ANNEX I: GENERAL CONDITIONS

FOR SUPPLY CONTRACTS
FINANCED BY THE EUROPEAN UNION
OR BY THE EUROPEAN DEVELOPMENT FUND

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PRELIMINARY PROVISIONS

ARTICLE 1 DEFINITIONS

1.1 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.

1.2 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.

1.3 Words designating persons or parties shall include firms and companies and any organisation having legal capacity.

1.4 The definitions of the terms used throughout these general conditions are laid down in the 'Glossary of terms', Annex A1a to the practical guide, which forms an integral part of the contract.

ARTICLE 2 LANGUAGE OF THE CONTRACT

2.1 The language of the contract and of all communications between the contractor, contracting authority and project manager 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 stated in the contract.

ARTICLE 4 COMMUNICATIONS

4.1 Any written communication relating to this contract between the contracting authority or the project manager, and the contractor must be in the language of the contract, and shall state the contract title and identification number.

Communication between the parties can take place:

- by electronic means, via electronic exchange system, in accordance with the provisions of Article 4.4,
- by electronic means, via email, in accordance with the provisions of Article 4.5,
- on paper, via mail - by courier service with proof of delivery or by registered post with proof of delivery, in accordance with the provisions of Article 4.6.

The specific rules when formal notifications are considered to have been received are provided in Articles 4.4.2, 4.5.2 and 4.6.2. below.

Communication details to be used for all communication between the parties are indicated in Article 4 of the special conditions.

4.2 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.

4.3 Any oral instructions or orders shall be confirmed in writing.

4.4 Communication via electronic exchange system (EES)

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The contracting authority may use an EES for all exchanges with the contractor during the implementation of the contract.

If communication via the EES is hindered by factors beyond the control of one party, including technical problems, the party who first discovers the hinderance must notify the other party immediately and the parties must take the necessary measures to restore this communication via the EES. Upon such notification, the parties shall use alternative means of communication until communication via electronic exchange system is restored. The provisions applicable to alternative means of communication are described in Articles 4.5 and 4.6 below.

If the EES is temporarily unavailable, the sending party cannot be considered in breach of its obligation to send a communication within a specified deadline. In any event, for reasons linked to business continuity, the contracting authority reserves the right to use alternative means of communication at any moment.

4.4.1 Date of communication via electronic exchange system for other than formal notifications

Notifications through the EES are generally considered to have been made when they are sent by the sending party (i.e. on the date and time they are sent through the EES) as indicated by the time logs.

4.4.2 Date of communication via electronic exchange system for formal notifications

The receiving date for formal notifications made through the EES will be the date and time the communication is accessed, as indicated by the time logs. Formal notifications that have not been accessed within 10 days after sending, will be considered to have been accessed.

4.5 **Communication via email**

When communicating via e-mail, the parties shall send their messages to the email addresses indicated in Article 2 of the special conditions.

4.5.1 Date of communications via email for other than formal notifications

Without prejudice to Article 4.5.2. below and Point 31.3 of Annex I to the FR, notifications via email are generally considered to have been made and the email is deemed to have been received by the receiving party on the date of dispatch of that e-mail, if it is sent to the email address indicated in Article 2 of the special conditions and does not have characteristics that could reasonably prevent its proper delivery (such as sending extremely voluminous e-mails that can be blocked for their size or emails containing elements that the majority of the spam filers would block). The sending party must be able to prove the date of dispatch. If the sending party sends the email to the email address indicated in Article 2 of the special conditions and receives a non-delivery report, it must make every reasonable effort to ensure that the other party receives the communication.

4.5.2 Date of communications via email for formal notifications

Formal notifications by email are considered to have been received on the date of dispatch of a return email expressly or impliedly acknowledging receipt. In case no such email is received by the party who sent the formal notification within 10 days, the formal notification should be re-sent via courier service with proof of delivery or registered post (see Article 4.6.2 below).

4.6 Communication via mail

As a rule, mail is used by way of exception for formal notifications and as alternative means of communication when the other means are not available.

When communicating via mail, the parties should send their letters to the postal addresses indicated in Article 2 of the special conditions.

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4.6.1 Date of communications via mail for other than formal notifications

Without prejudice to Article 116 of the Financial Regulation, notifications via mail are generally considered to have been made at the date of receipt by the receiving party.

A receiving party cannot make use of its own refusal to be informed of the communication in order to render it ineffective.

Invoices sent to the contracting authority via mail are deemed to be received on the date when they are registered by the authorised department of the authorising officer responsible.

4.6.2 Date of communications via mail for formal notifications

Formal notifications by courier service with proof of delivery are considered to have been received on the date indicated in the proof of delivery. Formal notifications by registered post with proof of delivery are considered to have been received either on the delivery date registered by the postal service or the deadline for collection at the post office.

ARTICLE 5 ASSIGNMENT

5.1 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.

5.2 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) 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.

5.3 For the purpose of Article 5.2, 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.

5.4 If the contractor has assigned the contract without authorisation, the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 35 and 36. Accordingly, the assignor will remain jointly and severally bound with the assignee vis-à-vis the contracting authority.

5.5 Assignees shall satisfy the eligibility criteria applicable for the award of the contract and they shall not fall under the exclusion criteria described in the tender dossier.

ARTICLE 6 SUBCONTRACTING

6.1 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.

6.2 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. The contracting authority shall notify the contractor of its decision within 30 days of receipt of the request, stating reasons should it withhold such authorisation.

6.3 Subcontractors shall satisfy the eligibility criteria applicable for the award of the contract. They shall not fall under the exclusion criteria described in the tender dossier and the contractor shall ensure that they are not subject to EU restrictive measures.

6.4 No subcontract creates contractual relations between any subcontractor and the contracting authority.

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6.5 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 subcontracting of any part of the contract or of the subcontractor to perform any part of the tasks shall not relieve the contractor of any of its obligations under the contract.

6.6 If a subcontractor has undertaken any continuing obligation extending for a period exceeding that of the warranty period under the contract towards the contractor in respect of the supplies provided by the subcontractor, the contractor must, at any time after the expiration of the warranty 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.

6.7 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 Articles 35 and 36.

6.8 If a subcontractor is found by the contracting authority or the project manager to be incompetent in discharging its duties, the contracting authority or the project manager may request the contractor forthwith, 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. The contractor bears the costs of such replacement.

OBLIGATIONS OF THE CONTRACTING AUTHORITY

ARTICLE 7 SUPPLY OF DOCUMENTS

7.1 Save where otherwise provided in the special conditions, within 30 days of the signing of the contract, the contracting authority shall provide the contractor, free of charge, with a copy of the drawings prepared for the implementation of the tasks and a copy of the specifications and other contract documents. The contractor may purchase additional copies of these drawings, specifications and other documents, in so far as they are available. Upon final acceptance, the contractor shall return to the contracting authority all drawings, specifications and other contract documents.

7.2 The contracting authority shall co-operate with the contractor to provide information that the latter may reasonably request in order to perform the contract.

7.3 The contracting authority shall notify the contractor of the name and address of the project manager.

7.4 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 contracting authority.

7.5 The project manager shall have authority to issue to the contractor administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the contract and the remedying of any defects therein.

7.6 The special conditions must indicate the procedure used, if necessary, by the contracting authority and the project manager to approve drawings and other documents provided by the contractor.

ARTICLE 8 ASSISTANCE WITH LOCAL REGULATIONS

8.1 The contractor may request the assistance of the contracting authority in obtaining copies of laws, regulations and information on local customs, orders or bye-laws of the country where the supplies are to be delivered which may affect the contractor in the performance of its

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obligations under the contract. The contracting authority may provide the assistance requested to the contractor at the contractor's cost.

8.2 The contractor shall duly notify the contracting authority of details of the supplies so that the contracting authority can obtain the requisite permits or import licences.

8.3 The contracting authority will undertake to obtain, in accordance with the special conditions, the requisite permits or import licences within a reasonable period, taking account of the implementation dates for the tasks.

8.4 Subject to the provisions of the laws and regulations on foreign labour of the country in which the supplies are to be delivered, 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 supplies are to be delivered, 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.

OBLIGATIONS OF THE CONTRACTOR

ARTICLE 9 GENERAL OBLIGATIONS

9.1 The contractor shall execute the contract with due care, efficiency and diligence in accordance with the best professional practice, high quality standards, the state of the art in the industry and the provisions of the contract (in particular the tender documents/specifications and the terms of its tender).

9.2 The contractor shall, in accordance with the provisions of the contract, supply (deliver, unload, commission) the supplies and carry out any other work including the remedying of any defects in the supplies. The supply may include, as an incidental matter, siting and installation operations. The contractor shall also provide all necessary equipment, supervision, labour and facilities required for the implementation of the tasks.

9.3 The contractor shall comply with administrative orders given by the project manager. Where the contractor considers that the requirement of an administrative order goes beyond the scope of the contract, it shall, give notice with reasons to the project manager. If the contractor fails to notify within 30 days period after receipt thereof, he shall be barred from so doing. Execution of the administrative order shall not be suspended because of this notice.

9.4 The contractor shall supply, without delay, any information and documents to the contracting authority and the European Commission upon request, regarding the conditions in which the contract is being executed.

9.5 The contractor shall respect and abide by all laws and regulations in force in the country where the supplies are to be delivered 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.

9.5 bis The contractor must ensure the application of any relevant measure pursuant to Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget, including when sub-contracting any part of the services under the present contract.

9.6 Should any unforeseen event, action or omission directly or indirectly hamper performance of the contract, either partially or totally, the contractor shall immediately and at its own initiative record it and report it to the contracting authority. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by

the contractor to ensure full compliance with its obligations under the contract. In such event the contractor shall give priority to solving the problem rather than determining liability.

9.7 Subject to Article 9.9, 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 –personnel 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.

9.8 If the contractor is a joint venture or a 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 the contract shall have the authority to bind the consortium and is the sole interlocutor for all contractual and financial aspects. 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 of the consortium without the prior consent of the contracting authority may result in the termination of the contract.

9.9 Save where the European Commission requests or agrees otherwise, the contractor shall take all relevant measures to ensure the highest visibility to the financial contribution of the European Union. Additional communication activities required by the European Commission are described in the Special Conditions. All visibility and, if applicable, communication activities must comply with the latest Communication and Visibility Requirements for EU-funded external action, laid down and published by the European Commission.

The Parties will consult immediately and endeavour to remedy any detected shortcomings in implementing the visibility and, if applicable, communication requirements set out in this Article and in the special conditions. Failure to perform the obligations set out in this article and in the special conditions can constitute a breach of contract in the sense of Article 35 of these general conditions, and can lead to corresponding measures taken by the contracting Authority, including suspension of payment and/or a reduction of the final payment in proportion of the seriousness of the breach of obligations.

9.10 Any records shall be kept for a five year period after the final payment made under the contract. The contractor must keep all original documents stored on any appropriate medium. Digital and digitalised documents are considered originals if they are authorised by the applicable national law. In case of failure to maintain such records the contracting authority may, without formal notice thereof, apply as of right the sanction for breach of contract provided for in Articles 35 and 36.

9.11 The contractor shall inform the contracting Authority of any change in their postal and electronic addresses. This obligation shall continue to apply in the period of five years following the payment of the balance or, in the absence of such payment, the transaction. This period shall be three years where the funding is of an amount lower than or equal to EUR 60 000.

Article 9a Code of conduct

9a.1 The contractor shall 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 without the prior approval of the contracting authority. It shall not commit the contracting authority in any way without its prior consent and shall, where appropriate, make this obligation clear to third parties.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited. The contractor shall also provide to inform the contracting authority of any breach of ethical

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standards or code of conduct as set in the present Article. In case the contractor is aware of any violations of the abovementioned standards he shall report in writing within 30 days to the contracting authority

9a.2 The contractor and its personnel shall respect human rights and applicable data protection rules.

9a.3 The contractor shall respect environmental legislation applicable in the country where the supplies have to be delivered 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.

9.a.4 The contractor or any of its subcontractors, agents or personnel shall not abuse of its entrusted power for private gain. The contractor or any of its subcontractors, 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.

9.a.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 personnel must not exercise any activity or receive any advantage inconsistent with their obligations under the contract.

9a.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.

9a.7 The contractor or any of its subcontractors must commit to and ensure the respect of the basic EU values, such as respect for the human dignity, freedom, democracy, equality, the rule of law and human rights, including the rights of the minorities.

9a.8 The respect of the code of conduct set out in the present Article constitutes a contractual obligation. Failure to comply with the code of conduct is always deemed to be a breach of the contract under Article 35 of the General Conditions. In addition, failure to comply with the provision set out in the present Article can be qualified as grave professional misconduct that may lead either to suspension or termination of the contract, without prejudice to the application

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of administrative sanctions including exclusion from participation in future contract award procedures.

Article 9b Conflict of interest and professional conflicting interest

9b.1 The contractor shall take all necessary measures to prevent or end any situation of conflict of interest or professional conflicting interest that could compromise the impartial and objective performance of the contract. A conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. A professional conflicting interest could arise when the contractor's previous or ongoing professional activities affect its capacity to perform the contract to an appropriate quality standard. Any conflict of interests or professional conflicting interest, which may arise during performance of the contract shall 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.

9b.2 The contracting authority reserves the right to verify that such measures are adequate and may require additional measures to be taken by the contractor to rectify the situation within a specific deadline, if necessary. The contractor shall ensure that its personnel, including its management, is not placed in a situation which could give rise to conflict of interests or professional conflicting 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 personnel exposed to such a situation.

9b.3 The contractor shall refrain from any contact which would compromise its independence or that of its personnel.

9b.4 The contractor shall limit its role in connection with the project to the provision of the supplies described in the contract.

9b.5 The contractor and anyone working under its authority or control in the performance of the contract or on any other activity may be excluded from access to other EU budget/EDF funds available under the same project. However, if the contractor is able to prove that his involvement in previous stage of the project does not constitute unfair competition, he may participate, subject to prior approval of the contracting authority.

ARTICLE 10 ORIGIN

10.1 Under the Multiannual Financial Framework 2014-2020 (contracts/lots below EUR 100 000 under CIR) and under the Multiannual Financial Framework 2021-2027, with the exception of the INSC Regulation 2021/948 of 27 May 2021: All goods purchased can originate in any country.

Under the Multiannual Financial Framework 2014-2020 (contracts/lots above EUR 100 000 under CIR and independently of the value for other instruments) and for contracts financed by the INSC Regulation 2021/948 of 27 May 2021 under the Multiannual Financial Framework 2021-2027:

10.2 All goods shall have their origin in any eligible source country as defined in the instructions to tenderers and the special conditions.

10.3 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.

10.4 The contractor shall document the origin at the time of provisional acceptance. Failure to comply with this obligation may lead, after formal notice, to termination of the contract and/or suspension of payment.

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ARTICLE 11 PERFORMANCE GUARANTEE

11.1 The contractor shall, together with the return of the countersigned contract, furnish to the contracting authority with a guarantee for the full and proper execution of the contract. The amount of the guarantee shall be as specified in the special conditions. It shall be in the range of 5 and 10% of the total contract price, including any amounts stipulated in addenda to the contract.

11.2 The performance guarantee shall be held against payment to the contracting authority for any loss resulting from the contractor's failure to perform its contractual obligations under the contract.

11.3 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.

11.4 The performance guarantee shall be denominated in the currency in which the contract is payable. 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 contract has been fully and properly performed.

11.5 During the execution of the contract, if the natural or legal person providing the guarantee (i) is not able or willing to abide by its commitments, (ii) is not authorised to issue guarantees to contracting authorities, or (iii) appears not to be financially reliable, the guarantee shall be replaced. 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.

11.6 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 demand from the contracting authority and 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.

11.7 Unless the special conditions provide otherwise, the performance guarantee shall be released within 60 days of the issuing of the signed final acceptance certificate for its total amount except for amounts which are the subject of amicable settlement, arbitration or litigation.

ARTICLE 12 LIABILITIES AND INSURANCE

12.1 Liabilities

The liability rules described below are without prejudice to the possible application of international conventions on the carriage of goods.

a) Liability for damage to supplies

Without prejudice to Article 32 (warranty obligations) and Article 38 (force majeure), the contractor shall assume (i) full responsibility for maintaining the integrity of the supplies and (ii) the risk of loss and damage, whatever their cause, until the final acceptance as foreseen in Article 34.

Compensation for damage to the supplies 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

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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 personnel, its subcontractors and any person for which the contractor is answerable, can in no case be capped.

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 to the contracting authority by the contractor, its personnel, 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 personnel, 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 personnel, its subcontractors and/or any person for which the contractor is answerable, in the performance of its 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 defence 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 personnel, 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.

d) Liability after delivery and ownership of supplies delivered

Without prejudice to Article 29 (Delivery) and 31 (Provisional acceptance), where the contracting authority is the European Commission acting on behalf and for the account of the Partner Country, the latter will, immediately after provisional acceptance, assume full liability and retain full ownership with regard to the supplies delivered.

12.2 Insurance

a) Insurance – general issues

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At the latest together with the return of the countersigned contract, and for the period of implementation of the tasks, the contractor shall ensure that itself, its personnel, 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 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 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, its 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.

The contractor shall ensure that its personnel, 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 personnel, its subcontractors or any person for which the contractor is answerable, the contractor shall indemnify the contracting authority 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 duties are to be performed. It shall also ensure that all possible statutory obligations applying to the coverage are complied with.

The contracting authority shall not bear any liability for the assessment and adequacy of insurance policies taken out by the contractor with its contractual and/or statutory obligations.

b) Insurance – Specific issues

The contractor shall take out all insurance necessary to cover its liability, both with regard to its professional liability and its liability as provided under Article 12.1 ‘Liabilities’. The contractor shall in particular subscribe a products and after delivery insurance.

Depending on the nature of the contractor's obligations, the contracting authority may require that the carriage of supplies be covered by a ‘transportation’ insurance policy; the conditions of which may be specified in the special conditions, which may also specify

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other types of insurance to be taken out by the contractor. This insurance shall in particular cover the loading, intermediate storage, unloading, including stowage and protection, if such operations are included in the contract.

ARTICLE 13 PROGRAMME OF IMPLEMENTATION OF THE TASKS

13.1 If the special conditions so require, the contractor shall submit a programme of implementation of the tasks for the approval of the project manager. The programme shall contain at least the following:

a) the order in which the contractor proposes to perform the contract including design, manufacture, delivery to place of receipt, installation, testing and commissioning;

b) the time limits within which submission and approval of the drawings are required;

c) a general description of the methods which the contractor proposes to adopt for executing the contract; and

d) such further details and information as the project manager may reasonably require.

13.2 The special conditions shall specify the time limit within which the programme of implementation of the tasks must be submitted to the project manager for approval. They may set time limits within which the contractor must submit all or part of the detailed drawings, documents and items. They shall also state the deadline for the project manager's approval or acceptance of the programme of implementation, detailed drawings, documents and items.

13.3 The approval of the programme by the project manager shall not relieve the contractor of any of its obligations under the contract.

13.4 No material alteration to the programme shall be made without the approval of the project manager. If, however, the progress of the implementation of the tasks does not conform to the programme, the project manager may instruct the contractor to submit a revised programme in accordance with the procedure laid down in Article 13.

ARTICLE 14 CONTRACTOR'S DRAWINGS

14.1 If the special conditions so provide, the contractor shall submit to the project manager for approval:

a) the drawings, documents, samples and/or models, according to the time limits and procedures laid down in the special conditions or in the programme of implementation of the tasks;

b) such drawings as the project manager may reasonably require for the implementation of the tasks.

14.2 If the project manager fails to notify its decision of approval referred to in Article 14.1 within the time limits referred to in the contract or the approved programme of implementation of the tasks, such drawings, documents, samples or models shall be deemed to be approved at the end of the time limits specified. If no time limit is specified, they shall be deemed to be approved 30 days after receipt.

14.3 Approved drawings, documents, samples and models shall be signed or otherwise identified by the project manager and shall not be departed from except as otherwise instructed by the project manager. Any contractor's drawings, documents, samples or models which the project manager refuses to approve shall be modified to meet the requirements of the project manager and resubmitted by the contractor for approval. Within 15 days of being notified of the project manager's remarks, the contractor shall make the requisite corrections, adjustments etc. to the documents, drawings etc. The corrected or adjusted documents, drawings etc. shall be resubmitted for the project manager's approval under the same procedure.

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14.4 The contractor shall supply additional copies of approved drawings in the form and numbers stated in the contract or in subsequent administrative orders.

14.5 The approval of the drawings, documents, samples or models by the project manager shall not relieve the contractor from any of its obligations under the contract.

14.6 The project manager 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.

14.7 Before provisional acceptance of the supplies, the contractor shall supply operation and maintenance manuals together with drawings, which shall be in such detail as will enable the contracting authority to operate, maintain, adjust and repair all parts of the supplies. Unless otherwise stated in the special conditions, the manuals and drawings shall be in the language of the contract and in such forms and numbers as stated in the contract. The supplies shall not be considered completed for the purpose of provisional acceptance until such manuals and drawings have been supplied to the contracting authority.

ARTICLE 15 SUFFICIENCY OF TENDER PRICES

15.1 Subject to any additional provisions which may be laid down in the special conditions, the contractor shall be deemed to have satisfied itself before submitting its tender as to the correctness and sufficiency of the tender and to have taken account of all that is required for the full and proper implementation of the tasks and to have included in its rates and prices all costs related to the supplies, in particular:

a) the costs of transport;

b) the costs of handling, packing, loading, unloading, transit, delivery, unpacking, checking, insurance and other administrative costs in connection with the supplies. The packaging shall be the property of the contracting authority unless otherwise provided in the special conditions;

c) the cost of documents relating to the supplies where such documents are required by the contracting authority;

d) execution and supervision of on-site assembly and/or commissioning of the delivered supplies;

e) furnishing of tools required for assembly and/or maintenance of the delivered supplies;

f) furnishing of detailed operation and maintenance manuals for each unit of the delivered supplies, as specified in the contract;

g) supervision or maintenance and/or repair of the supplies, for a period of time stated in the contract, with the stipulation that this service shall not release the contractor from any warranty obligations under the contract;

h) training of the contracting authority's personnel, at the contractor's factory and/or elsewhere as specified in the contract.

15.2 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 that is the subject of any item whatsoever in its tender for which it neither indicates a unit price nor a lump sum.

ARTICLE 16 TAX AND CUSTOMS ARRANGEMENTS

16.1 Save where otherwise provided in the special conditions, the terms of delivery of the goods shall be DDP (Delivered Duty Paid) – Incoterms 2020, International Chamber of Commerce.

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ARTICLE 17 PATENTS AND LICENCES

17.1 Save where otherwise provided in the special conditions, the contractor shall indemnify and hold the contracting authority harmless for all damages and cost incurred due to any claim brought by any third party including creators and intermediaries for 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.

17.2 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.

17.3 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.

17.4 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.

17.5 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 17.2, first paragraph.

IMPLEMENTATION OF THE TASKS AND DELAYS

ARTICLE 18 DELIVERY ORDER

18.1 The contracting authority shall fix the date on which delivery of the goods/implementation of the tasks is to commence in the special conditions of the contract.

18.2 Save where the parties agree otherwise, delivery of goods/implementation of the tasks shall begin no later than 90 days following the starting date mentioned in article 3 of the Main Conditions of the contract. Unless this delay results from the contractor default, after that date the contractor shall be entitled not to implement the contract and to obtain its termination and/or compensation for the damage it has suffered. The contractor shall forfeit this right unless it exercises it within 30 days of the expiry of the 90-day period.

ARTICLE 19 PERIOD OF IMPLEMENTATION OF THE TASKS

19.1 The period of implementation of tasks shall commence on the date fixed in accordance with Article 18 and shall be as laid down in the special conditions, without prejudice to extensions of the period which may be granted under Article 20.

19.2 If provision is made for distinct periods of implementation of the tasks for separate lots, in cases where one contractor is awarded more than one lot per contract, the periods of implementation of the tasks for the separate lots shall not be accumulated.

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ARTICLE 20 EXTENSION OF PERIOD OF IMPLEMENTATION OF THE TASKS

20.1 The contractor may request an extension to the period of implementation of the 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 of the contracting authority which may affect installation or erection of the supplies;

b) artificial obstructions or physical conditions which may affect delivery of the supplies, 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 delivery and/or installation of the supplies which is not due to the contractor's default;

f) force majeure;

g) extra or additional supplies ordered by the contracting authority;

h) any other causes referred to in these general conditions which are not due to the contractor's default.

20.2 If the contractor considers himself to be entitled to any extension of the period of implementation under the contract, the contractor shall

a) give notice to the project manager 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.

b) 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

c) submit to the project manager 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 at the time.

20.3 Within 30 days from the receipt of the contractor's detailed particulars of the request, the project manager shall by notice to the contractor, grant such extension of the period of implementation of the tasks as may be justified, either prospectively or retrospectively, or inform the contractor that it is not entitled to an extension.

ARTICLE 21 DELAYS IN IMPLEMENTATION OF THE TASKS

21.1 If the contractor fails to deliver any or all of the goods or perform the services within the period of implementation of the tasks specified in the contract, the contracting authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day, or part thereof, which shall elapse between the end of the period of implementation of the tasks, or extended period of implementation of the tasks under article 20, and the actual date of completion. The daily rate of liquidated damages is 5/1000 of the value of the undelivered supplies to a maximum of 15% of the total contract price.
Any claim for liquidated damages does not affect (a) the contractor’s liability for damages that liquidated damages would not cover, (b) the contracting authority’s rights under the contract, nor (c) any other remedy that the contracting authority may have under the contract.

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21.2 If the non-delivery of any of the goods prevents the normal use of the supplies as a whole, the liquidated damages provided for in Article 21.1 shall be calculated on the basis of the total contract price.

21.3 If the contracting authority has become entitled to claim at least 15% of the total contract price it may, after giving notice to the contractor:

- seize the performance guarantee; and/or
- terminate the contract,
- enter into a contract with a third party for the provision of the balance of the supplies at the contractor's cost.

ARTICLE 22 AMENDMENTS

22.1 Contract amendments must be formalised by a contract addendum signed by both parties or by an administrative order issued by the project manager. Substantial amendments to the contract, including amendments to the total contract price, must be made by means of an addendum. Any contractual amendments must respect the general principles defined in the practical guide.

22.2 Subject to the limits of the procedure thresholds set in the practical guide, the project manager reserves the right to increase or decrease by an administrative order the quantities per lot or per item by 100 % at the time of contracting and during the validity of the contract. The total value of the supplies may not rise or fall as a result of the variation by more than 10% of the tender price. The unit prices quoted in the tender shall be applicable to the quantities procured under the variation.

22.3 The project manager shall have the power to order any amendment to any part of the supplies necessary for the proper completion and/or functioning of the supplies. Such amendments by administrative order may include additions, omissions, substitutions, changes in quality, quantity, form, character, kind, as well as in drawings, designs or specifications where the supplies are to be specifically manufactured for the contracting authority, in method of shipment or packing, place of delivery, and in the specified sequence, method or timing of implementation of the tasks. 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 Article 22.7.

22.4 All administrative orders shall be issued in writing, it being understood that:

a) if, for any reason, the project manager 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 22.4.a and the confirmation is not contradicted in writing forthwith by the project manager or the contracting authority, the project manager shall be deemed to have issued an administrative order;

c) no administrative order is required to increase or decrease the quantity of any incidental siting or installation because the estimates in the budget breakdown were too high or too low.

22.5 Save where Article 22.4 provides otherwise, prior to issuing an administrative order, the project manager shall notify the contractor of the nature and form of such amendment. The contractor shall then, without delay, submit to the project manager a written proposal containing:

- a description of the tasks, if any, to be performed or the measures to be taken and a programme of implementation of the tasks;
- any necessary amendments to the programme of implementation of the tasks or to any of the contractor's obligations resulting from this contract; and

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- any adjustment to the total contract price in accordance with the rules set out in Article 22.

22.6 Following the receipt of the contractor's submission referred to in Article 22.5, the project manager shall, where appropriate, after due consultation with the contractor, decide without delay whether or not to accept the amendment. If the project manager 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 22.5 or as modified by the project manager in accordance with Article 22.7.

22.7 The prices for all amendments ordered by the project manager in accordance with Articles 22.4 and 22.6 shall be ascertained in accordance with the following principles:

- where the task is of similar character and implemented under similar conditions as an item priced in the budget breakdown, it shall be valued at such rates and prices contained therein;
- where the task is not of a similar character or is not implemented 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 project manager shall make a fair valuation;
- 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 project manager, any rate or price contained in the contract for any item of work is, by reason of such amendment, rendered unreasonable, the project manager shall fix such rate or price as he thinks reasonable and proper in the circumstances;
- where 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.

22.8 On receipt of the administrative order, the contractor shall carry out the requested amendment according to the following principles:

a) The contractor shall 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 total contract price.

c) Where the administrative order precedes the adjustment to the total 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 project manager at all reasonable times.

22.9 Change of the bank account shall be formalised by means of addendum. The contractor shall notify the contracting authority of any change of bank account, using the identification form in Annex V. The contracting authority shall have the right to oppose the contractor's change of bank account.

22.10 Change of circumstances

Without prejudice to Article 175 of the Financial Regulation, the contract is not subject to modification or termination in case of a change of circumstances rendering performance of the contract excessively more onerous for one of the parties. Each party assumes the risk of such change of circumstances and its financial consequences for themselves.

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ARTICLE 23 SUSPENSION

23.1 The contractor shall, on the order of the contracting authority, suspend the execution of the contract or any part thereof for such time or times and in such manner as the contracting authority 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.

23.2 The contracting authority may suspend the performance of the contract or any part of it in case of force majeure affecting the performance of the contract.

23.3 Suspension in the event of presumed breach of obligations or irregularities or fraud or in case the contractor becomes subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU) that constitute a legal impediment to perform the contract.

23.3bis The contracting authority may also suspend this contract in application of the Regulation (EU, Euratom) 2020/2092 of the European Parliament of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget.

23.4 The contract may be suspended in order to verify whether presumed breach of obligations or irregularities or fraud occurred during the award procedure or the performance of the contract or whether the contractor is subject to EU restrictive measures. If these are not confirmed, performance of the contract shall resume as soon as possible.

23.5 During the period of suspension, the contractor shall protect and secure the supplies affected at the contractor's warehouse or elsewhere, against any deterioration, loss or damage to the extent possible and as instructed by the project manager, even if supplies have been delivered to the place of acceptance in accordance with the contract but their installation has been suspended by the project manager.

23.6 Additional expenses incurred in connection with such protective measures may be added to the total 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 at the place of acceptance; or

d) such suspension is necessary for the safety or the proper execution of the contract or any part thereof insofar as such necessity does not arise from any act or default by the project manager or the contracting authority or

e) the presumed breach of obligations or irregularities or fraud mentioned in article 23.2 are confirmed and attributable to the contractor.

23.7 The contractor shall only be entitled to such additions to the total contract price if it notifies the project manager, within 30 days after receipt of the order to suspend the contract, of its intention to claim them.

23.8 The contracting authority, after consulting the contractor, shall determine such additions to the total contract price and/or extension of the period of performance to be granted to the contractor in respect of such claim as shall, in the opinion of the contracting authority, be fair and reasonable.

23.9 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. 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 contracting authority, request to proceed with the contract

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within 30 days, or terminate the contract. The contracting authority is not entitled to compensation for suspension of any part of the contract, in the event of force majeure.

MATERIALS AND WORKMANSHIP

ARTICLE 24 QUALITY OF SUPPLIES

24.1 The supplies must in all respects satisfy the technical specifications laid down in the contract and conform in all respects to the drawings, surveys, models, samples, patterns and other requirements in the contract, which shall be held at the disposal of the contracting authority or the project manager for the purposes of identification throughout the period of execution.

24.2 Any preliminary technical acceptance stipulated in the special conditions shall be the subject of a request sent by the contractor to the project manager. The request shall indicate the reference to the contract, specify the materials, items and samples submitted for such acceptance according to the contract and indicate the lot number and the place where acceptance is to take place, as appropriate. The materials, items and samples specified in the request must be certified by the project manager as meeting the requirements for such acceptance prior to their incorporation in the supplies.

24.3 Even if materials or items to be incorporated in the supplies or in the manufacture of components to be supplied 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 supplies only if they have been repaired and made good to the satisfaction of the project manager.

ARTICLE 25 INSPECTION AND TESTING

25.1 The contractor shall ensure that the supplies are delivered to the place of acceptance in time to allow the project manager to proceed with acceptance of the supplies. 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.

25.2 The project manager 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 at the place of acceptance or at such other places as may be specified in the special conditions.

25.3 For the purposes of such tests and inspections, the contractor shall:

a) provide the project manager, temporarily and free of charge, with 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 project manager, on the time and place for tests;

c) provide access to the project manager at all reasonable times to the place where the tests are to be carried out.

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

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25.5 When components and materials have passed the above-mentioned tests, the project manager shall notify the contractor or endorse the contractor's certificate to that effect.

25.6 If the project manager and the contractor disagree on the test results, each shall give a statement of its views to the other within 15 days of such disagreement arises. The project manager 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 selected by common consent. All test reports shall be submitted to the project manager, who shall communicate the results of these tests without delay to the contractor. The results of retesting shall be conclusive. The cost of retesting shall be borne by the party whose views are proved wrong by the retesting.

25.7 In the performance of their duties, the project manager and any person authorised by him shall not disclose to unauthorised persons information concerning the undertaking's methods of manufacture and operation obtained through inspection and testing.

PAYMENTS

ARTICLE 26 GENERAL PRINCIPLES

26.1 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 and final payments made in accordance with the general conditions.

26.2 Payments shall be made to the bank account mentioned in Article 4 of the main conditions. Any change of the bank account shall be made in accordance with Article 22.9 of these general conditions.

26.3 Pre-financing payment shall be made within 30 days from the date on which an admissible invoice is registered by the contracting authority or, if no invoice is required, within 30 days of the signature of the contract signed by both parties. Final payment shall be made within 60 days from the date on which an invoice is registered by the contracting authority, together with the request for provisional acceptance as per article 31.2. The date of payment shall be the date on which the paying account is debited.

The invoice must contain the contractor's identification data, the amount, the currency and the date, as well as the contract reference. The invoice must indicate the place of taxation of the contractor for value added tax (VAT) purposes and must specify separately the taxable amount per rate or exemption, the VAT rate applied in accordance with the legislation of the country where the transaction is taxable and the VAT amount payable. The invoice shall not be admissible if one or more essential requirements are not met.

When the invoice is sent to the contracting authority via email, the reception date must be considered as the date on which the invoice is registered after reception in the functional mailbox of the contracting authority. The functional mailbox in which the invoices are to be sent, should be provided in the contract.

26.4 The period referred to in article 26.3 may be suspended by notifying the contractor that the invoice cannot be fulfilled 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. The payment period shall continue to run from the date on which a properly drawn-up invoice is registered.

26.5 The payments shall be made as follows:

a) 40% of the total contract price after the signing of the contract, against provision of the performance guarantee and of a pre-financing guarantee for the full amount of the pre-

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financing payment, unless otherwise provided for in the special conditions. The pre-financing guarantee shall be provided to the contracting authority following the procedure foreseen for the performance guarantee in accordance with Article 11.3-5, and in accordance with the format annexed to the contract. The pre-financing guarantee must remain valid until it is released 30 days at the latest after the provisional acceptance of the goods. Where the contractor is a public body, the obligation for a pre-financing guarantee may be waived depending on a risk assessment made;

b) 60% of the total contract price, as payment of the balance, after receipt by the contracting authority of an invoice and of the application for the certificate of provisional acceptance.

26.6 Where only part of the supplies has been delivered, the 60% payment due following partial provisional acceptance shall be calculated on the value of the supplies which have actually been accepted and the security shall be released accordingly.

26.7 For supplies not covered by a warranty period, the payments listed above shall be aggregated. The conditions to which the payments of pre-financing and final payments are subject, shall be as stated in the special conditions.

26.8 The payment obligations of the European Commission under this contract shall cease at most 18 months after the end of the period of implementation of the tasks, unless the contract is terminated in accordance with these general conditions.

26.9 Unless otherwise stipulated in the special conditions, the contract shall be at fixed prices, which shall not be revised.

26.10 The contractor undertakes to repay any amounts paid in excess of the final amount due to the contracting authority or to the European Commission 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 or the European Commission 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:

- 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;
- 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 eight 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 or to the European Commission 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.

26.11 If the contract is terminated for any reason whatsoever, the guarantee 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.

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26.12 Prior to, or instead of, terminating the contract as provided for in Article 36, the contracting authority or the European Commission may suspend payments as a precautionary measure without prior notice.

26.13 Where the award procedure or the performance of the contract proves to have been subject to breach of obligations, 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 23.2 and to terminate the contract as provided for in Article 36, suspend payments and/or recover amounts already paid, in proportion to the seriousness of the breach of obligations, irregularities or fraud. In addition to measures referred above, the contracting authority may reduce the contract value in proportion to the seriousness of the irregularities, fraud or of the breach of obligations, including where the activities concerned were not implemented or were implemented poorly, partially or late. The measures described in this paragraph may equally be adopted by the European Commission in pursuance of its administrative powers under the Financial Regulation (Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018, OJ-L 193/30.07.2018, p.1).

26.13 bis The contracting authority may suspend payments in application of Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget.

ARTICLE 27 PAYMENT TO THIRD PARTIES

27.1 Orders for payments to third parties may be carried out only after an assignment made in accordance with Article 5. The assignment shall be notified to the contracting authority.

27.2 Notification of beneficiaries of the assignment shall be the sole responsibility of the contractor.

27.3 In the event of a legally binding attachment of the property of the contractor affecting payments due to him under the contract, and without prejudice to the time limit laid down in Article 26, the contracting authority shall have 30 days, starting from the day on which it receives notification of the definitive lifting of the obstacle to payment, to resume payments to the contractor.

ARTICLE 28 DELAYED PAYMENTS

28.1 The contracting authority or the European Commission shall pay the contractor sums due in accordance with Article 26.3.

28.2 Once the time-limit referred to in Article 26.3 has expired, the contractor – unless the contractor is a government department or public body in European Union Member State- shall, within two months of receipt of the late payment, receive default interest:

- at the rediscount rate applied by the central bank of the partner country 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 eight 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. However, when the interest calculated in accordance with the first subparagraph is lower than or equal to EUR 200, it shall be paid to the creditor only upon a demand submitted within two months of receiving late payment.

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28.3 Any default in payment of more than 90 days from the expiry of the period laid down in Article 26.3 shall entitle the contractor either not to perform the contract or to terminate it, according to Article 37.

ACCEPTANCE AND MAINTENANCE

ARTICLE 29 DELIVERY

29.1 The contractor shall deliver the supplies in accordance with the conditions of the contract. The supplies shall be at the risk of the contractor until their final acceptance.

29.2 The contractor shall provide such packaging of supplies as is required to prevent their damage or deterioration in transit to their destination as indicated in the contract. The packaging shall be sufficient to withstand, without limitation, rough handling, exposure to extreme temperatures, salt and precipitation during transit and open storage. Package size and weight shall take into consideration, where appropriate, the remoteness of the final destination of the supplies, and the possible absence of heavy handling facilities at all points in transit.

29.3 The packaging, marking and documentation inside and outside the packages shall comply with such requirements as shall be expressly provided for in the special conditions, subject to any amendments subsequently ordered by the project manager or the contracting authority.

29.4 No supplies shall be shipped or delivered to the place of acceptance until the contractor has received a delivery order from the project manager. The contractor shall be responsible for the delivery at the place of acceptance of all supplies and supplier's equipment required for the purpose of the contract.

29.5 Each delivery must be accompanied by a statement drawn up by the contractor. This statement shall be as specified in the special conditions.

29.6 Each package shall be clearly marked in accordance with the special conditions.

29.7 Delivery shall be deemed to have been made when there is written evidence available to both parties that delivery of the supplies has taken place in accordance with the terms of the contract, and the invoice(s) and all such other documentation specified in the special conditions, have been submitted to the contracting authority. Where the supplies are delivered to an establishment of the contracting authority, the latter shall bear the responsibility of bailee, in accordance with the requirements of the law applicable to the contract, during the time which elapses between delivery for storage and acceptance.

ARTICLE 30 VERIFICATION OPERATIONS

30.1 The supplies shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the contractor. The verifications and tests may be conducted before shipment, at the point of delivery and/or at the final destination of the goods.

30.2 The project manager shall, during the progress of the delivery of the supplies and before the supplies are taken over, have the power to order or decide:

a) the removal from the place of acceptance, within such time or times as may be specified in the order, of any supplies which, in the opinion of the project manager, are not in accordance with the contract;

b) their replacement with proper and suitable supplies;

c) the removal and proper re-installation, notwithstanding any previous test thereof or of any installation which in respect of materials, workmanship or design for which the contractor is responsible, is not, in the opinion of the project manager, in accordance with the contract;

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d) that any work done or goods supplied or materials used by the contractor is or are not in accordance with the contract, or that the supplies or any portion thereof do not fulfil the requirements of the contract.

30.3 The contractor shall, with all speed and at its own 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 orders and all expenses consequent thereon or incidental thereto shall be deducted by the contracting authority from any monies due or which may become due to the contractor.

30.4 Supplies which are not of the required quality shall be rejected. A special mark may be applied to the rejected supplies. This shall not be such as to alter them or affect their commercial value. Rejected supplies shall be removed by the contractor from the place of acceptance, if the project manager so requires, within a period which the project manager shall specify, failing which they shall be removed as of right at the expense and risk of the contractor. Any works incorporating rejected materials shall be rejected.

30.5 The provisions of Article 30 shall not affect the right of the contracting authority to claim under Article 21, nor shall it in any way release the contractor from any warranty or other obligations under the contract.

ARTICLE 31 PROVISIONAL ACCEPTANCE

31.1 The supplies shall be taken over by the contracting authority when they have been delivered in accordance with the contract, have satisfactorily passed the required tests, or have been commissioned as the case may be, and a certificate of provisional acceptance has been issued or is deemed to have been issued.

31.2 The contractor may apply, by notice to the project manager, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The project manager shall within 30 days of receipt of the contractor's application either:

- issue the certificate of provisional acceptance to the contractor with a copy to the contracting authority stating, where appropriate, his reservations, and, inter alia, the date on which, in his opinion, the supplies were completed in accordance with the contract and ready for provisional acceptance; or

- reject the application, giving his reasons and specifying the action which, in his opinion, is required of the contractor for the certificate to be issued.

The contracting authority’s time limit for issuing the certificate of provisional acceptance to the contractor shall be considered included in the time limit for payments indicated in Article 26.3, unless otherwise specified in the special conditions.

31.3 Should exceptional circumstances make it impossible to proceed with the acceptance of the supplies during the period fixed for provisional or final acceptance, a statement certifying such impossibility shall be drawn up by the project manager after consultation, where possible, with the contractor. The certificate of acceptance or rejection shall be drawn up within 30 days following the date on which such impossibility ceases to exist. The contractor shall not invoke these circumstances in order to avoid the obligation of presenting the supplies in a state suitable for acceptance.

31.4 If the project manager fails either to issue the certificate of provisional acceptance or to reject the supplies within the period of 30 days, it shall be deemed to have issued the certificate on the last day of that period, except where the certificate of provisional acceptance is deemed to constitute a certificate of final acceptance. In this case, Article 34.2 below does not apply. If the supplies are divided by the contract into lots, the contractor shall be entitled to apply for separate certificates for each of the lots.

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31.5 In case of partial delivery, the contracting authority reserves the right to give partial provisional acceptance.

31.6 Upon provisional acceptance of the supplies, 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 place of acceptance as required by the contract.

31.7 Immediately after provisional acceptance, the contracting authority may make use of all the supplies delivered.

ARTICLE 32 WARRANTY OBLIGATIONS

32.1 The contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials, unless otherwise provided in the contract. The contractor shall further warrant that all supplies shall have no defect arising from design, materials or workmanship, except insofar as the design or materials are required by the specifications, or from any act or omission, that may develop under use of the supplies in the conditions obtaining in the country of the contracting authority.

32.2 The contractor shall be responsible for making good any defect in, or damage to, any part of the supplies which may appear or occur during the warranty period and which:

a) results from the use of defective materials, faulty workmanship or design of the contractor; and/or

b) results from any act or omission of the contractor during the warranty period; and/or

c) appears in the course of an inspection made by, or on behalf of, the contracting authority.

32.3 The contractor shall at its own cost make good the defect or damage as soon as practicable. The warranty period for all items replaced or repaired shall recommence from the date when the replacement or repair was made to the satisfaction of the project manager. If the contract provides for partial acceptance, the warranty period shall be extended only for the part of the supplies affected by the replacement or repair.

32.4 If any such defect appears or such damage occurs during the warranty period, the contracting authority or the project manager 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) remedy the defect or the damage itself, or employ someone else to carry out the tasks 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.

32.5 In case of emergency, where the contractor cannot be reached immediately or, having been reached, is unable to take the measures required, the contracting authority or the project manager may have the tasks carried out at the expense of the contractor. The contracting authority or the project manager shall as soon as practicable inform the contractor of the action taken.

32.6 The warranty obligations shall be stipulated in the special conditions and technical specifications.

32.7 Save where otherwise provided in the special conditions, the duration of the warranty period shall be 365 days. The warranty period shall commence on the date of provisional acceptance and may recommence in accordance with Article 32.3.

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ARTICLE 33 AFTER-SALES SERVICE

33.1 An after-sales service, if required by the contract, shall be provided in accordance with the details stipulated in the special conditions. The contractor shall undertake to carry out or have carried out the maintenance and repair of supplies and to provide a rapid supply of spare parts. The special conditions may specify that the contractor must provide any or all of the following materials, notifications and documents pertaining to spare parts manufactured or distributed by the contractor:

a) such spare parts as the contracting authority may choose to purchase from the contractor, it being understood that this choice shall not release the contractor from any warranty obligations under the contract;

b) in the event of termination of production of the spare parts, advance notification to the contracting authority to allow it to procure the parts required and, following such termination, provision at no cost to the contracting authority of the blueprints, drawings and specifications of the spare parts, if and when requested.

ARTICLE 34 FINAL ACCEPTANCE

34.1 Upon expiry of the warranty period, or where there is more than one such period, upon expiry of the latest period, and when all defects or damage have been rectified, the project manager shall issue 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 project manager's satisfaction. The final acceptance certificate shall be issued by the project manager within 30 days after the expiration of the warranty period or as soon as any repairs ordered under Article 32 have been completed to the satisfaction of the project manager.

34.2 The contract shall not be considered to have been performed in full until the final acceptance certificate has been signed or is deemed to have been signed by the project manager.

34.3 Notwithstanding the issue 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 that 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 35 BREACH OF CONTRACT

35.1 Either party commits a breach of contract where it fails to perform its obligations in accordance with the provisions of the contract.

35.2 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.

35.3 Damages may be either:

a) general damages; or
b) liquidated damages.

35.4 Should the contractor fail to perform any of its obligations in accordance with the provisions of the contract, the contracting authority or the European Commission is without prejudice to its right under Article 35.2, also entitled to the following remedies:

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a) suspension of payments; and/or
b) reduction in price or recovery of payments in proportion to the failure's extent. A reduction in price may be imposed together with liquidated damages for delay in delivery under the conditions of Article 21.

The reduction in price applies, in particular, to cases where the contracting authority cannot approve a document or deliver a certificate of conformity for supply as defined in the contract after the contractor has submitted the required additional information, correction or new supply. The reduction in price is calculated in direct proportion to the difference, upon the time of the signature of the contract, between the value of the unperformed obligations or low quality delivery and the value of the agreed supply.

The contracting authority must formally notify the contractor of its intention to reduce the price and the corresponding calculated amount. The contractor has 30 days following the date of receipt to submit observations. Failing that, the decision becomes enforceable the day after the time limit for submitting observations has elapsed. If the contractor submits observations, the contracting authority, taking into account the relevant observations, must notify the contractor (a) of the withdrawal of its intention to reduce the price; or (b) of its final decision to reduce the price and the corresponding amount.

Any reduction in price does not affect the contractor's liability or the contracting authority's rights under Article 36 for damages that the reduction in price would not cover or any other right or remedy that the contracting authority may have under the contract.

35.5 Should the contractor become subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU) that constitute a legal impediment to perform the contract, the contracting authority or the European Commission is without prejudice to its right under article 35.2, also entitled to suspension of payments.

35.6 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.

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

ARTICLE 36 TERMINATION BY THE CONTRACTING AUTHORITY

36.1 The contracting authority may, at any time and with immediate effect, subject to Article 36.9, terminate the contract, except as provided for under Article 36.2.

36.2 Subject to any other provision of these general conditions, the contracting authority may, by giving seven day notice to the contractor, terminate the contract 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 project manager requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely implementation of the tasks;

c) the contractor refuses or neglects to carry out any administrative orders given by the project manager;

d) the contractor assigns the contract or subcontracts 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 national law or regulations;

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 or the contractor is subject to EU restrictive measures adopted under Article 29 of the Treaty on the European Union (TEU) or Article 215 of the Treaty on the Functioning of the EU (TFEU) that constitute a legal impediment to perform the contract;

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 circumventing fiscal, social or any other applicable legal obligations, including through the creation of an entity for this purpose;

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, the EPPO or the Court of Auditors or has resisted an investigation, check or audit;

l) after the award of the contract, the award procedure or the performance of the contract proves to have been subject to breach of obligations, 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 breach of obligations, 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 9a and Article 9b;

o) the contractor fails to comply with its obligation in accordance with Article 10;

p) the contractor is in breach of the data protection obligations resulting from Article 44 of these general conditions.

q) the Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget applies.

r) if it is manifest that, at a later date and before such breach becomes effective, the contractor will materially fail to perform the contract in accordance with the tender documents or will be materially in breach of another contractual obligation, unless the contractor provides the contracting authority with sufficient assurances of its future performance.

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36.3 The cases of termination under points (e), (i), (j), (k), (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.

36.4 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.

36.5 The cases under points (e), (i), (j), (k), (l), (m), (n), (p), (q) and (r) may refer also to subcontractors.

36.6 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, conclude any other contract with a third party, at the contractor's own expense. The contracting authority shall formally notify the contractor of its decision to have the contractor substituted and the grounds for this substitution. Any such substitution does not affect the contractor's liability and is without prejudice to the contracting authority's other rights and remedies, including but not limited to its right to claim damages under Article 35 that the substitution would not cover.

36.7 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.

36.8 Upon termination of the contract or when it has received notice thereof, the contractor shall take immediate steps to bring the implementation of the tasks to a close in a prompt and orderly manner and to reduce expenditure to a minimum.

36.9 The project manager shall, as soon as possible after termination, certify the value of the supplies and all sums due to the contractor as at the date of termination.

36.10 In the event of termination, the project manager shall, as soon as possible and in the presence of the contractor or his representatives or having duly summoned them, draw up a report on the supplies delivered and the incidental siting or installation performed and take an inventory of the materials supplied and unused. A statement shall also be drawn up of monies due to the contractor and of monies owed by the contractor to the contracting authority as at the date of termination of the contract.

36.11 The contracting authority or the European Commission shall not be obliged to make any further payments to the contractor until the supplies are completed. After the supplies are completed, the contracting authority or the European Commission shall recover from the contractor the extra costs, if any, of providing the supplies, or shall pay any balance still due to the contractor.

36.12 If the contracting authority terminates the contract pursuant to Article 36.2, it shall, in addition to the extra costs for completion of the contract and without prejudice to its other remedies under the contract, be entitled to recover from the contractor any loss it has suffered up to the value of the supply unless otherwise provided for in the special conditions.

36.13 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.

36.14 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 37 TERMINATION BY THE CONTRACTOR

37.1 The contractor may, by giving 14 days' notice to the contracting authority, terminate the contract if the contracting authority:

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- fails to pay the contractor the amounts due under any certificate issued by the project manager after the expiry of the time limit stated in Article 28.3; or
- consistently fails to meet its obligations after repeated reminders; or
- suspends the delivery of the supplies, 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.

37.2 Such termination shall be without prejudice to any other rights of the contracting authority or the contractor acquired under the contract.

37.3 In the event of such termination, the contracting authority shall pay the contractor for any loss or damage the contractor may have suffered.

ARTICLE 38 FORCE MAJEURE

38.1 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.

38.2 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.

38.3 Force majeure either suspends the performance of the contract as provided for in Article 23 or leads to the termination of the contract as provided for in Article 36. Notwithstanding the provisions of Articles 21 and 36, 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 28 and 37, for the 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.

38.4 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 project manager, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the project manager 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 alternative means unless directed so to do by the project manager.

38.5 If the contractor incurs additional costs in complying with the project manager's directions or using alternative means under Article 38.4, the amount thereof shall be certified by the project manager.

38.6 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 contract that the contractor may by reason thereof have been granted, either party shall be entitled to serve upon the other with 30 days' notice to terminate the contract. If, at the expiry of the period of 30 days, the situation of force majeure persists, the contract shall be terminated and, in consequence thereof under the law governing the contract, the parties shall be released from further performance of the contract.

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ARTICLE 39 DECEASE

39.1 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.

39.2 Where the contractor consists of a number of natural persons and one or more of them die, a report shall be agreed between the parties on the progress of the contract, 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.

39.3 In the cases provided for in Articles 39.1 and 39.2, persons offering to continue to perform the contract shall notify the contracting authority thereof within 15 days of the date of decease. The decision of the contracting authority shall be notified to those concerned within 30 days of receipt of such proposal.

39.4 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 40 SETTLEMENT OF DISPUTES

40.1 The parties shall make every effort to settle amicably any dispute relating to the contract which may arise between them.

40.2 Once a dispute has arisen, a party shall notify the other party of the dispute, stating its position on the dispute 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.

40.3 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.

40.4 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 41 APPLICABLE LAW

41.1 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 applicable European Union law complemented where necessary by the law of Belgium.

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FINAL PROVISIONS

ARTICLE 42 ADMINISTRATIVE DECISIONS

42.1 Without prejudice to the application of other remedies laid down in the contract, a decision of exclusion from all contracts and grants financed by the EU, may be adopted, after an adversarial procedure in line with the applicable Financial Regulation,, upon the contractor who, in particular,

a) is guilty of grave professional misconduct, has committed irregularities or has shown significant deficiencies in complying with the main obligations in the performance of the contract or has been circumventing fiscal, social or any other applicable obligations, including through the creation of an entity for this purpose. 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 or has resisted an investigation, check or audit. 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;

42.2 In the situations mentioned in Article 42.1, in addition or in alternative to the decision of exclusion, the contractor may also be subject to financial penalties up to 10% of the total contract price.

42.3 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.

42.4 The decision to impose these administrative decisions may be published on a dedicated internet-site, explicitly naming the contractor.

ARTICLE 43 VERIFICATIONS, CHECKS AND AUDITS BY EUROPEAN UNION BODIES

43.1 The contractor shall allow the European Commission, the European Anti-Fraud Office, the European Public Prosecutor's 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 five years after the final payment.

43.2 Furthermore, the contractor shall 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.

43.3 To this end, the contractor undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office, of the European Public Prosecutor's 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

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Office, the European Public Prosecutor's 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.

43.4 The contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office, of the European Public Prosecutor's 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 subcontractor or any other party benefiting from EU budget/EDF funds.

43.5 Failure to comply with the obligations set forth in Article 43.1 to 43.4 constitutes a case of serious breach of contract.

ARTICLE 44 DATA PROTECTION

44.1 Processing of personal data by the contracting authority

Any personal data included in or relating to the contract, including its implementation, shall be processed in accordance with Regulation (EU) 2018/1725. Such data shall be processed solely for the purposes of the implementation, management and monitoring of the contract by the data controller.

The contractor or any other person whose personal data is processed by the data controller in relation to this contract has specific rights as a data subject under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, rectify or erase their personal data and the right to restrict the processing of their personal data or, where applicable, the right to object to processing or the right to data portability.

Should the contractor or any other person whose personal data is processed in relation to this contract have any queries concerning the processing of its personal data, it shall address itself to the data controller. They may also address themselves to the Data Protection Officer of the data controller. They have the right to lodge a complaint at any time to the European Data Protection Supervisor.

Details concerning the processing of personal data are available in the data protection notice referred to in the special conditions.

44.2 Processing of personal data by the contractor

The processing of personal data by the contractor shall meet the requirements of the general conditions and be processed solely for the purposes set out by the controller.

The contractor shall assist the controller for the fulfilment of the controller's obligation to respond to requests for exercising rights of person whose personal data is processed in relation to this contract as laid down in Chapter III (Articles 14-25) of Regulation (EU) 2018/1725. The contractor shall inform without delay the controller about such requests.

The contractor may act only on documented written instructions and under the supervision of the controller, in particular with regard to the purposes of the processing, the categories of data that may be processed, the recipients of the data and the means by which the data subject may exercise its rights.

The contractor shall grant personnel access to the data to the extent strictly necessary for the implementation, management and monitoring of the contract. The contractor must ensure that personnel authorised to process personal data has committed itself to confidentiality or is under

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appropriate statutory obligation of confidentiality in accordance with the provisions of Article 9.7 of these general conditions.

The contractor shall adopt appropriate technical and organisational security measures, giving due regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing, in order to ensure, in particular, as appropriate:

a) the pseudonymisation and encryption of personal data;

b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;

e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

The contractor shall notify relevant personal data breaches to the controller without undue delay and at the latest within 48 hours after the contractor becomes aware of the breach. In such cases, the contractor shall provide the controller with at least the following information:

a) nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;

b) likely consequences of the breach;

c) measures taken or proposed to be taken to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.

The contractor shall immediately inform the data controller if, in its opinion, an instruction infringes Regulation (EU) 2018/1725, Regulation (EU) 2016/679, or other Union or Member State or third country applicable data protection provisions as referred to in the tender specifications.

The contractor shall assist the controller for the fulfilment of its obligations pursuant to Article 33 to 41 under Regulation (EU) 2018/1725 to:

a) ensure compliance with its data protection obligations regarding the security of the processing, and the confidentiality of electronic communications and directories of users;

b) notify a personal data breach to the European Data Protection Supervisor;

c) communicate a personal data breach without undue delay to the data subject, where applicable;

d) carry out data protection impact assessments and prior consultations as necessary.

The contractor shall maintain a record of all data processing operations carried on behalf of the controller, transfers of personal data, security breaches, responses to requests for exercising rights of people whose personal data is processed and requests for access to personal data by third parties.

The contracting authority is subject to Protocol 7 of the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union, particularly as

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regards the inviolability of archives (including the physical location of data and services) and data security, which includes personal data held on behalf of the contracting authority in the premises of the contractor or subcontractor.

The contractor shall notify the contracting authority without delay of any legally binding request for disclosure of the personal data processed on behalf of the contracting authority made by any national public authority, including an authority from a third country. The contractor may not give such access without the prior written authorisation of the contracting authority.

The duration of processing of personal data by the contractor will not exceed the period referred to in Article 9.10 of these general conditions. Upon expiry of this period, the contractor shall, at the choice of the controller, return, without any undue delay in a commonly agreed format, all personal data processed on behalf of the controller and the copies thereof or shall effectively delete all personal data unless Union or national law requires a longer storage of personal data.

For the purpose of Article 6 of these general conditions, if part or all of the processing of personal data is subcontracted to a third party, the contractor shall pass on the obligations referred to in the present article in writing to those parties, including subcontractors. At the request of the contracting authority, the contractor shall provide a document providing evidence of this commitment.

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