

VOLUME 2

VOLUME 2

SECTION 1

CONTRACT FORM

WORKS CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

NO <Contract number>

FINANCED FROM THE EU GENERAL BUDGET

Between

The European Union, represented by the Delegation of the European Union to the Republic of Serbia, on behalf of and for the account of the Government of Republic of Serbia

(‘The Contracting Authority’),

of the one part,

and

<Full official Name of Contractor>

[<Legal status/title>]¹

[<Official registration number>]²

<Full official address>

[<VAT number>],³

(‘the Contractor’)

of the other part,

have agreed as follows:

CONTRACT TITLE Reconstruction of Judicial Academy Building in Belgrade

Identification number EuropeAid/139201/DD/WKS/RS

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

Reconstruction of Judicial Academy Building in Belgrade

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

¹ Where the contracting party is an individual.

² Where applicable.

³ Except where the contracting party is not VAT registered.

It is hereby agreed as follows:

- (1) In this Contract, words and expressions shall have the meanings assigned to them in the contractual conditions set out below.
- (2) The following documents shall be deemed to form and be read and construed as part of this Contract, in the following order of precedence:
 - (a) the Contract,
 - (b) the Special Conditions,
 - (c) the General Conditions,
 - (d) the Bill of Quantities (after arithmetical corrections),
 - (e) the Technical Specifications,
 - (f) the Design Documentation (drawings),
 - (g) the tender with appendix, including clarifications during tendering process (if any)
 - (h) any other documents forming part of the Contract.

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

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

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

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

Done in English in three originals, two originals for the Delegation of the European Union and one original for the Contractor.

For the Contractor

Name:

Title:

Signature:

Date:

For the Contracting Authority

Name:

Title:

Signature:

Date:

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SECTION 2

GENERAL CONDITIONS OF CONTRACT

Please find General Conditions of the Contract on the following website:

http://ec.europa.eu/europeaid/prag/annexes.do;JSESSIONID_PUBLIC=W21nFHUORIfTRD3n9U0Rmna9sf8z9Hqvg4rzivHmTYceVDo7_Apd!1732565550?chapterTitleCode=D

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SECTION 3

SPECIAL CONDITIONS

CONTENTS

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

Article 2 Language of the Contract

Replace article with following text.

- 2.1 The language of the Contract and of all communication shall be English.

Article 4 Communication

Replace article with following text.

- 4.1 Any written communication between the Contracting Authority and/or the Supervisor on the one hand, and the Contractor on the other hand, must state the Contract title and contract number and must be sent by post, fax, e-mail or by hand to the following address:

Documents shall be sent to the following address:

For the Contracting Authority

Name:	Delegation of the European Union to the Republic of Serbia
Contact person:	
Address:	GTC 19 Avenue Building, Vladimira Popovica 40, 11070 Belgrade, Serbia
Telephone:	Tel.: +381 11 3083 200
Fax:	Fax.: +381 11 3083 201
e-mail:	

For the Beneficiary

Name:	
Contact person:	
Address:	
Telephone:	
Fax:	
e-mail:	

For the Supervisor:

Name:	
Legal Address:	
Telephone:	
Fax:	
Legal Form:	

For the Works Contractor:

Name:	
Contact person:	
Address:	
Telephone:	
Fax:	
e-mail:	

E-mail communications between the parties are also permitted, in particular for communications between the Supervisor and the Contractor. Formal notifications, such as notifications of termination or breach or notifications which have an impact on Contract Price or additional cost claims must be submitted through the methods mentioned above. Email may be used as a supplementary notification method for such formal notifications.

Where signed documents are transmitted electronically they shall be confirmed by delivery of hard copy with the original signatures within one week.

Article 5 Supervisor and Supervisor's representative

At the end of Article 5.1 delete last sentence and replace with following text:

- 5.1 The Supervisor has no authority to relieve either party of any duties, obligations or responsibilities under the Contract.

The Supervisor will be a specialized Consulting Company contracted by the Contracting Authority.

5.1.1 *Add Article 5.1.1 to Article 5.1:*

The name and address of the Supervisor and his Representative(s) shall be given to the Contractor after the award of the Contract.

5.1.2 *Add Article 5.1.2 to Article 5.1:*

The name and address of the Contractor's Representative shall be appended hereto before this contract is signed.

5.1.3 *Add Article 5.1.3 to Article 5.1:*

Office accommodation for the Supervisor will be provided by the Works Contractor

- 5.2 The Contracting Authority shall appoint a Supervisor to carry out duties referred to in the contract.

The Supervisor may have further staff to which he delegates matters related to the contract.

The Supervisor acts for the Contracting Authority. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Supervisor (including absence or disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including the responsibility for errors, omissions, discrepancies and non-compliances.

Any failure to disapprove any work, plant or materials shall not constitute approval, and shall therefore not prejudice the right of the Supervisor to reject the work, plant or materials.

The Supervisor may issue to the Contractor (at any time) instructions which may be necessary for the execution of the works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Supervisor. If an instruction constitutes a modification, Article 37 of General Conditions shall apply.

The Supervisor is not empowered to order works resulting in an extension of the period of implementation of tasks or additional costs to be paid by the Contracting Authority or introduce variants in the nature or scale of the works without previously obtained approval of the Contracting Authority.

The Supervisor and the Beneficiary shall monitor the Project according to Volume 3 and the approved Time Schedule

5.4 *At the end of Article 5.4 add following text:*

The Supervisor shall obtain a written approval of the Contracting Authority prior taking any of the following actions specified in the General Conditions:

- (a) Approve any extension of time determined under the Article 35 of Special Conditions;
- (b) Approve any modification of the Contract and/or issuing the Variation Order under the Article 37.

Administrative orders issued by the Contracting Authority/Supervisor shall be dated, numbered and entered in a register. The Supervisor shall send them electronically (by email) to representatives of the Contractor, of the Beneficiary and of the Contracting Authority. Hard copies shall be delivered by hand to representatives of the Contractor and of the Beneficiary, and where appropriate, also to the representative of the Contracting Authority.

Article 7 Subcontracting

At the end of Article 7.2 add following text:

The total value of the sub-contracted part of the works must not exceed 30 % of the contract value and the sub-contractor must not sub-contract further.

At the end add the following:

7.9 Any subcontract or agreement with the Sub-Contractor shall be written in a manner as to be consistent with this Contract and shall require that the Contractor has full access for auditing purposes to the Sub-Contractors records, documents, costs and accounts.

Article 8 Documents to be provided

At the end of Article 8.4 add following text:

8.4 The documents, which the Contractor in accordance with the terms and conditions laid down in the Technical Specification, is obliged to prepare and submit to the Supervisor for approval, shall be reviewed and/or commented on within 21 days.

Drawings, calculations and other technical documentation in addition to the ones contained in the Tender Dossier shall be submitted in the format required by the Supervisor and in the number stated in the Technical Specification. Their timely submission shall be the Contractor's responsibility. The Contractor shall in case of required revisions to-or disapproval of the documentation submitted not be entitled to any claim for additional time or cost provided comments have been received within the above stated time limit.

The Supervisor's approval of any technical documentation shall not relieve the Contractor of his responsibilities under the Contract.

The Contractor should maintain manuals as work diary together with proposed or changed drawings during the permanent work in a format and manner approved by the Supervisor.

The Contractor shall be responsible for the safekeeping of any formal documents relating to the Works.

The Design for execution has to be provided from the contractor before he starts with the construction works.

Article 9 Access to the site

Replace article with following text.

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

All correspondence between the Contractor and the Contracting Authority or project Supervisor must be copied, for information, to the Head of Delegation of the European Union and his representatives at official address mentioned under article 4.

9.1.1 Access to site to the Contractor:

The Contracting Authority shall, through Beneficiary, in due time and in conformity with the progress of the works, place the site and access thereto at the disposal of the Contractor in accordance with the programme of implementation of tasks referred to in these General Conditions. The Contractor shall afford all reasonable opportunities to other persons concerned for carrying out their work as set out in the Special Conditions or as required by administrative orders.

Article 12 General Obligations

12.6 Add following text on the end of Article 12.6:

It shall be the responsibility of the Contractor to identify drawings and documents, in addition to those contained in the Tender Dossier or referred to in the Technical Specification, required for proper and secure execution of the Works and obtaining usage permit.

Replace article 12.9:

12.9 The visibility measures must comply with the rules laid down in the Communication and Visibility Manual for EU External Actions published by the European Commission: http://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en

Add Article 12.11:

12.11 The Contractor shall make his own arrangements for the engagement of labour, housing,

health, welfare and repatriation of same and shall conform in all respects with the conditions and requirements of all laws governing the entry into the Republic of Serbia and employment.

The Contractor shall in respect of all persons employed by him for the execution of the Contract comply with the requirements of the laws of the Republic of Serbia.

The Contractor's attention is particularly drawn to regulations in respect of hours and conditions of labour, holidays, night work, rates of pay, sanitary and safety conditions, medical services, health cards, social insurance and accident insurance. In the absence of any rates of wages, hours, or conditions of labour which are more favourable than the general level of wages, hours, and conditions observed by the other Contractors whose general circumstances are similar to those in the trade or industry in which the Contractor is engaged, it will be assumed that the latter shall apply.

The Contractor shall be responsible for the observance of the provisions of the foregoing clauses by Subcontractors employed by him in the execution of the Contract.

The Contractor shall be deemed to have taken into account each and every requirement of the above labour legislation in the preparation of his tender, and his tender rates shall include for all expenses incurred through compliance therewith.

All subcontractors employed by the Contractor shall be nationals of the Member States of the European Union or in a country with Stabilisation and Association Agreement in force with the Union (Albania, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia) or in a country with the EEA Agreement (Iceland, Liechtenstein and Norway).

The Contractor shall ensure, including the relevant costs into his offered Unit Prices that his personnel, as the Sub-Contractor personnel, shall be provided with safety garments and accessories adequate for the works to perform.

Add Article 12c:

Article 12c: Contractor's Documents

The Contractor's Documents shall comprise the technical documents specified in the Technical Specifications Volume 3, together with the documents required to satisfy all regulatory approvals included but not limited to the As-Built design. These documents shall be written in English and Serbian language.

The Contractor shall prepare all of the Contractor's Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel. The Supervisor shall have the right to inspect the preparation of all these documents, wherever they are being prepared.

The Technical Specifications, Volume 3, describe the Contractor's Documents which shall be submitted to the Supervisor for review and approval. They shall be submitted accordingly, together with a notice as described below. In the following provisions of this clause, (i) "review period" means the period required by the Supervisor for review and for approval, and (ii) "Contractor's Document" exclude any documents which are not specified as being required to be submitted for review and/or for approval.

Each review period shall not exceed 21 days, calculated from the date on which the Supervisor receives a Contractor's Document and the Contractor's notice. This notice shall state that the Contractor's Document is considered ready, both for review and approval, in accordance with this clause and for use. The notice shall also state that the Contractor's Document complies with the Contract, or the extent to which it does not comply.

Such design drawings specifications and calculations as shall be necessary to satisfy the Beneficiary/Contracting Authority in order to obtain their approval for use/occupation, in the language required from the Beneficiary (English and/or Serbian).

The Supervisor may, within the review period, give notice to the Contractor that a Contractor's Document fails (to the extent stated) to comply with the Contract. If a Contractor's Document so fails to comply, it shall be rectified, resubmitted and reviewed and, if it is acceptable, approved in accordance with this clause, at the Contractor's cost.

For each part of the Works, and except to the extent that the prior approval or consent of the Supervisor shall have been obtained:

- 1) In the case of a Contractor's Document which has been submitted for the Supervisor's approval:
 - (i) The Supervisor shall give notice to the contractor that the Contractor's Document is approved, with or without comments or that it fails (to the extent stated) to comply with the Contract.
 - (ii) Execution of such part of the Works shall not commence until the Supervisor has approved the Contractor's Document; and
 - (iii) The Supervisor shall be deemed to have approved the Contractor's Document upon the expiry of the review periods for all the Contractor's Documents which are relevant to the design and execution of such part, unless the Supervisor has previously notified otherwise in accordance with sub-paragraph (i);
- 2) Execution of such part of the Works shall not commence prior to the expiry of the review periods for all the Contractor's documents that are relevant to its Design and execution;
- 3) Execution of such part of the works shall be in accordance with these reviewed and approved Contractor's Documents; and
- 4) If the Contractor wishes to modify any design or document that has previously submitted for review, the Contractor shall immediately give notice to the Supervisor. Thereafter the Contractor shall submit revised documents to the Supervisor in accordance with the above procedure.
 - (i) If the Supervisor instructs that further Contractor's Documents are required, the Contractor shall prepare them promptly.
 - (ii) Any such approval or consent, or any review (under this clause or otherwise), shall not relieve the Contractor from his obligation or responsibility under the contract.

Article 13 Superintendence of the works

Replace article 13.1 with following text:

- 13.1 The Contractor's representative for superintendence of the works has been nominated during tender procedure and as such accepted by the Contracting Authority. Approval by the Supervisor shall not be required. The Contractor's representative for superintendence shall be present at least 80% of his working time on site. Replacement of the Contractor's representative will require the consent of the supervisor. Should the Supervisor refuse to approve, or withdraw approval of the appointment, he shall set out the grounds on which his decision is based, and the Contractor shall submit an alternative appointment without delay.

The address of the Contractor's representative shall be deemed to be the address for service given by the Contractor.

Article 15 Performance guarantee

Replace second sentence of the Article with following text

- 15.1 The amount of the performance guarantee will be 10% of the amount of the Contract and any addenda thereto.

Article 17 Programme of implementation of tasks

The text of Article 17.1 shall be deleted and replaced by the following text:

17.1 14 days after the Commencement date of the Contract the Contractor shall submit to the Supervisor for approval a detailed programme of performance showing the activities and sequence needed for the orderly and coordinated performance and completion of each separate part of the Works (“the Performance Programme”) from the commencement of the Contract to its final completion (i.e. design, approval period of design, ordering of materials, manufacture, factory testing, delivery, erection, construction, commissioning and testing). This Performance Programme shall contain exact dates and the milestones to the extent appropriate and not just “days”. Also this programme shall be provided in the form of a critical path network or similar, which shall show the interfaces between the respective phases and Sections of the contract works.

(b) The Performance Programme must:

- (I) comply with the Contract (including but not limited to the provisions of Article 17.1 of the General Conditions), the Technical Specification and the Tender of the Contractor. Anything which is submitted as a change from the Tender must be highlighted as a request by the Contractor for such a change to be approved by the Contracting Authority;
- (II) be broken down by both activity and work location covering all activities relating to the Works, both on site and off site, including, where appropriate, design detailed engineering, manufacture, factory testing, transportation to site, delivery, erection and setting up, construction, testing, Provisional Acceptance and completion, training, cleaning-up and demobilisation;
- (III) In addition, the Contractor shall prepare and submit during the Contract period detailed sub-networks of certain phases of the programme of works as required by the Supervisor, covering erection, commissioning and testing.
- (IV) Contain details of the following:
 - (A) A comprehensive list of the items of Plant and Equipment which the Contractor proposes to use for the Works;
 - (B) A list of Sub-Contractors he proposes to employ on the Works together with details of the part of the Works he proposes to sublet, including the details of the sub-contractors’ contact details, business registration numbers and formal addresses (and nationalities);
 - (C) An updated organisation chart for the Contractor and any key sub-contractors;
 - (D) A schedule of sources of materials and supply, with details of their origin. This schedule shall specify the import materials (the exact volume and description of those materials which the Contractor needs to import from

outside the Republic of Serbia plus and a record of what materials have actually been imported and to what extent the materials have been used). The Contractor shall make sure any changes to the import information are notified in writing to the Supervisor and submitted for the Supervisor's approval before the changes are acted on;

- (E) A Safety Plan including the measures the Contractor proposes to take to safeguard his workers (including those of subcontractors) the local population. The Safety Plan shall highlight the identified hazards for site operations and details of how each hazard will be modified. A senior member of the Contractor's staff shall be nominated Site Safety Officer and shall be named in the Safety Plan;
 - (F) An Environmental Management Plan including the measures the Contractor proposes to take to minimise environmental damage, including the proposed measures for waste disposal (including of construction material) prevention of discharge of fuels, oils, chemicals, paints bitumen or similar, noise control and air pollution measures;
 - (G) Quality Control Plan including the measures the Contractor intends to take to quality control contractors and materials – Quality Log;
 - (H) Timetable and measures for obtaining authority permits, for example for any construction, road closure or diversion or environmental measure;
 - (I) A manpower forecast by discipline and level;
 - (J) Cash flow and payment estimates for the key supplies and manpower;
 - (K) Proposed testing procedures and timetable.
- (V) Show in detail:
- (A) The intended sequences, timing and rates of progress as well as the interrelations between the various activities. The activities shall be shown in measurable and recognisable elements to permit precise assessment of progress against programme at regular intervals;
 - (B) In preparing the Performance Programme the Contractor shall take into account the possibility of adverse weather conditions which may severely restrict progress in the winter months or during wet periods of the year as well as the limitations which are common in the region where the works are being carried out in relation to supplies of water and electricity;
 - (C) This Performance Programme shall be updated by the Contractor every 30 days with the monthly report of progress to date and sent to the Supervisor. The report shall clearly highlight any key changes from previous submissions and from the Tender (with a corresponding request for change) and any items of material note. The Supervisor shall respond within 14 days of its receipt of the Performance Programme or any revision thereto as to whether it approves the Programme or the revisions in whole or in part or what changes it requires. Once approved or to the extent it is approved, the Performance Programme shall become part of the Contract and the Contractor shall thereafter carry out the works in accordance therewith.

The text of Article 17.3 shall be deleted and replaced by the following text:

17.3 The detailed Performance Program, drawn up in accordance with Article 17.1 and approved in accordance with Article 17.2, shall be deemed to have taken into account prevailing climatic conditions, including periodic adverse weather conditions.

Whenever is required by the Supervisor the Contractor shall within 14 days update the Performance Program, based on actual work progress. In case of delays in actual progress the Contractor shall, with the updated Performance Programme, provide information on additional resources to be deployed in order to meet the milestones of Performance Programme prepared and approved in accordance with Article 17.1 and 17.2.

Add following Article 17.6

17.6 Monthly Progress Report:

The Contractor shall issue a monthly Progress Report to the Contracting Authority's Project Manager and/or its representative by the seventh calendar day of each month, which shall indicate progress up to the end of the previous month. This is a reporting document, not a planning document. The monthly Progress Report shall form the basis of the agenda for the monthly Progress Meeting.

The report shall be prepared in a format proposed by the Contractor and agreed by the Contracting authority's Project Manager and/or its.

The progress report shall be forwarded promptly, within seven (7) days after the last day of the period to which it relates. Each copy of the progress report shall include a summary written in the English and in the Serbian language.

Safety Report:

The Contractor shall report on all incidents, matters with statutory consequence and matters requiring changes to procedures or standards, Safety statistics and safety audits completed.

Performance Statistics Report:

The Contractor shall provide a separate sheet indicating Sections of the Works that are:

- originally planned for completion in the month
- actually completed in the month with values
- in progress at month end
- planned to commence in the following month
- planned to complete in the following month
- The report shall not require any graphical representation of progress.

Quality Report:

The Contractor shall report on any matters adversely influencing the quality of the Works, and any remedial action taken to correct quality problems. Statistics and actual results on quality inspections completed shall be reported by the Contractor, together with the status of previous feedback from the Contracting authority and/or its representative.

Staff and Sub-contractors Report:

The Contractor shall report on staff leaving and joining the Contractor in respect of the Works, training requirements, sub-contractor status and general staff levels of the Contractor.

Weekly Programme:

In order to allow the Contracting Authority to provide necessary access/out-ages, etc., the Contractor shall attend a weekly meeting in the supervisor offices along with the Supervisor in this regard, and a programme shall be tabled by the Contractor during this meeting. Requirements for outages within the Beneficiary's high voltage network or other outage requiring service interruption to consumers shall be advised not less than one (1) calendar month before the desired date of the outage.

Site Meetings:

Site meetings shall be held monthly (during the construction works), as appropriate, between the Contracting authority's Project Manager and the Contractor's Project Manager or authorized representative – Site Engineer and attended by any other parties directly relevant to the immediate Works execution. This may include the Contractor's Sub-Contractor Representatives where appropriate.

The Site Meeting formats are:

- Held regularly indoors at a Site location (Contractor's Site office),
- Normally only attended at Site level,
- To Review the immediate progress on current issues,
- To Exchange and review completed civil and electromechanical works,
- Used to produce Contractor's Site Engineer's [Weekly] Programme, Contractor's Outage Plan and the Contracting authority's Project Manager [Weekly] Report,
- To agree issues to be escalated to the Contracting authority's Project Manager and Contractor's Project Manager,
- To handle immediate information flow,
- To review all immediate staffing issues,
- To update defects lists,
- To discuss quality issues.

Re-issue of Programme:

A re-issue of the Medium Term Programme shall be produced every two weeks by the Contractor unless agreed otherwise in writing by the Contracting authority's Contract Manager and/or its representative.

Progress:

The Contractor shall report on actual progress versus the Medium Term Programme reinforced by progress statistics. An explanation of any deviation from the Medium Term Programme shall be given.

Current Delays:

The Contractor shall report on all sections of the Works either delayed on Site or delayed in commencing on site for whatever reason. All delays due to external influences to be specifically highlighted.

Operational Problems:

Where specific influences arise, which affect the progress of the works, and are caused by the Contracting authority's operational requirements a statement shall be provided in writing with specific details.

Additional Works and Change Proposals:

The Contractor shall report on the status of any additional work arising from Change Requests or Change Proposals. A copy of the Change Proposal log to be attached.

Design Issues:

The Contractor shall report on any design or specification issues that are impacting on cost or Programme, or could offer future improvement.

Information Required:

The Contractor shall provide a schedule of any outstanding information from other sources that may impact on the Long Term Programme, together with relevant deadlines.

Additional Information:

The Contractor shall report on any other matters not included in any of the Sections above which are pertinent to the progress and/or execution of the Works.

Project Progress Review meetings shall be held on a regular every-two-weeks basis and will be attended by the Supervisor and the Beneficiary. The Contracting Authority's Task Manager may attend this meeting as well. In addition to the Project Review meetings, Technical Discussion meetings shall be held on an as-needed basis between the Supervisor and the Contractor. Also the Beneficiary's representative may attend the meeting if it is necessary. These meetings may be called by either party.

The Contractor shall keep minutes of each meeting and shall submit copies of these minutes for approval within five working days after the meeting. Any disagreements about the minutes of a meeting shall be resolved prior to or at the subsequent meeting. Resolutions of disputes regarding the previous meeting shall be recorded in the subsequent meeting minutes and shall become the official minutes for the given meeting.

Article 19 Contractor's drawings and execution studies

19.1 *Add following paragraphs to 19.1:*

The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact as-built locations, sizes and details of the work as executed. These records shall be kept on the site and shall be used exclusively for the purposes of this Sub-Clause. Two copies shall be supplied to the Supervisor prior to the commencement of the Tests on Completion.

In addition, the Contractor shall supply to the Supervisor as-built design of the Works, showing all Works as executed, and submit them to the Supervisor for review. The Contractor shall obtain the consent of the Supervisor as to their size, the referencing system, and other relevant details.

Prior to the issue of any Provisional Acceptance, the Contractor shall supply to the Supervisor the specified numbers and types of copies of the relevant as-built design, in accordance with the Technical Requirements. The Works shall not be considered to be completed for the purposes of acceptance under Articles 57 to 62 of the General Conditions until the Supervisor has received these documents.

19.7 *Add following paragraphs to 19.7:*

The language of the manuals and drawings will be in Serbian language.

Article 20 Sufficiency of tender prices

Add the following articles 20.4 and 20.5:

- 20.4 The contractor will calculate and present the amount for each item, based on the quantities of materials and works presented in the Volume 4 - Bill of Quantities.

The unit price for unforeseen works, to be recognized throughout the project and ordered by the Contracting Authority shall be derived from the Contract's Unit Prices of a same or similar type of works or extracted from referent recent similar contracts.

Throughout the construction of the Works the Contractor shall provide and maintain for the site staff appropriate offices, stores, dining rooms, sanitary and health and safety facilities etc. All operating and maintenance expenses connected therewith (lighting, heating, water supply etc.) shall be borne by the Contractor.

The Contractor shall make his own arrangements for provision of water, electricity and telephones and shall observe all regulations of the appropriate local authority and shall bear all expenses in connection therewith.

- 20.5 The Contractor may require land outside the site for his offices, stores, workshops, fabrication plants etc. The expenses and other costs so incurred shall be at the expense of the Contractor.

Article 21 Exceptional risks

21.4 *Add following paragraphs to 21.4:*

Exceptional weather conditions are the risk of the Contractor. All costs incurred by the Contractor due to exceptional weather conditions have to be borne by the Contractor.

Article 22 Safety on sites

Add article 22.5

- 22.5 The Contractor shall allow for the provision of continuous and safe drainage of the ground and rain-water from the whole of the site, taking into consideration the technical requirements of the Drawings and the stipulations of any permits, so that no damage shall be caused either to the Works or its surrounding areas.

The Contractor shall take full responsibility for the proper disposal of solid waste or sewage from all places within the site, or in relation with the ongoing works, including the Supervisor's site offices, and shall, at all times, comply with and adhere strictly to the all relevant Contracting and local Authority health and safety regulations.

During the whole period of execution, the Contractor shall protect the environment on and off the site from contamination. Accordingly, he shall, on his own expense, collect all kinds of waste, including trash, communal and construction solid waste, and transport them to an officially approved dumping place.

The Contractor shall comply with the Serbian Fire Fighting regulations and take all necessary precautions throughout the execution and completion of the works to prevent outbreak of fire.

Article 24 Interference with traffic

Add following text on the end of Article 24.2

24.2 No important operation of any kind, especially cutting through, transit over, or closing existing roads, water conduits or other public utility shall be carried out without the written consent of the Supervisor.

The Contractor shall inform the Supervisor in due time which shall be not less than 7 calendar days in writing before commencing such works in order that the Supervisor may arrange adequate supervision and safety precautions. With his application for permission to start construction work, the Contractor shall submit to the Supervisor a list of all major plant he and his sub-contractors intend to use, indicating their characteristics (Excavators, trucks, cranes, compaction equipment, rollers, concrete mixers, equipment, etc.).

The Contractor shall select routes, choose and use such vehicles and restrict and distribute loads in such a way to prevent damage to the roads or structures communicating with or on the routes to the Site. The Contractor shall ensure that roads and bridges that have become damaged due to the Contractor's use of that infrastructure, in the opinion of the Supervisor, are reinstated to a serviceability level similar to that which existed prior to the Contractor's use of the infrastructure. Reinstatement shall be to the approval of the Supervisor. All expenses related to these procedures shall be covered by the Contractor.

Article 27 Demolished materials

Replace Article 27.2 with following text:

27.2 No demolition materials will become the property of the Contracting Authority. Should some materials be of interest to the Beneficiary, they will remain his property

Article 29 Temporary works

Replace Article 29.2 with following text:

29.2 All designs and costs related with particular temporary works are the responsibility of the Works Contractor.

Article 30 Soil studies

Replace Article 30.1 with following text:

30.1 The Contractor shall bear all costs of the manpower and equipment used for any soil survey that may be necessary for the undisturbed project execution.

Article 33: Commencement order

The following text shall be added to articles 33.1 and 33.2:

33.1 The works shall start on the day indicated in the Commencement Order issued by the Supervisor.

33.2 The commencement order shall be issued not later than 30 calendar days following the signing of the Contract by both parties.

Article 34 Period of implementation of tasks

Replace Article 34.1 with following text:

- 34.1 The period of implementation is 12 (twelve) months from the commencement date to the provisional acceptance (plus 12 months Defects Liability Period).

Article 36 Delays in the implementation of tasks

Add following text to the end of Article 36.1

- 36.1 The rate of liquidated damages for delays in the completion of works shall be 0.1% of the contract price for every day or part thereof which elapses between the end of the period of implementation of tasks and the actual date of completion, up to a maximum amount of 10% of the contract price.

Article 37 Amendments

Replace Article 37.3 with following text:

- 37.3 The variations or modifications of the scope of works that influences the total contract value can only be approved by the Contracting Authority through an addendum to the existing contract. The request for addendum should be prepared by the Contractor and submit to the approval of the Supervisor.

10% of the Contract price foreseen as contingencies covers additional works and surplus quantities of the works itemized in the BoQ. The Contracting Authority could consider as unforeseen works only the works which are deemed necessary by the Supervisor, not foreseen in the original Technical Specifications, and that couldn't have been foreseen by a professional in the field of the current contract. These works should be approved in advance by the Contracting Authority.

Article 39 Work register

- 39.1 *In the first paragraph of Article 39.1 replace "Supervisor" with "Contractor".*

- 39.1 *The following text shall be added to Article 39.1:*

Work register shall be kept in English and local language, and in accordance with the local legislation.

Article 40 Origin and quality of works and materials

Replace Article 40.1 with following text:

40.1 All goods purchased under the Contract must originate in any eligible source country (Member State of the European Union or in a country with Stabilization and Association Agreement in force with the Union (Albania, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia) or in a country with the EEA Agreement (Iceland, Liechtenstein and Norway). All goods supplied under this contract must originate in one or more of these countries.

For these purposes, 'origin' means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the EU Customs Code or the applicable international agreement.

For all equipment and materials incorporated in the permanent works, official Certificates of Origin shall be required for provisional acceptance and subsequent payment. When importing goods, any change in the specified origin must have been pointed out to the project Supervisor and approved by him, after proper agreement received from the Contracting Authority. Prior to ordering, placement and/or instalment of any construction materials the Contractor shall provide attest and samples of all material he proposed to build in, in the timely manner to the

Supervisor and/or Contracting Authority for the approval.

The works and the objects, appliances, equipment or materials used in their construction must comply with the following specifications and requirements contained in the Technical Specifications.

If the Contractor desires to use stock material or components not manufactured especially for works under this Contract, he shall submit evidence by presentation of respective certificates, to the Supervisor's satisfaction, that such material or components comply with the requirements stated in the Specifications and to an approved standard, and that the quality of such material is adequate for the intended use.

The Contractor shall indicate in the respective Schedules of Requirements the proposed materials and their applicable standards for all major items of the supply. Material specifications, including grade of class, shall be shown on the appropriate detail drawings submitted to the Supervisor for approval.

Add article 40.5

40.5 The Contractor shall guarantee the quality of all works, materials, paints, protection treatments as well as the efficiency, losses and technical performance of the equipment in strict compliance with the Contract Documents.

Article 41 Inspection and testing

Replace Article 41.2 with following text:

41.2 The Supervisor and the Contracting Authority shall be entitled, either by himself or his agent, to inspect, examine, measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract in order to establish whether the components, materials and workmanship are of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or on the site or at such other places as may be specified in the contract.

The following article 41.8 shall be added:

41.8 Inspection and testing shall be performed in accordance with the requirements of the applicable technical regulations and local legislations.

All materials and Equipment used are subject to inspection by the Supervisor or his substitutes at factory and on arrival at site.

The Contractor shall submit in his tender a schedule for factory tests to be performed during implementation of the project. The schedule must be approved by the Contracting Authority Representative/Supervisor and Beneficiary.

Where the methods of tests are not specified in the standards, or if there are options in the relevant standards, the Contractor shall submit to the Supervisor for approval the methods by which he proposes to conduct the tests.

Article 43 Ownership of plant and materials

Replace Article 43.2 with following text:

43.2 Equipment and materials intended for incorporation in the permanent works, but not yet incorporated in the permanent works and for which any interim payment has been made by the Contracting Authority, shall be vested in the Contracting Authority and visibly marked as

such.

Article 44: General principles for payments

Replace Article 44.1 with following text:

44.1 Payments shall be made in Euro.

Replace Article 44.3 with following text:

44.3 By derogation, pre-financing payment to the Contractor for the lump-sum advance shall be made within 30 days. Other pre-financing payments to the Contractor shall be made within 60 days. Interim payments to the Contractor of the amounts due under each of the interim payment certificates approved by the supervisor shall be made within 30 days, and the final payment to the Contractor of the amounts due after the final statement of account issued by the Supervisor shall be made within 30 days.

Article 46 Pre-financing

Replace Article 46.1 with following text:

46.1 The amount of the pre-financing shall be maximum 10% of the total Contract Price. Repayment of the pre-financing shall take the form of deductions based on monthly claims. The flat-rate pre-financing (maximum of 10%) shall be repaid by means of deductions from installments and, if necessary, the balance due to the Contractor. This repayment shall begin with the first installment and be completed, at the very latest, by the time 80% of the amount of the Contract has been paid.

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

$$R = \frac{Va \times D}{Vt \times 0.8}$$

where:

R = the amount to be repaid

Va = the total amount of pre-financing
Vt = the initial contract amount

D = the amount of the instalment.

The result is rounded up to two decimal places.

Article 47 Retention monies

Replace Article 47.1 with following text:

47.1 The sum to be retained from interim payments to guarantee implementation of the Contractor's obligations during the defects liability period is 10% of each interim payment certificate.

Article 49 Measurement

Add following text at the end of Article 49.1

49.1 This is a unit-price contract.

Article 50 Interim payments

Replace Article 50.1 with following text:

50.1 The amount certified in each Interim Payment Certificate shall be paid by the Contracting Authority against presentation of the Invoice in the amount of Interim Payment Certificate confirmed by the Beneficiary and signed by the Supervisor; the original of the Interim Payment Certificate and original of Statement issued to and approved by the Supervisor.

The Contractor shall submit an application for interim payment to the Supervisor at the end of each month in a form approved by the Supervisor. The application shall include the following items, as applicable:

(a) the estimated contract value of the permanent works implemented up to the end of the period in question, in hard copy and in electronic format, calculated in accordance with procedure laid down in **Article 49**;

(b) an amount to be withheld as retention sum under **Article 47**;

(c) any credit and/or debit for the period in question in respect of plant and materials on site intended for, but not yet incorporated in, the permanent works in the amount and under the conditions set out in **Article 50.2**;

(d) an amount to be deducted on account of the pre-financing repayment under the provisions of **Article 46**;

(e) any other sum to which the Contractor may be entitled under the contract;

(f) The minimum amount of any Interim Payment shall not be less than 5% of the Contract Price.

Article 51 Final statement of account

Replace Article 51.1 with following text:

51.1 The Contractor shall, submit to the Supervisor a draft final statement of account when it applies for the provisional acceptance certificate. In order to enable the Supervisor to prepare the final statement of account, the draft final statement of account is submitted with supporting documents showing in detail the value of the work done in accordance with the contract and all further sums which the Contractor considers to be due to it under the contract.

Replace Article 51.2 with following text:

51.2 Within 30 days from issuing the certificate of final acceptance referred to in article 62, the Supervisor shall prepare and signed the final statement of account.

Article 59 Partial acceptance

Replace Article 59.3 with following text:

59.3 The defects liability period provided for in Article 61 shall run from the date of the latest Partial Provisional Acceptance is signed.

Article 60 Provisional acceptance

The new article 60.6 shall be added:

60.6 The operating and maintenance manuals, as built design and warranty certificates of mechanical, electrical and all other engineering components and equipment necessary to put works into the full operation, and/or required by the Supervisor and/or Contracting Authority shall be submitted by the Contractor to the Supervisor before the Provisional Acceptance Certificate is issued by the Supervisor.

Article 61 Defects liability

Add following text at the end of Article 61.1

61.1 The defects liability period is defined as the period commencing on the date of provisional acceptance, during which the Contractor is required to make good any effect in, or damage to, any part of the work which may appear or occur during this period as notified by the Supervisor or the Contracting Authority. The rights and obligations of the parties with regard to this defects liability period are laid down in Article 61 of the General Conditions.

Article 68 Dispute settlement

Replace Article 68.4 with following text:

68.4 The parties expressly agree that any dispute arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of the courts of Brussels, Belgium.

VOLUME 2

SECTION 4

SPECIMEN PERFORMANCE GUARANTEE

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

For the attention of

Delegation of the European Union to the Republic of Serbia

Finance, Contracts and Audit Section,
Avenija 19a Building,
Vladimira Popovica 40/V,
11070 New Belgrade
Republic of Serbia

referred to below as the 'Contracting Authority'

Subject: Guarantee No ...

Performance Guarantee for the full and proper execution of Contract (contract number and title)
(please quote number and title in all correspondence)

We, the undersigned, [name, and address of financial institution], hereby irrevocably declare that we guarantee, as primary obligor, and not merely as a surety on behalf of [Contractor's name and address], hereinafter referred to as 'the Contractor', payment to the Contracting Authority of [amount of the performance guarantee], representing the performance guarantee mentioned in Article 15 of the Special Conditions of the Contract (contract number and title) concluded between the Contractor and the Contracting Authority, hereinafter referred to as 'the Contract'.

Payment will be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) stating that the Contractor has failed to fulfil its contractual obligations fully and properly or that the Contract has been terminated. We will not delay the payment, nor will we oppose it for any reason whatsoever. We will inform you in writing as soon as payment has been made.

We accept that no amendment to the terms of the Contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment to the Contract.

We note that the guarantee will be released in accordance with Article 15.8 of the General Conditions to the Contract [and at the latest on (at the expiry of 18 months after the implementation period of the Contract)].⁴

The law applicable to this guarantee will be that of Belgium Any dispute arising out of or in connection with this guarantee will be referred to the courts of Belgium

The guarantee will enter into force and take effect upon its signature.

Done at, ././..

Name and first name: On behalf of:

Signature:

[stamp of the body providing the guarantee]

⁴ This mention should be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee without expiry date.

|
VOLUME 2

SECTION 5
SPECIMEN PREFINANCING PAYMENT
GUARANTEE

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

For the attention of

Delegation of the European Union to the Republic of Serbia

Finance, Contracts and Audit Section,
Avenija 19a Building,
Vladimira Popovica 40/V,
11070 New Belgrade
Republic of Serbia

referred to below as the ‘Contracting Authority’

Subject: Guarantee No...

Financing Guarantee for the repayment of pre-financing payable under contract (Contract number and title) (please quote number and title in all correspondence)

We the undersigned, [name, and address of financial institution], hereby irrevocably declare that we guarantee as primary obligor, and not merely as surety on behalf of [Contractor's name and address], hereinafter referred to as “the Contractor”, the payment to the Contracting Authority of [indicate the amount of the pre-financing], corresponding to the pre-financing as mentioned in Article 46 of the Special Conditions of the contract (Contract number and title) concluded between the Contractor and the Contracting Authority, hereinafter referred to as “the Contract”.

Payment shall be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation or receipt) stating that the Contractor has not repaid the pre-financing on request or that the Contract has been terminated. We shall not delay the payment, nor shall we oppose it for any reason whatsoever. We shall inform you in writing as soon as payment has been made.

We accept notably that no amendment to the terms of the Contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment of the Contract.

We note that the guarantee will be released in accordance with the article 46.7 of the General Conditions. [and in any case at the latest on (at the expiry of 18 months after the implementation period of the Contract)]⁵.

The law applicable to this guarantee shall be that of Belgium Any dispute arising out of or in connection with this guarantee shall be referred to the courts of Belgium

The guarantee will enter into force and take effect on receipt of the pre-financing payment in the account designated by the Contractor to receive payments.

Done at,/../..

Name and first name: On behalf of:

Signature:

[Stamp of the body providing the guarantee]

⁵ This mention has to be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date.

VOLUME 2

SECTION 6

SPECIMEN RETENTION GUARANTEE

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

For the attention of

Delegation of the European Union to the Republic of Serbia

Finance, Contracts and Audit Section,
Avenija 19a Building,
Vladimira Popovica 40/V,
11070 New Belgrade
Republic of Serbia

referred to below as the ‘Contracting Authority’

Subject: Guarantee No ...

Retention Guarantee for Contract (contract number and title) (please quote number and title in all correspondence)

We, the undersigned, [name, and address of financial institution], hereby irrevocably declare that we guarantee, as primary obligor, and not merely as a surety on behalf of [Contractor’s name and address], hereinafter referred to as ‘the Contractor’, payment to the Contracting Authority of [amount of the retention guarantee], representing the retention guarantee mentioned in Article 47 of the Special Conditions of the Contract (contract number and title) concluded between the Contractor and the Contracting Authority, hereinafter referred to as ‘the Contract’

Payment will be made without objection or legal proceedings of any kind, upon receipt of your first written claim (sent by registered letter with confirmation of receipt) stating that the Contractor has failed to fulfil its contractual obligations fully and properly or that the Contract has been terminated. We will not delay the payment, nor will we oppose it for any reason whatsoever. We will inform you in writing as soon as payment has been made.

We accept that no amendment to the terms of the Contract can release us from our obligation under this guarantee. We waive the right to be informed of any change, addition or amendment to the Contract.

We note that the guarantee will be released in accordance with Article 47.3 of the General Conditions to the Contract [and in any case at the latest on (at the expiry of 18 months after the implementation period of the Contract)].⁶

The law applicable to this guarantee will be that of Belgium. Any dispute arising out of or in connection with this guarantee will be referred to the courts of Belgium

⁶ This mention should be inserted only where required, for example where the law applicable to the guarantee imposes a precise expiry date or where the guarantor can justify that he is unable to provide such a guarantee without expiry date.

The guarantee will enter into force and take effect upon its signature.

Done at, ././..

Name and first name: On behalf of:

Signature:

[Stamp of the body providing the guarantee]