floors shall be fitted with heavy-duty linoleum or thermoplastic top layer. All entrance doors shall be made of steel, with safety hardware and locks for which 4 keys will be provided; no other person than the Supervisor and his Staff shall dispose of spare keys. All windows shall be secured against breaking-in; the equipment shall include a doormat.

Each of the offices shall be furnished with the following furniture and equipment according to the number of Supervisor's Staff:

Office desk 1.5x0.75 m with two base parts and five lockable drawers; swivel chair with armrests; wooden bookcase 1.5x1x0.3 m with sliding glass doors; lockable steel cabinet 2.0x0.9x0.45 m with adjustable shelves; lockable filing cabinet 0.6x0.45 m with four drawers; wall panel - blackboard 2x1 m; telephone, fax; coat hangers; waste bin; fire extinguisher.

Equipment: cabling for each working place 4 power sockets and 1 data socket, ceiling lighting in compliance with corresponding hygienic standards, 2 table fluorescent lamps, WI-FI connection 0-24 hours.

Meeting room

The meeting room shall be furnished with the following furniture and equipment:

Table and chairs for 20-25 persons, coat hanger for 20-25 coats, min. 10 power sockets, min. 10 light-

current sockets, WI-FI connection 0-24 hours.

Tea kitchenette

The kitchenette shall be equipped with hot and cold water supply and furnished with the following: sink, draining board and washable work surface, kitchen and wall-mounted cabinets, 1 automatic electric kettle, 1 microwave oven, 20-25 cups and teaspoons, 20-25 glasses, 20-25 cutlery sets, waste bin, 1 refrigerator 75 l.

Toilet

The toilet shall be furnished with: flush toilet and sink, mirror, soap dispenser, hand drier or roller towel or paper towel holder. The toilet will of an enclosed type. If a latrine is installed, it shall be emptied in an approved way. Sewage and waste will be disposed of in an approved facility.

Where a septic tank is to be installed, the Contractor shall be responsible for its installation, regular emptying, etc., and its removal after the work termination.

General equipment to be provided by the Contractor during the period of implementation

The Contractor shall provide, maintain, store on the construction site, and make available for the Supervisor’s Representatives advanced measuring devices intended for the control of executed construction Works.

No.	Item	Quantity
1	Cabinet for drawings	1 pc
2	Automatic levelling instruments, staff 5 m long	1 pc
3	Spirit level 1 m long	1 pc
4	100m laminate tape measure (open rewind spool)	1 pc
5	30m steel tape measure (open rewind spool)	1 pc
6	Sectioned layout pole, 2 m long	4 pcs
7	5 m pocket steel tape measure	2 pcs
8	Both-handed strike hammer and bowed hammer	1 pc
9	Sheet-metal board wipeable	1 pc
10	Markers for writing on the board	2x3 pcs.
11	Line marker	As required
12	Book for recording measurements	As required
13	Dynamic panel 300 mm	1 pcs
14	Hammer for measuring concrete hardness	As required
15	Contact thermometer for concrete	As required
16	Plastic device for measuring concrete consistency	As required
17	Water gauge	2 pcs
18	Plumb bob	2 pcs

19	Watertight lamp incl. batteries as required	5 pcs
20	Thermometer (maximum/minimum)	1 pc
21	Hard hats	15 pcs
22	Pair of rubber boots	15 pcs
23	Safety vest	15 pcs

The Contractor shall provide an adequate number of workers to perform cleaning and basic maintenance of tools and to assist the Supervisor at measuring, controlling, testing or proving works executed by the Contractor.

After the handover, a report shall be elaborated with a detailed list of equipment, signed by the Contractor, Supervisor and Contracting Authority.

Computer equipment

The Supervisor shall provide, operate at his own expenses and be responsible for all computer, communication and office technology, incl. the delivery of copying machines, printers, scanners, etc.

Signature

(person(s) authorised to sign on behalf of the tenderer)

Date

VOLUME 1

SECTION 4

FORM 4.6.9

List of Documents for Approval or Review

	Document	Description	Copies	Language, status	Timing	Applicable GC, SC Article
A	Design and Drawings					
A1	Basic Design	Contractor's Basic Design Drawings	6 hard 2 digital	English/ Georgian A	as Programme	Article 12c.7
A2	Detail Design	Contractor's Detail Design Drawings	6 hard 3 digital	English/ Georgian A	as Programme and before CD	Article 12c.8
A3	As-built Drawings	After Work's completion	6 hard 3 digital	English/ Georgian R	before TOC	Article 19.8
A4	Geodetic Drawings	For cadastre purposes	3 hard 3 digital	Georgian R	before TOC	Article 19.9
A5	Production Drawings (Working Drawings)	Drawings to be presented prior CD of relevant Works, parts or sections thereof	3 hard	English A	prior to production	Article 12c.10
B	Programmes					
B1	Programme of implementation	Programme for all related Contractor's activities with milestones	1 hard 1 digital	English A	CD + 30	Article 17.6
C	QA & Safety					
C1	Quality Assurance Plan (QAP)	Including List of materials	2 hard	English A	CD + 30	Article 40.3 Article 40.8
C2	Health and Safety Plan (HSE)	Due to local regulations	2 hard	English A	CD + 30	Article 22.5
C3	Environmental Plan	Due to local regulations	2 hard	English A	CD + 30	Article 22.5

D	Reports					
D1	Monthly	Regularly monthly Progress Works Reports	4 hard	English A	monthly	Article 12.12
D2	Negotiations with Authorities	Reports regarding negotiations	1 hard	English R	14 days period	Article 12.c6
E	Other documents					
E1	M & Q Manuals	For mechanical and electrical equipment	2 hard 2 digital	English/ Georgian A	as SC	Article 19.7
E2	Training Plan	For operation Staff of WWTP	2 hard 2 digital	English/ Georgian A	as SC	Article 62.4
E3	Trial Operation Report	Conditions of Trial Operation	2 hard	English/ Georgian A	as SC	Article 58.2
E4	Insurance documents	All related Insurance Documents	2 hard	English/ Georgian A	before CD	Article 16
E5	Changes in Subcontractor's list	List of Subcontractors	2 hard 1 digital	English A	as SC	Article 7.9
E6	Samples for Materials	Samples of construction materials	2 hard	English A	as SC	Article 12.18

Explanation Note

CD: Commencement Date, TOC: Taking Over Certificate, A: Approval, R: Review

VOLUME 1

SECTION 4

FORM 4.6.10

FURTHER INFORMATION

Tenderers may add here any further information that they deem useful for the evaluation of their tenders.

ADMINISTRATIVE COMPLIANCE LIST

Contract title:		Rehabilitation and Extension of WWTP, Georgia			Publication reference:				
Tender envelope number	Tenderer name	Tender submission form duly completed? (Yes/No)	others	Tenderer's declaration (signed by each consortium member, if appropriate)? (Yes/No)	Language as required?	Sub-contracting statement acceptable? (Yes/No/ Not Applicable)	Nationality of sub-contractors eligible? (Yes/No)	Overall decision? (Accept / Reject)	
1									
2									
3									
4									
5									
6									
7									
8									

Chairperson's name	
Chairperson's signature	

Date	
-------------	--

VOLUME 1

SECTION 5: EVALUATION GRID

EVALUATION

GRID

(To be customised according to the project. The criteria indicated are to be used by the evaluation committee.)

This grid must be completed by each evaluator.

Contract title:	Rehabilitation and extension of WWTP, Georgia	Publication reference:	
------------------------	---	-------------------------------	--

Tender envelope N°	Tenderer's name	Rules of origin respected? (Yes/No)	Economic and financial capacity? (OK/a/b/...)	Professional capacity? (OK/a/b/...)	Technical capacity? (OK/a/b/...)	Compliance with technical specifications? (OK/a/b/...)	Ancillary services as required? (OK/a/b/.../NA)	Nationalities of subcontractors eligible? (Yes/No)	Other technical requirements in tender dossier? (Yes/No)	Technical compliance? (Yes/No)	Observations

Tender envelope N°	Tenderer's name	Rules of origin respected? (Yes/No)	Economic and financial capacity? (OK/a/b/...)	Professional capacity? (OK/a/b/...)	Technical capacity? (OK/a/b/...)	Compliance with technical specifications? (OK/a/b/...)	Ancillary services as required? (OK/a/b/ /N/A)	Nationalities of subcontractors eligible? (Yes/No)	Other technical requirements in tender dossier? (Y	Technical compliance? (Yes/No)	Observations

Evaluator's name	
Evaluator's signature	
Date	

[Only very exceptionally, subject to derogation, the works offers which comply with the minimum quality levels, should be technically scored.

If so, add a technical evaluation grid (setting out the technical criteria, subcriteria and weightings):

	Maximum
Criteria	
...	
...	
...	
Overall total score	100

Strengths	
Weaknesses	

Evaluator's name	
Evaluator's signature	
Date	

VOLUME 2

SECTION 1

CONTRACT FORM

WORKS CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

NO <Contract number>

FINANCED FROM THE [EU GENERAL BUDGET] [EDF]

Between

[For direct management: The European Union, represented by the European Commission, B-1049 Brussels, Belgium, on behalf of and for the account of the government of <name of partner country/countries>]

OR

[For indirect management: United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia]

(‘The Contracting Authority’),

of the one part,

and

<Full official Name of Contractor>

[<Legal status/title>]¹⁵

[<Official registration number>]¹⁶

<Full official address>

[<VAT number>],¹⁷

(‘the Contractor’)

of the other part,

¹⁵ Where the contracting party is an individual.

¹⁶ Where applicable.

¹⁷ Except where the contracting party is not VAT registered.

have agreed as follows:

PROJECT <title and reference in the Financing Agreement/Decision>

CONTRACT TITLE: Rehabilitation ad Extension of WWTP, Georgia

Identification number <Publication reference>

Whereas the Contracting Authority would like the Contractor to carry out the following works:

Rehabilitation and extension of Waste Water Treatment Plant, Tbilisi

and has accepted a tender by the Contractor for the execution and completion of such works and the remedying of any defects therein.

It is hereby agreed as follows:

- (1) In this Contract, words and expressions shall have the meanings assigned to them in the contractual conditions set out below.
- (2) The following documents shall be deemed to form and be read and construed as part of this Contract, in the following order of precedence:
 - (a) the Contract,
 - (b) the Special Conditions,
 - (c) the General Conditions,
 - (d) the Technical and /or Performance Specifications,
 - (e) the Design Documentation (drawings),
 - (f) delete if not applicable: [the Bill of Quantities (after arithmetical corrections) and Detailed Breakdown of Prices] [the breakdown of lump-sum price],
 - (g) the tender Appendix to be used only by NEAR only in FIDIC contracts: [with appendix],
 - (h) any other documents forming part of the Contract.

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending.

- (3) In consideration of the payments to be made by the Contracting Authority to the Contractor as hereinafter mentioned, the Contractor undertakes to execute and complete the works and remedy defects therein in full compliance with the provisions of the Contract.
- (4) The Contracting Authority hereby agrees to pay the Contractor in consideration of the execution and completion of the works and remedying of defects therein the amount of:
 - Contract price (excluding VAT/other taxes) [EUR] [<ISO code of national currency> only for indirect management] <amount>

[The EU component EUR¹⁸<amount>]

[where necessary, <enter other sources of financing>]

- VAT and other taxes [EUR] [<ISO code of national currency> only for indirect management]
<amount>
- Contract price [EUR] [<ISO code of national currency> only for indirect management]
<amount in words>

or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract. VAT will be paid in compliance with the binding regulations, national law and international agreements concerning the execution of the project. VAT and other taxes shall not be paid on the funds originating from EU funds.

[(5) Other specific conditions applying to the Contract

[If necessary and after having obtained prior approval/derogation by the competent services:

The following conditions to the Contract shall apply: <...>]

In witness whereof the parties hereto have signed the Contract. This Contract shall take effect on the date on which it is signed by the last party, namely the Contractor.

Done in English in [two] [three] originals, [For direct management: [one] [two] originals for the European Commission] [For indirect management: one original for the Contracting Authority, one original for the European Commission,] and one original for the Contractor.

For the Contractor

For the Contracting Authority

Name:

Name:

Title:

Title:

Signature:

Signature:

Date:

Date:

[Endorsed for financing by the European Union (only for ex-ante control if the Commission makes the payments under the Contract)

¹⁸ In the event of cofinancing, the EU-contribution must normally be entered as a lump sum in euro.

Name:

Title:

Signature:

Date:]

VOLUME 2

SECTION 3

SPECIAL CONDITIONS

CONTENTS

These Conditions amplify and supplement the General Conditions governing the Contract. Unless the Special Conditions provide otherwise, the General Conditions remain fully applicable. The numbering of the Articles of the Special Conditions is not consecutive but follows the numbering of the General Conditions.

Article 1 Definitions

1.5 Good Industry Practice shall mean the exercise of that degree of the skill, diligence and prudence which would reasonably and ordinarily be expected from a skilled and experienced Contractor, equipment Manufacturer or Operator applying the Standards generally adopted by a global Contractors, global equipment Manufacturers and Operators in the construction or operation of Plants or the manufacture of equipment therefore, except in so far as inconsistent with any applicable Georgian Law or Directive.

Article 2 Language of the Contract

2.1 The language used shall be English.

Article 3 Order of precedence of Contract Documents

3.2 Unless otherwise provided in the Contract, the Contract Agreement and the Conditions shall prevail over any other Document forming part of the Contract and in a case of conflict between the Contract Agreement and the Conditions, the Contract Agreement shall prevail.

In the event that there is a conflict in the provisions of these Conditions, all provisions in the body of Conditions shall take precedence over the attachments, exhibits or appendixes to these Conditions.

Article 4 Communication

4.4 Address of Contracting Authority:

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi,
Georgia

Address of Supervisor: < enter due to separate Tendering Procedure >

Address of Contractor: < enter due to separate Tendering Procedure >

4.5 The Contractor and Contracting Authority shall disclose all such confidential and other information as may be reasonably required in order to verify Contractor's compliance with the Contract and allow its proper implementation.

Each of them shall treat the details of the Contract as a private and confidential, except for the extent necessary to carry out their respective obligations under the Contract or to comply with the applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous Agreement with the other Party.

However, the Contractor shall be permitted to disclose any publicly available information, or the information otherwise required to establish his qualification to complete other projects. The Contractor shall not communicate or use in advertising, publicity, sales releases or in any other

medium photographs or other reproduction of the Works under this Contract, or description of the Site, dimensions, quantity or other information, concerning the Works or the Services unless prior written permission has been obtained from the Contracting Authority.

- 4.6 Any Document, other than the Contract itself, enumerated in various Contract Documents shall remain the property of Contracting Authority and shall be returned (in all copies) to the Contracting Authority at the Task Implementation Period of the Contract.

Article 5 Supervisor and Supervisor's Representative

- 5.1 The Supervisor shall have no Authority to amend the Contract.
- 5.5 Address of the Supervisor's Representative: <enter due to separate Tendering Procedure >
- 5.6 The Supervisor shall obtain the specific Approval of a Contracting Authority before taking action under the following Articles of these Conditions:
- i) Article 35: Extension of the Task Implementation Period, or
 - ii) Article 37.2: Amendments, or
 - iii) Article 38: Suspension, or
 - iv) Article 48: Revision of prices, or
 - v) Article 55: Claims for additional payment - primarily Sub-Article 55.2, or
 - vi) Article 63: Breach of Contract.

Notwithstanding the obligation, as set out above, to obtain Approval, if, in the Supervisor's opinion, an emergency occurs affecting the safety of the life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such Work or to do all such things as may, in the Supervisor's opinion, be necessary to abate or reduce the risk.

The Contractor shall forthwith comply, despite the absence of Approval of the Contracting Authority, with any such instruction of the Supervisor. The Supervisor shall determine the dependence on the Contract Price respecting such instruction, under the Article 48 (Revision of prices) and shall notify the Contractor accordingly, with a copy to the Contracting Authority.

- 5.7 If the Contracting Authority intends to replace the Supervisor, the Authority shall, not less than 21 (twentyone) days before the intended date of the replacement, inform the Contractor about the name, address and relevant experience of the intended replacement Supervisor.

If the Contractor considers the intended replacement Supervisor to be unsuitable, he has the right to raise objection against him by noticing the Contracting Authority, with support of particulars, and the Authority shall give full and fair consideration to this objection.

Article 7 Subcontracting

[EDF only and if subcontracting is allowed:

- 7.3 In the selection of subcontractors, the Contractor shall give preference to natural persons, companies or firms of ACP States capable of implementing the tasks required on similar terms.]
- 7.9 Any changes due to a List of Subcontractors under the Form 4.6.3 (Work Plan and Programme) of the Tender Documents must be approved by a Supervisor. The Supervisor may withdraw his consent whenever the Work done by a Subcontractor does not comply with the Contract. The Contractor shall not subcontract the Works as whole.
- 7.10 Where practicable, the Contractor shall give fair and reasonable opportunity for Contractors from the Country to be appointed as Subcontractors or to employ locally acquired Staff to the greatest possible extent.

7.11 The Subcontractors are obliged to carry out parts of the Works in accordance with provisions of the Building Law and respective By-Laws which are in force in a Georgia. Among other requirements, Subcontractors shall obtain certified licenses issued in the Georgia before executing the Works under this Contract.

The foreign companies must register their Branch Offices in the Georgia and shall submit their registration to the Supervisor prior to execution of any Works or Services.

Article 9 Access to Site

9.5 The Contractor is reminded that there is a Head of Delegation of the European Commission in the state of a Contracting Authority. The Contractor is obliged to give the Head of Delegation free access to its Sites, factories, workshops, etc., and generally assist the Head of Delegation, like the Project Supervisor, in the performance of his duties. The same provisions also apply to the appointed Representatives of the Head of the Delegation.

All correspondence between the Contractor and the Contracting Authority or a Project Supervisor must be copied, for information, to the Head of Delegation of the European Commission at the following official address:

Delegation of the European Union to Georgia
38 Nino Chkheidze St., Tbilisi, 0102 Georgia

9.6 The Contractor shall be responsible for the proper fencing, guarding, lighting and security of all the Works on a Site and for the proper provision of temporary roadways, footways, guards and fences on the Site as far as may be necessary for the Works and so as not to endanger Contracting Authority of adjacent property.

In the event that the Contractor is in default of his obligations, the Supervisor may provide these as he may deem necessary and charge the cost thereof to the Contractor.

9.7 The Contractor shall, except for what is stated below, be responsible for the provision of all power, water and other services he may require for his construction activities and to the extent defined in the Specifications, for the Tests. The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Specifications. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Supervisor under the Article 55 (Claims for additional payment). The Contractor shall pay these amounts to the Contracting Authority.

Article 10 Assistance with local Regulations

- a. If the information from Contracting Authority is available only in the language of the Country, the Contractor shall provide the necessary translation for interpretation and use of the information.
- b. The Contractor shall be required to arrange and to bear the charges for obtaining all required statutory Approvals, which he has to obtain lawfully as a General Contractor.

Article 12 General Obligations

12.11 The Contractor shall respect a Country's recognized festivals, days of rest and religious or other customs. For the duration of the Contract, the Contractor and his Staff must respect human rights and undertake not to violate the political, cultural and religious morals of the Country.

12.12 The monthly progress reports shall be prepared by the Contractor and submitted to the Supervisor in 4 (four) copies. The reports shall be submitted monthly, each within 7 (seven) days after the last day of the period to which it relates.

Each progress report shall include:

- i) charts and detailed description of the progress, including each stage of a Design Phase, procurement, manufacture, delivery to Site, construction, erection, Testing and Trial Operation;
- ii) photographs showing the status of the manufacture and progress on the Site;
- iii) copies of the Quality Assurance Documents, Test results and Certificates of the materials;
- iv) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects;
- v) comparisons of the actual and planned progress for Design and Works, with details of any events which have influence on Completion in accordance with the Contract;
- vi) measures to be implemented to overcome Contractor's delays - if any.

12.13 The Contractor is obliged to carry out this Contract in accordance with provisions of the Building Law and respective By-Laws which are in force in a Georgia. Among other requirements, the Contractor shall obtain a certified licenses issued in the Georgia before executing the Works or Services under this Contract.

12.14 The data of all levels on Site shall be based on benchmarks approved by the Supervisor. During the period of construction of the Works the Contractor shall establish, construct and project necessary additional benchmarks, which shall be checked periodically. The Contractor shall maintain a record of levels of all the benchmarks and shall submit 1 (one) copy of the records to the Supervisor.

12.15 The Contractor shall employ well-qualified and experienced Surveyors approved by the Supervisor for execution of a Survey Works and setting out as described in the Contract. The survey instruments shall the Contractor submit recent calibration certificates issued by competent Authorities. Further calibration of the instruments shall be carried every 6 (six) months.

12.16 On the continuous basis consistent with the Good Industry Practice during the progress of the Works, the Contractor shall clear away and remove from the Site all surplus materials and, on Completion, all Contractor's equipment, provided that:

- i) the Contractor shall give a Contracting Authority the first right to refuse purchasing any surplus materials on the same terms as the Contractor would otherwise have disposed them to the Third Party or, if such terms are not readily ascertainable, on such terms as may be reasonable in all the circumstances; and
- ii) the Contractor shall, unless otherwise instructed by the Supervisor, leave on the Site for the Contracting Authority such Temporary Works as may be agreed with the Supervisor.

The Contractor shall at all time keep the Site and the Facilities in a clean, safe and workmanlike condition and shall dispose of all rubbish in a properly prepared landfill site in accordance with local Laws, By-Laws and Directives.

12.17 The Contractor shall be responsible for obtaining all import permits and other licenses required for the import of any Plant and permits and licenses for export and re-export of any Plant or part thereof.

12.18 The Contractor shall submit following samples of Materials, and relevant information to the Supervisor for consent prior to using the Materials in or for the Works:

- i) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and
- ii) additional samples instructed by the Supervisor as a Variation.

Each sample shall be labelled as to origin and intended use in the Works.

Article 12c Design and build Contracts

12c.2 Design Works shall be prepared by well-qualified Designers named in the Tender who are Engineers or other professionals who comply with the criteria stated in Contracting Authorities' Requirements. Unless otherwise stated in the Contract, the Contractor shall submit the name and address of each proposed Designer and Design Subcontractors to the Supervisor for consent. All Designers shall have a valid license for Design Works in accordance with the Law of the Georgia.

Designers shall be permitted to engage and/or use third party Designers or other service providers as independent Contractors in connection with the Services ("Design Subcontractors"). Notwithstanding, the Contractor shall remain fully responsible for such Design Subcontractors compliance with the Terms and Conditions of this Contract.

The Contractor warrants that he, his Designers and Design Subcontractors have the experience and capability necessary for the required Design Works. The Contractor undertakes that Designers shall be available to attend discussions with the Supervisor's Representative at all reasonable times, until the expiry date of the Defects Liability Period.

The Contractor's Documents shall comprise the Technical Documents specified in the Contracting Authorities' Requirements, Documents required to satisfy all regulatory Approvals, and the Documents described in Volume I, Section 4., Form 4.6.9 (List of Documents for Approval or Review). Unless otherwise stated in the Employer's Requirements, the Contractor's Documents related to Design Works shall be written in the communication language defined in the Article 2 (Language of the Contract) and due to the local Laws and regulations written also in Georgian language.

The sheet sizes shall be in accordance with international sizes unless otherwise agreed by the Supervisor's Representative. The choice of scale will depend on the kind of Drawings and/or details to be presented. The entire Works shall be designed and constructed in metric system. Drawings, components, dimensions and calibrations shall be in metric system and the units adopted shall be generally in accordance with the International System of Units.

The Drawings of all parts of the construction shall be clear and complete. The Works shall be designed in all respect to the latest current engineering practice.

All submitted Drawings and calculations shall be clearly rubber stamped by the Contractor as "DRAWINGS FOR APPROVAL". The final version of Drawings and Documents after check out and Approval by the Supervisor will be stamped by him as "APPROVED DRAWINGS".

If errors, omissions, ambiguities, inconsistencies, inadequacies or other defects and omissions are found in the Contractor's Documents, they shall be promptly corrected at the Contractor's cost, notwithstanding any consent or the Approval under this Sub-Article.

If the dimensions shown on Contracting Authorities's Drawings fail to coincide with the standard nominal sizes, materials or fittings available, reasonable substitutions shall be permitted but no extra payment will be allowed for such substitution.

These belongs also to gradient of existing sewers and pipelines and the level of weirs, inverts of channels, pipes and other hydraulic structures shall be checked by the Contractor prior the commencement of Design Works.

12c.3 The Design Works and the Contractor's Documents shall comply with the Technical Standards BS, BS:CP, and DIN, building, construction and environmental Laws and other Standards specified in the Employer's Requirements, applicable to the Works, or defined by the applicable Law on Architectural Activities in Georgia.

If necessary, equivalent National Standards may substitute the Standards referred to in the Specifications provided. The Contractor shall justify such substitution to the Supervisor's Representative and do so only after a written Approval received from him.

The Contractor shall keep on the Site at least 1 (one) copy of each of the relevant Standards, Codes, Manuals or approved National Standards which are referred to in the Specifications as well as the material supplied.

12c.4 If the Contractor considers that the Supervisor's instructions are incorrect, incomplete or inadequate in terms of the construction, it shall notify the Employer promptly and request additions or specifying instructions.

12c.5 The Contractor shall notify the Supervisor in writing the names, addresses and telephone numbers of his Representatives responsible for Design Works, the Designers and Subcontractors within 4 (four) weeks from the date of the Contract Award.

12c.6 In the event that any of the procedures proposed by the Contracting Authority will be in breach of Technical or other Standards and Regulations, the Contractor shall, at such a contradiction, gain Contracting Authority attention and provide an alternative solution, which is technically or other Standards and Regulations consistent and maximally reflects the requirements of the Employer.

The Contractor shall inform the Supervisor about any negotiations with all Authorities to administrative proceedings (including pre-meeting, kick-off meeting) and all the concerned Authorities in advance and the Supervisor is obliged to issue a relevant Power of Attorney for this purpose. The Contractor agrees to inform the Supervisor regularly about the progress and status of negotiations and handling matters with the relevant government Authorities, organizations and local entities in the Building Permit Procedure in a form of written report in 14 (fourteen) day periods (especially application for Building Permits, changes in the Documentation).

All information, data, Drawings and Documents prepared by the Contractor for performing the Services and Works subject of the Contract shall be deemed as the exclusive property of the Contracting Authority, copyrights included. The Contractor may not use them, except for the connection with performance of the Services and Works subject to the Contract.

With the exception of the prior written Approval of the Supervisor, the Contractor shall include a provision stating that they have to do their best themselves at any time whether before or after performing the Services, or after Termination of the Contract, not to use or disclose to anyone any data, Drawings, Documents or any other information of any kind and in any manner, whether written or oral that may be in their possession or to which they are privy, or whatever is related to the Contract, Services or to the Works or work secrets, transactions, deals or affairs of the Contracting Authority in the Contracts with its Design Subcontractors.

The Contractor shall not be deemed in breach of this Contract regarding Design Works if the Contractor is unable to complete the Services or any portion thereof by reason of fire, earthquake, labor dispute, Act of God or public enemy, death, or any local, state, federal, national or international Law, governmental order or regulation or any other event beyond Contractor's control under the Article 66. (Force majeure) of GC.

12c.7 Base on a Preliminary Study/Study approved by the Contracting Authority and relevant local Authorities, the Contractor shall prepare Basic Design Drawings so that specification, scope and

details based on the Law on Architectural Activities and respect the general technical requirements for construction and other applicable and related legislative and administrative Regulations and Standards in the Georgia.

Prior to submission of the Basic Design to local Authorities, the Contractor shall submit two (2) copies of the Documentation to the Supervisor to obtain his written Approval.

The Contractor shall discuss the Basic Design with all relevant local Authorities to obtain a Construction Permit.

In the event that, with regard to the requirements of local Authorities or other entities, it will be necessary to divide related Drawings and/or Documentation to more parts or the Approval Procedure will require more Construction Permits, these shall be provide by the Contractor without affecting a Period of Implementation of Tasks and a Contract Price.

The Basic Design Drawings shall be handed over in 6 (six) copies in paper form and on data carrier 2 (two) pcs CD in standard formats MS Office and / or AutoCAD, version min. 2010.

- 12c.8 Base on a Basic Design Drawings the Contractor shall prepare documentation for building construction so that structure, scope and details based on the Law on Architectural Activities in compliance with the general requirements for the construction, and other applicable and related legislative and administrative provisions in force, and binding Technical Standards and Regulations in the Georgia.

The Detail Design shall reflect the requirements of related Authorities issued by a valid Construction Permit and all from the Contracting Authority required design changes, generally applicable Technical mandatory or recommended Standards for the construction with regard to the construction and technical and use properties of materials used, especially with regard to the efficient lifetime operation.

Each Design Documentation shall bear a serial number and any changes in the Drawings shall be indexed "1 - n", describing the changes, the date of its execution and the signature of the Designer. The Contractor shall maintain and update records of all related drawings, which will be available at the Supervisor's Representative.

The Detail Design Drawings in accordance with the Law on Architectural Activities shall be handed over to the Contracting Authority in 6 (six) hard copies and 3 (three) copies on a CD media data in a DWG format (DXF), PDF, and Excel. Any extra copy of the Technical or other Documentation must be pre-approved by the Supervisor's Representative.

- 12.c9 The general permits concerning the Works required from relevant national or local Authorities shall be obtained by the Contractor after providing all relevant Design Phases. These permits include primarily the permits for traffic diversions, route permits, permits for radio communication, and permits for relocation of public utilities etc.

The Contracting Authority and the Contractor together shall draw up a schedule for the submission of fully documented requests for permits to carry out the Works. The cost of any delays suffered by the Contractor due to the late issue of any permits mentioned in this Article to carry out the Works shall be borne by the Contractor.

- 12.c10 The Contractor shall submit Production Drawings (Working Drawings) in 3 (three) hard copies for the Approval of the Supervisor prior to the manufacture - primarily for steel constructions and mechanical parts of related Works.

The Production Drawings shall show the manufacturing and assembly of parts of the Plant in detail and define the size, shape, location and production of components. The details of materials, the number of components needed for the assembly, etc. are given in the title block of Production Drawings. The sufficient number of views, details and/or section shall be incorporated in Production Drawings. If necessary, installation assembly drawings, interface control drawings or mechanical schematic diagram drawings shall be a part of Production Drawings. The metric dimension shall be used; units and symbol shall be according to the SI standards. The Production Drawings shall be prepared in standard size drawing sheets.

A List of Material (LM) shall be prepared and included in each Assembly Drawing to provide the individual part or subassembly item number, quantity required, part number, description, material, and material specification.

Article 14 Staff

14.3 If the Contractor's Representatives, Site Managers, Designers or any of these persons, is not fluent in the language defined in Article 2 (Language of the Contract), the Contractor shall provide a competent Interpreter available during all working hours in a number deemed sufficient by the Supervisor.

14.4 The Contractor may bring any foreign Staff who is necessary for the execution of the Works to the extent allowed by a applicable Laws in the Country. The Contractor shall ensure that these Staff are provided with the required residence visas and Work Permits. The Supervisor will, if requested by the Contractor, use his best endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, and national or government permission required for bringing in the Contractor's Staff.

The Contractor shall be responsible for the return of these Staff to the place where they were recruited or to their domicile. In the event of death of any of these Staff or members of their families in the Country, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.

The Contractor shall submit a complete list of a foreign field Staff required for the performance of the Works on Site to the Supervisor. The Supervisor will have the right to review the list of such Personnel and ask for increase in the strength or reschedule the visits of such Personnel in the Supervisor's opinion.

14.5 No Work shall be carried out on the Site on locally recognized days of rest, or aside normal working hours stated in the Appendix to the Tender, unless:

- i) the Supervisor gives consent, or
- ii) the Work is unavoidable, or necessary for the protection of the life or property, or
- iii) for the safety of the Works, in which case the Contractor shall immediately advise the Supervisor.

Hours of Work shall comply with the applicable Laws, collective agreements, and industry Standards. Overtime shall be voluntary wherever possible, shall not be demanded on a regular basis and shall always be compensated at a premium rate. The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including the Law relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall require his Employees to obey all applicable Laws, including those concerning the safety at the Work.

14.7 Except for what is otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Supervisor's Personnel as stated in the Specification.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming a part of the Permanent Works.

Article 15 Performance guarantee

15.1 The amount of the Performance Guarantee shall be 10 (ten) % of the amount of the Contract and any addenda thereto.

15.3 The Contractor shall obtain (at his cost) the Performance Guarantee for proper performance in the form of an original Bank Guarantee issued by a reputable bank operating in Georgia or by a foreign bank through a co-operating bank in Georgia or, subject to the Approval of the Supervisor, directly by a foreign bank.

15.9 The Contracting Authority shall not make a Claim under the Performance Guarantee, except for amounts to which the Contracting Authority is entitled under the Contract. The Contracting Authority shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the Claim under the Performance Guarantee to the extent to which the Contracting Authority was not entitled to make the Claim.

Article 16 Liabilities, Insurance and Security arrangements

16.1 The identity of the Insurers and the form of the policies shall be subject to the Approval of the Supervisor, such Approval not to be unreasonably withheld.

16.1c) The Contractor's liability with respect to the third party shall be capped to the amount of 200.000,00 EUR with deductible limits of 5.000,00 EUR.

16.1d) The Contractor's Professional Indemnity Insurance for the Design Works shall cover the risk of professional negligence. This Insurance shall be capped to the amount of 50.000,00 EUR with deductible limits of 5.000,00 EUR.

16.2a) The Contracting Authority shall be named as co-insured under insurance policies taken out by the Contractor pursuant to the Article 16.1 a) - d) above, except for the Workers' Compensation. All Insurer's rights of subrogation against such co-insured for losses or Claims arising out of the Performance of the Contract shall be waived under such policies.

Article 17 Programme of implementation of tasks

17.6 The form of the Programme of Performance of the Contract shall be prepared according to the Critical Path Method (CPM) as a Contract Master Schedule (CMS) using Primavera SureTrack Programme, MS Project or other similar international recognized Programmes. The activities shall be definite, discrete and measurable work elements and shall be selected such they depict the full scope of the Work including the Design Phases, construction and commissioning and start-up of the facility. The CMS shall typically contain sections covering the design, procurement, manufacture and field activities as appropriate to the project. The network shall be planned in the sufficient detail to show dependencies and interfaces with the other Work packages and conform to the schedule of the Time for Completion from the Effective Contract Date.

However, the CMS shall clearly identify key milestone dates according to the Time Programme according to Volume I, Section 4. Art. 4.6.3. The level of detail shall be sufficient to break down the Work scope into manageable and measurable activities acceptable to the Supervisor. The Contractor shall submit detailed CMS within the time frame agreed of adequate number of activities covering all key phases of the Works. The schedule shall be detailed when the Approval of the Supervisor will be sought, together with proposed submission dates.

The Contractor shall update, prepare and submit to the Supervisor for information as the Work progresses updated milestone summary schedules, retaining the Time Programme as a baseline. The above CMS shall be reviewed and periodic review reports shall be submitted by the Contractor to the Supervisor. All the programs as well as schedules shall be updated with progress information every month or at a frequency mutually agreed upon.

The Project Schedule shall be amended only in the event and to extent of an Extension of Time granted by the Contracting Authority.

Article 19 Contractor's Drawings and execution studies

19.7 The Maintenance and Operation Manuals (M&O Manuals) shall be handed over in the language of the Contract as well as in local language in 2 (two) printed copies and 2 (two) copies on CD data. The Manuals define the requirements and procedures for the effective operation and maintenance of the Plant.

Based on the As-built drawings under the Article 19.8 comprehensive Manuals shall provide a means to reduce operating costs through a comprehensive Maintenance Program, part of which includes the development of a Maintenance Plan (MP).

The Manuals shall be divided into following chapters:

- i) physical description;
- ii) description - system-level;
- iii) operating procedures - Controls/Start-up/Shutdown/Emergency Over- Ride/Seasonal Changeover;
- iv) spare parts list;
- v) problems and solutions - troubleshooting;
- vi) preventative (Planned) Maintenance (PM) - Procedures/Intervals including maintenance-significant drawings.

The elements of narrative text (pdf, html, xml, etc.), graphics including BIM, sound, photographs, and videos can all be organized into a user-friendly, interactive, stand-alone PC or web-based (e.g. Intranet) application or platform. All the information, including text, BIM / 3D models / animations, CAD drawings, illustrations, and digital photographs can be viewed and manipulated (read only) by on-line viewers and can only be modified off-line. Updates/modifications shall be typically through a configuration management process and formal authorization.

19.8 After completion of the Works, the Contractor shall prepare and hand over 6 (six) printed copies of the complete Project Documentation for the Works to the Employer, 3 (three) copies will be transmitted on the CD data in DWG (DXF), PDF, and Excel form.

The As-built drawings shall be made in the compliance, the scope and level due to the Law on Architectural Activities showing the exact as-built locations, sizes and details of the Works as executed.

The final version of As-built drawings shall be approved by the Supervisor prior to issuing of the Final Acceptance Certificate in accordance with the Article 62 (Final Acceptance) of GC. The Works shall not be considered as completed for the purpose of this procedure until the Supervisor receives and approves these Documents.

- 19.9 The Contractor shall provide at its sole expense geodetic measurements of all related Works. The Drawings shall be handed over in 3 (three) printed copies and 3 (three) pieces on CD. The geodetic measurements shall be performed by the licensed Engineer. The geodetic measurements, Technical Documentation and execution of the Geodetic Works shall be provide in accordance with the Law on State Surveying and Cadastre of immovable property and other related local Decrees and Regulations valid in Georgia.
- 19.10 The Contractor shall provide delivery, installation, configuration, adaption, maintenance and operation of exchange server (ODOT FTP server) for data storage, especially for Drawings, Documentation and as a storage management for back up, working under Microsoft environments (Active Directory, Exchange, file and print services under Windows 2010).
- The server shall restrict authenticating access with passwords and users ID except for the Contracting Authority, Supervisor and Contractor.
- The server shall ensure non-AutoCAD users on-line access to all drawing files and shall protect the original DWG files from unauthorized changes. The installed software shall encrypt each file on server due to restricted access of users and ward against unauthorized recipients opening them. Access and usage rights shall be managed during the whole Time for Completion by the Contractor.
- 19.11 One copy of all Drawings and Documents relating to the Works shall be kept by the Contractor on the Site. The same shall at the all reasonable times be available for inspection and use by the Supervisor's Representative, who shall have the right at all reasonable times to inspect at the premises of the Contractor or any of his Subcontractors all Drawings of and all Documents relative to the Works or any part thereof.
- 19.12 The Contractor shall effect and maintain at its sole expense, the professional liability which shall cover all risks of professional negligence in Design Works pursuant and in the amount to the Article 16.1d) and advertising injury Insurance from a recognized Insurance Company during the period of implementation of this Contract.

Such Insurance shall name the Contractor individually as an additional named insured. The Contractor shall maintain the Insurance Policies required by this Article for the period of implementation of the Contract and produce evidence of Insurance, if requested. The Contractor undertakes to notify the Supervisor promptly of any difficulty in extending, renewing or reinstating this Insurance. The Insurance shall include also cover in the respect of mitigation, rectification and re-design costs - if any.

If the Contractor fails to submit or extend the validity of such Insurance, the Contracting Authority is entitled to enter into or extend such Insurance at the expense, risk and peril of the Contractor without any further written communication and offset this against any Interim Payment issued by the Contractor.

- 19.13 The Contractor's Documents shall be subject to the Supervisor's review. Unless otherwise stated in the Specification, each review period shall not exceed 14 (fourteen) days, calculated from the date on which the Supervisor receives a Contractor's Document and the Contractor's notice.

The notice shall state that the Contractor's Document is considered ready, both for review (and Approval, if so specified) in accordance with this Sub-article and for use. The notice shall also state that the Contractor's Document complies with the Contract, or the extent to which it does not comply.

The Supervisor may, within the review period, give notice to the Contractor that a Contractor's Document is:

- i) approved;
- ii) approved with comments or;
- iii) failed (to the extent stated)

to comply with the Contract. If a Contractor's Document is approved with comments or failed to comply, it shall be rectified, resubmitted and reviewed (and, if specified approved) in accordance with this Sub-Article, at the Contractor's expense.

Alterations and/or remarks made by the Supervisor on the Drawings or the calculations shall be incorporated immediately and the drawings and/or calculations re-submitted until final Approval is obtained. Supervisor's Approval of any Contractor's Drawings and calculations including any alternations made by the Supervisor shall not relieve the Contractor of his obligations to execute the Works in accordance with the Contract.

All modifications requested by the Supervisor shall be carried out without any additional charge. In the event of the Contractor disagreeing with the alterations requested by the Supervisor, the Contractor shall send a written notice to the Supervisor within 5 (five) days of receiving the altered Drawing(s).

The execution of any part of the Works shall not commence until the Supervisor has approved the relevant Drawings, calculations or any of Contractor's Documents. If the Supervisor instructs that further Contractor's Documents are required, the Contractor shall prepare them promptly.

If the Contractor wishes to modify any Drawing or Document which has previously been submitted for the review (and, if specified, Approval), the Contractor shall immediately give notice to the Supervisor. Thereafter, the Contractor shall submit the revised Documents to the Supervisor in accordance with the above procedure.

Any such Approval or consent, or any review (under this Sub-Article or otherwise), shall not relieve the Contractor from any obligation or responsibility.

Article 22 Safety on Sites

22.5 The Contractor shall comply with all applicable Laws of the Country with respect to all measures, operations and administrative steps required for the full protection and safeguarding of the environment including sewage disposal, waste disposal, air pollution, noise reduction, nuisance and fire fighting precautions. The Safety and Environment Plan (HSE Plan) must be approved by the Supervisor prior commencement of the Section of Work or Works.

The Contractor shall not release, or permit to be released into the air, water and land area at or in the vicinity of the Site any toxic or harmful effluent or substance, and shall indemnify the Contracting Authority against any Claims or liability arising from any breach of this obligation.

22.6 The Contractor shall have the total responsibility for all equipment and materials in his custody stored, loose, semi-assembled and/or erected by him on Site. The Contractor shall make suitable security arrangement including employment of security Personnel to ensure the protection of all materials, equipment and Works from theft, fire, pilferage, and any other damages and loss.

Article 24 Interference with traffic

24.3 Where closure of a public road is required under the Contract, the Approval of the responsible Authority is required before such closure can take place. The Contractor shall provide the responsible Authority, not less than 14 (fourteen) days before the planned closure of the road, his proposal on how the Work shall be undertaken, public traffic will be detoured, and the Time for its Completion, shall be specify. The Supervisor shall approve the Contractor's proposal, or seek amendments in order to ensure compliance with this Sub-Article and the local Regulations.

Article 26 Setting-out

26.4 The Contractor shall acquaint himself with the position of all existing services such as sewerage, water supply, telecommunications, electricity, gas and the like before any excavation or other Work likely to affect those services is commenced.

Prior to commencement of the Works the Contractor shall request in writing the Owners or Operators of all buried services to locate these services. The Contractor shall be liable for any

damage of any kind caused by him or his Subcontractors in the execution of the Works, and must improve such damage at his own expense and to the satisfaction of the Supervisor.

- 26.5 The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Supervisor as additional working areas. The Contractor shall take all necessary precautions to keep the Contractor's Equipment and the Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land. The cost of these Works shall be borne by the Contractor.

Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from that part of the Site and Works to which the Taking-Over Certificate refers. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain such Goods as are required for the Contractor to fulfil obligations under the Contract on Site during the Defects Notification Period.

- 26.6 All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and Authority of the Contracting Authority. The Contractor shall take reasonable precautions to prevent the Contractor's Personnel or other Persons from removing or damaging any of these findings.

The Contractor shall, upon discovery of any such finding, promptly give notice to the Supervisor, who shall issue instructions for dealing with it, taking the local Law into consideration. If the Contractor suffers delay and/or incurs cost from complying with the instructions, the Contractor shall give a further notice to the Supervisor and shall be entitled subject to the Article 55. (Claims for additional payment) to:

- i) an extension of time for any such delay, if completion is or will be delayed, under the Article 35. (Extension of the period of implementation of tasks), and
- ii) payment of any such cost, which shall be included in the Contract Price.

Article 32 Patents and licenses

- 32.2 As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other Design Documents made by (or behalf of) the Contractor.

The Contractor shall be deemed (by signing the Contract) to give to the Contracting Authority a non-terminable transferable exclusive royalty-free license to copy, use, reproduce, and communicate the Contractor's Documents perpetual and worldwide, including making and using modifications of them as defined and enforceable under the Georgian Copyright Law in accordance with the Terms and Conditions of this Contract

This License shall:

- i) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- ii) entitle any Person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- iii) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract.

The Contractor's Documents and other Design Documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) Contracting Authority for purposes other than those permitted under this Sub-article.

However the Contracting Authority is not obliged to provide any changes in the Contractor's

Documents, reports, drawings etc.

Royalties and fees for patents covering materials, articles, apparatus, devices, equipment or processes used in the Works shall be deemed to have been included in the Contract Price. The Contractor shall satisfy all demands that may be made at any time for such royalties or fees. The Contractor shall, at his own cost and expense, defend all suits or proceedings that may be instituted for alleged infringement of any patents involved in the Works.

Article 33 Commencement orders

33.1 The Supervisor issues an administrative order notifying the Contractor the date on which the Commencement of Tasks shall start due to the Article 33.3 not later than 60 (sixty) days following notification of Award of the Contract.

33.4 Except as otherwise specified in the Special Conditions of Contract, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled:

i) signature of the Contract Agreement by both Parties, and if required, the Approval of the Contract by relevant Authorities in the Country, and

ii) receipt by the Contracting Authority of the Performance Guarantee under the Article 15 (Performance Guarantee), and

iii) receipt by the Contracting Authority of the Professional Indemnity Insurance under the Article 16 (Liability and Insurance), and

Contracting Authority shall give the relevant Authorities, with copies sent to the Contractor and the Supervisor, not less than 7 (seven) days notice of Commencement of the Construction including the Safety Plan prepared by the Contractor, name of licensed Contractor's Representative, name of licensed Supervisor's Representative.

Article 34 Period of implementation of tasks

34.1 Period of implementation of tasks shall be 18 (eighteen) months.

Article 36 Delays in the implementation of tasks

36.1 The rate of liquidated damages for delays in the Completion of Works shall be 0.1% of the Contract Price for every day or part thereof which elapses between the end of the Period of Implementation of tasks and the actual Date of Completion, up to a maximum amount of 20 % of the Contract Price.

Article 39 Work Register

39.6 Any record made in the Work Register shall be in accordance with the relevant Law of Georgia.

Article 40 Origin and quality of Works and materials

40.1 All goods purchased under the Contract must originate in any eligible source country as defined in < insert relevant instrument financing the project > programme. For these purposes, 'origin' means the place where the goods are mined, grown, produced or manufactured and/or from which Services are provided. The origin of the goods must be determined according to the EU Customs Code or the applicable International Agreement.

When importing goods, any change in the specified origin must be pointed out to the Project

Supervisor and approved by him.

- 40.5 The Works and the objects, appliances, equipment or materials used in their construction must comply with the Law on Architectural Activities of Georgia and primarily with the requirements of the Technical Specifications under the Volume III. of Tender Documents containing these requirements.

The Contractor's Design, the Contractor's Documents, the execution and the completed Works shall comply with the Technical Standards of the European Community (EN) as well as with the Standards, building and environmental Laws applicable in Georgia and other standards specified in the Specification, applicable to the Works, or defined by the applicable Laws.

- 40.6 The Contractor shall keep on the Site 1 (one) copy of any other Standard, Code, Manual, or National Standard, which applies to materials supplied. Copies of Standards shall be made available for reference at all times in the office of the Supervisor.
- 40.7 In the event of any ambiguity or discrepancy between the Technical Specification and the data sheets prepared by the Contractor, the provisions of the Technical Specifications shall prevail. In the event of any ambiguity or discrepancy between different parts of the Technical Specification, the Contractor shall submit to the Supervisor for Approval its proposal for dealing with such ambiguity or discrepancy. The decision of the Supervisor shall be final.
- 40.8 The Contractor shall institute a quality assurance system in a form of the Quality Assurance Plan (QAP) to demonstrate a compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. A details of all procedures and compliance Documents shall be submitted to the Supervisor to obtain the Approval before each Design and execution phase is commenced. The compliance with the Quality Assurance Plan shall not relieve the Contractor of any of his duties, obligations and responsibilities under the Contract.

Article 44 General principles

- 44.1 Payments shall be made in EUR.
- 44.2 If invoices are submitted to the Contracting Authority, the Contractor shall inform the European Commission thereof by sending a copy to:

Delegation of the European Union to Georgia
38 Nino Chkheidze St., Tbilisi, 0102 Georgia

- 44.3 By derogation, pre-financing payment to the Contractor for the Lump-sum advance shall be made within 30 (thirty) days. Other pre-financing payments to the Contractor shall be made within 90 (ninety) days. Interim Payments to the Contractor of the amounts due under each of the Interim Payment Certificates approved by the Supervisor shall be made within 90 (ninety) days, and the final payment to the Contractor of the amounts due after the final statement of account issued by the Supervisor shall be made within 90 (ninety) days.

Article 46 Pre-financing

- 46.2 The total amount of the pre-financing shall not exceed 10 % of the original Contract Price.
- 46.8 Repayment of the pre-financing shall take the form of deductions based on monthly Claims. The pre-financing for plant, machinery and tools and the pre-financing for Design Works (10 % maximum) - shall be repaid by means of deductions from installments and, if necessary, the balance due to the Contractor. Repayment shall begin with the first installment and end, at the very latest, by the time 90 % of the amount of the Contract has been paid.

The amount to be deducted from each installment shall be calculated using the following formula:

$$R = \frac{Va \times D}{Vt \times 0.9}$$

where:

R = the amount to be repaid

Va = the total amount of pre-financing

Vt = the initial contract amount

D = the amount of the installment.

Article 47 Retention money

47.1 The sum to be retained from Interim Payments to guarantee the implementation of the Contractor's obligations during the Defects Liability Period is 10 (ten) % of each installment.

Article 49 Measurement

49.1a The amounts shall be calculated by measuring the percentage of the Works carried out in relation to the firm quantities of each item of the Breakdown of the Lump-sum Price and by applying that percentage to the Lump-sum Price of the all related item.

Article 50 Interim Payments

50.1 The Contractor shall submit an invoice in six (6) copies based on the price breakdown in a form approved by the Supervisor, showing in detail the amounts to which the Contractor considers himself to be entitled, together with all supporting Documents, calculations etc. which shall include the relevant progress report in accordance with the Article 12.12 (General obligations).

All submitted items shall include costs of the Plant and equipment supplied from the abroad, the Plant and equipment supplied, local transportation and installation services as well as cost for Design Works and Construction Yard Facilities.

50.7 The minimum amount for Interim Payment Certificate shall be 100.000, 00 EUR.

50.8 The Contractor shall notify to the Contracting Authority, prior to any payment under the Contract, details of the bank account (s) nominated by the Contractor for payments for the currency or currencies specified in the Contract. All payments of the amounts due to the Contractor shall be made into the bank account (s) thus nominated by the Contractor. Payments will be made in the currencies quoted by the Tender Documents, unless otherwise agreed between the parties, in the payment country specified in the Contract.

Article 51 Final statement of account

51.1 The Contractor shall, submit to the Supervisor a Draft Final Statement of account in six (6) copies when it applies for the Provisional Acceptance Certificate. In order to enable the Supervisor to prepare the final statement of account, a Draft Final Statement of account is submitted with supporting documents showing in the detail the value of the Work done in accordance with the Contract and all further sums which the Contractor considers to be due under the Contract.

51.2 Within 60 (sixty) days from issuing the Certificate of the Final Acceptance referred to in

Article 62 (Final acceptance), the Supervisor shall prepare and signed the Final Statement of the account.

- 51.6 If the Supervisor disagrees with or cannot verify any part of the Draft Final Statement, the Contractor shall submit such further information as the Supervisor may reasonably require and shall make such changes in the draft form as may be agreed between them.

Article 53 Delayed payments

- 53.1 By derogation from Article 53.1 of the General Conditions, once the time-limit referred to the Article 44.3 has expired, the Contractor shall be entitled to late-payment interest at the rate and for the period mentioned in the General Conditions. The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right.

Article 55 Claims for additional payment

- 55.4 If the Contracting Authority is considered to be entitled to any payment under any Article of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Liability Period, the Contracting Authority or the Supervisor shall give notice and particulars to the Contractor.

The notice shall be given as soon as practicable and no longer than 28 (twentyeight) days after the Contracting Authority becomes aware, or should have become aware, of the event or circumstances giving rise to the Claim. A notice relating to any extension of the Defects Liability Period shall be given before the expiry of such period.

The particulars shall specify the Article or other basis of the Claim, and shall include substantiation of the amount and/or extension to which the Contracting Authority considers herself to be entitled in connection with the Contract.

The Supervisor shall then proceed in accordance with Sub-Article 5.4 to agree or determine

- i) the amount (if any) which Contracting Authority is entitled to be paid by the Contractor, and/or
- ii) the extension of the Defects Liability Period (if any).

This amount may be included as a deduction in the Contract Price and Payment Certificates. The Contracting Authority shall only be entitled to set off against or make any deduction from an amount certified in the Payment Certificate, or to otherwise Claim against the Contractor, in accordance with this Sub-article.

Article 58 Tests on Completion

- 58.1 The Contractor shall carry out the Tests on Completion in accordance with this Article after providing the Documents under the Article 19.7 (Contractor's Drawings and execution studies) and the Article 19.8 (As-built Drawings).

The Contractor shall give the Supervisor not less than 21 (twentyone) days notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 (fourteen) days after this date, on such day or days as the Supervisor shall instruct.

The Tests on Completion shall be carried out in the following sequence:

- i) Pre-commissioning Tests, which shall include the appropriate inspections and ("dry" or "cold") functional tests to demonstrate that each item of the Plant can safely undertake the next stage, ii);
- ii) Commissioning Tests, which shall include specified Operational Tests to demonstrate that the Works or Sections can be operated safely and as specified, under all available

- operating conditions; and
- iii) Trial Operation, which shall demonstrate that the Works or Section perform reliably and in accordance with the Contract.

During the Trial Operation, when the Works are operating under stable conditions, the Contractor shall give notice to the Supervisor that the Works are ready for any other Tests on Completion, including Performance Tests to demonstrate whether the Works conform with criteria specified in Contracting Authorities' Requirements and to the Performance Guarantee.

The Trial Operation shall not constitute a taking-over under the Article 59 (Partial acceptance). Unless otherwise stated in the Special Conditions, any product produced by the Works during the Trial Operation shall be the property of the Contracting Authority.

In considering the results of the Tests on Completion, appropriate allowance shall be made for the effect of any use of the Works by the Contracting Authority on the performance or other characteristics of the Works. As soon as the Works or Sections have passed each of the Tests on Completion described in Sub-article i), ii) or iii), the Contractor shall submit a certified Report of the results of these Tests to the Supervisor.

- 58.2 During the Trial Operation the Plant shall be operated over the full load range enabling the Plant to be made ready for the Guarantee Tests. The Trial Operation shall mean the period 30 (thirty) days of continuous operation at various operating modes. Out of this, 96 (ninety-six) hours of uninterrupted operation must be at full load as may be provided by the Contracting Authority. If there is any interruption in this 96 (ninety-six) hours period, the same shall have to be attempted and demonstrated for guaranteed 96 (ninety-six) hours of uninterrupted running. If period of interruption is more than 4 (four) hours, the 24 (twenty-four) hours will be added to 60 (sixty) days.

If the period of interruption during the Trial Operation is more than 48 (forty-eight) hours, then the Supervisor shall have the discretion of repeating the entire test, depending on the circumstances of down time.

The Trial Operation shall be considered successful, provided that each item/part of the Plant can operate continuously at the specified operating characteristics with all operating parameters within the specified limits. The Contractor shall furnish adequate notice to the Supervisor about the commencement of the Trial Operation.

A Trial Operation Report submitted by Contractor shall have details of various observations made during the Trial Operation, details of interruptions occurred, adjustments made, and any minor repairs done, including start and finish of the Trial Operation and shall be signed by the Representatives of both parties. Based on the observations, necessary modifications/repairs to the Plant shall be carried out by the Contractor to the full satisfaction of the Contracting Authority to enable to carry out the Guarantee Tests on the Facilities.

However, minor defects which do not endanger the safe operation of the Plant, shall not be considered as reasons for withholding the aforesaid permission.

- 58.3 If the Tests on Completion are being unduly delayed by the Contracting Authority, Article 35 (Extension of the Period of the Implementation of the tasks) and/or Article 55 (Claims for additionally payment) shall be applicable.

If the Tests on Completion are being unduly delayed by the Contractor, the Supervisor may by notice require the Contractor to carry out the Tests within 21 (twenty-one) days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Supervisor.

If the Contractor fails to carry out the Tests on Completion within the period of 21 (twentyone) days, the Supervisor's Personnel may proceed with the Tests at the risk and cost of the Contractor. These Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

58.4 If the Works, or Sections, fail to pass the Tests on Completion due to the Article 58.1, the Supervisor or the Contractor may require the failed Tests and Tests on Completion on any related Work, to be repeated under the same Terms and Conditions.

58.5 If the Works or Sections, fail to pass the Tests on Completion repeated under the

Article 58.4 (Retesting), the Contracting Authority shall be entitled to:

- i) order further repetition of Tests on Completion under the Article 58.1;
- ii) if the failure deprives the Supervisor of substantially the whole benefit of the Works or Sections, reject the Works or Sections (as the case may be), in which event the Supervisor shall have the same remedies as are provided in the Article 48.5 (Revision of prices); or
- iii) issue a Taking-Over Certificate.

In the event of Sub-article iii), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Contracting Authority as a result of this failure.

Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Supervisor may require the reduction to be:

- i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or
- ii) determined and paid under Article 63 (Breach of Contract) and Article 48.5 (Revision of prices).

Article 59 Partial Acceptance

59.4 The Contractor shall undertake to train at site installation, operation and maintenance of the delivered Plant Equipment, free of cost, engineering Personnel selected by the Contracting Authority. The period and the nature of Training for the individual Personnel shall be agreed upon mutually between the Contractor and the Contracting Authority covering the all areas as a minimum in order to enable these Personnel to individually take the responsibility of operating and maintaining the Plant in a manner acceptable to the Contracting Authority.

The Training shall include all the related areas like training of major equipment and systems, engineering, manufacturing, erection, commissioning, training on operating features of equipment, quality assurance and testing, exposure to various kinds of the operation and maintenance problems.

The Training Plans shall be handed over to the Supervisor in 2 (two) copies in paper form and 2 (two) CD in standard formats MS Office in English and Georgian language prior to Commencement of the Test due to Article 58. (Tests on Completion).

59.5 The Contractor shall furnish complete details of the package-wise training at Site in all disciplines - electrical, mechanical, SCADA operation, control & instrumentation etc. for Supervisor's Approval. The engineering Personnel should become familiar with all the equipment being supplied by the Contractor. It shall be clearly understood that it shall be the duty of the Contractor to train Contracting Authorities' Engineers and Operators such as to make them fully fit and proficient to operate and maintain the entire equipment completely satisfactorily during its running. The training shall also cover minor repair Works and maintenance Works like lubrication, overhauling adjustment, testing and replacement procedures to be adopted for the equipment offered.

The following groups of engineering Personnel shall receive the training:

- i) Plant Management;
- ii) Operation Management;
- iii) Mechanical Maintenance Personnel;
- iv) Electrical Maintenance Personnel;
- v) Shift Engineers;
- vi) Other groups as may be indicated by the Contracting Authorities.

The Works shall not be considered to be completed for the purposes of taking-over under the Article 60. (Provisional Acceptance) until this training has been completed.

59.6 The local transport during the training period, lodging and boarding expenses and other incidental expenses shall be borne by the Contractor during the total period of the training. The number of Trainees in each group shall be decided in mutual consultation with the Supervisor. The Contractor shall provide the training equipment and material during the training period. All the documents, films, transparencies, notes etc. used in the training programme shall remain the property of the Contracting Authority at the end of the Contract. The detailed training programme shall be submitted after Award of the Contract and shall be subjected to the Supervisor's Approval.

In the event if the Contracting Authority failing to avail of the training facilities in full or part, the Contracting Authority will be entitled to adjust the Contract Price by an equivalent amount.

Article 60 Provisional acceptance

60.1 Except for what is stated in Article 58.3 (Failure to Pass Tests on Completion), the Works shall be taken over by the Supervisor when:

- i) the Works have been completed in accordance with the Contract and except as allowed in the Sub-article (i) below, and
- ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Article.

60.6 Parts of the Works (other than Sections) shall not be taken over or used by the Contracting Authority, except as may be stated in the Contract or as may be agreed by both Parties.

60.7 The Contractor shall deliver all special tools, tackles and instruments required for the operation and maintenance of the equipment in each equipment package free of cost. Unless otherwise specified in the Technical Specifications, these will be delivered along with the main equipment.

Article 61 Defects liability

61.1 The Defects Liability Period is defined as the period commencing on the date of Provisional Acceptance, during which the Contractor is required to make good any effect in, or damage to, any part of the Work which may appear or occur during this period as notified by the Supervisor or the Contracting Authority.

61.7 The Defects Liability Period shall be 24 (twenty four) months.

61.9 The Contracting Authority shall be entitled to an extension of the Defects Liability Period for the Works if the Works, Sections or a major item of Plant cannot be used for the purposes for which they are intended by reason of a defect or damage. A Defects Liability Period shall not be extended by more than 2 (two) years.

61.10 If the defect or damage cannot be remedied on the Site and the Contracting Authority gives consent, the Contractor may remove from the Site for the purposes of repair such items of the Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Guarantee due to Article 15. by the full replacement cost of these items.

Article 62 Final Acceptance

62.4 Upon receiving the Performance Guarantee, the Contractor shall remove any remaining Contractor's equipment, material, wreckage, rubbish and Temporary Works from the Site. If these items have not been removed within 14 (fourteen) days after the Supervisor receives a copy of the Performance Guarantee, the Contracting Authorities may sell or otherwise dispose of any remaining items.

Article 68 Settlement of disputes

68.2 The Dispute Settlement Committee shall consist of 3 (three) members.

68.3 The Members of Dispute Settlement Committee shall be nominated by the European Commission.

Article 68 Dispute settlement

68.4 [Direct management:

Any dispute arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of the courts of Brussels, Belgium.]

[Indirect management:

[BUDGET:

EITHER

Any dispute arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of <specify> in accordance with the national legislation of the state of the Contracting Authority.

OR

Any disputes arising out of or relating to this Contract which cannot be settled otherwise shall be referred for arbitration to <specify the arbitration body> in accordance with the rules of arbitration of [the International Chamber of Commerce] [the United Nations Commission on International Trade Law] [< other internationally recognised procedure to be specified >]]

[EDF:

Any dispute arising out of or relating to this Contract which cannot be settled otherwise shall

- (a) in the case of a national contract, be settled in accordance with the national legislation of the state of the Contracting Authority; and
- (b) in the case of a transnational contract, be settled either:
 - (i) if the parties to the contract so agree, in accordance with the national legislation of the state of the Contracting Authority or its established

international practices; or

- (ii) by arbitration in accordance with the Procedural rules on conciliation and arbitration of contracts financed by the European Development Fund, adopted by Decision No 3/90 of the ACP-EEC Council of Ministers of 29 March 1990 (Official Journal No L 382, 31.12.1990, Annex A12 of the Practical Guide.)
<Please attach Annex A12 of the Practical Guide to the present contract>]]

]

Article 69 Applicable Law

- 69.1 The Contract shall be governed by the Law of Georgia.
- 69.2 If changes or new applicable Laws or standards come into force in the Country after the Commencement Date, the Contractor shall give notice to the Supervisor and (if appropriate) submit proposals for compliance.
In the event that:
- i) the Supervisor determines that compliance is required, and
 - ii) the proposals for compliance constitute a Variation, then the Supervisor shall initiate a Variation in accordance with Article 48 (Revision of prices).
- 69.4 If the Contractor or the Supervisor finds any divergence between any Georgian Law, By-Law or Directive and the Technical Specifications, it shall immediately give to the other written notice specifying the divergence. The Contractor shall promptly upon becoming aware of the same, inform the Supervisor in writing of its proposed amendment for removing the divergence.

[For indirect management:

Article 72 Data Protection

Not applicable.]

* * *

VOLUME 2
SECTION 2
GENERAL CONTRACT CONDITIONS

**GENERAL CONDITIONS FOR WORKS CONTRACTS FINANCED BY THE EUROPEAN
DEVELOPMENT FUND (EDF) OR THE EUROPEAN UNION**

PRELIMINARY PROVISIONS	137
Article 1 - Definitions	137
Article 2 - Language of the contract.....	137
Article 3 - Order of precedence of contract documents.....	137
Article 4 - Communications.....	137
Article 5 - Supervisor and Supervisor's representative	138
Article 6 - Assignment	138
Article 7 - Subcontracting	139
OBLIGATIONS OF THE CONTRACTING AUTHORITY	140
Article 8 - Supply of documents	140
Article 9 - Access to site	140
Article 10 - Assistance with local regulations	141
Article 11 - Delayed payments to the Contractor's staff.....	141
OBLIGATIONS OF THE CONTRACTOR	142
Article 12 - General obligations.....	142
Article 12a - Code of Conduct.....	143
Article 12b - Conflict of Interest	144
Article 12c - Design and build contracts	145
Article 13 - Superintendence of the works	145
Article 14 - Staff.....	145
Article 15 - Performance guarantee	146
Article 16 - Liabilities, Insurance and Security arrangements	146
Article 17 - Programme of implementation of tasks	150
Article 18 - Detailed breakdown of prices	150
Article 19 - Contractor's drawings and execution studies	151
Article 20 - Sufficiency of tender prices.....	152
Article 21 - Exceptional risks.....	152
Article 22 - Safety on sites	153
Article 23 - Safeguarding adjacent properties	154
Article 24 - Interference with traffic	154

Article 25 - Cables and conduits -----	154
Article 26 - Setting-out-----	155
Article 27 - Demolished materials -----	155
Article 28 - Discoveries-----	156
Article 29 - Temporary works -----	156
Article 30 - Soil studies-----	156
Article 31 - Overlapping contracts-----	157
Article 32 - Patents and licenses -----	157
IMPLEMENTATION OF THE TASKS AND DELAYS	158
Article 33 - Commencement orders -----	158
Article 34 - Period of implementation of tasks-----	158
Article 35 - Extension of the period of implementation of tasks -----	158
Article 36 - Delays in implementation of the tasks-----	159
Article 37 - Amendments-----	160
Article 38 - Suspension -----	162
MATERIALS AND WORKMANSHIP	163
Article 39 - Work register -----	163
Article 40 - Origin and quality of works and materials-----	164
Article 41 - Inspection and testing-----	164
Article 42 - Rejection-----	165
Article 43 - Ownership of plant and materials-----	166
PAYMENTS	167
Article 44 - General principles -----	167
Article 45 - Provisional price contracts-----	169
Article 46 - Pre-financing -----	169
Article 47 - Retention monies -----	170
Article 48 - Revision of prices-----	170
Article 49 - Measurement -----	171
Article 50 - Interim payments -----	172
Article 51 - Final statement of account -----	174
Article 52 - Direct payments to sub-contractors -----	175
Article 53 - Delayed payments -----	176
Article 54 - Payments to third parties -----	176
Article 55 - Claims for additional payment -----	176
Article 56 - End date-----	177
ACCEPTANCE AND DEFECTS LIABILITY	177
Article 57 - General principles -----	177
Article 58 - Tests on completion-----	178
Article 59 - Partial acceptance-----	178
Article 60 - Provisional acceptance-----	178

Article 61 - Defects liability -----	179
Article 62 - Final acceptance-----	180
BREACH OF CONTRACT AND TERMINATION	181
Article 63 - Breach of contract -----	181
Article 64 - Termination by the Contracting Authority-----	181
Article 65 - Termination by the Contractor -----	184
Article 66 - Force majeure-----	185
Article 67 - Decease -----	186
SETTLEMENT OF DISPUTES AND APPLICABLE LAW	186
Article 68 - Settlement of disputes-----	186
Article 69 - Applicable Law -----	187
FINAL PROVISIONS	187
Article 70 - Administrative sanctions -----	187
Article 71 - Verifications, checks and audits by European Union bodies-----	188
Article 72 - Data protection -----	189

PRELIMINARY PROVISIONS

Article 1 - Definitions

- 1.1 The definitions of the terms used throughout this General Conditions are laid down in the "Glossary of terms", annex A1a to the Practical Guide, which forms an integral part of this contract.
- 1.2 The headings and titles in these General Conditions shall not be taken as part thereof or be taken into consideration in the interpretation of the contract.
- 1.3 Where the context so permits, words in the singular shall be deemed to include the plural and vice versa, and words in the masculine shall be deemed to include the feminine and vice versa.
- 1.4 Words designating persons or parties shall include firms and companies and any organisation having legal capacity.

Article 2 - Language of the contract

- 2.1. The language of the contract and of all communications between the Contractor, Contracting Authority and Supervisor or their representatives shall be as stated in the Special Conditions.

Article 3 - Order of precedence of contract documents

- 3.1. The order of precedence of the contract documents shall be as stated in the Contract.

Article 4 - Communications

- 4.1. Any written communications between the Contracting Authority and/or the Supervisor on the one hand, and the Contractor on the other hand, shall state the contract title and identification number and shall be sent by post, cable, telex, facsimile transmission, e-mail or personal delivery, to the appropriate addresses designated by those parties for that purpose in the Special Conditions.
- 4.2. If the sender requires evidence of receipt, it shall state such requirement in its communication and shall demand such evidence of receipt whenever there is a deadline for the receipt of the communication. In any event, the sender shall take all the necessary measures to ensure timely receipt of its communication.
- 4.3. Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words 'notify', 'consent', 'certify',

'approve' or 'decide' shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

Article 5 - Supervisor and Supervisor's representative

- 5.1. The Supervisor shall carry out the duties specified in the contract. Except as expressly stated in the contract, the Supervisor shall not have authority to relieve the Contractor of any of its obligations under the contract.
- 5.2. The Supervisor may, from time to time, while retaining ultimate responsibility, delegate to the Supervisor's representative any of the duties and authority vested in the Supervisor and he may at any time revoke such delegation or replace the representative. Any such delegation, revocation or replacement shall be in writing and shall not take effect until a copy thereof has been delivered to the Contractor. The administrative order which determines the duties, authority and identity of the Supervisor's representative shall be issued by the Supervisor at the moment of the commencement order. The role of the Supervisor's representative shall be to supervise and inspect works and to test and examine the materials employed and the quality of workmanship. Under no circumstances will the Supervisor's representative be empowered to relieve the Contractor of its obligations under the contract or – save where express instructions to that effect are given below or in the contract – order works resulting in an extension of the period of implementation of tasks or additional costs to be paid by the Contracting Authority or introduce variants in the nature or scale of the works.
- 5.3. Any communication given by the Supervisor's representative to the Contractor in accordance with the terms of such delegation shall have the same effect as though it had been given by the Supervisor, provided that:
 - a) any failure on the part of the Supervisor's representative to disapprove any work, materials or plant shall not prejudice the authority of the Supervisor to disapprove such work, materials or plant and to give the instructions necessary for the rectification thereof;
 - b) the Supervisor shall be at liberty to reverse or vary the contents of such communication.
- 5.4. Instructions and/or orders issued in writing by the Supervisor shall be considered an administrative order. Such orders shall be dated, numbered and entered by the Supervisor in a register, and copies thereof delivered by hand, where appropriate, to the Contractor's representative.

Article 6 - Assignment

- 6.1. An assignment shall be valid only if it is a written agreement by which the Contractor transfers its contract or part thereof to a third party.
 - a) The Contractor shall not, without the prior consent of the Contracting Authority, assign the contract or any part thereof, or any benefit or interest thereunder, except in the following cases: a charge, in favour of the Contractor's bankers, of any monies due or to become due under the contract; or
 - b) the assignment to the Contractor's insurers of the Contractor's right to obtain relief against any other person liable in cases where the insurers have discharged the Contractor's loss or liability.

- 6.3. For the purpose of Article 6.2 the approval of an assignment by the Contracting Authority shall not relieve the Contractor of its obligations for the part of the contract already performed or the part not assigned for which the Contractor's performance guarantee may be kept.
- 6.4. If the Contractor has assigned its contract without authorization, the Contracting Authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Article 63 and 64.
- 6.5. Assignees must satisfy the eligibility criteria applicable for the award of the contract and they cannot fall under the exclusion criteria described in the tender dossier.
- 6.6. Before giving its approval the Contracting Authority should receive as needed a performance guarantee which may be requested for the full contract, a pre-financing guarantee and retention guarantee, from the assignees.

Article 7 - Subcontracting

- 7.1. A subcontract shall be valid only if it is a written agreement by which the Contractor entrusts performance of a part of the contract to a third party. Simple plant hire, labour only and supply contracts are not considered or construed "subcontracts" for the purpose of this Article.
- 7.2. The Contractor shall request to the Contracting Authority the authorisation to subcontract. The request must indicate the elements of the contract to be subcontracted and the identity of the subcontractors.

Within 30 days of receipt of this request, the Contracting Authority must either extend the delay for a maximum of 15 days or notify the Contractor of its decision, stating reasons should he withhold such authorization. If the Contracting Authority fails to notify its decision within the time limit referred to above, the request is deemed to be approved at the end of the time limit.
- 7.3. Subcontractors must satisfy the eligibility criteria applicable for the award of the contract and they cannot fall under the exclusion criteria described in the tender dossier.
- 7.4. Subject to Articles 7.6 and 52, no subcontract creates contractual relations between any subcontractor and the Contracting Authority.
- 7.5. The Contractor shall be responsible for the acts, defaults and negligence of its subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Contractor, its agents or employees. The approval by the Contracting Authority of the sub-contracting of any part of the contract or of the subcontractor to perform any part of the works shall not relieve the Contractor of any of its obligations under the contract.
- 7.6. If a subcontractor has undertaken any continuing obligation for a period exceeding that of the defects liability period under the contract towards the Contractor in respect of the

work executed or the goods, materials, plant or services supplied by the subcontractor, the Contractor shall, at any time after the expiration of the defects liability period, transfer immediately to the Contracting Authority, at the Contracting Authority's request and cost, the benefit of such obligation for the unexpired duration thereof. If the Contractor fails to effect such a transfer, the said continuing obligation(s) shall be transferred automatically.

- 7.7. If the Contractor enters into a subcontract without approval, the Contracting Authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Article 63 and 64.
- 7.8. If a subcontractor is found by the Contracting Authority or the Supervisor to be incompetent in discharging its duties, the Contracting Authority or the Supervisor may request the Contractor to forthwith remove the subcontractor from the site and either to provide a subcontractor with qualifications and experience acceptable to the Contracting Authority as a replacement, or to resume the implementation of the tasks itself.

OBLIGATIONS OF THE CONTRACTING AUTHORITY

Article 8 - Supply of documents

- 8.1. Save where otherwise provided in the Special Conditions, within 30 days of the signing of the Contract, the Supervisor shall provide to the Contractor, free of charge, a copy of the drawings prepared for the implementation of tasks as well as two copies of the specifications and other contract documents. The Contractor may purchase additional copies of these drawings, specifications and other documents, insofar as they are available. Upon the final acceptance, the Contractor shall return to the Supervisor all drawings, specifications and other contract documents.
- 8.2. The Contracting Authority co-operates with the Contractor to provide information that the latter may reasonably request in order to perform the contract.
- 8.3. Unless it is necessary for the purposes of the contract, the drawings, specifications and other documents provided by the Contracting Authority shall not be used or communicated to a third party by the Contractor without the prior consent of the Supervisor.
- 8.4. The Supervisor shall have authority to issue to the Contractor administrative orders incorporating such supplementary documents and instructions as shall be necessary for the proper and adequate execution of the works and the remedying of any defects therein.

Article 9 - Access to site

- 9.1. The Contracting Authority shall, in due time and in conformity with the progress of the works, place the site and access thereto at the disposal of the Contractor in accordance with the approved programme of implementation of tasks referred to in Article 17. The Contractor grants appropriate access to other persons as set out in the Special Conditions or as instructed.

- 9.2. Any land procured for the Contractor by the Contracting Authority shall not be used by the Contractor for purposes other than the implementation of tasks.
- 9.3. The Contractor shall preserve any facilities placed at its disposal in a good state while it is in occupation and shall, if so required by the Contracting Authority or the Supervisor, restore them to their original state on completion of the contract, taking into account normal wear and tear.
- 9.4. The Contractor shall not be entitled to any payment for improvements resulting from work carried out on its own initiative.

Article 10 - Assistance with local regulations

- 10.1. The Contractor may request the assistance of the Contracting Authority in obtaining copies of laws, regulations and information on local customs, orders or by-laws of the Country in which the works are executed, which may affect the Contractor in the performance of its obligations under the contract. The Contracting Authority may provide the assistance requested to the Contractor at the Contractor's cost.
- 10.2. Subject to the provisions of the laws and regulations on foreign labour of the Country in which the works are to be executed, the Contracting Authority provides reasonable assistance to the Contractor, at its request, for its application for any visas and permits required by the law of the Country in which the works are executed, including work and residence permits, for the personnel whose services the Contractor and the Contracting Authority consider necessary, as well as residence permits for their families.

Article 11 - Delayed payments to the Contractor's staff

- 11.1. Where there is a delay in the payment to the Contractor's employees of wages and salaries owing and of the allowances and contributions laid down by the law of the Country in which the works are executed, the Contracting Authority may give notice to the Contractor that within 15 days of the notice the Contracting Authority intends to pay such wages, salaries, allowances and contributions direct. Should the Contractor contest that such payments are due, it shall make representations to the Contracting Authority with reasons, within the 15 day period. If the Contracting Authority, having considered such representations, is of the opinion that payment of the wages and salaries should be made, it may pay such wages, salaries, allowances and contributions out of amounts due to the Contractor. Failing this, the Contracting Authority may obtain a contribution under any of the guarantees provided for in these General Conditions. Any action taken by the Contracting Authority under this Article shall not relieve the Contractor of its obligations to its employees, except to the extent that any obligation may be satisfied by this action. The Contracting Authority shall not assume any responsibility towards the Contractor's employees by this action.

OBLIGATIONS OF THE CONTRACTOR

Article 12 - General obligations

- 12.1. The Contractor shall, with due care and diligence, design the works to the extent stated in the contract, execute and complete the works in accordance with the contract and with the Supervisor instructions, and shall remedy any defects in the works.
- 12.2. The Contractor shall provide all superintendence, personnel, materials, plant, equipment and all other items, of a temporary or permanent nature required in and for such design, execution, completion and remedying of any defects, insofar as specified in, or may be reasonably inferred from the contract.
- 12.3. The Contractor shall take full responsibility for the adequacy, stability and safety of all operations and methods of construction under the contract.
- 12.4. The Contractor shall comply with any administrative orders given to him. Where the Contractor considers that the requirements of an administrative order go beyond the authority of the Supervisor or of the scope of the contract, the Contractor shall give notice, with reasons, to the Supervisor. If the Contractor fails to notify within the 30 day period after receipt thereof, he shall be barred from so doing. Execution of the administrative order shall not be suspended because of this notice.
- 12.5. The Contractor shall supply, without delay, any information and documents to the Contracting Authority or the European Commission upon request, regarding the conditions in which the contract is being executed.
- 12.6. The Contractor shall respect and abide by all laws and regulations in force in the Country in which the works are executed and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement by the Contractor, its employees and their dependants of such laws and regulations.
- 12.7. Subject to Article 12.9, the Contractor undertakes to treat in the strictest confidence and not make use of or divulge to third parties any information or documents which are linked to the performance of the contract without the prior consent of the Contracting Authority. The Contractor shall continue to be bound by this undertaking after completion of the tasks and shall obtain from each member of its staff the same undertaking. However, use of the contract's reference for marketing or tendering purposes does not require prior approval of the Contracting Authority, except where the Contracting Authority declares the contract to be confidential.
- 12.8. If the Contractor acts on behalf of or is a joint venture or consortium of two or more persons, all such persons shall be jointly and severally bound in respect of the obligations under the contract, including any recoverable amount. The person designated by the consortium to act on its behalf for the purposes of this contract shall have the authority to bind the consortium. The composition or the constitution of the joint venture or

consortium shall not be altered without the prior consent of the Contracting Authority. Any alteration of the composition or the constitution of the joint venture or consortium without the prior consent of the Contracting Authority may result in the termination of the contract.

12.9. Save where the European Commission requests or agrees otherwise, the Contractor shall ensure the highest visibility to the financial contribution of the European Union. To ensure such publicity the Contractor shall implement among other actions the specific activities described in the Special Conditions. All measures must comply with the rules in the Communication and Visibility Manual for EU External Actions published by the European Commission.

12.10. Any records must be kept for a 7-year period after the final payment is made under the contract. In case of failure to maintain such the Contracting Authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Article 63 and 64.

Article 12a - Code of Conduct

12a.1 The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of its profession. It shall refrain from making public statements about the project or services without the Contracting Authority's prior approval. It shall not commit the Contracting Authority in any way whatsoever without its prior consent and shall make this obligation clear to third parties.

12a.2 The Contractor and its staff shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the Country in which the works are executed.

12a.3 The Contractor shall respect environmental legislation applicable in the Country in which the works are executed and internationally agreed core labour standards, i.e. the ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour, as well as applicable obligations established by these Conventions:

- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
 - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
 - Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
 - Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.
- 12a.4. The Contractor or any of its sub-contractors, agents or personnel shall not abuse of its entrusted power for private gain. The Contractor or any of its sub-contractors, agents or personnel shall not

receive or agree to receive from any person or offer or agree to give to any person or procure for any person, gift, gratuity, commission or consideration of any kind as an inducement or reward for performing or refraining from any act relating to the performance of the contract or for showing favour or disfavour to any person in relation to the contract. The Contractor shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption.

12a.5 The payments to the Contractor under the contract shall constitute the only income or benefit it may derive in connection with the contract. The Contractor and its staff must not exercise any activity or receive any advantage inconsistent with their obligations under the contract.

12a.6 The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company. The European Commission may carry out documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

Article 12b - Conflict of Interest

12b.1 The Contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the contract. Such conflict of interests may arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which may arise during performance of the contract must be notified to the Contracting Authority without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

12b.2 The Contracting Authority reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The Contractor shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligation under the contract the Contractor shall replace, immediately and without compensation from the Contracting Authority, any member of its staff exposed to such a situation.

12b.3 The Contractor shall refrain from any contact which would compromise its independence or that of its personnel.

12b.4 The Contractor shall limit its role in connection with the project to the provision of the works described in the contract.

12b.5 The Contractor and anyone working under its authority or control in the performance of the contract or on any other activity shall be excluded from access to other EU budget/EDF funds available under the same project. However, the Contractor may participate after approval of the Contracting Authority if the Contractor is able to prove that its involvement in previous stages of the project does not constitute unfair competition.

Article 12c - Design and build contracts

12c.1 For design and build contracts only, the Contractor shall carry out, and assume responsibility for, the design of the works with the help of experienced designers satisfying the criteria laid down by the Contracting Authority. It shall draw up the requisite technical documents according to the provisions laid down in the Special Conditions and technical specifications. These documents must be submitted to the Supervisor for approval, in accordance with the Special Conditions, and may be corrected at the Contractor's expense to satisfy the Contracting Authority's contractual requirements and eliminate errors, omissions, ambiguities, inconsistencies and other drafting defects. The Contractor shall train the Contracting Authority's personnel and deliver and update the set of detailed documents and operating and maintenance manuals, in accordance with the Special Conditions.

Article 13 - Superintendence of the works

- 13.1. The Contractor shall itself superintend the works or shall appoint a representative to do so. Such appointment shall be submitted to the Supervisor for approval within 30 days of the signature of the Contract. The Supervisor shall approve or refuse the appointment within 10 days. The approval may at any time be withdrawn. Should the Supervisor refuse the representative appointed within the deadline, or withdraw approval of the appointment, it shall set out the grounds on which its decision is based, and the Contractor shall submit an alternative appointment without delay. The address of the Contractor's representative shall be deemed to be the address for service given by the Contractor.
- 13.2. If the Supervisor withdraws its approval of the Contractor's representative, the Contractor shall, as soon as is practicable, after receiving notice of such withdrawal, remove the representative from the works and replace it with another representative approved by the Supervisor.
- 13.3. The Contractor's representative shall have full authority to make any decision necessary for the execution of the works, to receive and carry out administrative orders and to countersign the work register referred to in Article 39 or attachment, where appropriate. In any event, the Contractor shall be responsible for ensuring that the works are carried out satisfactorily including ensuring that the specifications and administrative orders are adhered to by its own employees and by its sub-contractors and their employees.

Article 14 - Staff

- 14.2. The persons employed by the Contractor must be sufficient in number, and permit the optimum use of the human resources of the Country in which the works are executed. Such employees must have the skills and experience necessary to ensure due progress and satisfactory execution of the works. The Contractor shall immediately replace all employees indicated by the Supervisor, in a letter stating reasons, as likely to jeopardize the satisfactory execution of the works. The Contractor shall make its own arrangements for the engagement of all staff and labour. The rates of remuneration and the general working conditions, as laid down by the law of the Country in which the works are executed, shall apply as a minimum to employees on the site.

Article 15 - Performance guarantee

- 15.1. The Contractor shall, together with the return of the countersigned contract, furnish to the Contracting Authority a guarantee for the full and proper performance of the contract. The amount of the guarantee shall be as specified in the Special Conditions and shall be in the range of 5 and 10% of the amount of the contract price including any amounts stipulated in addenda to the contract.
- 15.2. The performance guarantee shall be held against payment to the Contracting Authority for any loss resulting from the Contractor's failure to perform its obligations under the contract.
- 15.3. The performance guarantee shall be in the format provided for in the contract and may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a bond provided by an insurance and/or bonding company, an irrevocable letter of credit or a cash deposit made with the Contracting Authority. If the performance guarantee is to be provided in the form of a bank guarantee, a banker's draft, a certified cheque or a bond, it shall be issued by a bank or bonding and/or insurance company approved by the Contracting Authority.
- 15.4. Unless stated otherwise in the Special Conditions, the performance guarantee shall be denominated in the types and proportions of currencies in which the original contract is payable.
- 15.5. No payments shall be made in favour of the Contractor prior to the provision of the guarantee. The guarantee shall continue to remain valid until the date of the issuing of the signed final statement of account referred to in Article 51.
- 15.6. During the performance of the contract, if the natural or legal person providing the guarantee is not able to abide by its commitments, the guarantee shall cease to be valid. The Contracting Authority shall give formal notice to the Contractor to provide a new guarantee on the same terms as the previous one. Should the Contractor fail to provide a new guarantee, the Contracting Authority may terminate the contract.
- 15.7. The Contracting Authority shall demand payment from the guarantee of all sums for which the guarantor is liable under the guarantee due to the Contractor's default under the contract, in accordance with the terms of the guarantee and up to the value thereof. The guarantor shall, without delay, pay those sums upon first demand by the Contracting Authority and the guarantor may not raise any objection for any reason whatsoever. Prior to making any claim under the performance guarantee, the Contracting Authority shall notify the Contractor stating the nature of the default in respect of which the claim is to be made.
- 15.8. Unless the Special Conditions provide otherwise, the performance guarantee shall be released within 60 days of the issuing of the signed final statement of account referred to in Article 51, for its total amount except for amounts which are the subject of amicable settlement, arbitration or litigation.

Article 16 - Liabilities, Insurance and Security arrangements

16.1. Liabilities

a) Liability for damage to works

Without prejudice to Article 61 (defects liability) and Article 66 (force majeure), the Contractor shall assume (i) full responsibility for maintaining the integrity of the works and (ii) the risk of loss and damage, whatever their cause, until the final acceptance as foreseen in Article 62.

Compensation for damage to the works resulting from the Contractor's liability in respect of the Contracting Authority is capped at an amount equal to one million euros if the contract value is less than or equal to one million euros. If the contract value is greater than one million euros, compensation for damages resulting from the Contractor's liability shall be capped to the contract value.

However, compensation for loss or damage resulting from fraud or gross negligence of the Contractor, its staff, its subcontractors and any person for which the Contractor is answerable, can in no case be capped.

After the final acceptance as foreseen in Article 62, the Contractor shall remain responsible for any breach of its obligations under the contract for such period as may be determined by the law governing the contract or by default for a period of 10 years.

b) Contractor's liability in respect of the Contracting Authority

At any time, the Contractor shall be responsible for and shall indemnify the Contracting Authority for any damage caused, during the performance of the works, to the Contracting Authority by the Contractor, its staff, its subcontractors and any person for which the Contractor is answerable.

Compensation for damage resulting from the Contractor's liability in respect of the Contracting Authority is capped at an amount equal to one million euros if the contract value is less than or equal to one million euros. If the contract value is greater than one million euros, compensation for damages resulting from the Contractor's liability shall be capped to the contract value.

However, compensation for loss or damage resulting from the Contractor's liability in case of bodily injury, including death, can in no case be capped. The same applies to compensation for any damages of any kind resulting from fraud or gross negligence of the Contractor, its staff, its subcontractors and any person for which the Contractor is answerable.

c) Contractor's liability in respect of third parties

The Contractor shall, at its own expense, indemnify, protect and defend, the Contracting Authority, its agents and employees, from and against all actions, claims, losses or damage, direct or indirect, of whatever nature (hereinafter "claim(s)") arising from any act or omission by the Contractor, its staff, its subcontractors and/or any person for which the Contractor is answerable, in the performance of the duties.

The Contracting Authority must notify any third party claim to the Contractor as soon as possible after the Contracting Authority becomes aware of them.

If the Contracting Authority chooses to challenge and defend itself against the claim(s), the Contractor shall bear the reasonable costs of defense incurred by the Contracting Authority, its agents and employees.

Under these general conditions, the agents and employees of the Contracting Authority, as well as the Contractor's staff, its subcontractors and any person for which the Contractor is answerable are considered to be third parties.

The Contractor shall treat all claims in close consultation with the Contracting Authority

Any settlement or agreement settling a claim requires the prior express consent of the Contracting Authority and the Contractor.

16.2. Insurance

a) Insurance - general issues

At the latest together with the return of the countersigned contract, and for the period of implementation of tasks, the Contractor shall ensure that itself, its staff, its subcontractors and any person for which the Contractor is answerable, are adequately insured with insurance companies recognized on the international insurance market, unless the Contracting Authority has given its express written consent on a specific insurance company.

At the latest together with the return of the countersigned contract, the Contractor shall provide the Contracting Authority and the Supervisor with all cover notes and/or certificates of insurance showing that the Contractor's obligations relating to insurance are fully respected. The Contractor shall submit without delay, whenever the Contracting Authority or the Project Manager so requests, an updated version of the cover notes and/or certificates of insurance.

The Contractor shall obtain from the insurers that they commit to personally and directly inform the Contracting Authority and the Supervisor of any event likely to reduce, cancel or alter in any manner whatsoever, that coverage. The insurers shall deliver this information as quickly as possible, and in any event at least thirty (30) days before the reduction, cancellation or alteration of the cover is effective. The Contracting Authority reserves the right to indemnify the insurer in case the Contractor fails to pay the premium, without prejudice to the Contracting Authority's right to recover the amount of the premium it paid, and to subsequently seek compensation for its possible resulting damage. Whenever possible, the Contractor shall ensure that the subscribed insurance contracts contain a waiver of recourse in favour of the Contracting Authority and the Supervisor, their agents and employees.

The purchase of adequate insurances by the Contractor shall in no case exempt it from its statutory and/or contractual liabilities.

The Contractor shall fully bear the consequences of a total or partial lack of coverage, and to the full discharge of the Contracting Authority and the Supervisor.

The Contractor shall ensure that its staff, its subcontractors and any person for which the Contractor is answerable comply with the same insurance requirements imposed to it under this contract. In case of default of insurance or inadequate insurance of its staff, its subcontractors or any person for which the Contractor is answerable, the Contractor shall indemnify the Contracting Authority and the Supervisor from all consequences resulting therefrom.

Under its own responsibility and without prejudice to the obligation to take out all insurance covering its obligations under this contract, the Contractor shall ensure that all compulsory insurances are subscribed in compliance with the laws and regulations in force in the country in which the works are executed. It shall also ensure that all possible statutory obligations applying to the coverage are complied with.

The Contracting Authority and the Supervisor shall not bear any liability for the assessment and adequacy of insurance policies taken out by the Contractor with their contractual and/or statutory obligations.

b) Insurance - Specific issues

1. *Insurance for damage to third parties*

The Contractor shall take out a civil liability insurance covering bodily injury and property damage that may be caused to third parties by reason of the execution of the works, as well as during the defects liability period. The insurance policy must specify that the Contracting Authority's and the Supervisor's staff, as well as that of other contractors and third parties located on site are considered third parties under this insurance, which shall be unlimited for bodily injury.

2. *Works Insurance*

The Contractor shall take out a "Contractor All Risk" insurance to the joint benefit of itself, its subcontractors, the Contracting Authority and the Supervisor.

This insurance shall cover all damage to which the works included in the contract may be subject, including damage due to a defect or a design flaw of the plans, the building materials or the implementation for which the Contractor is responsible under the contract and the damages due to natural events. This insurance shall also cover damage to existing goods and properties of the Contracting Authority and of the Supervisor. This insurance shall also cover the equipment and the temporary works on the site up to their total value of reconstruction/replacement.

3. *Motor Insurance*

The Contractor shall take out insurance covering all vehicles used by the Contractor or its subcontractors (whether they own them or not) in connection with the contract.

4. *Insurance against accidents at work*

The Contractor shall take out insurance policies providing coverage of the Contractor itself, its staff, its subcontractors and any person for which the Contractor is answerable, in case of an accident at work or on the way to work. It shall ensure that its subcontractors do the same. It indemnifies the Contracting Authority against any claims that its employees or those of its subcontractors could have in this regard. For its permanent expatriate staff, where appropriate, the Contractor shall in addition comply with the laws and regulations applicable in the country of origin.

5. *Insurance of liability related to the soundness of the works*

The Contractor shall take out insurance covering in full its liability that may be triggered with regard to the soundness of the works even after final acceptance, as foreseen by the law of the Country in which the works are executed.

Article 17 - Programme of implementation of tasks

- 17.1. Notwithstanding any work programme submitted as part of its tender, the Contractor shall provide the Supervisor with a programme of implementation of tasks, broken down by activity and by month within 30 days of the signature of the Contract. This programme includes at least the following information:
- a) the order and time limits within which the Contractor proposes to carry out the works;
 - b) the time limits within which submission and approval of the drawings are required;
 - c) an organisation chart containing the names, qualifications and curricula vitae of the staff responsible for the site,
 - d) a general description of the method including the sequence, by month and by nature, which the Contractor proposes to carry out the works;
 - e) a plan for the setting out and organisation of the site, and
 - f) such further details and information as the Supervisor may reasonably require.
- 17.3. The Supervisor shall return these documents to the Contractor with its approval or any relevant remarks within ten days of receipt, save where the Supervisor, within those ten days, notifies the Contractor of its wish for a meeting in order to discuss the documents submitted. If the Supervisor fails to notify its decision or remarks or wish for a meeting within these 10 days, the programme submitted is deemed approved.
- 17.4. The approval of the programme by the Supervisor shall not relieve the Contractor from any of its obligations under the contract.
- 17.5. No material alteration to the programme shall be made without the approval of the Supervisor. If, however, the progress of the works does not conform to the programme, the Supervisor may instruct the Contractor to submit a revised programme in accordance with the procedure laid down in Article 17.

Article 18 - Detailed breakdown of prices

- 18.1. If not provided in its tender and where necessary for the purposes of the contract, the Contractor shall provide a detailed breakdown of its rates and prices within no more than 20 days following the Supervisor's reasoned request.
- 18.2. Within 30 days of notification of the award of contract, the Contractor shall provide to the Supervisor for its information only, a detailed cash flow estimate, in quarterly periods, of all payments which may be due to the Contractor under the contract. The Contractor shall subsequently supply revised cash flow estimates at quarterly intervals, if so required by the Supervisor. The communication shall not impose any liability whatsoever on the Contracting Authority or the Supervisor.

Article 19 - Contractor's drawings and execution studies

- 19.1. The Contractor shall submit to the Supervisor for approval at its own expense, all design and construction drawings and other documents and objects necessary for the proper execution of the contract, and in particular:
- a) drawings, documents, samples and/or models as may be specified in the contract within the time limits and procedures laid down therein or in the programme of implementation of tasks;
 - b) drawings as the Supervisor may reasonably require for the implementation of tasks.
 - c) plans, drawings and calculations needed to provide evidence of the stability and resistance of the structures, including foundation design and detailed reinforcement plan. These calculations and surveys should be sustained by sufficient site investigations and should be submitted in triplicate to the Supervisor for approval at least 30 days before commencing construction of the works in question.
- 19.2. The Supervisor shall return to the Contractor the drawings, documents, samples, models, design calculations, objects and other documents required under Article 19.1 with either its endorsement or its remarks within the time limits referred to in the contract or the approved programme of implementation of tasks or, if no time limit is specified, within 15 days of receipt. In the light of the complexity or the number of documents submitted for approval, if the Supervisor cannot send its endorsement or its remarks within the time limit mentioned above, the Supervisor shall send within 15 days of receipt a holding reply, indicating another time limit by which it will send its endorsement or its remarks, taking into account the relative urgency and complexity of the matter.
- If the Supervisor fails to notify its endorsement, remarks or holding reply within the time limits referred above, the drawings, documents, samples, models, design calculations, objects and other documents submitted to the Supervisor according to Article 19.1 shall be deemed to be approved at the end of the time limits specified above.
- 19.3. Approved drawings, documents, samples and models shall be signed or otherwise identified by the Supervisor and shall not be departed from except as otherwise instructed by the Supervisor. Any Contractor's drawings, documents, samples or models which the Supervisor refuses to approve, shall be modified to meet the requirements of the Supervisor and resubmitted by the Contractor for approval. Within 15 days of being notified of the Supervisor's remarks, the Contractor shall make the requisite corrections, adjustments etc. to the documents, drawings, design calculations etc. The corrected or adjusted documents, drawings, design calculations etc. shall be resubmitted for the Supervisor's approval under the same procedure.
- 19.4. The Contractor shall supply additional copies of approved drawings in the form and number stated in the contract or in subsequent administrative orders.
- 19.5. The approval of any drawings, documents, samples or models by the Supervisor shall not relieve the Contractor from any of its obligations under the contract.

- 19.6. The Supervisor shall have the right at all reasonable times to inspect all drawings, documents, samples or models relating to the contract at the Contractor's premises.
- 19.7. Before provisional acceptance of the works, the Contractor shall supply operation and maintenance manuals together with drawings to the Contracting Authority, which shall be in such detail as will enable the Contracting Authority to operate, maintain, adjust and repair all parts of the works. Unless otherwise stated in the Special Conditions, the manuals and drawings shall be in the language of the contract. The works shall not be considered to be completed for the purpose of provisional acceptance until such manuals and drawings have been supplied to the Contracting Authority.

Article 20 - Sufficiency of tender prices

- 20.1. Subject to any additional provisions which may be laid down in the Special Conditions, the Contractor shall be deemed to have inspected and examined the site and its surroundings and to have satisfied itself before submitting its tender, as to the nature of the ground and sub-soil, and to have taken into account the form and nature of the site, the extent and nature of the work and materials necessary for the completion of the works, the means of communication with and access to the site, the accommodation it may require and in general to have obtained for itself all necessary information as to risks, contingencies and all other circumstances influencing or affecting its tender.
- 20.2. The Contractor shall be deemed to have satisfied itself before submitting its tender as to the correctness and sufficiency of the tender and of the rates and prices stated in the bill of quantities or price schedule which shall, except in so far as it is otherwise provided in the contract, cover all its obligations under the contract.
- 20.3. Since the Contractor is deemed to have determined its prices on the basis of its own calculations, operations and estimates, it shall carry out without additional charge any work which is the subject of any item whatsoever in its tender for which it neither indicates a unit price nor a lump sum.

Article 21 - Exceptional risks

- 21.1. If during the execution of the works the Contractor encounters artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor, and if the Contractor is of the opinion that additional costs will be incurred and/or an extension of the period of implementation of tasks will be necessary as a result of this, it shall give notice to the Supervisor in accordance with Articles 35 and/or 55. The Contractor shall specify in such notice the artificial obstructions and/or physical conditions, giving details of the anticipated effects thereof, the measures it is taking or intends to take and the extent of the anticipated delay in or interference with the execution of the works.
- 21.2. Following receipt of the notice, the Supervisor may inter alia:
- a) require the Contractor to provide an estimate of the cost of the measures it is taking or intends to take;

- b) approve measures referred to in Article 21.2 (a) with or without modification;
 - c) give written instructions as to how the artificial obstructions or physical conditions are to be dealt with;
 - d) order an amendment to, a suspension, or termination of the contract.
- 21.3. To the extent that the Supervisor decides that the whole or part of the said artificial obstructions or physical conditions could not reasonably have been foreseen by an experienced Contractor, the Supervisor shall:
- a) take into account any delay suffered by the Contractor as a result of such obstructions or conditions in determining any extension of the period of implementation of tasks to which the Contractor is entitled under Article 35; and/or
 - b) in case of artificial obstructions or physical conditions other than weather conditions, determine additional payments due to the Contractor in accordance with Article 55.
- 21.4. Weather conditions shall not entitle the Contractor to claims under Article 55.
- 21.5. If the Supervisor decides that the artificial obstructions or physical conditions could, in whole or in part, have been reasonably foreseen by an experienced Contractor, he shall so inform the Contractor as soon as practicable.

Article 22 - Safety on sites

- 22.1. The Contractor shall have the right to forbid access to the site to any person not involved in the performance of the contract, with the exception of persons authorised by the Supervisor or the Contracting Authority.
- 22.2. The Contractor shall ensure the safety on sites during the whole period of execution and shall be responsible for taking the necessary steps, in the interests of its employees, agents of the Contracting Authority and third parties, to prevent any loss or accident which may result from carrying out the works.
- 22.3. The Contractor shall take all essential steps, on its own responsibility and at its expense, to ensure that existing structures and installations are protected, preserved and maintained. It shall be responsible for providing and maintaining at its expense all lighting, protection, fencing and security equipment which proves necessary for the proper implementation of the tasks or which may reasonably be required by the Supervisor.
- 22.4. If, during the implementation of the tasks, urgent measures are necessary to obviate any risk of accident or damage or to ensure security following any accident or damage, the Supervisor shall give formal notice to the Contractor to do what is necessary. If the Contractor is unwilling or unable to undertake the necessary measures, the Supervisor

may carry out the work at the expense of the Contractor to the extent that the Contractor is liable.

Article 23 - Safeguarding adjacent properties

- 23.1. On its own responsibility and at its expense, the Contractor shall take all the precautions required by good construction practice and by the prevailing circumstances to safeguard adjacent properties and avoid causing any abnormal disturbance therein.
- 23.2. The Contractor shall indemnify the Contracting Authority against the financial consequences of all claims by neighboring landowners or residents to the extent that the Contractor is liable and to the extent that the damage to adjacent properties is not the result of a hazard created through the design or method of construction imposed by the Contracting Authority or the Supervisor upon the Contractor.

Article 24 - Interference with traffic

- 24.1. The Contractor shall ensure that the works and installations do not cause damage to, or obstruct traffic on, communication links such as roads, railways, waterways and airports, save as permitted under the Special Conditions. It shall, in particular, take account of weight restrictions when selecting routes and vehicles.
- 24.2. Any special measures which the Contractor considers necessary or which are specified in the Special Conditions or which are required by the Contracting Authority in order to protect or strengthen sections of roads, tracks or bridges, shall be at the expense of the Contractor, whether or not they are carried out by the Contractor. The Contractor shall inform the Supervisor of any special measures it intends to take before carrying them out. The repair of any damage caused to roads, tracks or bridges by the transport of materials, plant or equipment shall be at the expense of the Contractor.

Article 25 - Cables and conduits

- 25.1. Where, in the course of carrying out the works, the Contractor encounters bench-marks indicating the course of underground cables, conduits and installations, it shall keep such bench-marks in position or replace them, should execution of the works have necessitated their temporary removal. Such related operations require the authorisation of the Supervisor.
- 25.2. The Contractor shall be responsible for the preservation, removal and replacement, as the case may be, of the cables, conduits and installations specified by the Contracting Authority in the contract and for the cost thereof.
- 25.3. Where the presence of cables, conduits and installations has not been specified in the contract but is revealed by bench-marks and references, the Contractor shall be under a general duty of care and similar obligations regarding preservation, removal and replacement to those set out above. In this case, the Contracting Authority shall compensate it for expenditure, to the extent that such work is necessary for the execution of the contract.

- 25.4. However, the obligations to remove and replace cables, conduits and installations and the expenditure resulting therefrom shall not be the responsibility of the Contractor if the Contracting Authority decides to accept that responsibility. The same shall apply where this obligation and the expenditure resulting therefrom devolve upon another specialist administration or an agent.
- 25.5. When any work on the site is likely to cause disturbances in or damage to a public utility service, the Contractor shall immediately inform the Supervisor in writing, giving a reasonable period of notice so that suitable measures may be taken in time to allow work to continue normally.

Article 26 - Setting-out

- 26.1. The Contractor shall be responsible for:
- a) the accurate setting-out of the works in relation to original marks, lines and levels of reference given by the Supervisor;
 - b) the correctness, of the position, levels, dimensions and alignment of all parts of the works; and
 - c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.
- 26.2. If, at any time during the execution of the works, any error appears in the position, levels, dimensions or alignment of any part of the works, the Contractor, shall, if the Supervisor so requires, at the Contractor's cost, rectify such error to the satisfaction of the Supervisor, unless such error is based on incorrect data supplied by the Supervisor which an experienced contractor exercising due care would not have discovered, in which case the Contracting Authority shall be responsible for the cost of rectification.
- 26.3. The checking of any setting-out or of any line or level by the Supervisor shall not in any way relieve the Contractor of its responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench-marks, sight-rails, pegs and other items used in setting-out the works.

Article 27 - Demolished materials

- 27.1. Where the contract includes demolition work, materials and articles obtained therefrom shall, unless the Special Conditions and /or the law of the Country in which the works are executed otherwise provide and subject to the provisions of Article 28, become the property of the Contractor.
- 27.2. Should the Special Conditions reserve to the Contracting Authority the right of ownership of materials or all or part of the articles obtained from the demolition work, the Contractor shall take all the necessary precautions to ensure that these are preserved. It shall be liable for any destruction of, or damage to, such materials or articles caused by it or its agents.
- 27.3. Irrespective of the use to which the Contracting Authority intends to put the materials or articles, in respect of which it reserves the right of ownership, all costs incurred in

transporting and storing them and all warehouse charges at the place indicated by the Supervisor shall be borne by the Contractor for any carriage not exceeding 1000 meters.

- 27.4. Save where the Special Conditions provide otherwise, the Contractor shall, at its expense, progressively remove rubble and other demolition materials, rubbish and debris from the site.

Article 28 - Discoveries

- 28.1. Discoveries of any interest whatsoever made during excavation or demolition work shall be brought immediately to the attention of the Supervisor. The Supervisor shall decide how such discoveries are to be dealt with, taking due account of the law of the Country in which the works are executed.
- 28.2. The Contracting Authority reserves the right of ownership of materials found during the excavation and demolition work carried out on land belonging to it, subject to compensating the Contractor for any special efforts.
- 28.3. Artifacts, antiquities and natural, numismatic, or other objects which are of scientific interest, and also rare objects or objects made of precious metals found during excavation or demolition work shall be the property of the Contracting Authority.
- 28.4. In the event of disagreements, the Contracting Authority shall have sole authority to decide as to the qualifications set out in Articles 28.1 and 28.3.

Article 29 - Temporary works

- 29.1. The Contractor shall carry out at its expense all the temporary works to enable the works to be carried out. The Contractor shall submit to the Supervisor the drawings for temporary works which the Contractor intends to use, such as cofferdams, scaffolding, trusses and shuttering. The Contractor shall take into account any observations made by the Supervisor while assuming responsibility for these drawings.
- 29.2. Where the design of particular temporary works is specified in the Special Conditions to be the responsibility of the Contracting Authority, the Supervisor shall provide the Contractor with all drawings necessary in reasonable time to enable the Contractor to undertake the temporary works in accordance with its programme. In such cases, the Contracting Authority shall be solely responsible for the safety and adequacy of the design. However, the Contractor shall be responsible for the proper construction.

Article 30 - Soil studies

- 30.1. Subject to the Special Conditions and to the technical specifications, the Contractor shall make available to the Supervisor, the personnel and equipment necessary for carrying out any soil survey which the Supervisor considers reasonably necessary. The Contractor shall be compensated for the actual cost of the manpower and equipment used or made available in such work, plus a reasonable profit, if not already provided for in the contract.

Article 31 - Overlapping contracts

- 31.1. The Contractor shall, in accordance with the requirements of the Supervisor, afford all reasonable opportunities for carrying out their work to any other contractors employed by the Contracting Authority and their workmen, to the workmen of the Contracting Authority and of any other public authorities who may be employed on or near the site in the execution of any work not included in the contract, or of any contract which the Contracting Authority may enter into in connection with, or ancillary to, the works.
- 31.2. If, however, the Contractor, on the written request of the Supervisor, makes available to any such Contractor, or public authority, or to the Contracting Authority, any roads or ways for the maintenance of which the Contractor is responsible, or permits the use by any such other persons of the Contractor's temporary works, scaffolding or other equipment on the site, or provides any other service of whatsoever nature, which was not provided for in the contract, the Contracting Authority shall pay to the Contractor in respect of such use or service, such sums and/or grant such extension of time, as shall, in the opinion of the Supervisor, be reasonable.
- 31.3. The Contractor shall not by reason of Article 31 be relieved of any of its obligations under the contract nor shall it be entitled to any claims other than those provided for in Article 31.2.
- 31.4. In no circumstances may difficulties arising with regard to one contract entitle the Contractor to modify or delay implementation of other contracts. Similarly, the Contracting Authority may not take advantage of such difficulties to suspend payments due under another contract.

Article 32 - Patents and licenses

- 32.1. Save where otherwise provided in the Special Conditions, the Contractor shall indemnify and hold the Contracting Authority and the Supervisor harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for any alleged or actual violations of intellectual, industrial or other property rights of any kind whatsoever based on the Contracting Authority's use as specified in the contract of patents, licenses, drawings, designs, models, or brand or trademarks, except where such infringement results from compliance with the design or specification provided by the Contracting Authority and/or the Supervisor.
- 32.2. All industrial, intellectual and other property rights (including but not limited to patent rights and copyright) developed in connection with the tasks by or on behalf of the Contractor, including but not limited to any rights in any documents prepared for the purpose of the contract or the tasks, shall remain vested in the Contractor but the Contracting Authority shall have an irrevocable, royalty-free, non-exclusive licence of the above-mentioned rights for the purpose of the contract.

Such licence shall carry the right to grant sub-licences and shall be transferable by the Contracting Authority to third parties without the consent of the Contractor being required.

All industrial, intellectual and other property rights (including but not limited to patent rights and copyright) developed in connection with the tasks by or on behalf of the

Contracting Authority, including but not limited to any rights in any documents prepared for the purpose of the contract or the tasks, shall remain vested in the Contracting Authority but the Contractor shall have the right at its cost to copy, use and obtain communication of these documents for the purpose of the contract.

Upon and notwithstanding any termination of the contract howsoever arising, as well as after completion of the tasks, the Contracting Authority shall continue to have the benefit of the licence referred to in Article 32.2, first paragraph.

IMPLEMENTATION OF THE TASKS AND DELAYS

Article 33 - Commencement orders

- 33.1. The Supervisor issues an administrative order notifying the Contractor of the date on which the period of implementation of tasks must start.
- a) Save where the parties agree otherwise, the period of implementation of tasks shall not start before: in conformity with Article 9, the site, or part of the site has been placed at the disposal of the Contractor according to the progress of the work set out in the programme of implementation of tasks approved by the Supervisor;
 - b) the documents mentioned under Article 8.1 have been provided to the Contractor.
- 33.3. Save where the Parties agree otherwise, the period of implementation of tasks shall start no later than 180 days following notification of award of the contract.

Article 34 - Period of implementation of tasks

- 34.1. The period of implementation of tasks shall be as laid down in the Special Conditions, without prejudice to extensions of the period which may be granted under Article 35.
- 34.2. If provision is made for distinct periods of implementation of tasks for separate lots, in cases where one Contractor is awarded more than one lot per contract, the periods of implementation of tasks for the separate lots will not be accumulated.

Article 35 - Extension of the period of implementation of tasks

- 35.1. The Contractor may request an extension to the period of implementation of tasks if it is or will be delayed in completing the contract by any of the following reasons:
- a) exceptional weather conditions in the Country in which the works are executed which may affect the implementation of the tasks;
 - b) artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor;
 - c) administrative orders affecting the date of completion other than those arising from the Contractor's default;
 - d) failure of the Contracting Authority to fulfil its obligations under the contract;

- e) any suspension of the works which is not due to the Contractor's default;
- f) force majeure;
- g) any other causes referred to in these General Conditions which are not due to the Contractor's default.

35.2. If the Contractor considers itself to be entitled to any extension of the period of implementation under the contract, the Contractor shall:

- a) give notice to the Supervisor of its intention to make such a request no later than 15 days after the Contractor became aware, or should have become aware of the event or circumstance giving rise to the request.

If the Contractor fails to give notice of a request for extension of the period of implementation within such period of 15 days, the period of implementation shall not be extended and the Contracting Authority shall be discharged from all liability in connection with the request; and

- b) submit to the Supervisor full and detailed particulars of the request, within 30 days from the above notification unless otherwise agreed between the Contractor and the Supervisor, in order that such request may be investigated.

35.3. Within 30 days from receipt of the Contractor's detailed particulars of the request, the Supervisor shall, by notice to the Contractor after due consultation with the Contracting Authority and, where appropriate, the Contractor, grant such extension of the period of implementation as may be justified, either prospectively or retrospectively, or inform the Contractor that it is not entitled to an extension.

Article 36 - Delays in implementation of the tasks

36.1. If the Contractor fails to complete the works within the time period(s) specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract be entitled to liquidated damages for every day or part thereof which shall elapse between the end of the period specified for implementation of tasks or extended period of implementation of tasks under Article 35 and the actual date of completion, at the rate and up to the maximum amount specified in the Special Conditions.

If the works have been the subject of partial acceptance in accordance with Article 59, the liquidated damages specified in the Special Conditions may be reduced in the proportion which the value of the accepted part bears to the value of the whole of the works.

36.2. If the Contracting Authority has become entitled to the maximum claim under Article 36.1 it may, after giving notice to the Contractor:

- a) seize the performance guarantee; and/or
- b) terminate the contract; and/or
- c) enter into a contract with a third party at the Contractor's cost for the provision of the balance of the works.

Article 37 - Amendments

- 37.1. Contract amendments must be formalised by a contract addendum signed by both parties or by an administrative order issued by the Supervisor except if the amendments result from the application of the contract.
- 37.2. The Supervisor shall have the power to order any amendment to any part of the works necessary for the proper completion and/or functioning of the works. Such amendments by administrative order may include additions, omissions, substitutions, changes in quality, quantity, form, character, kind, position, dimension, level or line and changes in the specified sequence, method or timing of execution of the works. No administrative order shall have the effect of invalidating the contract, but the financial effect, if any, of all such amendments shall be valued in accordance with Articles 37.5 and 37.7.
- 37.3. All administrative orders shall be issued in writing, it being understood that:
- a) if, for any reason, the Supervisor finds it necessary to give an order orally, it shall as soon as possible thereafter confirm the order by an administrative order;
 - b) if the Contractor confirms in writing an oral order given for the purpose of Article 37.3 (a) and the confirmation is not contradicted in writing forthwith by the Supervisor, the Supervisor shall be deemed to have issued an administrative order;
 - c) no administrative order is required to increase or decrease the quantity of any work where such increase or decrease is the result of the quantity exceeding or being less than that stated in the bill of quantities or price schedule, as the result of measurement laid down in article 49.
- 37.4. Save as provided by Article 37.3 prior to issuing an administrative order, the Supervisor shall notify the Contractor of the nature and form of such amendment. The Contractor shall then, without delay, submit to the Supervisor a written proposal containing:
- a) a description of the tasks to be implemented or the measures to be taken and a programme for execution;
 - b) any necessary amendments to the programme of implementation of tasks or to any of the Contractor's obligations resulting from this contract; and
 - c) any adjustment to the contract price in accordance with the rules set out in Article 37.
- 37.5. Following the receipt of the Contractor's submission referred to in Article 37.4, the Supervisor shall, after due consultation with the Contracting Authority and, where appropriate, the Contractor, decide without delay whether or not to accept the amendment. If the Supervisor accepts the amendment, it shall notify the Contractor through an administrative order stating that the Contractor shall carry out the amendment at the prices and under the conditions given in the Contractor's submission referred to in Article 37.4 or as modified by the Supervisor in accordance with Article 37.6.

37.6. The Supervisor shall, for all amendments ordered by it in accordance with Article 37.3 and 37.5, ascertain the prices in accordance with the following principles:

- a) where work is of similar character and executed under similar conditions as work priced in the bill of quantities or price schedule, it shall be valued at such rates and prices contained therein;
- b) where work is not of a similar character or is not executed under similar conditions, the rates and prices in the contract shall be used as the basis for valuation as far as is reasonable, failing which the Supervisor shall make a fair valuation;
- c) if the nature or amount of any amendment relative to the nature or amount of the whole contract or to any part thereof is such that, in the opinion of the Supervisor, any rate or price contained in the contract for any item of work is, by reason of such amendment, rendered unreasonable, the Supervisor shall fix such rate or price as he thinks reasonable and proper in the circumstances;
- d) here an amendment is required by a default or breach of contract by the Contractor, any additional cost attributable to such amendment shall be borne by the Contractor.

37.7. On receipt of the administrative order, the Contractor shall carry out the requested amendment according to the following principles:

- a) The Contractor will be bound by these General Conditions as if the amendment requested by administrative order were stated in the contract.
- b) The Contractor shall not delay the execution of the administrative order pending the granting of any extension of time for completion or adjustment to the contract price.
- c) Where the administrative order precedes the adjustment to the contract price, the Contractor shall keep records of the costs of undertaking the amendment and of the time expended thereon. Such records shall be open to inspection by the Supervisor at all reasonable times.

37.8. Where on provisional acceptance an increase or reduction in the total value of the works resulting from an administrative order, or from some other circumstance which is not caused by the Contractor's default, exceeds 15% of the initial contract price (or as amended by addendum), the Supervisor shall, after consulting the Contracting Authority and the Contractor, determine any addition to or reduction from the contract price as a consequence of applying Article 37.6. The sum so determined shall be based on the amount by which the increase or decrease in value of the works exceeds 15%. The Supervisor shall notify the sum to the Contracting Authority and the Contractor, and adjust the contract price accordingly.

- 37.9. The Contractor shall notify the Contracting Authority of any change of bank account, using the form in Annex V. The Contracting Authority shall have the right to oppose the Contractor's change of bank account.

Article 38 - Suspension

- 38.1. Suspension by administrative order of the Supervisor:

The Contractor shall, on the order of the Supervisor, suspend the progress of the works or any part thereof for such time or times and in such manner as the Supervisor may consider necessary. The suspension shall take effect on the day the Contractor receives the order or at a later date when the order so provides. The Supervisor shall, as soon as possible, instruct the Contractor to resume the contract suspended.

- 38.2. Suspension by notice of the Contractor:

Any default in payment of more than 30 days under any certificate issued by the Supervisor from the expiry of the time-limit referred to in Article 44.3(b) entitles the Contractor, after giving not less than 30 days' notice to the Contracting Authority, to suspend the work, or reduce the rate of the work, unless and until the Contractor has received reasonable evidence of payment or payment. The Contractor's action shall not prejudice its entitlements to interest for delayed payment under Article 53.1 and to termination under Article 65.1.

If the Contractor subsequently receives such evidence or payment before giving notice of termination, the Contractor shall resume normal working as soon as reasonably practicable and, unless the parties agree otherwise, no later than 30 days after receiving the evidence or the payment.

- 38.3. Suspension in the event of presumed substantial errors, irregularities or fraud:

The contract may be suspended in order to verify whether presumed substantial errors or irregularities or fraud occurred during the award procedure or the performance of the contract. If these are not confirmed, performance of the contract shall resume as soon as possible.

- 38.4. During the period of suspension, the Contractor shall take such protective measures as may be necessary to safeguard the works, plant, equipment and site against any deterioration, loss or damage. Additional expenses incurred in connection with such protective measures may be added to the contract price, unless:

- a) otherwise provided for in the contract; or
- b) such suspension is necessary by reason of some breach or default of the Contractor; or
- c) such suspension is necessary by reason of normal climatic conditions on site; or
- d) such suspension is necessary for the safety or the proper execution of the works or any part thereof insofar as such necessity does not arise from any act, breach or default by the Supervisor or the Contracting Authority or from any of the exceptional risks referred to in Article 21, or

- e) the presumed substantial errors or irregularities or fraud mentioned in article 38.3 are confirmed and attributable to the Contractor.

38.5. The Contractor shall introduce claims for additional payment or extension of the period of implementation in accordance with Articles 35 and 55.

38.6. If the period of suspension exceeds 180 days and the suspension is not due to the Contractor's breach or default, the Contractor may, by notice to the Supervisor, request to proceed with the contract within 30 days, or terminate the contract.

38.7. The Contracting Authority shall, as soon as possible, order the Contractor to resume the contract suspended or inform the Contractor that it terminates the contract.

MATERIALS AND WORKMANSHIP

Article 39 - Work register

39.1. A work register shall, unless otherwise provided by the Special Conditions, be kept on the site by the Supervisor, who shall enter in it at least the following information:

- a) the weather conditions, interruptions of work owing to inclement weather, hours of work, number and type of workmen employed on the site, materials supplied, equipment in use, equipment not in working order, tests carried out in situ, samples dispatched, unforeseen circumstances, as well as orders given to the Contractor;
- b) detailed statements of all the quantitative and qualitative elements of the work done and the supplies delivered and used, capable of being checked on the site and relevant in calculating payments to be made to the Contractor.

39.2. The statements shall form an integral part of the work register but may, where appropriate, be recorded in separate documents. The technical rules for drawing up the statements shall be as set out in the Special Conditions.

39.3. The Contractor shall ensure that statements are drawn up, in good time and in accordance with the Special Conditions, in respect of work, services and supplies which cannot be measured or verified subsequently; failing this, it shall accept the decisions of the Supervisor, unless, at its own expense, it provides evidence to the contrary.

39.4. Entries made in the work register as work progresses shall be signed by the Supervisor and countersigned by the Contractor or its representative. If the Contractor objects, it shall communicate its views to the Supervisor within 15 days following the date on which the entry or the statements objected to are recorded. Should it fail to countersign or to submit its views within the period allowed, the Contractor shall be deemed to agree with the

notes shown in the register. The Contractor may examine the work register at any time and may, without removing the document, make or receive a copy of entries which it considers necessary for its own information.

- 39.5. The Contractor shall, on request, provide the Supervisor with the information needed to keep the work register in good order.

Article 40 - Origin and quality of works and materials

- 40.1. Save where otherwise provided for in the Special Conditions, all goods purchased under the contract shall have their origin in any eligible source country as defined in the Invitation to Tender. The Contractor must certify that the goods tendered comply with this requirement, specifying their countries of origin. It may be required to provide more detailed information in this respect.
- 40.2. The works, components and materials shall conform to the specifications, drawings, surveys, models, samples, patterns and other requirements in the contract which shall be held at the disposal of the Contracting Authority or the Supervisor for the purposes of identification throughout the period of performance.
- 40.3. Any preliminary technical acceptance stipulated in the Special Conditions shall be the subject of a request sent by the Contractor to the Supervisor. The request shall indicate the reference to the contract, the lot number and the place where such acceptance is to take place, as appropriate. The components and materials specified in the request must be certified by the Supervisor as meeting the requirements for such acceptance prior to their incorporation in the works.
- 40.4. Even if materials or items to be incorporated in the works or in the manufacture of components have been technically accepted in this way, they may still be rejected if a further examination reveals defects or faults, in which case they must immediately be replaced by the Contractor. The Contractor may be given the opportunity to repair and make good materials and items which have been rejected, but such materials and items will be accepted for incorporation in the works only if they have been repaired and made good to the satisfaction of the Supervisor.

Article 41 - Inspection and testing

- 41.1. The Contractor shall ensure that the components and materials are delivered to the site in time to allow the Supervisor to proceed with acceptance of the components and materials. The Contractor is deemed to have fully appreciated the difficulties which it might encounter in this respect, and it shall not be permitted to advance any grounds for delay in fulfilling its obligations.
- 41.2. The Supervisor shall be entitled to inspect, examine, measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract in order to establish whether the components, materials and workmanship are

of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or on the site or at such other places as may be specified in the Special Conditions.

41.3. For the purposes of such tests and inspections, the Contractor shall:

- a) provide to the Supervisor, temporarily and free of charge, such assistance, test samples or parts, machines, equipment, tools, labour, materials, drawings and production data as are normally required for inspection and testing;
- b) agree, with the Supervisor, on the time and place for tests;
- c) provide access for the Supervisor at all reasonable times to the place where the tests are to be carried out.

41.4. If the Supervisor is not present on the date agreed for tests, the Contractor may, unless otherwise instructed by the Supervisor, proceed with the tests, which shall be deemed to have been made in the Supervisor's presence. The Contractor shall immediately send duly certified copies of the test results to the Supervisor, who shall, if he has not attended the test, be bound by the test results.

41.5. When components and materials have passed the above-mentioned tests, the Supervisor shall notify the Contractor or endorse the procedure's certificate to that effect.

41.6. If the Supervisor and the Contractor disagree on the test results, each shall give a statement of its views to the other within 15 days after such disagreement arises. The Supervisor or the Contractor may require such tests to be repeated on the same terms and conditions or, if either party so requests, by an expert to be selected by common consent. All test reports shall be submitted to the Supervisor who shall communicate the results of these tests without delay to the Contractor. The results of the re-testing shall be conclusive. The cost of re-testing shall be borne by the party whose views are proved wrong by the re-testing.

41.7. In the performance of its duties, the Supervisor and any persons authorised by him shall not disclose to unauthorised persons information concerning the undertaking's methods of manufacture and operation obtained through inspection and testing.

Article 42 - Rejection

42.1. Components and materials which are not of the specified quality shall be rejected. A special mark may be applied to the rejected components or materials. This shall not be such as to alter them or affect their commercial value. Rejected components and materials shall be removed by the Contractor from the site within a period which the Supervisor shall specify, failing which they shall be removed by the Supervisor as of right at the expense and risk of the Contractor. Any work incorporating rejected components or materials shall be rejected.

- 42.2. The Supervisor shall, during the progress of the works and before the works are taken over, have the power to order or decide:
- a) the removal from the site, within such time limits as may be specified in the order, of any components or materials which, in the opinion of the Supervisor, are not in accordance with the contract;
 - b) the substitution of proper and suitable components or materials; or
 - c) the demolition and proper re-execution, or satisfactory repair, notwithstanding any previous test thereof or interim payment therefore, of any work which, in respect of components, materials, workmanship or design by the Contractor for which it is responsible, is not, in the opinion of the Supervisor, in accordance with the contract.
- 42.3. The Supervisor shall, as soon as reasonably practicable, give to the Contractor notice of its decision specifying particulars of the alleged defects.
- 42.4. The Contractor shall with all speed and at its expense make good the defects so specified. If the Contractor does not comply with such order, the Contracting Authority shall be entitled to employ other persons to carry out the same and all expenses consequent thereon or incidental thereto may be deducted by the Contracting Authority from any monies due or which may become due to the Contractor.
- 42.5. The provisions of Article 42 shall not affect the right of the Contracting Authority to claim under Articles 36 and 63.

Article 43 - Ownership of plant and materials

- 43.1. All equipment, temporary works, plant and materials provided by the Contractor shall, when brought on the site, be deemed to be exclusively intended for the execution of the works and the Contractor shall not remove the same or any part thereof, except for the purpose of moving it from one part of the site to another, without the consent of the Supervisor. Such consent shall, however, not be required for vehicles engaged in transporting any staff, labour, equipment, temporary works, plant or materials to or from the site.
- 43.2. The Special Conditions may provide that all equipment, temporary works, plant and materials on site owned by the Contractor or by any company in which the Contractor has a controlling interest shall, for the duration of the execution of the works, be:
- a) vested in the Contracting Authority; or
 - b) made subject to a lien in favour of the Contracting Authority; or
 - c) made subject to any other arrangement regarding priority interest or security.

- 43.3. In the event of termination of the contract in accordance with Article 63 due to the Contractor's breach of contract, the Contracting Authority shall be entitled to use the equipment, temporary works, plant and materials on site in order to complete the works.
- 43.4. Any agreement for the hire by the Contractor of equipment, temporary works, plant and materials brought onto the site, shall contain a provision that on request in writing made by the Contracting Authority within 7 days after the date on which the termination under Article 64 becomes effective, and on the Contracting Authority undertaking to pay all hire charges in respect thereof from such date, the owner thereof will hire such equipment, temporary works, plant or materials to the Contracting Authority on the same terms as they were hired by the Contractor, save that the Contracting Authority shall be entitled to permit the use thereof by any other contractor employed by it for completing the works under the provisions of Article 64.3.
- 43.5. Upon termination of the contract before completion of the works, the Contractor shall deliver to the Contracting Authority any plant, temporary works, equipment or materials the property in which has vested in the Contracting Authority or been made subject to a lien by virtue of Article 43.2. If it fails to do so, the Contracting Authority may take such appropriate action as it deems fit in order to obtain possession of such plant, temporary works, equipment and materials and recover the cost of so doing from the Contractor.

PAYMENTS

Article 44 - General principles

- 44.1. Payments shall be made in euro or national currency as specified in the Special Conditions. The Special Conditions shall lay down the administrative or technical conditions governing payments of pre-financing, interim and/or final payments made in accordance with the General Conditions.
- 44.2. Payments due by the Contracting Authority shall be made to the bank account mentioned on the financial identification form completed by the Contractor. The same form, annexed to the payment request must be used to report changes of bank account.
- 44.3. Payment to the Contractor shall be done as follows:
- a) Pre-financing payments shall be made within 90 days of receipt by the Contracting Authority of the Contractor's invoice and the documents referred to in Article 46.3. The date of payment shall be the date on which the paying account is debited.
 - b) Payments to the Contractor of the amounts due under each of the interim payment certificates and the final statement of account issued by the Supervisor shall be made within 90 days of such certificate of statement accompanied by the

Contractor's invoice being delivered to the Contracting Authority. The date of payment shall be the date on which the paying account is debited.

44.4. The period referred to in 44.3 may be suspended by notifying the Contractor that the invoice cannot be paid because the sum is not due, because appropriate substantiating documents have not been provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The Contractor shall provide clarifications, modifications or further information within 30 days of being asked to do so. Within 30 days of receipt of the clarification, the Supervisor shall decide and issue if need be a revised payment certificate or a final statement of account and the payment period shall continue to run from this date.

44.5. The Contractor undertakes to repay to the Contracting Authority any amounts paid in excess of the final amount due, before the deadline indicated in the debit note which is 45 days from the issuing of that note.

Should the Contractor fail to make repayment within the above deadline, the Contracting Authority may (unless the Contractor is a government department or public body of a Member State of the European Union) increase the amounts due by adding interest:

i) at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country;

ii) at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euro,

on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.

Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Contractor. This shall not affect the parties' right to agree on payment in instalments. Bank charges arising from the repayment of amounts due to the Contracting Authority shall be borne entirely by the Contractor.

Without prejudice to the prerogative of the Contracting Authority, if necessary, the European Union may as donor proceed itself to the recovery by any means.

44.6. Prior to, or instead of, terminating the contract as provided for in Article 64, the Contracting Authority may suspend payments as a precautionary measure without prior notice.

44.7. Where the award procedure or the performance of the contract proves to have been subject to substantial errors, irregularities or fraud attributable to the Contractor, the Contracting Authority may in addition to the possibility to suspend the performance of the contract in accordance with Article 38.3 and terminate the contract as provided for in

Article 64, refuse to make payments and/or recover amounts already paid, in proportion to the seriousness of the errors irregularities or fraud.

Article 45 - Provisional price contracts

- 45.1. In exceptional cases, where a provisional price contract has been awarded, the amount payable under the contract shall be calculated as follows:
- a) as for cost-plus contracts in Article 49.1 (c); or

 - b) initially on the basis of provisional prices and, after the conditions for performing the contract are known, as for lump-sum contracts or unit price contracts in Article 49.1 (a) and (b) respectively, or as in a hybrid contract.
- 45.2. The Contractor shall supply such information as the Contracting Authority or the Supervisor may reasonably require in respect of any matter relating to the contract for the purpose of the calculation. Where agreement cannot be reached on the valuation of the works, the amounts payable shall be determined by the Supervisor.

Article 46 - Pre-financing

- 46.1. If the Special Conditions so provide, pre-financing may be granted to the Contractor, at its request and before the first interim payment takes place, for operations connected with the implementation of the tasks, in the cases listed hereinafter:
- a) as a lump-sum advance enabling it to meet expenditure resulting from the commencement of the contract;

 - b) as pre-financing for the purchase or order of : materials, plant, equipment, machines, tools and of any other substantial prior expenses such as the acquisition of patents or study costs, necessary for the execution of the contract. A proof of the conclusion of such purchase or order shall be provided by the Contractor to obtain the pre-financing.
- 46.2. The Special Conditions shall state the amount of the pre-financing which shall not exceed 10% of the original contract price for the lump-sum referred to in Article 46.1 (a) and 20 % of the contract price for all other pre-financing referred to in Article 46.1 (b).
- 46.3. No pre-financing shall be granted until:
- a) the signature of the contract;

 - b) provision of the performance guarantee in accordance with Article 15;
 - c) provision, for the full amount of the pre-financing, of a financial guarantee which shall remain effective until the pre-financing has been completely repaid by the Contractor out of interim payments under the contract unless otherwise provided for in the Special Conditions;

 - d) fulfilment of the Contractor's obligation under article 16;

 - e) approval of the programme of implementation of tasks by the Supervisor.

- 46.4. The Contractor shall use the pre-financing exclusively for operations connected with the implementation of the tasks. Should the Contractor misuse any portion of the pre-financing, it shall become due and repayable immediately and no further pre-financing payments will be made.
- 46.5. Should the pre-financing guarantee cease to be valid and the Contractor fail to re-validate it, either a deduction equal to the amount of the pre-financing may be made by the Contracting Authority from future payments due to the Contractor under the contract, or the Contracting Authority may apply the provisions of Article 15.6.
- 46.6. If the contract is terminated for any reason whatsoever, the guarantees securing the pre-financing may be invoked forthwith in order to repay the balance of the pre-financing still owed by the Contractor, and the guarantor shall not delay payment or raise objection for any reason whatever.
- 46.7. The pre-financing guarantee provided for in Article 46 shall be released as and when pre-financing is repaid.
- 46.8. Further conditions and procedures for granting and repaying pre-financing shall be as laid down in the Special Conditions.

Article 47 - Retention monies

- 47.1. The sum which shall be retained from interim payments by way of guarantee to meet the Contractor's obligations during the defects liability period, and the detailed rules governing that guarantee, shall be stipulated in the Special Conditions, provided that it shall, in no case, exceed 10% of the contract price.
- 47.2. Subject to the approval of the Contracting Authority, the Contractor may, if it so wishes, substitute, not later than the date fixed for the commencement of the works, these retention sums by a retention guarantee issued in accordance with Article 15.3.
- 47.3. The sum retained or the retention guarantee shall be released within 60 days of the issuing of the signed final statement of account referred to in Article 51, for its total amount except for amounts which are the subject of amicable settlement, arbitration or litigation.

Article 48 - Revision of prices

- 48.1. Unless otherwise stipulated in the Special Conditions, and except as provided in Article 48.4 the contract shall be at fixed prices which shall not be revised.
- 48.2. Where prices may be revised under the contract, such revision shall take into account variations in the prices of significant local or external elements which serve as a basis for the calculation of the tender price, such as manpower, services, materials and supplies, as well as charges laid down by law or regulation. The detailed rules for the revision shall be as laid down in the Special Conditions.

- 48.3. Prices contained in the Contractor's tender shall be deemed:
- a) to have been arrived at on the basis of the conditions in force 30 days prior to the latest date fixed for submission of tenders; or in the case of direct agreement contracts, on the date of the contract;
 - b) to have taken account of the legislation and the relevant tax arrangements applicable at the reference date fixed in Article 48.3 (a).
- 48.4. In the event of changes to, or introduction of, any national or State statute, ordinance, decree or other law, or any regulation or by-law of any local or other public authority, after the date stated in Article 48.3 which causes a change in the contractual relationship between the parties to the contract, the Contracting Authority and the Contractor shall consult on how best to proceed further under the contract, and may as a result of such consultation decide:
- a) to amend the contract; or
 - b) on payment of compensation for the resulting imbalance by one party to the other; or
 - c) to terminate the contract by mutual agreement.
- 48.5. In the event of a delay in the implementation of the tasks for which the Contractor is responsible, the indices to be considered for the revision of prices during the period of delay shall be the most advantageous to the Contracting Authority between those applied to the last interim certificate issued for tasks implemented during the period of implementation of tasks and those revised up to the provisional acceptance of the tasks.

Article 49 - Measurement

- 49.1. The following methods shall apply to the valuation of works contracts:
- a) For lump-sum contracts, the amount due under the contract shall be determined on the basis of the breakdown of the overall contract price, or on the basis of a breakdown expressed as a percentage of the contract price corresponding to completed stages of the works. Where items are accompanied by quantities, these shall be firm quantities for which the Contractor has submitted its all-in price, and shall be paid for irrespective of the quantities of work actually carried out.
 - b) For unit price contracts:
 - i. the amount due under the contract shall be calculated by applying the unit rates to the quantities actually executed for the respective items, in accordance with the contract;
 - ii. the quantities set out in the bill of quantities shall be the estimated quantities of the works, which shall not be taken as the actual and correct quantities of the works to be executed by the Contractor in fulfilment of its obligations under the contract;

- iii. the Supervisor shall determine by measurement the actual quantities of the works executed by the Contractor, and these shall be paid for in accordance with Article 50. Unless otherwise provided in the Special Conditions no additions shall be made to the items in the bill of quantities except as a result of an amendment in accordance with Article 37 or another provision of the contract entitling the Contractor to additional payment;
 - iv. the Supervisor shall, when he requires any parts of the works to be measured, give reasonable notice to the Contractor to attend, or to send a qualified agent to represent him. The Contractor or its agent shall assist the Supervisor in making such measurements and shall furnish all particulars required by the Supervisor. Should the Contractor not attend, or omit to send such agent, the measurement made by the Supervisor or approved by him shall be binding on the Contractor;
 - v. the works shall be measured net, notwithstanding any general or local custom, except where otherwise provided for in the contract.
- c) For cost-plus contracts, the amount due under the contract shall be determined on the basis of actual costs with an agreed addition for overheads and profit. The Special Conditions shall stipulate the information which the Contractor is required to submit to the Supervisor for the purpose of Article 49.1 (c) and the manner in which it should be submitted.

49.2. Where an item in the contract is indicated as 'provisional' the provisional sum set aside for it shall not be taken into account in calculating the percentages referred to in Article 37.

Article 50 - Interim payments

- 50.1. The Contractor shall submit an invoice for interim payment to the Supervisor at the end of each period referred to in Article 50.7 in a form approved by the Supervisor. The invoice shall include the following items, as applicable:
- a) the estimated contract value of the permanent works implemented up to the end of the period in question;
 - b) an amount reflecting any revision of prices pursuant to Article 48;
 - c) an amount to be withheld as retention sum under Article 47;
 - d) any credit and/or debit for the period in question in respect of plant and materials on site intended for, but not yet incorporated in, the permanent works in the amount and under the conditions set out in Article 50.2;
 - e) an amount to be deducted on account of the pre-financing repayment under the provisions of Article 46; and

f) any other sum to which the Contractor may be entitled under the contract.

50.2. The Contractor shall be entitled to such sums as the Supervisor may consider proper in respect of plant and materials intended for, but not yet incorporated in, the permanent works provided that:

- a) the plant and materials conform with the specifications for the permanent works and are set out in batches in a way that they may be recognized by the Supervisor;
- b) such plant and materials have been delivered to the site, and are properly stored and protected against loss or damage or deterioration to the satisfaction of the Supervisor;
- c) the Contractor's record of requirements, orders, receipts and use of plant and materials under the contract are kept in a form approved by the Supervisor and such records are available for inspection by the Supervisor;
- d) the Contractor submits with its statement, the estimated value of the plant and materials on site together with such documents as may be required by the Supervisor for the purpose of valuation of the plant and materials and providing evidence of ownership and payment therefor; and
- e) where the Special Conditions so provide, ownership of the plant and materials referred to in Article 43 shall be deemed to be vested in the Contracting Authority.

50.3. Approval by the Supervisor of any interim invoice certified by him in respect of plant and materials pursuant to Article 50 shall be without prejudice to the exercise of any power of the Supervisor under the contract to reject any plant or materials which are not in accordance with the provisions of the contract.

50.4. The Contractor shall be responsible for any loss or damage to, and for the cost of storing and handling of, such plant and materials on site and shall effect such additional insurance as may be necessary to cover the risk of such loss or damage from any cause.

50.5. Within 30 days of receipt of the said invoice for interim payment, the Supervisor shall:

- a) verify that, in the Supervisor's opinion, the invoice for interim payment reflects the amount due to the Contractor in accordance with the contract. In cases where there is a difference of opinion as to the value of an item, the Supervisor's view shall prevail.
- b) on determination of the amount due to the Contractor, issue and transmit to the Contracting Authority for payment and to the Contractor for information, an

interim payment certificate for the amount due to the Contractor and shall inform the Contractor of the works for which payment is being made.

- 50.6. The Supervisor may, by an interim payment certificate, make any corrections or modifications to any previous certificate issued by him, and has power to modify the valuation in or withhold the issue of, any interim payment certificate if the works or any part thereof is not being carried out to its satisfaction.
- 50.7. Unless the Special Conditions provide otherwise, the frequency shall be one interim payment per month.

Article 51 - Final statement of account

- 51.1. Unless otherwise agreed in the Special Conditions, the Contractor shall submit to the Supervisor a draft final statement of account no later than 90 days after the issue of the final acceptance certificate referred to in Article 62. In order to enable the Supervisor to prepare the final statement of account, the draft final statement of account is submitted with supporting documents showing in detail the value of the work done in accordance with the contract and all further sums which the Contractor considers to be due to it under the contract.
- 51.2. Within 90 days after receipt of the draft final statement of account and of all information reasonably required for its verification, the Supervisor shall prepare and sign the final statement of account, which determines:
- a) the amount which in its opinion is finally due under the contract; and
 - b) after establishing the amounts previously paid by the Contracting Authority and all sums to which the Contracting Authority is entitled under the contract, the balance, if any, due from the Contracting Authority to the Contractor, or from the Contractor to the Contracting Authority, as the case may be.
- 51.3. The Supervisor shall issue to the Contracting Authority or to its duly authorized representative, and to the Contractor, the final statement of account showing the final amount to which the Contractor is entitled under the contract. The Contracting Authority or its duly authorized representative and the Contractor shall sign the final statement of account as an acknowledgement of the full and final value of the work implemented under the contract and shall promptly submit a signed copy to the Supervisor together with the invoice for the payment of the agreed balance, if any, due to the Contractor. However, the final statement of account and the invoice for the payment of the balance shall not include amounts in dispute which are the subject of negotiations, conciliation, arbitration or litigation.

- 51.4. The final statement of account signed by the Contractor constitutes a written discharge of the Contracting Authority confirming that the total in the final statement of account represents full and final settlement of all monies due to the Contractor under the contract, other than those amounts which are the subject of amicable settlement, arbitration or litigation. However, such discharge becomes effective only after any payment due in accordance with the final statement of account has been made and the performance guarantee referred to in Article 15 has been returned to the Contractor.
- 51.5. The Contracting Authority is not liable to the Contractor for any matter or thing whatsoever arising out of, or in accordance with, the contract or execution of the works, unless the Contractor has included a claim in respect thereof in its draft final statement of account.

Article 52 - Direct payments to sub-contractors

- 52.1. When the Supervisor receives a claim from a sub-Contractor duly approved under Article 7 to the effect that the Contractor has not met its financial obligations so far as the sub-Contractor is concerned, the Supervisor gives notice to the Contractor either to pay the sub-Contractor or to inform it of the reasons why payment should not be made. Should such payment not be made, or reasons not be given within the period of notice, the Supervisor may, after satisfying itself that the work has been carried out, certify, and the Contracting Authority pays the debt claimed by the sub-Contractor out of the sums remaining due to the Contractor. The Contractor remains entirely responsible for the work in respect of which direct payment has been made.
- 52.2. If the Contractor gives adequate reasons for refusing to settle all or part of the debt claimed by the sub-contractor, the Contracting Authority only pays to the sub-contractor only the amounts not in dispute. Sums claimed by the sub-Contractor in respect of which the Contractor has given adequate reasons for its refusal to pay shall be paid by the Contracting Authority only after the parties have come to an amicable settlement, or after the decision of an arbitrating authority or after a judgment of a court has been duly notified to the Supervisor.
- 52.3. Direct payments to sub-contractors shall not exceed the value at contract prices of the services performed by the sub-contractors for which they request payment; the value at contract prices is calculated or assessed on the basis of the bill of quantities, the price schedule or the breakdown of the lump sum price.
- 52.4. Direct payments to sub-contractors are made entirely in the national currency of the Country in which the works are executed, or partly in such national currency and partly in foreign currency, in accordance with the contract.
- 52.5. Where direct payments to sub-contractors are made in foreign currency, they are calculated in accordance with Article 56. They shall not result in any increase in the total amount payable in foreign currency, as stipulated in the contract.

- 52.6. The provisions of Article 52 apply subject to the requirements of the law applicable by virtue of Article 54 concerning the right to payment of creditors who are beneficiaries of an assignment of credit or of a collateral security.

Article 53 - Delayed payments

- 53.1. Once the time-limit referred to in Article 44.3 of the General Conditions has expired, the Contractor will, upon demand, submitted within two months of receiving late payment, be entitled to late-payment interest:

- at the rediscount rate applied by the central bank by the law of the Country in which the works are executed if payments are in the currency of that country;
- at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, if payments are in euro,

on the first day of the month in which the time-limit expired, plus three and a half percentage points. The interest shall be payable for the time elapsed between the expiry of the payment deadline and the date on which the Contracting Authority's account is debited.

- 53.2. Any default in payment of more than 30 days after the expiry of the time-limit stated in Article 44.3(b) shall entitle the Contractor to suspend the work in accordance with the procedure laid down in article 38.2.

- 53.3. Any default in payment of more than 120 days after the expiry of the time-limit stated in Article 44.3(b) shall entitle the Contractor to terminate the contract in accordance with the procedure laid down in Article 65.

Article 54 - Payments to third parties

- 54.1. Orders for payments to third parties may be carried out only after an assignment made in accordance with Article 6. The assignment is notified to the Contracting Authority.

- 54.2. Notification of beneficiaries of the assignment is be the sole responsibility of the Contractor.

- 54.3. In the event of a legally binding attachment of the property of the Contractor affecting payments due to it under the contract, and without prejudice to the time limit laid down in Article 53, the Contracting Authority has 30 days, starting from the day when it receives notification of the definitive lifting of the obstacle to payment, to resume payments to the Contractor.

Article 55 - Claims for additional payment

- 55.1. If the Contractor considers itself being entitled to additional payment under the contract, the Contractor shall:

- a) if it intends to make any claim for additional payment, give to the Supervisor notice of its intention or make such claim no later than 15 days after the

Contractor became aware, or should have become aware of the event or circumstances giving rise of such claim, stating the reason for its claim;

If the Contractor fails to give notice of a claim for additional payment within such period of 15 days, the Contractor shall not be entitled to additional payment, and the Contracting Authority shall be discharged from all liability in connection with the request; and

- b) submit full and detailed particulars of its claim as soon as it is reasonably practicable, but no later than 60 days after the date of such notice, unless otherwise agreed by the Supervisor. In case the Supervisor agrees to another deadline than the said 60 days, the agreed upon deadline will, in any event, require that such particulars shall be submitted no later than the date of submission of the draft final statement of account. The Contractor shall thereafter promptly submit such further particulars as the Supervisor may reasonably require assessing the validity of the claim.

55.2. When the Supervisor has received the full and detailed particulars of the Contractor's claim that it requires, he shall, without prejudice to Article 21.4, after due consultation with the Contracting Authority and, where appropriate, the Contractor, determine whether the Contractor is entitled to additional payment and notify the parties accordingly.

55.3. The Supervisor may reject any claim for additional payment which does not comply with the requirements of Article 55.

Article 56 - End date

56.1. The payment obligations of the EC under this contract shall cease at most 18 months after the end of the period of implementation of tasks, unless the contract is terminated in accordance with these General Conditions. In the event of co-financing, this date shall be laid down in the Special Conditions.

ACCEPTANCE AND DEFECTS LIABILITY

Article 57 - General principles

57.1. Verification of the works by the Supervisor with a view to provisional or final acceptance shall take place in the presence of the Contractor. The absence of the Contractor shall not be a bar to verification on condition that the Contractor has been summoned in due form at least 30 days prior to the date of verification.

57.2. Should exceptional circumstances make it impossible to ascertain the state of the works or otherwise proceed with their acceptance during the period fixed for provisional or final acceptance, a statement certifying such impossibility shall be drawn up by the Supervisor after consultation, where possible, with the Contractor. The verification shall take place and a statement of acceptance or rejection shall be drawn up by the Supervisor within 30 days following the date on which such impossibility ceases to exist. The Contractor shall

not invoke these circumstances in order to avoid its obligation of presenting the works in a state suitable for acceptance.

Article 58 - Tests on completion

- 58.1. The works shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the Contractor. The Contractor shall notify the Supervisor of the date on which such verification and tests may commence.

- 58.2. Works which do not satisfy the terms and conditions of the contract, or in the absence of such terms and conditions, which are not carried out in accordance with trade practices in the Country in which the works are executed, shall, if required, be demolished and rebuilt by the Contractor or repaired to the satisfaction of the Supervisor, otherwise this shall be done as of right after due notice at the expense of the Contractor, by order of the Supervisor. The Supervisor may also require the demolition and reconstruction by the Contractor, or repair to the satisfaction of the Supervisor, under the same conditions, of any work in which unacceptable materials have been used, or carried out in the periods of suspension provided for in Article 38.

Article 59 - Partial acceptance

- 59.1. The Contracting Authority may make use of the various structures, parts of structures or sections of the works forming part of the contract as and when they are completed. Any taking over of the structures, parts of structures or sections of the works by the Contracting Authority shall be preceded by their partial provisional acceptance. However, works may in cases of urgency be taken over prior to acceptance provided an inventory of outstanding work is drawn up by the Supervisor and agreed to by the Contractor and the Supervisor beforehand. Once the Contracting Authority has taken possession of a structure, a part thereof or section of the works, the Contractor shall no longer be required to make good any damage resulting otherwise than from faulty construction or workmanship.

- 59.2. The Supervisor may, at the request of the Contractor and if the nature of the works so permits, proceed with partial provisional acceptance, provided that the structures, parts of structures or sections of the works are completed and suited to the use as described in the contract.

- 59.3. In the cases of partial provisional acceptance referred to in Article 59.1 and 59.2 the defects liability period provided for in Article 62 shall, unless the Special Conditions provide otherwise, run as from the date of such partial provisional acceptance.

Article 60 - Provisional acceptance

- 60.1. The works shall be taken over by the Contracting Authority when they have satisfactorily passed the tests on completion and a certificate of provisional acceptance has been issued or is deemed to have been issued.

- 60.2. The Contractor may apply, by notice to the Supervisor, for a certificate of provisional acceptance not earlier than 15 days before the works, in the Contractor's opinion, are

complete and ready for provisional acceptance. The Supervisor shall within 30 days after the receipt of the Contractor's application either:

- a) issue the certificate of provisional acceptance to the Contractor with a copy to the Contracting Authority stating, where appropriate, its reservations, and, inter alia, the date on which, in its opinion, the works were completed in accordance with the contract and ready for provisional acceptance; or
- b) reject the application giving its reasons and specifying the action which, in its opinion, is required of the Contractor for the certificate to be issued.

60.3. If the Supervisor fails either to issue the certificate of provisional acceptance or to reject the Contractor's application within the period of 30 days, he shall be deemed to have issued the certificate on the last day of that period. The certificate of provisional acceptance shall not be deemed to be an admission that the works have been completed in every respect. If the works are divided by the contract into sections, the Contractor shall be entitled to apply for separate certificates for each of the sections.

60.4. Upon provisional acceptance of the works, the Contractor shall dismantle and remove temporary structures as well as materials no longer required for use in connection with the implementation of the contract. It shall also remove any litter or obstruction and redress any change in the condition of the site as required by the contract.

60.5. Immediately after provisional acceptance, the Contracting Authority may make use of all the works as completed.

Article 61 - Defects liability

61.1. The Contractor shall be responsible for making good any defect in, or damage to, any part of the works which may appear or occur during the defects liability period and which:

- a) results from the use of defective plant or materials or faulty workmanship or design of the Contractor; and/or
- b) results from any act or omission of the Contractor during the defects liability period; and/or;
- c) appears in the course of an inspection made by, or on behalf of the Contracting Authority.

61.2. The Contractor shall at its own cost make good the defect or damage as soon as practicable. The defects liability period for all items replaced or renewed shall recommence from the date when the replacement or renewal was made to the satisfaction of the Supervisor. If the contract provides for partial acceptance, the defects liability period shall be extended only for the part of the works affected by the replacement or renewal.

- 61.3. If any such defect appears or such damage occurs, during the defects liability period, the Contracting Authority or the Supervisor shall notify the Contractor. If the Contractor fails to remedy a defect or damage within the time limit stipulated in the notification, the Contracting Authority may:
- a) carry out the works itself, or employ someone else to carry out the works at the Contractor's risk and cost, in which case the costs incurred by the Contracting Authority shall be deducted from monies due to or from guarantees held against the Contractor or from both; or
 - b) terminate the contract.
- 61.4. If the defect or damage is such that the Contracting Authority has been deprived substantially of the whole or a part of the benefit of the works, the Contracting Authority shall, without prejudice to any other remedy, be entitled to recover all sums paid in respect of the parts of the works concerned together with the cost of dismantling such parts and clearing the site.
- 61.5. In case of emergency, where the Contractor is not immediately available or, having been reached, is unable to take the measures required, the Contracting Authority or the Supervisor may have the work carried out at the expense of the Contractor. The Contracting Authority or the Supervisor shall as soon as practicable inform the Contractor of the action taken.
- 61.6. Where the Special Conditions stipulate that the maintenance work, necessitated by normal wear and tear, shall be carried out by the Contractor, such work shall be paid for from a provisional sum. Deterioration resulting from the circumstances provided for in Article 21 or from abnormal use shall be excluded from this obligation unless it reveals a fault or defect justifying the request for repair or replacement under Article 61.
- 61.7. The defects liability period shall be stipulated in the Special Conditions and technical specifications. If the duration of the defects liability period is not specified, it shall be 365 days. The defects liability period shall commence on the date of provisional acceptance and may recommence in accordance with Article 61.2.
- 61.8. After provisional acceptance and without prejudice to the defects liability referred to in Article 61, the Contractor shall no longer be responsible for risks which may affect the works and which result from causes not attributable to it. However, the Contractor shall be responsible as from the date of provisional acceptance for the soundness of the construction, as laid down in the law of the Country in which the works are executed.

Article 62 - Final acceptance

- 62.1. Upon the expiry of the defects liability period, or where there is more than one such period, upon the expiry of the latest period, and when all defects or damage have been rectified, the Supervisor shall issue to the Contractor a final acceptance certificate and a copy thereof to the Contracting Authority stating the date on which the Contractor completed its obligations under the contract to the Supervisor's satisfaction. The final

acceptance certificate shall be given by the Supervisor within 30 days after the expiration of the defects liability period, or as soon as any works ordered under Article 61 have been completed to the satisfaction of the Supervisor.

62.2. The works shall not be considered as completed until the final acceptance certificate has been signed by the Supervisor and delivered to the Contracting Authority, with a copy to the Contractor.

62.3. Notwithstanding the issuance of the final acceptance certificate, the Contractor and the Contracting Authority shall remain liable for the fulfilment of any obligation incurred under the contract prior to the issue of the final acceptance certificate, which remains unperformed at the time such final acceptance certificate is issued. The nature and extent of any such obligation shall be determined by reference to the provisions of the contract.

BREACH OF CONTRACT AND TERMINATION

Article 63 - Breach of contract

63.1. Either party commits a breach of contract where it fails to perform its obligations in accordance with the provisions of the contract.

63.2. Where a breach of contract occurs, the party injured by the breach is entitled to the following remedies:

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

63.3. Damages may be either:

- a) general damages; or
- b) liquidated damages.

63.4. Should the Contractor fail to perform any of its obligations in accordance with the provisions of the contract, the Contracting Authority is without prejudice to its right under article 63.2, also entitled to the following remedies:

- a) suspension of payments; and/or
- b) reduction or recovery of payments in proportion to the failure's extent.

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

Article 64 - Termination by the Contracting Authority

64.1. The Contracting Authority may, at any time and with immediate effect, subject to Article 64.9, terminate the contract, except as provided for under Article 64.2.

- 64.2. Subject to any other provision of these General Conditions the Contracting Authority may, by giving seven days' notice to the Contractor, terminate the contract and expel the Contractor from the site in any of the following cases where:
- a) the Contractor is in serious breach of contract for failure to perform its contractual obligations;
 - b) the Contractor fails to comply within a reasonable time with the notice given by the Supervisor requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely performance of the works;
 - c) the Contractor refuses or neglects to carry out any administrative orders given by the Supervisor;
 - d) the Contractor assigns the contract or sub-contracts without the authorisation of the Contracting Authority;
 - e) the Contractor is bankrupt, subject to insolvency or winding up procedures, is having its assets administered by a liquidator or by the courts, has entered into an arrangement with creditors, has suspended business activities, or is in any analogous situation arising from a similar procedure provided for under any national law or regulation relevant to that Contractor;
 - f) any organisational modification occurs involving a change in the legal personality, nature or control of the Contractor, unless such modification is recorded in an addendum to the contract;
 - g) any other legal disability hindering performance of the contract occurs;
 - h) the Contractor fails to provide the required guarantees or insurance, or the person providing the earlier guarantee or insurance is not able to abide by its commitments;
 - i) the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;
 - j) it has been established by a final judgment or a final administrative decision or by proof in possession of the Contracting Authority that the Contractor has been guilty of fraud, corruption, involvement in a criminal organisation, money laundering or terrorist financing, terrorist related offences, child labour or other forms of trafficking in human beings or has committed an irregularity;
 - k) the Contractor, in the performance of another contract financed by the EU budget/EDF funds, has been declared to be in serious breach of contract, which has led to its early termination or the application of liquidated damages or other contractual penalties or which has been discovered following checks, audits or investigations by the European Commission, the Contracting Authority, OLAF or the Court of Auditors;

- l) after the award of the contract, the award procedure or the performance of the contract proves to have been subject to substantial errors, irregularities or fraud;
- m) the award procedure or the performance of another contract financed by the EU budget/EDF funds proves to have been subject to substantial errors, irregularities or fraud which are likely to affect the performance of the present contract;
- n) the Contractor fails to perform its obligation in accordance with Article 12.8, Article 12a or Article 12b;
- o) the Contracting Authority has become entitled to the maximum claim under Article 36.1;
- p) the Contractor fails to perform its obligation in accordance with Article 61.3.

The cases of termination under points (e), (i), (j), (l), (m) and (n) may refer also to persons who are members of the administrative, management or supervisory body of the Contractor and/or to persons having powers of representation, decision or control with regard to the Contractor.

The cases of termination under points (a), (e), (f), (g), (i), (j), (k), (l), (m) and (n) may refer also to persons jointly and severally liable for the performance of the contract.

The cases under points (e), (i), (j), (k), (l), (m) and (n) may refer also to subcontractors.

- 64.3. Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Contractor. The Contracting Authority may, thereafter, complete the works itself or conclude any other contract with a third party, at the Contractor's own expense. The Contractor's liability for delay in completion shall immediately cease when the Contracting Authority terminates the contract without prejudice to any liability thereunder that may already have arisen.
- 64.4. Upon termination of the contract or when it has received notice thereof, the Contractor shall take immediate steps to bring the works to a close in a prompt and orderly manner and to reduce expenditure to a minimum.
- 64.5. The Supervisor shall, as soon as possible after termination, certify the value of the works and all sums due to the Contractor as at the date of termination.
- 64.6. In the event of termination:
- a) a report of work performed by the Contractor shall be drawn up by the Supervisor as soon as possible after inspection of the works, and inventory taken of temporary structures, materials, plant and equipment. The Contractor shall be summoned to be present during the inspection and the taking of the inventory. The Supervisor shall also draw up statements of emoluments still owed by the Contractor to workers employed by him in relation to the contract and of sums owed by the Contractor to the Contracting Authority;

- b) the Contracting Authority shall have the option of acquiring in whole or in part temporary structures which have been approved by the Supervisor, equipment, plant and materials specifically supplied or manufactured in connection with the execution of work under the contract;
- c) the purchase price of the temporary structures, equipment, plant and materials referred to above shall not exceed the unpaid portion of the expenditure incurred by the Contractor, such expenditure being limited to that required for the performance of the contract under normal conditions;
- d) the Contracting Authority may purchase, at market prices, the materials and items supplied or ordered by the Contractor and not already paid for by the Contracting Authority on such conditions as the Supervisor considers appropriate.

64.7. The Contracting Authority shall not be obliged to make any further payments to the Contractor until the works are completed. After the works are completed, the Contracting Authority shall recover from the Contractor the extra costs, if any, of completing the works, or shall pay any balance still due to the Contractor.

64.8. If the Contracting Authority terminates the contract pursuant to Article 64.2, it shall, in addition to the extra costs for completion of the works and without prejudice to its other remedies under the contract, be entitled to recover from the Contractor any loss it has suffered up to 10% of the contract price.

64.9. Where the termination is not due to an act or omission of the Contractor, force majeure or other circumstances beyond the control of the Contracting Authority, the Contractor shall be entitled to claim in addition to sums owed to it for work already performed, an indemnity for loss suffered.

64.10. This contract shall be automatically terminated if it has not given rise to any payment in the two years following its signing by both parties.

Article 65 - Termination by the Contractor

65.1. The Contractor may, by giving 14 days' notice to the Contracting Authority, terminate the contract if the Contracting Authority:

- a) fails for more than 120 days to pay the Contractor the amounts due under any certificate issued by the Supervisor after the expiry of the time limit stated in Article 44.3; or
- b) consistently fails to meet its obligations after repeated reminders; or
- c) suspends the progress of the works or any part thereof for more than 180 days for reasons not specified in the contract, or not attributable to the Contractor's breach or default.

- 65.2. Such termination shall be without prejudice to any other rights of the Contracting Authority or the Contractor acquired under the contract. Upon such termination, the Contractor shall, subject to the law of the Country in which the works are executed, be entitled to immediately remove its equipment from the site.
- 65.3. In the event of such termination, the Contracting Authority shall pay the Contractor for any loss or damage the Contractor may have suffered. The maximum amount shall be 10% of the contract price.

Article 66 - Force majeure

- 66.1. Neither party shall be considered to be in default or in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arises after the date of notification of award or the date when the contract becomes effective.
- 66.2. The term force majeure, as used herein covers any unforeseeable events, not within the control of either party and which by the exercise of due diligence neither party is able to overcome such as acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions. A decision of the European Union to suspend the cooperation with the partner country is considered to be a case of force majeure when it implies suspension of funding this contract.
- 66.3. Notwithstanding the provisions of Articles 36 and 64, the Contractor shall not be liable to forfeiture of its performance guarantee, liquidated damages or termination for default if, and to the extent that, its delay in performance or other failure to perform its obligations under the contract is the result of an event of force majeure. The Contracting Authority shall similarly not be liable, notwithstanding the provisions of Articles 53 and 65, for payment of interest on delayed payments, for non-performance or for termination by the Contractor for default, if, and to the extent that, the Contracting Authority's delay or other failure to perform its obligations is the result of force majeure.
- 66.4. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other party and the Supervisor, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the Supervisor in writing, the Contractor shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The Contractor shall not put into effect such alternative means unless directed so to do by the Supervisor.
- 66.5. If the Contractor incurs additional costs in complying with the Supervisor's directions or using alternative means under Article 66.4, the amount thereof shall be certified by the Supervisor.

66.6. If circumstances of force majeure have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the works that the Contractor may by reason thereof have been granted, either party shall be entitled to serve upon the other 30 days' notice to terminate the contract. If, at the expiry of the period of 30 days, force majeure persists, the contract shall terminate and, in consequence thereof under the law governing the contract, the parties shall be released from further performance of the contract.

Article 67 - Decease

67.1. Where the Contractor is a natural person, the contract shall be automatically terminated if that person dies. However, the Contracting Authority shall examine any proposal made by the heirs or beneficiaries if they have notified their wish to continue the contract.

67.2. Where the Contractor consists of a number of persons and one or more of them die, a report shall be agreed between the parties on the progress of the works, and the Contracting Authority shall decide whether to terminate or continue the contract in accordance with the undertaking given by the survivors and by the heirs or beneficiaries, as the case may be. The decision of the Contracting Authority shall be notified to those concerned within 30 days of receipt of such proposal.

67.3. In the cases provided for in Article 67.1 and 67.2, persons offering to continue to perform the contract shall notify the Contracting Authority thereof within 15 days of the date of decease.

67.4. Such persons shall be jointly and severally liable for the proper performance of the contract to the same extent as the deceased Contractor. Continuation of the contract shall be subject to the rules relating to establishment of any guarantee provided for in the contract.

SETTLEMENT OF DISPUTES AND APPLICABLE LAW

Article 68 - Settlement of disputes

68.1. The parties shall make every effort to settle amicably any dispute relating to the contract which may arise between them, or between the Supervisor and the Contractor.

68.2. Once a dispute has arisen, a party shall notify the other party of the dispute, stating its position on the dispute and any solution which it envisages, and requesting an amicable settlement. The other party shall respond to this request for amicable settlement within 30 days, stating its position on the dispute. Unless the parties agree otherwise, the maximum time period laid down for reaching an amicable settlement shall be 120 days from the date of the notification requesting such a procedure. Should a party not agree to the other party's request for amicable settlement, should a party not respond in time to that request or should no amicable settlement be reached within the maximum time period, the amicable settlement procedure is considered to have failed.

68.3. In the absence of an amicable settlement, a party may notify the other party requesting a settlement through conciliation by a third person. If the European Commission is not a party to the contract, it may accept to intervene as conciliator. The other party shall respond to the request for conciliation within 30 days. Unless the parties agree otherwise, the maximum time period laid down for reaching a settlement through conciliation shall be 120 days from the notification requesting such a procedure. Should a party not agree to the other party's request for conciliation, should a party not respond in time to that request or should no settlement be reached within the maximum time period, the conciliation procedure is considered to have failed.

68.4. If the amicable settlement procedure and, if so requested, the conciliation procedure fails, each party may refer the dispute to either the decision of a national jurisdiction or arbitration, as specified in the Special Conditions.

Article 69 - Applicable Law

69.1. This contract shall be governed by the law of the country of the Contracting Authority or, where the Contracting Authority is the European Commission, by the European Union law supplemented as appropriate by Belgian law.

FINAL PROVISIONS

Article 70 - Administrative sanctions

70.1. Without prejudice to the application of other remedies laid down in the contract, a sanction of exclusion from all contracts and grants financed by the EU, may be imposed, after an adversarial procedure, upon the Contractor who, in particular,

a) is guilty of grave professional misconduct, has committed irregularities or has been found in serious breach of its contractual obligations. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, three years;

b) is guilty of fraud, corruption, participation in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings. The duration of the exclusion shall not exceed the duration set by final judgement or final administrative decision or, in the absence thereof, five years.

70.2. In the situations mentioned in Article 70.1, in addition or in alternative to the sanction of exclusion, the Contractor may also be subject to financial penalties representing 2-10% of the contract price.

70.3. Where the Contracting Authority is entitled to impose financial penalties, it may deduct such financial penalties from any sums due to the Contractor or call on the appropriate guarantee.

- 70.4. The decision to impose administrative sanctions may be published on a dedicated internet-site, explicitly naming the Contractor.
- 70.5 The above administrative sanctions may also be imposed on persons who are members of the administrative, management or supervisory body of the Contractor, on persons having powers of representation, decision or control with regard to the Contractor, on persons jointly and severally liable for the performance of the contract and on subcontractors.

Article 71 - Verifications, checks and audits by European Union bodies

- 71.1. The Contractor will allow the European Commission, the European Anti-Fraud Office and the European Court of Auditors to verify, by examining the documents and to make copies thereof or by means of on-the-spot checks, including checks of documents (original or copies), the implementation of the contract. In order to carry out these verifications and audits, the EU bodies mentioned above shall be allowed to conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the project. The Contractor shall ensure that on-the-spot accesses is available at all reasonable times, notably at the Contractor's offices, to its computer data, to its accounting data and to all the information needed to carry out the audits, including information on individual salaries of persons involved in the project. The Contractor shall ensure that the information is readily available at the moment of the audit and, if so requested, that data be handed over in an appropriate form. These inspections may take place up to 7 years after the final payment.
- 71.2. Furthermore, the Contractor will allow the European Anti-Fraud Office to carry out checks and verification on the spot in accordance with the procedures set out in the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.
- 71.3. To this end, the Contractor undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to the sites and locations at which the contract is carried out, including its information systems, as well as all documents and databases concerning the technical and financial management of the project and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the Contractor must inform the Contracting Authority of their precise location.
- 71.4. The Contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to carry out audits, checks and verification will be equally applicable, under the same conditions and according to the same rules as those set out in this Article, to any sub-Contractor or any other party benefiting from EU budget/EDF funds.

71.5. Failure to comply with the obligations set forth in Article 71.1 to 71.4 constitutes a case of serious breach of contract.

Article 72 - Data protection

72.1. Any personal data included in the contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. The data shall be processed solely for the purposes of the performance, management and monitoring of the contract by the Contracting Authority without prejudice to possible transmission to the bodies charged with monitoring or inspection in application of EU law. The Contractor shall have the right to access his/her personal data and to rectify any such data. Should the Contractor have any queries concerning the processing of his/her personal data, s/he shall address them to the Contracting Authority. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

72.2. Where the contract requires processing personal data, the Contractor may act only under the supervision of the data controller, in particular with regard to the purposes of processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.

72.3. The data shall be confidential within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. The Contractor shall limit access to the data to staff strictly needed to perform, manage and monitor the contract.

72.4. The Contractor undertakes to adopt technical and organisational security measures to address the risks inherent in processing and the nature of the personal data concerned in order to:

- a) prevent any unauthorised person from having access to computer systems processing personal data, and especially:
 - aa) unauthorised reading, copying, alteration or removal of storage media;
 - ab) unauthorised data input, unauthorised disclosure, alteration or erasure of stored personal data;
 - ac) unauthorised persons from using data-processing systems by means of data transmission facilities;
- b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
- c) record which personal data have been communicated, when and to whom;
- d) ensure that personal data processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body;

- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- f) design its organisational structure in such a way that it meets data protection requirements.

* * *

VOLUME 2

SECTION 5: SPECIMEN PREFINANCING PAYMENT GUARANTEE

(To be completed on paper bearing the letterhead of the financial institution)

For the attention of

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

Referred to below as the “Contracting Authority”

Subject: Guarantee No...

Financing Guarantee for the repayment of pre-financing payable under contract <Contract number and title> (please quote number and title in all correspondence)

We the undersigned, <name, and address of financial institution>, hereby irrevocably declare that we guarantee as primary obligor, and not merely as surety on behalf of <Contractor's name and address>, hereinafter referred to as “the Contractor”, the payment to the Contracting Authority of <indicate the amount of the pre-financing>, corresponding to the pre-financing as mentioned in Article 46 of the Special Conditions of the contract <Contract number and title> concluded between the Contractor and the Contracting Authority, hereinafter referred to as “the Contract”.

Payment shall be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation or receipt) stating that the Contractor has not repaid the pre-financing on request or that the Contract has been terminated. We shall not delay the payment, nor shall we oppose it for any reason whatsoever. We shall inform you in writing as soon as payment has been made.

We accept notably that no amendment to the terms of the Contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment of the Contract.

We note that the guarantee will be released in accordance with the article 46.7 of the General

Conditions. [and in any case at the latest on (at the expiry of 18 months after the implementation period of the Contract)]¹⁹.

[The whole paragraph should be deleted when the Contracting Authority is the European Commission:

Any request to pay under the terms of the guarantee must be countersigned by the Head of Delegation of the European Union in the country of the Contracting Authority or his designated empowered deputy as par the applicable Commission rules. In case of a temporary substitution of the Contracting Authority by the Commission, any request to pay will only be signed by the representative of the Commission, namely whether the Head of Delegation, his designated empowered deputy or the authorised person at headquarters' level.]

The law applicable to this guarantee shall be that of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>]. Any dispute arising out of or in connection with this guarantee shall be referred to the courts of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>].

The guarantee will enter into force and take effect on receipt of the pre-financing payment in the account designated by the Contractor to receive payments.

Done at [*insert place*], on [*insert date*]

[*Signature*]

[*Signature*]

[*Function at the Financial Institution/Bank*]

[*Function at the Financial Institution/Bank*]

Stamp of the body providing the guarantee

¹⁹ This mention has to be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee without expiry date.

VOLUME 2
SECTION 4
SPECIMEN PERFORMANCE GUARANTEE

(To be completed on paper bearing the letterhead of the financial institution)

For the attention of

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

referred to below as the ‘Contracting Authority’

Subject: Guarantee No ...

Performance Guarantee for the full and proper execution of Contract <contract number and title>
(please quote number and title in all correspondence)

We, the undersigned, <name, and address of financial institution>, hereby irrevocably declare that we guarantee, as primary obligor, and not merely as a surety on behalf of <Contractor’s name and address>, hereinafter referred to as ‘the Contractor’, payment to the Contracting Authority of <amount of the performance guarantee>, representing the performance guarantee mentioned in Article 15 of the Special Conditions of the Contract <contract number and title> concluded between the Contractor and the Contracting Authority, hereinafter referred to as ‘the Contract’.

Payment will be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) stating that the Contractor has failed to fulfil its contractual obligations fully and properly. We will not delay the payment, nor will we oppose it for any reason whatsoever. We will inform you in writing as soon as payment has been made.

We accept that no amendment to the terms of the Contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment to the Contract.

We note that the guarantee will be released in accordance with Article 15.8 of the General Conditions to the Contract [and at the latest on <at the expiry of 18 months after the implementation period of the Contract>].²⁰

²⁰ This mention should be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee

[The whole paragraph should be deleted when the Contracting Authority is the European Commission:

Any request to pay under the terms of the guarantee must be countersigned by the Head of Delegation of the European Union in the country of the Contracting Authority or his designated empowered deputy as par the applicable Commission rules. In case of a temporary substitution of the Contracting Authority by the Commission, any request to pay will only be signed by the representative of the Commission, namely whether the Head of Delegation, his designated empowered deputy or the authorised person at headquarters' level.]

The law applicable to this guarantee will be that of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>]. Any dispute arising out of or in connection with this guarantee will be referred to the courts of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>].

The guarantee will enter into force and take effect upon its signature.

Done at *[insert place]*, on *[insert date]*

[Signature]

[Function at the Financial Institution/Bank]

[Signature]

[Function at the Financial Institution/Bank]

without expiry date.

Stamp of the body providing the guarantee

VOLUME 2

SECTION 6 SPECIMEN RETENTION GUARANTEE

(To be completed on paper bearing the letterhead of the financial institution)

For the attention of

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

referred to below as the 'Contracting Authority'

Subject: Guarantee No <...>

Retention Guarantee for Contract <contract number and title> (please quote number and title in all correspondence)

We, the undersigned, <name, and address of financial institution>, hereby irrevocably declare that we guarantee, as primary obligor, and not merely as a surety on behalf of <Contractor's name and address>, hereinafter referred to as 'the Contractor', payment to the Contracting Authority of <amount of the retention guarantee>, representing the retention guarantee mentioned in Article 47 of the Special Conditions of the Contract (contract number and title) concluded between the Contractor and the Contracting Authority, hereinafter referred to as 'the Contract'.

Payment will be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) stating that the Contractor has failed to fulfil its contractual obligations fully and properly. We will not delay the payment, nor will we oppose it for any reason whatsoever. We will inform you in writing as soon as payment has been made.

We accept that no amendment to the terms of the Contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment to the Contract.

We note that the guarantee will be released in accordance with Article 47.3 of the General Conditions to the Contract [and in any case at the latest on <at the expiry of 18 months after the implementation period of the Contract>].²¹

²¹ This mention should be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee

[The whole paragraph should be deleted when the Contracting Authority is the European Commission:

Any request to pay under the terms of the guarantee must be countersigned by the Head of Delegation of the European Union in the country of the Contracting Authority or his designated empowered deputy as par the applicable Commission rules. In case of a temporary substitution of the Contracting Authority by the Commission, any request to pay will only be signed by the representative of the Commission, namely whether the Head of Delegation, his designated empowered deputy or the authorized person at headquarters' level.]

The law applicable to this guarantee will be that of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>]. Any dispute arising out of or in connection with this guarantee will be referred to the courts of [If the Contracting Authority is the European Union: Belgium] [If the Contracting Authority is an authority in the partner country: <the country in which the financial institution issuing the guarantee is established>].

The guarantee will enter into force and take effect upon its signature.

Done at *[insert place]*, on *[insert date]*

[Signature]

[Function at the Financial Institution/Bank]

[Signature]

[Function at the Financial Institution/Bank]

without expiry date.

Stamp of the body providing the guarantee

EDF only

TAX AND CUSTOMS ARRANGEMENTS

Article 31 from Annex IV to the Cotonou Agreement

1. The ACP States shall apply to contracts financed by the Community tax and customs arrangements no less favourable than those applied by them to the most favoured States or international development organisations with which they have relations. For the purpose of determining the most-favoured-nation (MFN) treatment, account shall not be taken of arrangements applied by the ACP State concerned to other ACP States, or to other developing countries.
2. Subject to the above provisions the following shall apply to contracts financed by the Community:
 - (a) the contract shall not be subject in the beneficiary ACP State to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the ACP State and a fee corresponding to the service rendered may be charged for it;
 - (b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the ACP State concerned, provided that the natural or legal persons who realise such profit and/or income have a permanent place of business in that State, or that the performance of the contract takes longer than six months;
 - (c) enterprises which must import professional equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the national legislation of the beneficiary ACP State in respect of the said equipment;
 - (d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary ACP State or States in accordance with its national legislation free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;
 - (e) imports under supply contracts shall be admitted into the beneficiary ACP State without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the ACP State concerned shall be concluded on the basis of the ex-works price of the supplies to which may be added such internal fiscal charges as may be applicable to those supplies in the ACP State;
 - (f) fuels, lubricants and hydrocarbon binders and, in general, all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the national legislation in force in the beneficiary ACP State; and
 - (g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges

having equivalent effect, within the limit of the national legislation in force in the beneficiary ACP State.

3. Any matter not covered by the above provisions on tax and customs arrangements shall remain subject to the national legislation of the ACP State concerned.

VOLUME 3

TECHNICAL SPECIFICATIONS

VOLUME 4.1

FINANCIAL BID TEMPLATES

INTERPRETATIVE NOTES

Contracts may be:

- a) lump-sum contracts,
 - b) unit-price contracts,
 - c) hybrid contracts.
1. In lump-sum contracts, an all-in price covers all the works concerned by the Contract. The all-in price will, if necessary, be calculated on the basis of the Breakdown of the Lump-sum Price. In the latter case, an all-in price will be given for each separate item in the itemised breakdown. The total price will be calculated by adding together the various all-in prices for all such items. Where items are accompanied by quantities, these will be firm quantities drawn up by the Contracting Authority. The firm quantity is the quantity for which the Contractor has submitted an all-in price, which will be paid to it irrespective of the quantity actually supplied.
 2. In unit-price contracts, the works are broken down into different items on the basis of a Bill of Quantities drawn up by the Contracting Authority, and the proposed unit price for each item is indicated. The amounts due under the Contract will be calculated by applying the unit prices to the quantities actually supplied, in accordance with the Contract.
 3. In hybrid contracts, the prices will be fixed and works paid for in accordance with two or more of the methods laid down in paragraphs 1 and 2. The tender dossier for a hybrid contract will indicate how prices are to be calculated.
 4. Each tender dossier must specify the exact type of contract used. The Bill of Quantities and Price Schedule (for unit-price contracts)/Breakdown of the Lump-sum Price (for lump-sum contracts) must provide sufficient information on the quantities of works to be performed to enable bids to be prepared, and when a contract has been entered into, to provide an itemised basis for measuring the works executed. In order to attain these objectives, works should be itemised in the Bill of Quantities and Price Schedule (for unit-price contracts)/Breakdown of the Lump-sum Price (for lump-sum contracts) in sufficient detail to distinguish between the different categories of works, or between works of the same nature carried out in different locations or any other circumstances which may give rise to variations in cost. Their layout and content should be as simple and brief as possible, while remaining consistent with these requirements.

Daily work schedule

A daily work schedule could be included for unforeseen works not covered by the Bill of Quantities or by the Breakdown of the Lump-sum Price. The daywork schedule should comprise a list of the various categories of labour, materials, and construction plant for which basic daywork prices are given by the tenderer, together with a statement of the conditions under which the Contractor will be paid for work executed on a daywork basis. The Daywork Schedule should also contain the estimated quantities for each item of daywork.

A general provision for dayworks may be made by including a provisional sum.

These notes for preparing financial bids are intended only as information for the Contracting Authority or the person drafting the documents for the invitation to tender. They should not be included in the final documents. Attached are examples of financial offer templates for lump-sum contracts and for unit-price contracts. These templates are purely indicative and may be adapted/combined as required by the project.

VOLUME 4.2

FINANCIAL OFFER TEMPLATES

LUMP SUM CONTRACTS

Content

4.2.1 Introduction

4.2.2 Summary

4.2.3 Breakdown of the Lump-sum Price

4.2.4 Daily work Schedule

4.2.5 Detailed Breakdown of Prices

VOLUME 4.2.1 - INTRODUCTION

1. General

- 1.1 The Breakdown of the Lump-sum Price (Volume 4.2.3) is the itemised list of prices showing the build-up of the price in a lump-sum contract. This Breakdown of the Lump-sum Price does not derogate in any way to the clause stating that, in a lump-sum contract, the total contract price remains fixed irrespective of the quantity of work actually carried out.

The amounts due will be calculated:

<For example: through the measurement of the percentage of works carried out in relation to the firm quantities of each item of the Breakdown of the Lump-sum Price and by applying that percentage to the lump-sum price of the related item>

<For example: by the tranches specified in article 49(1)(a) of the Special Conditions>.

- 1.2 The Detailed Breakdown of Prices (Volume 4.2.5) is the list which contains the basic costs, net costs and mark-ups, from which each price on the Breakdown of the Lump-sum Price and on the Daywork Schedule results. The Detailed Breakdown of Prices does not derogate in any way to the clause according to which, in a lump-sum contract, the total contract price remains fixed irrespective of the quantities of work actually carried out.

The Detailed Breakdown of Prices provides the coefficients for applying the price revision formula referred to in Article 48.2 of the Special Conditions and can provide the basis for valuation of additional work ordered referred to in Article 37.5 of the General Conditions.

- 1.3 Provisional sums for use when works are to be executed on a daywork basis (Volume 4.2.4) can only be executed by administrative order of the Supervisor, in accordance with the terms of the Contract.

2. Specific to Volumes 4.2.2, 4.2.3 and 4.2.4

- 2.1 The item description given in the Breakdown of the Lump-sum Price in no way limits the Contractor's obligations under the Contract to provide all the works described elsewhere.
- 2.2 The prices of the Breakdown of the Lump-sum Price include all incidental and contingent expenses and all risks necessary to construct, complete and maintain all works in accordance with the Contract. Unless separate items are provided in the Breakdown of the Lump-sum Price, prices include all costs involved in the various items of the Breakdown.
- 2.3 The prices do not include taxes and fiscal duties, as exoneration is explicitly given for the Contract. Non-exonerated taxes and fiscal duties are, apart from those stated separately in the financial offer templates, covered in the Lump-sum Price of the Contract and in the prices of the Breakdown of the Lump-sum Price and of the Daywork Schedule.

VOLUME 4.2.2 - SUMMARY

Description	Amount [EUR] [local currency]
Total of lump-sum price	
Total of Dayworks - Provisional sum	
TOTAL PRICE	

VOLUME 4.2.3 - BREAKDOWN OF THE LUMP-SUM PRICE

Item	Description	Unit	Unit price	Firm Quantities	Lump-sum price [EUR] [local currency]
			-	-	
	Total lump-sum price				

VOLUME 4.2.4 - DAYWORK SCHEDULE

Item	Description	Unit	Unit price	Estimated quantities	Provisional sum [EUR] [local currency]
	Labour				
	Materials				
	Equipment				
	Total dayworks provisional sum				

VOLUME 4.2.5 - DETAILED BREAKDOWN OF PRICES

**A) Breakdown of the basic prices for labour
 (converted into local currency or €/hour)**

NO.	Qualification	Monthly pay (1)	Hourly pay (2)	Overtime (3)	Soc. security contributions (4)	Travel time (5)	Hourly total (6)
A1	Labourer, Cat 1						
A2	Skilled worker, Cat. 3						
A3	Skilled worker, Cat. 5						
A4	Foreman, Cat. 7						
A5	Site manager						
A6	HGV driver						
A7	Heavy plant driver						
A8	Clerk of works						
A9	Mechanic, Cat. 7						
A9	Land surveyor						
A10	Planning draughtsman						
A11	...						

The above list is given by way of example and is not exhaustive.

- (1) Salary if the employee is paid monthly.
- (2) Hourly pay if the employee is paid hourly, otherwise monthly salary divided by the legal working hours (... hours/month).
- (3) Average cost of overtime, i.e. hourly pay times the overtime coefficient.
 Average coefficient to be applied to the salary to take account of overtime (= total gross salary/gross salary without overtime).
- (4) Percentage of the social security contributions (including social welfare, leave, etc.) times the gross salary (this percentage may vary according to the category of employee).
- (5) Average monthly or daily travel time divided by the number of daily or monthly legal working hours.
- (6) = (2) + (3) + (4) + (5).

Done at

The tenderer (signature)

B) Breakdown of basic supply prices for materials and consumables
(in local currency or €/unit)

	Description	Origin (1)	Unit price origin (2)	Transport to site (3)	Tax, duties and other charges (4)	Losses		Total (6)
						%	Value (5)	
	Gasoil							
	Aggregates for concrete							
	Sand for concrete 2/4							
	Cement							

	Steel for reinforced concrete								
	Annealed wire								
	Timber formwork								
	Plywood								
	Plasticisers								
	Concrete coating								
	Asphalt concrete								
	Inspection ladders								
	Fencing								
	Traffic signs								
	...								

This list is not exhaustive.

- (1) Geographical location of the supplier or quarry.
- (2) Supply or cost price at the quarry or on delivery in the country.
- (3) Cost price of transport from the quarry or delivery in the country to the site.
- (4) To be borne by the firm.
- (5) Any losses or breakages to be determined by the tenderer.
- (6) Basic prices for supply of materials: (6) = (2) + (3) + (4) + (5).

Done at

The tenderer (signature)

C) Breakdown of basic hourly prices for equipment
(in local currency or €/hour)

	Description	Purchase date of equipment	Replacement value (RV) (1)	Duties Taxes (2)	RV+ taxes (3)	nb days useful life (4)	Depreciation /day (5)	Fuel cost/day (6)	Lubricant cost/day (7)	Spare parts (SP) cost/day (8)	Lubricant & SP taxes/day (9)	Labour cost/day (10)	Total /day (11)	Average daily working time (12)	Total /hour (13)
	D8N bulldozer														
	14G grader														
	CAT-type crawler excavator														
	CAT wheeled excavator														
	Trencher type ...														

	Pump														
	Concrete vibrating poker														
	...														

- (1) Estimated purchase price (excl. tax) of a piece of equipment of same kind, but new, purchased in the country's capital at the end of machine life span.
- (2) Duties and taxes charged to the contractor at the purchase date.
- (3) = (1)+(2)
 - (4) Number of depreciation years by number of days worked per year.
 - (5) Daily depreciation = (3)/(4).
 - (6) Average daily fuel consumption; the cost of the fuel is given with tax.
 - (7) Daily cost of lubricants (excl. tax).
 - (8) Daily cost of spare parts (excl. tax).
- (9) Duties and taxes charged to the contractor on lubricants and spare parts
- (10) Manpower price (man/day).
- (11) Daily basic prices of piece of equipment = (5)+(6)+(7)+(8)+(9)+(10).
- (12) Hours of operations (average)
- (13) Hourly operational price of piece of equipment = (11)/(12)

Done at

The Tenderer (signature)

D) Breakdown of unit prices in the price schedule
(in local currency or €)

No of the unit price:

Output per day: m³/day

Designation of the unit price:

Quantities estimated:

COMPONENTS OF THE PRICE EQUIPMENT, SUPPLIES AND SUBCONTRACTED WORKS	Quantity or time using h/day (Q)	U	EQUIPMENT				LABOUR		TOTALS €/day
			DEPRECIATION €/h (1)	MAINTENANCE €/h (2)	FUEL- LUBRICANTS €/h (3)	TOTAL €/day Qx (1+2+3)	Unit price	TOTAL €/day	
DESIGNATION									
EQUIPMENT		h							
		h							
MATERIALS									
		h							
LABOUR		h							
		h							
				TOTAL €/day					
				Net cost €/m ³					

E) Detailed breakdown of site costs (Fc)
(in local currency or €)

Means deployed	Number (1)	Basic price (2)	Total net cost (3)=(1)+(2)
Labour			
A1 Site supervisor A2 Engineer A3 Clerk of works A4 Secretary A5 Drivers A6 Orderlies A7			
Subtotal labour			
Equipment			
B1 4x4 vehicle B2 Saloon car B3 Van-type people carrier B4...			
Subtotal equipment			
Materials			
C1 Gasoil C2...			
Subtotal materials			
Other			
D1 Rentals D2 Telephone D3...			
Subtotal other			
GENERAL TOTAL			

F) Detailed breakdown of the general costs (Fg)
(general overheads and profits)

No		% of the bid
1	Financial charges	
2	Insurance premiums	
3	Guarantee costs	
4	Price revision	
5	Direct taxes	
6	Other expenses	
7	Penalties	
8	Contingencies	
9	Office and agency expenses	
10	Net profits	
11	Corporation taxes	
GENERAL TOTAL		

1. Financial charges are expenses incurred outside the production process (project start-up, overdrafts, etc.).
2. Insurance is the insurance described in Article 14 of the General Conditions for works contracts.
3. Guarantee costs are the bank charges for issuing the guarantee (advance, performance, retention guarantee, etc.).
4. Firms may or may not make provision under this heading, depending on their judgment concerning the quality of the price revision formula.
5. This involves VAT in the country of works, customs duties on the imported materials, etc.
7. If firms think there may be a delay in the works, they can take out cover against it.
8. Contingencies here are related to uncertainties concerning tender documents, lack of knowledge of the country, etc.
9. General and administrative expenses are made up of firms' fixed overheads such as accounts and quality control, management, various departments and office buildings and are common to all the firm's works contracts. Agency expenses are expenses common to all the works in the agency's area of responsibility.
11. These are taxes paid in the country of the works or in the country where the firm has its place of business (for international companies).

VOLUME 4.3

FINANCIAL OFFER TEMPLATES

UNIT PRICE CONTRACTS

Content

4.3.1 Introduction

4.3.2 Bill of Quantities

4.3.3 Price Schedule

4.3.4 Daily works Schedule

4.3.5 Detailed Breakdown of Prices

VOLUME 4.3.1 - INTRODUCTION

1. General

- 1.1 The Bill of Quantities (Volume 4.3.2) is the document containing an itemised breakdown of the works to be carried out in a unit price contract, indicating a quantity for each item and the corresponding unit price. The quantities set out in the Bill of Quantities are estimated quantities. Each price for each item of the Bill of Quantities is detailed in the Price Schedule (Volume 4.3.3).

The amounts due will be calculated by measuring the actual quantities of the works executed and by applying the unit rates to the quantities actually executed for each item.

- 1.2 The Detailed Breakdown of Prices (Volume 4.3.5) is the list containing the basic costs, net costs and mark-ups from which each price on the Bill of Quantities and the Price Schedule and on the Daywork Schedule results.

The Detailed Breakdown of Prices provides the coefficients for applying the price revision formula referred to in Article 48.2 of the Special Conditions and can provide the basis for valuation of additional work ordered referred to in article 37.5 of the General Conditions.

- 1.3 Provisional sums for use when works are to be executed on a daily work basis (Volume 4.3.4) can only be executed by administrative order of the Supervisor in accordance with the terms of the Contract.

2. Specific to Volumes 4.3.2, 4.3.3 and 4.3.4

- 2.1 The prices inserted in the Bill of Quantities and Price Schedule are to be the full inclusive values of the works described under the items, including all costs and expenses that may be required in and for the construction of the works described, together with any temporary works and installations which may be necessary and all general risks, liabilities and obligations specified or implied in the documents on which the tender is based. It will be assumed that establishment charges, profit and allowances for all obligations are spread evenly over all unit rates.
- 2.2 Save where the technical specifications or the Bill of Quantities and the Price Schedule specifically and expressly state otherwise, only permanent works are to be measured.
- 2.3 No allowance will be made for loss of materials or volume thereof during transport or compaction.
- 2.4 The prices do not include taxes and fiscal duties, as exoneration is explicitly given for the contract. Non-exonerated taxes and fiscal duties are covered in the prices of the Bill of Quantities, Price Schedule and Daily work Schedule, apart from those stated separately in the financial offer templates.

2.5 The units of measurement used in the annexed technical documentation are those of the International System of Units (SI). No other units may be used for measurements, pricing, detail drawings etc. (Any units not mentioned in the technical documentation must also be expressed in terms of the SI.).

Abbreviations used in the bill of quantities are to be interpreted as follows:

mm	means	millimetre
m	means	metre
mm ²	means	square millimetre
m ²	means	square metre
m ³	means	cubic metre
kg	means	kilogram
to	means	tonne (1000 kg)
pcs	means	pieces
h	means	hour
L.s.	means	Lump sum
km	means	kilometre
l	means	litre
%	means	per cent
N.d	means	nominal diameter
m/m	means	man-month
m/d	means	man-day

VOLUME 4.3.2 - BILL OF QUANTITIES

PRICE No	TITLE	UNIT	UNIT PRICE	ESTIMATED QUANTITIES	AMOUNT
(a)	(b)	(c)	(d)	(e)	(f = d * e)
000	<for instance: installation of the site>				
001					
...					
	Total 000-99				
100					
101					
...					
	Total 100-199				
200					
201					
...					
	Total 200-299				
300					
301					
...					
	Total 300-399				
....					
Total amount of the works, outside dayworks					

Dayworks					
Total					

Note: the numbering of prices under (a) and titles under (b) correspond to the numbering in the Price Schedule

VOLUME 4.3.3 - PRICE SCHEDULE

<p>PRICE No <for example: PRICE No 201> Title: ... <for example: EXCAVATE TOPSOIL WITHIN ROADWAY></p>	
<p>Description of the implementation modalities of the works comprised within this price, as well as the measurement modalities of the quantities executed and to be paid by this price.</p> <p><for example: This price is for excavation of topsoil paid per square meter (m²) executed. Measurement is made horizontally. Excavation of topsoil is executed within the roadway.</p> <p>The price includes:</p> <ul style="list-style-type: none"> - excavation of topsoil, loading, and transportation (all distance inclusive), unloading and disposal (provisory or definitive) in a place agreed with the engineer; - the cleaning of the existing ditches within the roadway - all other costs related to topsoil excavation. <p>This price is per square meter of surface excavated. Measurement is performed contradictory>.</p>	
<p>PRICE No ... - TITLE:</p> <p><for example: PRICE No 201 - EXCAVATE TOPSOIL WITHIN ROADWAY></p>	
<p>Price in words:</p> <p><for example: per square meter: GNF (Franc Guinéen)></p>	<p>Price in numbers:</p> <p><for example: GNF (Franc Guinéen)></p>

PRICE No <for example: PRICE No 202>	
Title: ...	
Description of the implementation modalities of the works comprised within this price, as well as the measurement modalities of the quantities executed and to be paid by this price.	
PRICE No ... - TITLE:	
Price in words:	Price in numbers:

Etc.

VOLUME 4.3.4 - DAYWORKS SCHEDULE

Item	Description	Unit	Unit price	Estimated quantities	Provisional sums [EUR] [local currency]
	<for example: - Labourer - Mason - Driver - ... - Bull Dozer - Water Tank - ...>				
Total Dayworks					

VOLUME 4.3.5 - DETAILED BREAKDOWN OF PRICES

**A) Breakdown of the basic prices for labour
(converted into local currency or €/hour)**

NO.	Qualification	Monthly pay (1)	Hourly pay (2)	Overtime (3)	Soc. security contributions (4)	Travel time (5)	Hourly total (6)
A1	Labourer, Cat 1						
A2	Skilled worker, Cat. 3						
A3	Skilled worker, Cat. 5						
A4	Foreman, Cat. 7						
A5	Site manager						
A6	HGV driver						
A7	Heavy plant driver						
A8	Clerk of works						
A9	Mechanic, Cat. 7						
A9	Land surveyor						
A10	Planning draughtsman						
A11	...						

The above list is given by way of example and is not exhaustive.

(6) Salary if the employee is paid monthly.

(7) Hourly pay if the employee is paid hourly, otherwise monthly salary divided by the legal working hours (... hours/month).

(8) Average cost of overtime, i.e. hourly pay times the overtime coefficient.

Average coefficient to be applied to the salary to take account of overtime..... (= total gross salary/gross salary without overtime).

- (9) Percentage of the social security contributions (including social welfare, leave, etc.) times the gross salary (this percentage may vary according to the category of employee).
- (10) Average monthly or daily travel time divided by the number of daily or monthly legal working hours.
- (6) = (2) + (3) + (4) + (5).

Done at

The tenderer (signature)

B) Breakdown of basic supply prices for materials and consumables
(in local currency or €/unit)

NO	Description	Origin (1)	Unit price origin (2)	Transport to site (3)	Tax, duties and other charges (4)	Losses		Total (6)
						%	Value (5)	
C1	Gasoil							
C2	Aggregates for concrete							
C3	Sand for concrete 2/4							
C4	Cement							
C5	Steel for reinforced concrete							
C6	Annealed wire							
C7	Timber formwork							

C8	Plywood								
C9	Plasticisers								
C10	Concrete coating								
C11	Asphalt concrete								
C13	Inspection ladders								
C14	Fencing								
C15	Traffic signs								
C16	...								

This list is not exhaustive.

- (7) Geographical location of the supplier or quarry.
- (8) Supply or cost price at the quarry or on delivery in the country.
- (9) Cost price of transport from the quarry or delivery in the country to the site.
- (10) To be borne by the firm.
- (11) Any losses or breakages to be determined by the tenderer.
- (12) Basic prices for supply of materials: (6) = (2) + (3) + (4) + (5).

Done at

The tenderer (signature)

C) Breakdown of basic hourly prices for equipment
(in local currency or €/hour)

	Description	Purchase date of equipment	Replacement value (RV) (1)	Duties Taxes (2)	RV+ taxes (3)	nb days useful life (4)	Depreciation /day (5)	Fuel cost/day (6)	Lubricant cost/day (7)	Spare parts (SP) cost/day (8)	Lubricant & SP taxes/day (9)	Labour cost/day (10)	Total /day (11)	Average daily working time (12)	Total /hour (13)
	D8N bulldozer														
	14G grader														
	CAT-type crawler excavator														
	CAT wheeled excavator														
	Trencher type ...														
	Pump														

Concrete vibrating poker															
...															

- (4) Estimated purchase price (excl. tax) of a piece of equipment of same kind, but new, purchased in the country's capital at the end of machine life span.
- (5) Duties and taxes charged to the contractor at the purchase date.
- (6) = (1)+(2)
 - (4) Number of depreciation years by number of days worked per year.
 - (5) Daily depreciation = (3)/(4).
 - (6) Average daily fuel consumption; the cost of the fuel is given with tax.
 - (7) Daily cost of lubricants (excl. tax).
 - (8) Daily cost of spare parts (excl. tax).
- (13) Duties and taxes charged to the contractor on lubricants and spare parts.
- (14) Manpower price (man/day).
- (15) Daily basic prices of piece of equipment = (5)+(6)+(7)+(8)+(9)+(10)..
- (16) Hours of operations (average).
- (14) Hourly operational price of piece of equipment = (11)/(12)

Done at

The Tenderer (signature)

D) Breakdown of unit prices in the price schedule
(in local currency or €)

No of the unit price:

Output per day: m³/day

Designation of the unit price:

Estimated quantities:

COMPONENTS OF THE PRICE EQUIPMENT, SUPPLIES AND SUBCONTRACTED WORKS	Quantity or time using h/day (Q)	U	EQUIPMENT				LABOUR		TOTALS €/day
			DEPRECIATION €/h (1)	MAINTENANCE €/h (2)	FUEL- LUBRICANTS €/h (3)	TOTAL €/day Qx(1+2+3)	Unit price	TOTAL €/day	
DESIGNATION									
EQUIPMENT		h							
		h							
MATERIALS									
		h							
LABOUR		h							
		h							
				TOTAL €/day					
				Net cost €/m ³					

E) Detailed breakdown of site costs (Fc)
(in local currency or €)

Means deployed	Number (1)	Basic price (2)	Total net cost (3)=(1)+(2)
Labour			
A1 Site supervisor A2 Engineer A3 Clerk of works A4 Secretary A5 Drivers A6 Orderlies A7			
Subtotal labour			
Equipment			
B1 4x4 vehicle B2 Saloon car B3 Van-type people carrier B4...			
Subtotal equipment			
Materials			
C1 Gasoil C2...			
Subtotal materials			
Other			
D1 Rentals D2 Telephone D3...			
Subtotal other			
GENERAL TOTAL			

F) Detailed breakdown of the general costs (Fg)
(general overheads and profits)

No		% of the bid
1	Financial charges	
2	Insurance premiums	
3	Guarantee costs	
4	Price revision	
5	Direct taxes	
6	Other expenses	
7	Penalties	
8	Contingencies	
9	Office and agency expenses	
10	Net profits	
11	Corporation taxes	
GENERAL TOTAL		

1. Financial charges are expenses incurred outside the production process (project start-up, overdrafts, etc.).
2. Insurance is the insurance described in Article 16 of the General Conditions for works contracts.
3. Guarantee costs are the bank charges for issuing the guarantee (advance, performance, retention guarantee, etc.).
4. Firms may or may not make provision under this heading, depending on their judgment concerning the quality of the price revision formula.
5. This involves VAT in the country of works, customs duties on the imported materials, etc.
7. If firms think there may be a delay in the works, they can take out cover against it.
8. Contingencies here are related to uncertainties concerning tender documents, lack of knowledge of the country, etc.
9. General and administrative expenses are made up of firms' fixed overheads such as accounts and quality control, management, various departments and office buildings and are common to all the firm's works contracts. Agency expenses are expenses common to all the works in the agency's area of responsibility.

11. These are taxes paid in the country of the works or in the country where the firm has its place of business (for international companies).

VOLUME 5

DESIGN DOCUMENTS, INCLUDING DRAWINGS

Section 5.1

List of drawings attached

No	Name	Drawing No	Design No
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Section 5.2

List of design documents available

No	Designer	Design No	Design name	Date
1.				
2.				
3.				
4				

Drawings are available for inspection from [date] at the following address:

Consultant:

Person in charge:

Tel.: +

Fax: +

E-mail:

Signature:

(a person or persons authorised to sign on behalf of the tenderer)

Date:.....

Not to be used for competitive negotiated procedures where only one tender was received

< Letterhead of the Contracting Authority >

AWARD DECISION

PUBLICATION REF: <Ref>

[Lot number and lot title: <number and title>]

Maximum budget: <amount and currency>

The Contracting Authority, having examined the evaluation report prepared by the Evaluation Committee on the <date>, acknowledges that the Evaluation Committee recommends that <tenderer name> is awarded the contract with a contract value of [EUR] [<ISO code of the country of the Contracting Authority> only for indirect management] <amount>.

The Contracting Authority

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia[approves the evaluation report.

Choose an option:

[Following the Evaluation Committee's recommendation, the Contracting Authority takes the decision to award the contract to <tenderer name>, the latter being the tenderer who provides the most economically advantageous tender while meeting the selection criteria.]

Or: [However, the Contracting Authority cannot follow the Evaluation Committee's recommendation for the following reason(s): <explain>. Therefore, the Contracting Authority takes the decision to award the contract to <tenderer name> which, while meeting the selection criteria <insert the reasons>.]

[For contracts awarded following a competitive dialogue: The recourse to the competitive dialogue was justified by the following circumstances <insert>.]

]

[has decided not to award the contract for the following reason(s): <explain>.]

Name and signature:

Date:

[Approved by the European Commission only in the event of ex-ante control by the European Commission

LETTER FOR UNSUCCESSFUL TENDERERS

< Letterhead of Contracting Authority >

< Date >

< Address of tenderer >

Our ref: < Publication reference > / < Letter number >

Contract title: Rehabilitation and Extension of WWTP, Georgia

Dear < Contact name >,

Thank you for participating in the above-mentioned tender procedure. I regret to inform you, however, that your tender was inadmissible or unsuccessful for the following reason(s):

[Delete rows not applicable:

- your tender did not arrive before the deadline
- your tender was not properly sealed
- the requisite declarations were altered or were missing
- your tender was not administratively regular for the following reason(s):< specify>
- no tender guarantee was provided
- the proportion of subcontracting exceeded the maximum allowed
- your (consortium's) economic and financial standing was not considered to satisfy criterion/criteria <a/b/...> specified in the tender dossier
- your (consortium's) professional capacity was not considered to satisfy criterion/criteria <a/b/...> specified in the tender dossier
- your (consortium's) technical capacity was not considered to satisfy criterion/criteria <a/b/...> specified in the tender dossier
- your technical offer was not considered compliant with the rules of origin specified in the tender dossier
- your technical offer was not considered compliant with the following aspects of the technical specifications:

- your financial offer exceeded the maximum budget available for the contract
- your tender was not the least expensive of the tenders that were technically compliant
- your tender was not the most economically advantageous of those tenders which were technically acceptable (see following table):

	Technical score x 0.80	Financial score x 0.20	Overall score
Your tender			
Selected tender			

For your information, the contract has been awarded to <name of successful tenderer> for an amount of < Amount and currency >.

We draw your attention to the legal remedies available to you to contest this decision, explained in section 2.4.15 of the Practical Guide.

I hope that you will continue to take part in the tender procedures that the European Union runs as part of its external aid programmes. [Your original tender guarantee is hereby returned.]

Yours sincerely,

< **Name** >

Notification Letter

< Letterhead of Contracting Authority >

< Date >

< Official name of tenderer / candidate /contractor>

<Address of tenderer / candidate / contractor >

Our ref: < Publication reference >

Dear < Contact name >,

Contract title: Rehabilitation and Extension of WWTP, Georgia

The above contract may be awarded to you subject to the eligibility of the proofs when requested, related to the exclusion situations and selection criteria mentioned below, for the amount mentioned in your tender [, as corrected for arithmetic errors as follows: <...>] and on the basis of the conditions stipulated in the tender dossier. The contract value is [EUR] [<ISO code of national currency>only for indirect management] <amount>.

Please complete a new financial identification form if your bank account details have changed since those submitted with your tender.

[Where applicable depending on the amount of the contract: To facilitate the contract preparation, could you please confirm that you will request the pre-financing of < amount of pre-financing >.]

[Where evidence documents for exclusion criteria shall be submitted (for contracts with a value of less than the international thresholds works < €5.000.000 there is no obligation to submit the above mentioned documents). The Contracting Authority may however, where it has doubts as to whether the tenderer to whom the contract is to be awarded is in one of the situations of exclusion, require him to provide the evidence:

Please submit admissible proof or statement usual under the law of the country in which [you] [your firm] [each consortium member][each capacity-providing entity] [each subcontractor providing more than 10% of the works] is established that [you] [your firm] [each of the consortium members] [each capacity-providing entity] [each subcontractor providing more than 10% of the works] does not fall into any of the exclusion situations listed in Section 2.3.3.1 of the Practical Guide, in accordance with the undertaking in the tenderer's declaration[s] included in your tender. Examples of the admissible supporting documents are provided in Section 2.3.3.3 of the Practical Guide. The date on the evidence or documents provided must be no earlier than 1 year before the date of submission of the tender. [You] [Your firm] [each consortium member] [each capacity-providing entity] [each subcontractor providing more than 10% of

the works] must, in addition, provide a statement that the situation has not been altered in the period that has elapsed since the evidence in question was drawn up.]

The contracting authority may waive the obligation of any candidate or tenderer to submit the documentary evidence referred to above if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the issuing date of the documents does not exceed one year and that they are still valid. In such a case, the candidate or tenderer shall declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes in his/her situation have occurred.

[For contracts over international thresholds (works EUR 5.000.000):

Furthermore evidence of the financial and economic capacity as well as the technical and professional capacity according to the selection criteria specified in the procurement notice have to be submitted for the following references <specify for which references evidence have to be submitted> (note that tenderers should only be asked to submit evidence for the published selection criteria) (see further point 2.4.11 of the Practical Guide).]

[For contracts with a value of less than the international thresholds (works <EUR 5.000.000) the Contracting Authority may, depending on its assessment of the risks, decide not to require proofs for selection criteria, but then no pre-financing shall be made. The previous possibility to grant in such case pre-financing against a financial guarantee of an equivalent amount, has been erased in the RAP.

Evidence of financial and economic capacity as well as the technical and professional capacity according to the selection criteria specified in the procurement notice is not obligatory to submit but then no pre-financing shall be made.]

If the documentary evidence submitted is not written in one of the official languages of the European Union, a translation into the language of the procedure must be attached. Where the documents are in an official language of the European Union other than the one of the procedure, it is however strongly recommended to provide a translation into the language of the procedure, in order to facilitate the evaluation of the documents.

The documentary evidences may be in original or copy. If copies are submitted, the originals must be dispatched to the Contracting Authority upon request.

If the nature of your entity is such that it cannot fall into one or more of the exclusion situations and/or cannot provide the documents indicated above (for instance, national public administrations and international organisations), please provide a declaration explaining this situation.

Please use a reliable courier service or registered mail to avoid any delays or loss of the documents.

Please submit the requested information within below specified deadline to the following address:

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

<address of unit/section>>

The contract will be sent to you for signature if you provide the above requested evidence documents within 15 calendar days following receipt of this notification of award. Note that the Contracting Authority may not be in a position to honour the contract if the required documents/information is not submitted within the above time limit or if they do not meet the requirements set out above. [The contract must be signed by the two parties by <specify date> at the latest.]

Please take note of the possibility – as described in the instructions to tenderers – that the tender procedure may – under certain circumstances – be cancelled by the Contracting Authority. In no circumstances will the Contracting Authority be liable for damages, whatever their nature (in particular damages for loss of profits) or relationship to the cancellation of a tender, even if the Contracting Authority has been informed of the possibility of damage. The publication of a procurement notice does not commit the Contracting Authority to implement the programme or project announced.

Implementation of the tasks may not start before the contract is signed by both parties.

< Add any special instructions as appropriate >

Yours sincerely,

< Name >

Document to be completed by the Contracting Authority and made public after award of a contract

To be used in case of prior publication in the EUOJ

WORKS CONTRACT AWARD NOTICE

**Rehabilitation and Extension of WWTP, Georgia
Georgia, Tbilisi County, <ISO code>**

1. Publication reference

< Publication reference of the corresponding prior information notice & contract notice >

2. Publication date of the contract notice

< Date >

3. Lot number and lot title

< As appropriate >

4. Contract number and value

< contract number > [EUR] [<ISO code of national currency> only for indirect management] <Amount>

5. Date of award of the contract

< Date >

6. Number of tenders received

< Number >

7. Name, address and nationality of successful tenderer

< Name and address, with the leader shown in bold type in the case of a consortium >

< ISO code of country >

8. Duration of contract

<months>

9. Contracting Authority

[For direct management: European Union, represented by the European Commission on behalf of and for the account of <the partner country/countries>]

[For indirect management: <The partner country >]

10. Legal basis

[BUDGET: for calls where the CIR applies: Regulation (EU) N°236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and <please introduce here the reference of the Regulation or other instrument under which this contract is to be financed (e.g. DCI, ENPI, ENI, Ifs)> - See Annex A2 of the Practical Guide]

[BUDGET: for calls where the CIR does not apply (e.g. for IPA I), -< Regulation or other instrument under which this contract is to be financed> - See Annex A2 of the Practical Guide]

[EDF: Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.]

Point 11 to be included only in direct management.

[11. DAC code

<code>]

Document to be completed by the Contracting Authority and made public **after** award of a contract

To be used when no prior OJ publication has been made

WORKS CONTRACT AWARD NOTICE

**Rehabilitation and Extension of WWTP, Georgia
Georgia, Tbilisi County <ISO code>**

1. Type of procedure

< Local open tender, negotiated >

2. Publication reference and date of the contract notice

< Date, reference (if applicable) >

3. Lot number and lot title

< As appropriate >

4. Contract number and value

< Contract number > < Amount > [EUR] [<ISO code of national currency> only for indirect management]

5. Date of award of the contract

< Date >

6. Number of tenders received

< Number >

7. Name, address and nationality of successful tenderer

< Name and address, with the leader shown in bold type in the case of a grouping (consortium) of tenderers >

< ISO code of country >

8. Duration of contract

<Months>

9. Contracting Authority

[For direct management: European Union, represented by the European Commission on behalf of

and for the account of <the partner country/countries>]

[For indirect management: <The partner country >]

10. Legal basis

[BUDGET: for calls where the CIR applies: Regulation (EU) N°236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and _ _ _ (please introduce here the reference of the Regulation or other instrument under which this contract is to be financed (e.g. DCI, ENPI, ENI, Ifs)> - See Annex A2 of the Practical Guide]

[BUDGET: for calls where the CIR does not apply (e.g. for IPA I), -< Regulation or other instrument under which this contract is to be financed> - See Annex A2 of the Practical Guide]

[EDF: Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.]

Point 11 to be included only in direct management.

[11. DAC code

<Code>.]

ADDENDUM N° <...> TO WORKS CONTRACT N° <...>

United Water Supply Company of Georgia, 76b Vazha Pshavela Ave, 0186 Tbilisi, Georgia

[if direct management: The European Union, represented by the European Commission, for and on behalf of the government of < name of partner country/countries>] >

("the Contracting Authority"),

of the one part,

and

<Official name of Contractor>

[<Legal status/title>]²²

[<Official registration number>]²³

<Full official address>

[<VAT number>²⁴],

("the Contractor")

of the other part,

have agreed as follows:

The following provisions of Contract < title and identification number of contract > concluded between the Contracting Authority and the Contractor on < date > (the "Contract") are hereby [replaced] [completed] as follows:

²² Where the contracting party is an individual.

²³ Where applicable. For individuals, mention their ID card or passport or equivalent document number.

²⁴ Except where the contracting party is not VAT registered.

Article < number > : < title >

< text of the new article as amended >

Annex < number > : < title >

[The new version of Annex < number > : < title > is attached to this addendum]

All other terms and conditions of the Contract [and its previous addenda] remain unchanged. This addendum shall form an integral part of the Contract and it shall enter into force on the later date of signature by the Parties.

Done in English in [two][three] originals, [For direct management: [one] [two] originals being for the European Commission] [For indirect management: one original being for the Contracting Authority, one original being for the European Commission,] and one original being for the Contractor.

For the Contractor

Name

Title

Signature

Date

For the Contracting Authority

Name

Title

Signature

Date

[Endorsed for financing by the European Union²⁵

Name

Title

Signature

Date]

²⁵ Where the Contracting Authority is not the European Commission and endorsement is foreseen in the Practical Guide. Delete where not applicable.

The Bill of Quantities/breakdown - Addendum n°

Contract N°:

Budget Item	Initial contract budget	Addendum 1	(Addendum 2...)	Revised budget

2.4.2. Open procedure

In 'open' calls for tender (international or local), all economic operators may submit a tender. The contract is given maximum publicity by publishing a notice in the Official Journal of the European Union (S series) (for international open procedure only), the official journals of all the ACP States (for EDF programmes), on the EuropeAid website, and in any other appropriate media. See guidelines for publication ([Annex A11e](#)).

Any natural or legal person wishing to tender may ask to receive the tender dossier (which may have to be paid for), in accordance with the procedures specified in the contract notice. The tenders are examined, the eligibility and the financial, economic, technical and professional capacity of the tenderers are checked to arrive at a selection, the tenders are compared and the contract is awarded (see point [2.4.11.](#)). No negotiation is allowed.

2.4.3. RESTRICTED PROCEDURE

In 'restricted' calls for tender, all economic operators may ask to submit a tender but only those who satisfy the selection criteria may be invited to do so.

The selection criteria and the tasks to be undertaken are described in the published contract notice. A 'long list' of all the candidates replying to the notice is cut down to a shortlist of the best qualified, on the basis of their replies. At the shortlisting stage, before the list is approved by the evaluation committee, the contracting authority checks that none of the candidates or their partners is in exclusion situation in the Early Detection and Exclusion System.

The contract is given maximum publicity by publishing a notice in the Official Journal of the European Union (S series), in the official journals of all the ACP States (for EDF programmes), on the EuropeAid website, and in any other appropriate media.

The contracting authority prepares the shortlist notice using the appropriate template and sends it in due time, in electronic form to the European Commission for publication on the EuropeAid website (See guidelines for publication in [annex A11e](#)).

The contracting authority also sends the tender dossier to the shortlisted candidates. To ensure fair competition, tenders must be submitted by the same service provider or consortium which requested to tender, which was shortlisted and to which the invitation to tender was addressed. No changes to the identity or composition of the tenderer are permitted, unless good reasons have been given and the contracting authority has given its approval in writing. If deemed necessary the evaluation committee may be consulted. Examples of situations where such approval could be given, based on the details of the case and provided that they do not change the conditions of competition, are:

- where a shortlisted candidate/member of a consortium has merged with another company and where the new company is found to meet the eligibility and exclusion criteria and does not give rise to any conflict of interest;
- where positions are swapped within the consortium, if it does not lower the score received by the consortium during the technical evaluation;
- where a partner leaves but the consortium still meets the conditions under which it was shortlisted, i.e. the rest of the consortium meets the selection criteria and would have been shortlisted without that partner.

Once the tenders have been analysed, they are compared and the successful tenderer is chosen (see point [2.4.11.](#)). No negotiation is allowed.

<http://ec.europa.eu/europeaid/prag/document.do?nodeNumber=2.4>.