

## ***ANNEX I : GENERAL CONDITIONS***

### **FOR SUPPLY CONTRACTS IN THE FRAME OF THE SRDP GRANT SCHEME**

#### ***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.

##### **Article 2 Law and language of the contract**

- 2.1** The law of the Arab Republic of Egypt governs all matters not covered by the contract.
- 2.2** The contract and all written communications between the parties will be in English or Arabic
- 2.3** The Contractor shall respect and abide by all laws and regulations in force in the Arab Republic of Egypt 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.

##### **Article 3 Order of precedence of contract documents**

- 3.1** Save where otherwise provided in the special conditions, the contract is made up of the following documents, in order of precedence:
  - a) the contract agreement;
  - b) the Special Conditions;
  - c) the General Conditions (Annex I);
  - d) the Technical Specifications (Annex II) including clarifications;
  - e) the Technical Offer (Annex III), including clarifications from the Contractor provided during tender evaluation;
  - f) the budget breakdown (Annex IV);
  - g) specified forms and other relevant documents (Annex V)

##### **Article 4 Communications**

- 4.1** Communications between the Contracting Authority and/or the Project Manager on the one hand, and the Contractor on the other, shall be exclusively in writing. Communications between the Contracting Authority and/or the Project Manager on the one hand, and the Contractor on the other hand, shall be delivered by hand, to the addresses designated by the Parties for that purpose.
- 4.2** Any oral instructions or orders shall be confirmed in writing.

## ***OBLIGATIONS OF THE CONTRACTING AUTHORITY***

### **Article 5 Assistance with local regulations**

- 5.1** 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 his obligations under the contract. The Contracting Authority may provide the assistance requested to the Contractor at the Contractor's cost.

## ***OBLIGATIONS OF THE CONTRACTOR***

### **Article 6 Origin**

- 6.1** these products can originate from any origin (full untying) if their value is below the threshold of the competitive negotiated procedure - EUR 100 000..
- 6.2** This rule applies also to procurement done by grant beneficiaries and procurement of works involving the supply of products. In case of works contracts which involve multiple purchases, the 100.000 EUR threshold applies by type of supply. Where the contract has a fixed price, the threshold has to be applied to the unit price of the supply. Rules of origin do not apply to supplies purchased in order to carry out a works contract, where the Contractor keeps the purchased items at the end of the project.
- 6.3** The above rules have to be clearly stated in the instructions for tenderers and applicants.
- 6.4** The Contractor shall present an official certificate of origin on provisional acceptance. He may be required to provide more detailed information in this respect. Failure to comply with this obligation shall lead, after formal notice, to termination of the contract.

### **Article 7 Insurance**

- 7.1** An insurance policy may be required to cover the carriage of supplies the Contractor shall bear sole liability up to final site of delivery as specified in the Contract.
- 7.2** The Contractor shall bear sole liability for, and indemnify the Contracting Authority and the Project Manager against, any claims by third parties for damage to property or personal injuries arising from the execution of the contract by the Contractor, his subcontractors and their employees.

### **Article 8 Visibility**

- 8.1** The Contractor shall take the necessary measures to ensure the visibility of the SRDP programme and the European Union co-financing. These measures must comply with the rules laid down and published by the Commission on the visibility of external operations: [http://ec.europa.eu/europeaid/visibility/index\\_en.htm](http://ec.europa.eu/europeaid/visibility/index_en.htm)

### **Article 9 License**

- 9.1** Where applicable, the Contractor, must provide original licences for all software including pre-installed, that must be accompanied by the License agreement Number and original manuals.

### **Article 10 Implementation programme**

- 10.1** If the Special Conditions so require, the Contractor shall submit a programme of implementation of

the contract for the approval of the Project Manager. In such a case the Special Conditions shall specify the time limit within which the programme of implementation must be submitted to the Project Manager for approval.

## **Article 11 Sufficiency of tender prices**

**11.1** Subject to any provisions which may be laid down in the Special Conditions, the Contractor shall be deemed to have satisfied himself before submitting his 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 execution of the contract and to have included in his 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.

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

## **Article 12 Tax and customs arrangements**

**12.1** For supplies manufactured locally, all internal fiscal charges applicable to their manufacture, including VAT, shall be excluded.

**12.2** For supplies to be imported into the country of the Contracting Authority, all duties and taxes applicable to their importation, including VAT shall be excluded.

**12.3** Whatever the origin of the supplies, the contract shall be exempt from stamp and registration duties.

### ***COMMENCEMENT OF IMPLEMENTATION AND DELAYS***

## **Article 13 Delays in implementation**

- 13.1** If the Contractor fails under his own responsibility to deliver any or all of the goods or perform the services within the time limit(s) specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled, for every day which shall elapse between the expiry of the implementation period and the actual date of completion, to liquidated damages equal to 1% per day of the value of the undelivered supplies to a maximum of 15% of the total value of the contract.
- 13.2** If the Contracting Authority has become entitled to claim at least 15% of the contract value it may, after giving written notice to the Contractor:
- terminate the contract, in which case the Contractor will have no right to compensation; and
  - enter into a contract with a third party for the provision of the balance of the supplies. The Contractor shall not be paid for this part of the contract. The Contractor shall also be liable for the additional costs and damages caused by his failure.

## ***MATERIALS AND WORKMANSHIP***

### **Article 14 Quality of supplies**

- 14.1** 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 must be held at the disposal of the Contracting Authority or the Project Manager for the purposes of identification throughout the period of execution.
- 14.2** 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 15 Inspection and testing**

- 15.1** 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 he might encounter in this respect, and he shall not be permitted to advance any grounds for delay.

## ***PAYMENTS***

### **Article 16 General principles**

- 16.1** Payments shall be made in euro. The Special Conditions shall lay down the administrative or technical conditions governing payments of pre-financing or final payments made in accordance with the General Conditions.
- 16.2** Payments due by the Contracting Authority shall be made to the bank account mentioned on the financial identification form completed by the Contractor.
- 16.3** Sums due shall be paid within no more than 15 calendar days from the date on which an admissible payment request is registered by the competent department specified in the Special Conditions. The payment request shall not be admissible if one or more essential requirements are not met.

**16.4** The payments shall be made as follows:

- a) 60% of the contract price after the signing of the contract
- b) 40% of the contract price, as payment of the balance outstanding, following provisional acceptance of the supplies;

**16.5** Contracts shall be at fixed prices, which shall not be revised.

**16.6** The Contractor undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 5 days of receiving a request to do so.

## ***ACCEPTANCE AND MAINTENANCE***

### **Article 17      Delivery**

**17.1** 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 provisional acceptance.

**17.2** 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.

**17.3** 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 if any. .

**17.4** 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.

**17.5** 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.

### **Article 18      Provisional acceptance**

**18.1** 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.

**18.2** 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.

**18.3** If the Project Manager fails either to issue the certificate of provisional acceptance or to reject the supplies within the period of 30 days, he 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. If the supplies are divided by the contract into lots, the Contractor shall be entitled to apply for a separate certificate for each lot.

**18.4** In case of partial delivery, the Contracting Authority reserves the right to give partial provisional acceptance.



**18.5** The template of provisional acceptance certificate is included in annex.

## **Article 19 Warranty obligations**

- 19.1** 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 Arab Republic of Egypt. This warranty shall remain valid as specified in the Special Conditions.
- 19.2** 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; or
  - b) results from any act or omission of the Contractor during the warranty period; or
  - c) appears in the course of an inspection made by, or on behalf of, the Contracting Authority.
- 19.3** The Contractor shall at his 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 on which 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.
- 19.4** 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 have the work 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.
- 19.5** The warranty obligations shall be stipulated in the Special Conditions and technical specifications. If the duration of the warranty period is not specified, it shall be 365 days. The warranty period shall commence on the date of provisional acceptance

## **Article 20 After-sales service**

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 21 Final acceptance**

- 21.1** Upon expiry of the warranty period and when all defects or damage have been rectified, the Project Manager shall issue the Contractor a final acceptance certificate, with a copy to the Contracting Authority, stating the date on which the Contractor completed his obligations under the contract to the Project Manager's satisfaction. The final acceptance certificate shall be issued by the Project Manager within 30 days of the expiry of the warranty period or as soon as any repairs ordered under Article 19 have been completed to the satisfaction of the Project Manager.
- 21.2** 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.
- 21.3** 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 22 Breach of contract**

- 22.1** A Party shall be in a breach of contract if it fails to discharge any of its obligations under the contract.
- 22.2** Where a breach of contract occurs, the injured Party shall be entitled to the following remedies:
- a) damages; and/or
  - b) termination of the contract.
- 22.3** In addition to the above-mentioned measures, damages may be awarded. They may be either:
- a) general damages; or
  - b) liquidated damages.
- 22.4** Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be effected by deduction from the sums due to the Contractor.
- 22.5** 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 of the Arab Republic of Egypt.

### **Article 23 Suspension of the contract**

- 23.1** Where the award procedure or performance of the contract is vitiated by substantial errors or irregularities or by fraud, the Contracting Authority shall suspend performance of the contract.

### **Article 24 Termination by the Contracting Authority**

- 24.1** Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Contractor.
- 24.2** The Contracting Authority may, after giving the Contractor seven days' notice, terminate the contract in any of the following cases:

- a) the Contractor substantially fails to perform his obligations under this contract;
- b) the Contractor fails to comply within a reasonable time with a notice given by the Project Manager requiring him to make good any neglect or failure to perform his obligations under the contract which seriously affects the proper and timely implementation of the supplies;
- c) the Contractor refuses or neglects to carry out administrative orders given by the Project Manager;
- d) the Contractor assigns sub-contracts without the authorisation of the Contracting Authority;
- e) the Contractor is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- f) the Contractor has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;
- g) the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;
- h) the Contractor has been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;
- i) the Contractor, following another procurement procedure or grant award procedure financed by the Community budget, has been declared to be in serious breach of contract for failure to perform its contractual obligations;
- j) 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;
- k) any other legal disability hindering execution of the contract occurs.

**24.3** Termination shall be without prejudice to any other rights or powers of the Contracting Authority and the Contractor under the contract. The Contracting Authority may, thereafter, conclude any other contract with a third party on behalf of the Contractor. The Contractor's liability for delay in completion shall immediately cease upon termination without prejudice to any liability thereunder that may already have occurred.

**24.4** The Project Manager shall, upon the issue of the notice of termination of the contract, instruct the Contractor to take immediate steps to bring the implementation of the supplies to a close in a prompt and orderly manner and to reduce expenditure to a minimum.

**24.5** 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 work 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.

**24.6** The Contracting Authority shall not be obliged to make any further payments to the Contractor until the supplies are completed, whereupon the Contracting Authority shall be entitled to recover from the Contractor the extra costs, if any, of providing the supplies or shall pay any balance due to the Contractor prior to the termination of the contract.



**24.7** If the Contracting Authority terminates the contract it shall be entitled to recover from the Contractor any loss it has suffered.

## **Article 25 Termination by the Contractor**

**25.1** The Contractor may, after giving 14 days notice to the Contracting Authority, terminate the contract if the Contracting Authority:

- fails to pay the Contractor the amounts due under any certificate issued by the Project Manager after the expiry of the deadline stated in the Special Conditions;
- consistently fails to meet its obligations after repeated reminders; or
- suspends the delivery of the supplies, or any part thereof, for more than 90 days, for reasons not specified in the contract or not attributable to the Contractor.

**25.2** Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Contractor.

**25.3** In the event of such termination, the Contracting Authority shall pay the Contractor for any loss or damage the Contractor may have suffered.

## **Article 26 Force majeure**

**26.1** 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 event of force majeure arising after the date of notification of award or the date when the contract becomes effective, whichever is the earlier.

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

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

**26.4** If the Contractor incurs additional costs in complying with the Project Manager's directions or using alternative means, the amount thereof shall be certified by the Project Manager.

**26.5** If circumstances of force majeure have occurred and continue for a period of 90 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 the other with 30 days' notice to terminate the contract. If, on the expiry of the period of 30 days, the situation of force majeure still applies, the contract shall be terminated and, by virtue of the law governing the contract, the Parties shall be released from further execution of the contract.

## **Article 27 Death**

**27.1** 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. The decision of the Contracting Authority shall be notified to those concerned within 30 days of receipt of such proposal.

- 27.2** 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.
- 27.3** In the cases provided for in the above articles, persons offering to continue to perform the contract shall notify the Contracting Authority thereof within 15 days of the date of decease.
- 27.4** Such persons shall be jointly and severally liable for the proper execution of the contract to the same extent as the original Contractor.

## ***DISPUTE SETTLEMENT***

### **Article 28 Settlement of disputes**

- 28.1** The Contracting Authority and the Contractor shall make every effort to settle amicably any dispute relating to the contract which may arise between them, or between the Project Manager and the Contractor.
- 28.2** Once a dispute has arisen, the parties to this contract shall notify each other in writing of their positions on the dispute as well as of any solution which they envisage possible. If either of the parties to this contract deems it useful, the parties shall meet and try to settle the dispute. Each party shall respond to a request for amicable settlement within 30 days of such request. The period to reach an amicable settlement shall be 120 days from the date of the request. Should the attempt to reach an amicable settlement be unsuccessful or should a party not respond in time to any requests for settlement, each party shall be free to proceed to the next stage in reaching a settlement by notifying the other party.
- 28.3** In the absence of an amicable settlement, the parties may agree to the settlement of the dispute by conciliation by the SRDP-PSO. If no settlement is achieved within 120 days of the start of the conciliation process, each party to the contract has the right to proceed to the next stage in the dispute settlement procedure.
- 28.4** In the absence of an amicable settlement or settlement by conciliation within 120 days of the start of one of these procedures, each party may refer the dispute to either the decision of a national jurisdiction or arbitration according to the law of the Arab Republic of Egypt.

## ***ETHICS CLAUSES***

### **Article 29 Ethics clauses**

- 29.1** Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders shall lead to the rejection of his candidacy or tender.
- 29.2** Without the Contracting Authority's prior written authorisation, a Contractor and his staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for the project.
- 29.3** This prohibition also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.

- 29.4** When putting forward a candidacy or tender, the candidate or tenderer shall declare that he is affected by no potential conflict of interest and has no particular link with other tenderers or parties involved in the project. Should such a situation arise during execution of the contract, the Contractor must immediately inform the Contracting Authority.
- 29.5** The Contractor must at all times act impartially and as a faithful adviser in accordance with the code of conduct of his profession. He shall refrain from making public statements about the project or services without the Contracting Authority's prior approval. He may not commit the Contracting Authority in any way without its prior written consent.
- 29.6** For the duration of the contract the Contractor and his staff shall respect human rights and undertake not to offend the political, cultural and religious mores of the beneficiary state.
- 29.7** The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and his staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 29.8** The Contractor and his staff shall be obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor shall be confidential.
- 29.9** The contract shall govern the Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.
- 29.10** The Contractor shall refrain from any relationship likely to compromise his independence or that of his staff. If the Contractor ceases to be independent, the Contracting Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.
- 29.11** The Commission reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process and if the Contracting Authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, "corrupt practices" are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Contracting Authority.
- 29.12** Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.
- 29.13** The Contractor undertakes to supply the Commission on request with all supporting documents relating to the conditions of the contract's execution. The Commission may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.

## **Article 30 Administrative and financial penalties**

- 30.1** Without prejudice to the application of penalties laid down in the contract, a Contractor who has been guilty of making false declarations, has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations, may be excluded from all contracts and grants financed by the Community budget for a maximum of five years from the time when the infringement is established, as confirmed after an adversarial procedure with the Contractor. The Contractor may present his arguments against this penalty within 30 days of notification of the penalty by registered letter with acknowledgement of receipt or any equivalent means. In the absence of any reaction on the part of the Contractor, or of withdrawal of the penalty by the Commission within 30 days of receipt of the Contractor's arguments against it, the decision imposing the penalty shall become enforceable. That period may be increased to ten years in the event of a repeat offence within five years of the first infringement.
- 30.2** If the Contractor is found to have seriously failed to meet its contractual obligations, it shall incur financial penalties representing 10% of the total value of the contract in question. That rate may be increased to 20% in the event of a repeat offence within five years of the first infringement.

## **Article 31 Checks and audits by Community bodies**

- 31.1** The Contractor will allow the European Commission, the European Anti-Fraud Office and the European Court of Auditors to verify, by examining the documents or by means of on-the-spot checks, the implementation of the project and 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. These inspections may take place up to 7 years after the final payment.
- 31.2** Furthermore, the Contractor will allow the European Anti-Fraud Office to carry out checks and verification on the spot in accordance with the procedures set out in the European Community legislation for the protection of the financial interests of the European Communities against fraud and other irregularities.
- 31.3** To this end, the Contractor undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to the sites and locations at which the Contract is carried out, including its information systems, as well as all documents and databases concerning the technical and financial management of the project and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the Contractor must inform the Contracting Authority of their precise location.
- 31.4** The Contractor guarantees that the rights of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors to carry out audits, checks and verification will be equally applicable, under the same conditions and according to the same rules as those set out in this Article, to any sub-contractor or any other party benefiting from EC funds.