

VOLUME II

THE CONTRACT

**Construction of the Regional Waste Management Centre (RWMC) for
Subotica District**

Publication Reference: EuropeAid/133971/C/WKS/RS

VOLUME II

SECTION 1:

CONTRACT FORM

CONTRACT FORM

WORKS CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

CONTRACT NR: 201X/XXX-XXX

FINANCED FROM THE EU GENERAL BUDGET

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 Employer")

of the one part

and

<Full official Name of Contractor>

[Legal status/title]

[Official registration number]

[Full official address]

[VAT number],

("the Contractor")

of the other part

have agreed as follows:

**CONTRACT TITLE: Construction of the Regional Waste Management Centre for
Subotica District**

Identification number EuropeAid/133971/C/WKS/RS

Whereas the Employer is desirous that certain works should be designed and executed by the Contractor, viz.:

"Construction of the Regional Waste Management Centre for Subotica District"

and has accepted a Tender by the Contractor for the design, execution and completion of such Works and the remedying of any defects therein.

It is hereby agreed as follows:

1. In this contract words and expressions shall have the meanings assigned to them in the contractual conditions set out below.
2. The following documents shall be deemed to form and read and construed as part of this Agreement, in order of precedence:
 - (a) the contract,

- (b) the Particular Conditions,
- (c) the General Conditions,
- (d) Employer's requirements (Technical specifications) including the clarifications during the tendering process,
- (e) the design documentation (drawings),
- (f) the breakdown of the lump sum price (after arithmetical corrections),
- (g) the tender with appendix including the clarifications during the evaluation process,
- (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 Employer to the Contractor as hereinafter mentioned, the Contractor hereby undertakes to design, execute and complete the Works and remedy any defects therein, in full compliance with the provisions of the Contract.
4. The Employer hereby agrees to pay the Contractor in consideration of the execution and completion of the works and remedying of defects therein the amount of:

The contract prices are:

Contract price excluding provisional sum and VAT/other taxes euro

Contingencies of 10 %..... euro

Total contract price, excluding Contingencies euro

(in words:euro)

Total contract price, including Contingencies euro

(in words:euro)

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 shall be paid in compliance with the binding regulations, national law and international agreements concerning the execution of the program. VAT and other taxes shall not be paid on the funds originating from EU funds.

The contingencies envisaged to be used in case of unforeseen work, is subject to the prior approval of the Employer as specified in Clause 13 of the Particular Conditions of the Contract.

In addition, all variations or modifications of the scope of works that influence the total contract value can only be approved by the Employer.

3

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 being for the Employer and one original being for the Contractor.

THE CONTRACTOR

Signed by

.....

Name of signatory (by capital letters)

.....

In the capacity of

.....

Date:

THE EMPLOYER

Signed by

.....

Name of signatory (by capital letters)

.....

In the capacity of

.....

Date:

VOLUME II

SECTION 2:

GENERAL CONDITIONS FOR PLANT AND DESIGN – BUILD

SECTION 2

GENERAL CONDITIONS

The Conditions of Contract comprise the "General Conditions", which form part of the "Conditions of Contract for Plant and Design-Build" (FIDIC, Yellow Book), First Edition 1999, published by the Fédération Internationale des Ingénieurs-Conseils (FIDIC), and the following Particular Conditions, which include amendments and additions to such General Conditions.

GENERAL CONDITIONS

The General Conditions referred to above are not reproduced in this document but may be obtained from the following address:

Federation Internationale des Ingenieurs – Conseils (FIDIC)
FIDIC Secretariat
Box 311
CH-1215 Geneva 15
Switzerland
Tel: +41 22 799 49 00
Fax: +41 22 799 49 01

The Tenderer is deemed to be fully acquainted with and in possession of these FIDIC Conditions of Contract. The Tenderer may on request of the Employer be required to submit a copy duly countersigned by the person authorized to sign the Tender.

NB

The Tenderer shall submit with his Tender a copy of this page as well as the complete Section 3, Particular Conditions of Contract, duly initialed by the person authorized to sign on behalf of the Tenderer.

Signature

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

Date {.....}

VOLUME II

SECTION 3:

PARTICULAR CONDITIONS

VOLUME II

SECTION 3:

PARTICULAR CONDITIONS

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

PARTICULAR CONDITIONS OF CONTRACT

The General Conditions and the Particular Conditions form part of the "Conditions of Contract for Plant and Design-Build" (FIDIC, Yellow Book), First Edition 1999, published by the Fédération Internationale des Ingénieurs-Conseils (FIDIC), and the following Particular Conditions, which include amendments and additions to such General Conditions.

The Conditions of Contract determine the rights and obligations of the Parties to the Contract.

In case of ambiguities and discrepancies between the Clauses in the General Conditions and their corresponding Clauses in the Particular Conditions, the Particular Conditions shall prevail.

Reference to Sub-Clause	Text
1	General Provisions
1.1	Definitions
1.1.1	In Sub-Clause 1.1.1.1, delete the definition of Contract and replace with: " Contract " means the Contract Agreement and the documents listed therein."
1.1.1.2	In Sub-Clause 1.1.1.2, delete the sub-clause and replace with: " Contract Agreement " means the "Contract Form".
1.1.1.4	In Sub-Clause 1.1.1.4, delete the sub-clause and replace with: " Letter of Tender " means the "Tender Form", which was completed by the Contractor and includes the signed offer to the Employer for the Works".
1.1.1.5	The "Employer's Requirements comprise Volume 3 of the Tender Dossier, as completed by the Schedules referred below.
1.1.1.8	Add the following sentence at the end: "The word 'Tender' is synonymous with 'Bid' and the words 'Appendix to Tender' with 'Appendix to Bid,' and the words 'Tender Documents' with 'Bidding Documents'".
1.1.2.2	Amend Sub-Clause 1.1.2.2 by adding the following: "Employer" means the person named as Contracting Authority in the Contract Form, as well as the Employer in the Appendix to Tender and the legal successors in title to this person."
1.1.2.6	Add the following sentence to Sub-Clause 1.1.2.6: "The "Employer's Personnel" may include people acting for the Beneficiary
1.1.2.11	Add new Sub-Clause 1.1.2.11: "Where the term " Beneficiary " is used it shall be taken to mean the "Final Beneficiary" or "End Recipient" of the Contract Works. He is the person named as such in the Appendix to Tender and the legal successors in title to this person. The Beneficiary will become the owner of the project after implementation of the Works Contract according to the system established under Instrument for Pre-accession Assistance (IPA) Regional Development Component."
1.1.2.12	Add new Sub-Clause 1.1.2.12: " Notification of Award " means the letter sent by the Employer to the Tenderer notifying

Reference to Sub-Clause	Text
	that it has been selected for award of the Contract."
1.1.2.13	Add new Sub-Clause 1.1.2.13: "“EUD” means the European Union Delegation to Serbia.”
1.1.3	A letter of acceptance will not be issued. All reference to the letter of acceptance shall be deemed to mean the Contract agreement
1.1.3.10	Add new Sub-Clause 1.1.3.10: "“Signature Date” means the date of the last signature on the Contract'
1.1.3.11	Add new Sub-Clause 1.1.3.11: "“Consumables” means electric power, chemicals and other items used during the operation of the plant or the facility after the issue of the Taking-Over Certificate.”
1.1.3.12	Add new Sub-Clause 1.1.3.12: "Taking Over and Performance Assessment Committee means a committee of experts, who have been appointed by the Beneficiary in accordance with the applicable Serbian law, that together with the Engineer shall convene to (a) jointly approve or reject the taking over of the Works or parts thereof; and (b) jointly approve or reject the performance of the Works following the Tests After Completion."
1.1.4.6	"Foreign Currency" means Euro.
1.1.4.13	Add new Sub-Clause 1.1.4.13: 'In this Contract, 'defect' includes any failure to comply with the requirements of the Employer's Requirements, the Contractor's Proposal or the Schedule of Guarantees.'
1.1.6.1	In Sub-Clause 1.1.6.1 after 'computer programs and other software', add: '(including the coding)' In the 3rd line, after the word "nature" insert the following: "including documents created on disks, diskettes, tapes or other electronically readable media."
1.1.6.2	The "Country" is the Republic of Serbia.
1.1.6.3	Add the following sentence to Sub-Clause 1.1.6.3 "Employer's Equipment also means apparatus, machinery and vehicles (if any) owned by the Beneficiary and made available by the Beneficiary for use of the Contractor in the execution of the Works."
1.1.6.7	Add as last sentence to Sub-Clause 1.1.6.7 "Additional working areas required by the Contractor for the sole purpose of this contract, and the areas required for any temporary traffic diversions, shall be arranged and provided by the Contractor, but shall be deemed to form part of the Site."
1.1.6.10	Add new Sub-Clause 1.1.6.10: "Eligible Country" means a member state of the European Union and other countries which comply with the rule on nationality and origin provided in the IPA Regulation as below and in version 2013.1.rev of the Practical Guide to contract procedures for EC external actions.

Reference to Sub-Clause	Text
	<p>"Eligible Countries" means all countries eligible for Instrument for Pre-Accession Assistance (Council Regulation (EC) N° 1085/2006 - OJ L 210/82 of 31.7.2006)". Please also refer to: http://ec.europa.eu/europeaid/work/procedures/documents/execution/general/a2_eligibilityprogrammes2007-2013_en.doc</p>
1.1.6.11	<p>Add new Sub-Clause 1.1.6.11:</p> <p>"Activity Schedule" means the schedule of lump sum payments for activities listed by the Contractor and contained in the Contractor's Proposals. The Activity Schedule gives a breakdown of prices contained in the Schedule of Prices. The summation of the completed Activity Schedule shall give the Accepted Contract Amount.'</p>
1.2	<p>Interpretation</p> <p>After sub-paragraph (d), insert:</p> <p>(e) Wherever throughout the Contract reference is made to the date of the Letter of Acceptance, the date considered shall be the Signature Date.</p> <p>(f) In these Conditions, provisions including the expression "Cost plus reasonable profit" require this profit to be one-twentieth (5%) of this Cost.</p> <p>g) Wherever these Conditions require the Contractor to indemnify the Employer from any matter, the Contractor shall also indemnify the Engineer and the Beneficiary from the same matter.'</p>
1.4	<p>Law and Language</p> <p>Delete the sub-clause and replace with:</p> <p>a) The Contract shall be governed by the EU law complemented where necessary, by Belgian law;</p> <p>b) Language of communication shall be English.</p>
1.5	<p>Priority of Documents</p> <p>Delete the sub-clause and replace with:</p> <p>"The documents forming the Contract are to be taken as mutually explanatory of one another.</p> <p>For the purpose of interpretation, the priority of the documents shall be as listed in the Contract</p> <p>Agreement, including any clarifications issued or received by the Employer during the tendering phase or tender evaluation. If an ambiguity or discrepancy is found in the documents, the Employer with the assistance of the Engineer shall issue any necessary clarification or instruction.</p> <p>The Employer is responsible for interpretation of the Contract, with the assistance of the Engineer when needed.</p> <p>Add the following at the end of the Article 1.5:</p> <p>Addenda and clarifications and corrigenda during tendering phase (tender launch and evaluation of tenders) shall have the order of precedence of the document they are modifying.</p>

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Reference to Sub-Clause	Text
1.6	<p>Contract Agreement</p> <p>In the second sentence of this Sub-Clause delete “annexed to the Particular Conditions” and substitute “included in the Tender Documents”.</p> <p>Add the following:</p> <p>“The Contractor shall sign and return the Contract Agreement within 30 days after receiving the draft contract agreement already signed by the Employer. The Contract Agreement shall not be valid if not submitted together with the Performance Security as described in Sub-Clause 4.2 [Performance Security]”</p>
1.9	<p>Error in the Employer’s Requirements</p> <p>Add the following paragraph to the sub-clause:</p> <p>Any changes proposed by the Contractor, considered as a change to the Employer's Requirements and/or impacting the contract price excluding provisional sum are subject to the consent of the Engineer and prior approval by the Employer, and should be endorsed formally by the Employer.</p>
1.10	<p>Employer's Use of Contractor's Documents</p> <p>In the second sentence of Sub-Clause 1.10, after the word "Employer", insert: ‘and/or the Beneficiary’.</p> <p>In the second sentence of Sub-Clause 1.10, after "Contractor’s Documents", insert: ‘and other design documents made by (or on behalf of) the Contractor’.</p> <p>In the last sentence, after the word "Employer", insert: 'and/or the Beneficiary'</p>
1.12	<p>Confidential Details</p> <p>Add the following paragraph to Sub-Clause 1.12:</p> <p>“The Contractor shall treat the details of the Contract, including the documents and other information received, as private and confidential. The Contractor shall not, save in so far as may be necessary for the purpose of the execution of the Contract, publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the prior consent in writing of the Employer and of the Beneficiary. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract the same shall be referred to the decision of the Employer whose decision shall be final”.</p>
1.13	<p>Compliance with Laws</p> <p>In Sub-Clause 1.13, delete paragraphs (a) and (b) and replace with:</p> <p>(a) The Beneficiary shall obtain the land and zoning for the Permanent Works, pay for all necessary approvals related to construction permits and be responsible (through the Engineer) for checking the design and/or technical revision according to the Serbian Law. The Employer shall indemnify the Contractor from the consequences of any failure to do.</p> <p>(b) The Contractor/Contractor’s Designer must (in his name or in the Beneficiary’s name, as it is requested by the authority in charge) give all notices and pay all necessary fees in relation to the design (excluding design checking), execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so. To obtain approvals by Serbian authorities, other than the Beneficiary, design and other documents issued by the Contractor, needed for these approvals, shall be in the Serbian</p>

Reference to Sub-Clause	Text
	language as well as in English. The translation of the design and other documents is the responsibility of the Contractor. '
1.14	<p>Contractor's General Obligations</p> <p>Insert new paragraphs at the end of the sub-clause.</p> <p>The Contractor (in case of a JV/Consortium, all members together) shall carry out at least 70 % of the contracted Works by its own means. The upper limit authorised for subcontracting is 30% of the value of the contract.</p>
1.15	<p>Electronic Formats</p> <p>Add new Sub-Clause 1.15:</p> <p>'All notices and documents required to be submitted by the Contractor shall also be submitted electronically in formats that can be read by:</p> <ul style="list-style-type: none"> • Microsoft Word 2003 – for text • AutoCAD version 2002 – for drawings • Microsoft Project 2003 – for planning • Excel 2003 – for numerical information'
2	The Employer
2.1	<p>Right of Access to the Site</p> <p>Insert the following phrase after the first sentence of the first paragraph:</p> <p>"For the purpose of surveys or sub-surface investigations the Employer may grant temporary access to the site (through temporary passes) before the date specified in the Appendix to Tender."</p> <p>Replace at the end of first paragraph after "until the Performance Security has been received" with "until the Performance Security and Insurance as stated under Clause 18 as specified in the Appendix to Tender have been received".</p>
2.6	<p>Beneficiary</p> <p>Insert new Sub-Clause 2.6:</p> <p>"The Employer may delegate to the Beneficiary duties and powers of the Employer. The Employer shall notify, in accordance with clause 1.3 [<i>Communications</i>], the Contractor and the Engineer of the powers delegated.</p> <p>The Beneficiary shall have no authority to amend or determine the Contract, to assign any part of the Contract or any benefit in or under it, except as may be agreed between the Parties. Except as provided by delegated powers the Beneficiary shall not issue instructions under the Contract.</p> <p>For the purposes of considering any rights or obligations arising from the Contract, the Parties acknowledge that the Employer and the Beneficiary are deemed to be the joint beneficiaries of the completed Works.</p> <p>The Employer may require the Beneficiary to carry out the duties assigned to the Employer in the Contract, however the Beneficiary shall have no authority to amend the Contract, to issue instructions under it, or to assign any part of the Contract or benefit or interest in or under it.</p> <p>Whenever the Employer takes over the Works or a Section or other part of the Works under Clause 10, or whenever the property over any materials, equipment or works is transferred to the Employer, such Works, Section equipment or materials are simultaneously transferred to the Beneficiary.</p>

Reference to Sub-Clause	Text
3	The Engineer
3.1	<p>Engineer's Duties and Authority</p> <p>Replace the 4th paragraph with:</p> <p>"Except for cases when an emergency occurs, affecting the safety of life or of the Works or of adjoining property, and such emergency is expressly indicated within the document issued by the Engineer as an exercise of its specific authorities, whenever the Engineer exercises such a specified authority for which the Employer's approval is required as provided below, then, the Contractor shall not take any action if the document issued by the Engineer does not contain the express endorsement or approval of the Employer or of the Beneficiary."</p> <p>At the end of this Sub-Clause add:</p> <p>"The Engineer shall obtain the specific and formal approval in writing of the Employer before taking action under the following sub-clauses of these Conditions:</p> <ul style="list-style-type: none"> (a) Sub-clause 3.2: delegation of authority; (b) Sub-clause 3.5: agreeing or determining any matter, which will entitle the Contractor to an Extension of Time for Completion and/or change the Accepted Contract Amount; (c) Sub-clause 4.4: giving consent to a Sub-contractor for works that should have been carried out by a different Sub-contractor named in the Contract; (d) Sub-clause 5.2: approving the Contractor's Documents; (e) Sub-clause 8.4: agreeing or determining an extension of the Time for Completion; (f) Clause 13: instructing a Variation which is expected to increase the Accepted Contract Amount, the Time for Completion or in any substantial way change the scope, character or quality of any part of the Works and in particular any instruction concerning the use of Provisional Sums; (g) Sub-clause 13.5: giving instructions for the use of Provisional Sums; (h) Sub-Clause 20.1: agreeing or determining any matter, which will entitle the Contractor to an Extension of Time for Completion and/or change the Accepted Contract Amount <p>The specific approval of the Employer shall be provided within 21 days and shall not be unreasonably withheld or delayed.</p> <p>The Employer may delegate the Beneficiary to give the approval in the above-mentioned cases.</p> <p>Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibilities under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. Only in such situation, expressly indicated in writing, the Contractor shall forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13.3 [Variation Procedure] and shall notify the Contractor accordingly, with a copy to the Employer.</p> <p>The Engineer is required to continuously monitor the Contractor's compliance with the</p>

Reference to Sub-Clause	Text
	proposed and approved Safety Methodology, and shall ensure certification of compliance. The Engineer's endorsement of any invoices and certificates will include specific confirmation that compliance with Safety Methodology is achieved."
3.6	<p>Management Meetings</p> <p>Add as new Sub-Clause 3.6:</p> <p>'The Engineer and the Contractor's Representative may require the other to attend a management meeting in order to review the arrangements for future work. The Engineer and the Contractor's Representative may invite others to attend. The Engineer shall record the business of management meetings. The Engineer and the Contractor's Representative as a true record shall sign such minutes. The Engineer shall supply copies of the record to those attending the meeting and to the Beneficiary and the Employer. In the record, responsibilities for any actions to be taken shall be in accordance with the Contract.</p> <p>The agenda for such meetings shall cover a review of progress attained, a review of schedules and plans for future activities, the status of staffing, engineering, safety, equipment, material supply, payments, current and anticipated difficulties, interface with other Contractors, claims for extras, and other pertinent topics.</p> <p>Before the mobilisation of the Site the regular progress meeting shall be held on a monthly basis at the Contractor's office, the Engineer's office, and/or on the Site. Further irregular meetings will be held if needed. Time and place of these meetings shall be mutually agreed taking into consideration the subject to be discussed.'</p>
4	The Contractor
4.1	<p>Contractor's General Obligations</p> <p>At the end of the second paragraph of Sub-Clause 4.1, add the following</p> <p>"All supplies and material to be incorporated in or required for the works shall have their origin in any eligible source country as defined in these Particular Conditions. Eligible Countries means; all countries eligible for IPA (Council Regulation No:1085/2006)."</p> <p>At the end of paragraph 3, add the following sentence:</p> <p>"After checking the Employer's Requirements, design, drawings and calculations, the Contractor shall take full responsibility for such documentation.</p> <p>Add to Sub-Clause 4.1 the following:</p> <p>"The Contractor shall keep a Site Diary in the form acceptable to the Engineer. The Diary shall be kept daily, the pages shall have running numbering and the Diary shall be signed daily by the Contractor and the Engineer. Distribution of copies of the pages shall be as instructed by the Engineer."</p>
4.1.1	<p>Documents for Approval by the Engineer</p> <p>The Engineer shall make comments and/or objections concerning drawings, documentation and data supplied by the Contractor within 28 days of their submission and these comments and/or objections shall be considered as accepted by the Contractor should he not contradict them in writing, either by registered letter, telex or facsimile sent to the Engineer, within 7 days of their receipt.</p> <p>Before submitting drawings, documentation and data, the Contractor shall consult with the Engineer. At least 7 days notice shall be given of the requirement for such a consultation and, if requested by the Engineer, the Contractor shall also supply drawings, in the specified number of copies, at least 7 days before the date of the consultation.</p>

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Reference to Sub-Clause	Text
4.2	<p>Performance Security</p> <p>Delete the 1st sentence of the 2nd paragraph and replace with:</p> <p>The Contractor will deliver the Performance Security with the signed Contract Agreement to the Employer and shall send a copy to the Engineer.</p> <p>Insert new paragraph at the end of the second paragraph:</p> <p>The amount of the performance security shall be 10% of the Accepted Contract Amount (including provisional sum of 10%). The Performance Security is to be provided in the form of a bank guarantee acceptable to the Employer issued either a) by a first class bank located in the country of the Employer, or b) directly by a first class foreign bank acceptable to the Employer.</p> <p>In case of an addition of the Accepted Contract Amount as a result of a variation amounting to more than 10% (ten percent) of the Accepted Contract Amount, the Contractor (on the Employer's request), shall promptly increase the value of the Performance Security accordingly.</p> <p>Insert new Sub-Paragraphs (e) and (f):</p> <p>(c) failure to comply with the Employer's Requirements</p> <p>(f) failure in protection of the environment (Sub-Clause 4.18)</p> <p>Delete the last paragraph and replace:</p> <p>The performance security shall be released within the 45 days after completion of the following events:</p> <p>(a) approval of the final payment certificate by the Employer,</p> <p>(b) receipt of the signed and stamped letter of release issued by the Social Security Administration confirming the Contractor has fulfilled all his statutory Social Security obligations arising in connection with the performance of the Contract to the Contracting Authority and/or Employer.</p> <p>Add:</p> <p>"These procedures shall also apply to any Retention Guarantee as Sub-Clause 14.3(c) except that the amount and period for the Retention Guarantee shall be in accordance with Sub-Clause 14.9 [Payment of Retention Money]."</p>
4.3	<p>Contractor's Representative</p> <p>Replace clause 4.3 with the following:</p> <p>"The Contractor's Representative shall be the person named in the tender as Project Manager. Any other person than the Contractor's Representative shall not be deemed to act on the behalf of the Contractor, except for cases when the Contractor decides upon the replacement of the current Contractor's Representative. Any document not signed by the Contractor's Representative at its receipt by the Employer, Engineer or the Beneficiary shall not be deemed as a document issued by the Contractor.</p> <p>The Contractor shall not, without the written prior consent of the Engineer, revoke the appointment of the Contractor's Representative or appoint a replacement. In such purpose, with a 30 days term prior to the date of the intended replacement, the Contractor shall submit to the Engineer for consent the name and the particulars of the person the Contractor proposes to replace the current Contractor's representative. If the consent is withheld or subsequently revoked, or if the appointment person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and the particulars of</p>

Reference to Sub-Clause	Text
	<p>another suitable person for such appointment.</p> <p>The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Engineer's prior consent, and the Engineer shall be notified accordingly.</p> <p>The Contractor's Representative shall, on the behalf of the Contractor, receive instructions under Clause 3.3 of the General Conditions [Instructions of the Engineer].</p> <p>With the prior written approval of the Engineer, the Contractor's Representative may delegate any powers, functions and authority to any competent person, and may revoke the delegation. Any delegation or revocation shall not take effect until the Engineer has received and approved a prior notice in this respect, signed by the Contractor's Representative, naming the person and specifying the powers, function and authority being delegated or revoked.</p> <p>The Contractor's Representative shall be fluent in English. If the Contractor's Representative, or these persons, is/are not, in the opinion of the Engineer, fluent in the English language, the Contractor shall have available on Site, during all working hours, a competent interpreter to ensure the proper transmission of instructions and information."</p>
4.4	<p>Subcontractors</p> <p>Insert at the beginning of the sub clause:</p> <p>The Contractor shall not subcontract any part of the works without the prior consent of the Engineer and afterwards the written authorization of the Contracting Authority/Employer. The elements of the Contract to be subcontracted and the identity of the subcontractors should be notified to the Contracting Authority (the Employer) and the Engineer by the Contractor. After getting the approval of the Contracting Authority (the Employer), the Engineer shall notify the Contractor of its decision within 14 days of receiving the Contractor's request, stating its reasons if authorization is withheld.</p> <p>The Contractor shall be responsible for the acts, defaults and negligence of his subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Contractor, his agents or employees. The approval by the Contracting Authority/Employer of the subcontracting of any part of the contract or of the subcontractor to perform any part of the works, after consent of the Engineer, shall not relieve the Contractor of any of his obligations under the contract.</p> <p>Add at the end of the first paragraph:</p> <p>The upper limit for subcontracting is 30% of the value of the contract.</p> <p>Add at the end of Sub-Clause 4.4 the following:</p> <p>Any sub-contractor must satisfy the eligibility criteria applicable for the award of the contract.</p>
4.6	<p>Co-operation</p> <p>In sub-paragraph (a), after the word 'Employer's', insert:</p> <p>"or the Beneficiary's."</p> <p>In sub-paragraph (b), after the word 'Employer', insert:</p>

Reference to Sub-Clause	Text
	<p>“or the Beneficiary”.</p> <p>In last paragraph first line, after ‘Employer’ insert:</p> <p>“and the Beneficiary”</p> <p>At the end of the sub-clause insert a new paragraph:</p> <p>The Contractor shall afford full access and co-operation to the representatives of the European Commission, the European Court of Auditors and OLAF to enable them to inspect and audit any aspect of the Contract Agreement.</p>
4.7	<p>Setting out</p> <p>The Contractor shall be solely responsible for:</p> <ul style="list-style-type: none"> (a) carrying out an accurate survey of the site with dimensions and levels before commencing any works, (b) the accurate setting-out of the Works in relation to the survey carried out under the Contractor’s obligation at (a) of this Sub-Clause and in relation to any officially given original points, lines and levels of reference, (c) the correctness of the position, levels, dimensions and alignment of all parts of the Works, and (d) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities. <p>A copy of the survey, carried out under the Contractor’s obligation and referred to at (a) of this Sub-Clause, clearly marked with dimensions, alignments and levels is to be submitted to the Engineer not later than the submission of the request for approval of any design for works on the sites to the Engineer.</p> <p>If, at any time during the execution of the Works, any error appears in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required so to do by the Engineer, shall, at his own cost, rectify such error to the satisfaction of the Engineer. The Contractor shall help the Engineer for the control of the survey works and supply all the survey equipment and staff for use of the Engineer, at any required time.</p> <p>Notwithstanding, any approvals given or the checking of any setting-out or of any line or level by the Engineer shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all benchmarks, sightrails, pegs and other things used in setting-out the Works.</p>
4.8	<p>Safety Procedures</p> <p>Add sub-paragraph to end of clause:</p> <p>‘(f) Comply with all safety regulations and ‘Permit to Work’ systems made and operated by the Beneficiary.”</p> <p>Safety issues shall be on the agenda of all site meetings and plans shall be jointly agreed between the Engineer and the Contractor’s Representative for minimising the risks of unsafe events and working practices in forthcoming work.</p> <ul style="list-style-type: none"> (g) The Site shall be a “hard hat” site and safety hats shall be worn at all times. (h) The Contractor shall comply with all applicable current legislation, regulations and specifications, with respect to all measures, operations and administrative steps required for the full protection and safeguarding of the environment.’ <p>Add at the end of the Article:</p>

Reference to Sub-Clause	Text
	<p>Other Contractors</p> <p>In case it is necessary for other contractors employed by the Employer or other Government Organizations, and employees of the Employer or Government Organizations to work on and around the Site, areas may be reserved for use by such other contractors and employees. The Contractor shall not enter or use these areas without the prior written permission of the Engineer, unless such entry is permitted elsewhere in the Contract, and shall not obstruct access to such areas without having provided an acceptable alternative access.</p> <p>The Contractor shall not interfere in any way with any works, whether the property of the Employer or of a third party and whether the position of such works is indicated to the Contractor by the Engineer or not. The Contractor shall respect the construction and finish of works and articles supplied or installed by others and will be held responsible for any loss or damage thereto if caused by him, his employees or his subcontractors.</p>
4.9	<p>Quality Assurance</p> <p>Add after last paragraph:</p> <p>'The Quality Assurance scheme shall ensure</p> <ul style="list-style-type: none"> (a) All materials and equipment delivered to site are traceable as compliant with a recognised international standard for the material or equipment (b) Procedures for checking compliance and filing of compliance certificates are included and (c) An electronic and paper filing system for storing all certificates and delivery dates is included.' <p>Add the following sentence:</p> <p>"Within 28 days of the Contract signature, the Contractor shall provide to the Engineer, and a copy to the Employer, a Contract specific Quality Plan for approval".</p>
4.10	<p>Site Data</p> <p>In Sub-Clause 4.10 :</p> <p>in 1st line after 'Employer' insert "and the Beneficiary"</p> <p>in 2nd line after 'Employer's ' insert "or the Beneficiary's"</p> <p>in 3rd/4th line after 'Employer' insert "and the Beneficiary"</p> <p>in 5th line after 'Employer's ' insert "or the Beneficiary's"</p> <p>Add after the last paragraph of Sub-Clause 4.10:</p> <p>"f) existing utilities and infrastructure."</p> <p>Add at the end of this Sub-Clause:</p> <p>The geotechnical and topographical data given in Tender Documents have been made available for information only. The Contractor shall undertake all additional investigations he deems necessary to design foundations and to carry out earthworks and include those in his offered price.</p> <p>The Contractor himself will be fully responsible for all investigations required to implement the works affected by subsoil conditions and runoff. No claim will be permitted with regard to the effects of these site conditions during the implementation of the Works. Please refer to Section 1 in Volume 3 for the Site Data.</p>

Reference to Sub-Clause	Text
4.11	<p>Sufficiency of the Accepted Contract Amount</p> <p>At the end of Sub-Clause 4.11 add the following sentence:</p> <p>“The Contractor shall not be entitled receive any sum in addition to the Accepted Contract Amount unless expressly instructed by the Engineer as a Variation and previously approved in writing by the Employer or by the Beneficiary and/or expressly provided by the Contract to be added to the Accepted Contract Amount.”</p>
4.12	<p>Unforeseeable Physical Conditions</p> <p>In the second paragraph of Sub-Clause 4.12, after ‘the Contractor shall’, insert:</p> <p>“call a management meeting under Sub-Clause 3.6 [<i>Management Meetings</i>] and”</p>
4.13	<p>Rights of Way and Facilities</p> <p>Insert new paragraphs at the end of the Sub- Clause:</p> <p>Permits required from relevant National Authorities shall be obtained by the Contractor at his own expense. Such permits include inter alia permits for traffic diversion, route permits, residence and work permits, permits for radio communication, permits for connection to public networks for the purpose establishment of the Contractor’s Operations on Site or to relocate public utilities, etc.</p> <p>Within 28 days of signing the Contract Agreement, the Contactor shall submit to the Employer a list of all permits required to commence and complete the Works in accordance with the agreed Program. Upon consultation with other Local Authorities and Public Utility Operators etc., the Contractor shall be responsible to prepare fully documented requests for permits to carry out the Works and/or Sections of the Works.</p> <p>The Contractor shall comply with the requirements of such permits and shall give all relevant Authorities full opportunity to inspect and examine the work regards the compliance of permit requirements. Further, he shall allow the relevant Authorities to participate in all testing and checking procedures, which shall not relieve the Contractor from any of his responsibilities under the Contract.</p>
4.14	<p>Avoidance of Interference</p> <p>At the end of Sub-Clause 4.14(b), insert ‘or’ and add new sub-paragraph (c) as follows:</p> <p>“(c) the Beneficiary's or any other authority's supplies and services on the Site including without limitation oil, electricity, water and gas, telephone, buried cables and sewerage.”</p>
4.17	<p>Contractor’s Equipment</p> <p>Add the following first paragraph:</p> <p>“The Contractor shall use for the execution of the works equipment of not lower quality than the equipment proposed in the tender. No equipment given in the tender shall be removed from the site without prior permission of the Engineer.”</p>

Reference to Sub-Clause	Text
4.18	<p>Protection of the Environment</p> <p>Insert new paragraphs at the end of the Sub-Clause:</p> <p>The Contractor shall comply with all applicable current legislation, regulations and specifications with respect to all measures, operations and administrative steps required for the full protection and safeguarding of the environment.</p> <p>The Contractor will be responsible for the proper disposal of sewage and waste from all places within the Site and shall comply strictly with the regulations of the relevant authorities.</p> <p>The Contractor shall comply with the regulations of the Employer and the fire fighting authorities and take all necessary precautions throughout the execution and completion of the Works to prevent outbreak of fire.</p> <p>During the execution and completion of the Works, the Contractor shall protect the environment on and off the site from contamination. Accordingly, he shall collect all kinds of waste, including offal, production and communal wastes which were generated by Contractor's activities, and transport them to a dumping place approved by the Municipal Authorities.</p> <p>The Contractor shall not release, or permit to be released into the air, water and land area at or in the vicinity of the Site any toxic or harmful effluent or substance, and shall indemnify the Employer against any claims or liability arising from any breach of his obligation.</p>
4.19	<p>Electricity, Water and Gas</p> <p>Delete in second paragraph</p> <p>"... of which details and prices are given in the Employer's Requirements"</p> <p>Replace third paragraph with:</p> <p>"The quantities consumed shall be paid by the Contractor directly to the relevant authorities"</p> <p>Insert at the end of the Sub-Clause:</p> <p>The Contractor shall acquaint himself with the position of all existing services such as sewerage, water supply, telephone, electricity, gas and the like before any excavation or other work likely to affect those services is commenced. The Contractor will be liable for any damage of any kind caused by him or his Sub-Contractors in the execution of the Works, and must make good such damage at his own expense and to the complete satisfaction of the Engineer within the Time for Completion.</p> <p>The Contractor is required to make all necessary arrangements with the relevant local authorities and owners for the removal, diversion or reinstatement of all services as agreed with or instructed by the Engineer. The Contractor will bear the costs of such works.</p>
4.20	<p>Employer's Equipment and Free Issue Material</p> <p>In the 1st line: Delete 'The Employer' and replace with "On behalf of the Employer, the Beneficiary"</p> <p>In sub-paragraph (a): Delete 'the Employer' and replace with "On behalf of the Employer, the Beneficiary"</p> <p>In the 3rd paragraph, 1st line: Delete 'The Employer' and replace with "On behalf of the Employer, the Beneficiary"</p> <p>In the last paragraph, 3rd line after 'Employer' insert or the Beneficiary, as appropriate,"</p>

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Reference to Sub-Clause	Text
4.21	<p>Progress Reports</p> <p>At the end of Sub-Clause add the following:</p> <p>“Two versions of the monthly progress reports shall be prepared, one in Serbian and the other in English.</p> <p>The Contractor’s Representative shall keep a daily diary in duplicate. This diary shall as a minimum record:</p> <ul style="list-style-type: none"> • the number of persons employed on site, broken down by trade and grade • actual cost situation, forecast and cash flow estimate • the Contractor’s Equipment in use on the Site • work achieved that day • incidents • problems • weather <p>Both copies of the daily diary form shall be signed by the Contractor’s Representative and the Engineer. The Engineer shall keep one of the signed copies and the Contractor’s Representative the other.</p> <p>The Contractor’s Representative shall prepare a weekly report in a format to be agreed with the Engineer. Copies of this report shall be faxed or otherwise transmitted weekly to the Engineer one day before the weekly site meeting or as otherwise agreed. The Contractor’s Representative shall sign the original of the report and the Engineer shall retain the original.</p> <p>The Contractor shall maintain and keep up to date all official records and reports required under Serbian law.”</p>
4.23	<p>Contractor’s Operations on Site</p> <p>Add at the end of Sub-Clause 4.23:</p> <p>“No important operation of any kind, especially cutting through or closing existing roads, water conduits or public utilities shall be carried out without the written consent of the Engineer. The Contractor shall apply to the Engineer, in writing for such consent, at least 28 days prior to the proposed start of such operation. He shall include with the application full details of the operation, the programme, the major items of plant to be employed and enclose copies of all necessary permits obtained in accordance with Clause 1.13.</p> <p>All temporary variations shall be made in accordance with the laws of Serbia shall include all necessary temporary signposting and signals.”</p>
4.24	<p>Fossils</p> <p>In the first sentence, after the word “Employer”, insert “and/or the Beneficiary”.</p> <p>At the end of this Sub-clause insert additional paragraph:</p> <p>“In accordance with Serbian Law any items found are the property of Serbia. The Contractor shall pass over any items to the Serbian authorities as directed by the Engineer.”</p>
4.25	<p>Existing Services</p> <p>Add new Sub-Clause 4.25:</p> <p>“The Contractor shall acquaint himself with the position of all existing roads and services</p>

Reference to Sub-Clause	Text
	<p>of any kind including drains, telephone, electricity lines and poles, water pipes, gas pipes and the like, before any excavation or other work likely to affect the existing services is commenced.</p> <p>The Contractor will be liable for all damage to all roads and services of any kind caused by him in the execution of the Works. He shall make good any such damage at his own expense and to the complete satisfaction of the Engineer within the Time for Completion.</p> <p>The Contractor shall make all necessary arrangements with the relevant local authorities and owners for the removal and reinstatement of all services as agreed with or instructed by the Engineer. The Contractor will pay the cost of these works."</p>
4.26	<p>Construction Record</p> <p>Add new Sub-Clause 4.26:</p> <p>"The Works shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 (Taking Over of the Works and Sections) until the Engineer has received the Construction Record (Diary and/or Book) required by Serbian Law."</p>
5	<p>Design</p>
5.1	<p>General Design Obligations</p> <p>In Sub-Clause 5.1, in the first paragraph, after 'Employer's Requirements' add:</p> <p>'and Schedule of Key Personnel'</p> <p>At the end of the first paragraph, add:</p> <p>'If consent is withheld or subsequently revoked, or if the appointed person fails to act, the Contractor shall similarly submit the names and particulars of an alternative, having at least the same qualification, skills and expertise as the person initially appointed.'</p> <p>At the end of Sub-Clause 5.1 add the following paragraph:</p> <p>'The Contractor's design obligations shall be strictly in accordance with the Employer's Requirements, and the explanations contained therein regarding the Employer's outline design, including the drawings.'</p>
5.2	<p>Contractor's Documents</p> <p>Add the following at the end of the third paragraph:</p> <p>"Designs must be prepared (in English and Serbian language) in accordance to the Law on Planning and Construction of the Republic of Serbia."</p> <p>"Only officially approved Detailed Design, by authorities in charge, will be the basis for implementation of works."</p> <p>"An electronic version of these approved documents shall be provided to the Engineer."</p> <p>Replace the fourth paragraph with the following:</p> <p>"Unless otherwise stated in the Employer's Requirements, each review period shall not exceed 28 days, calculated from the date on which the Engineer receives a Contractor's Document and the Contractor's notice."</p>
5.4	<p>Technical Standards and Regulations</p> <p>Add at the end of this Sub-clause:</p> <p>"The Contractor's final design shall be checked and approved according to current Serbian Law and subsequent amendments thereto."</p>

Reference to Sub-Clause	Text
5.5	Training In Sub-Clause 5.5, replace "Employer's Personnel" with "Beneficiary's Personnel":
5.6	As-Built Documents Add to the Sub-clause: <p>"Prior to the commencement of the Tests on Completion, and prior to issue of Taking-Over Certificate, as-built documentation shall be supplied in 4 copies in English and Serbian".</p>
5.7	Operation and Maintenance Manuals In the first sentence of Sub-Clause 5.7, delete 'Employer' and replace with 'Beneficiary'. In Sub-Clause 5.7, after each occurrence of 'operation and maintenance manuals', insert: 'in each of English and Serbian'
6	Staff and Labour
6.1	Engagement of Staff and Labour Add to the end of Sub-Clause 6.1: <p>"The Contractor is encouraged to the extent that it is practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within Serbia. Where staff and labour from locations outside of Serbia are to be utilised on the Works, the Contractor shall provide the required visas and work permits."</p>
6.2	Rates of Wages and Conditions of Labour At the end of Sub-Clause 6.2, add the following sentence: <p>"The Contractor shall note that Serbian Law might dictate additional payment of wages for work outside normal working hours. No additional charge shall be born by the Employer as a result of the increase of Contractor's employee's wages or as a result of the additional payments due by the Contractor to its employees."</p>
6.3	Persons in the Service of Employer At the end of Sub-Clause 6.3, insert: <p>"and the Beneficiary's or Engineer's employees."</p>
6.6	Facilities for Staff and Labour At the end of Sub-Clause 6.6 delete: <p>"within the structures forming part of the Permanent Works"</p> and replace with: <p>"within the Site"</p> Insert new paragraphs at the end of the first paragraph: <p>The design and construction of the labour housing shall be provided in accordance with the local regulations. The Contractor shall keep all labour facilities in good condition and repair; whenever failure to do so is reported, the Contractor shall immediately take corrective action. All operating and maintenance expenses connected with all necessary accommodation and welfare facilities (lighting, heating, water supply, etc.) shall be borne by the Contractor. The Contractor may require land outside the site for his offices, stores, workshops,</p>



Reference to Sub-Clause	Text
	manufacturing plants, dining rooms, sanitary facilities etc. All rent and other costs so incurred shall be at the expense of the Contractor.
6.7	<p>Health and Safety</p> <p>Insert at the beginning of Sub-Clause 6.7, the following:</p> <p>“Within 21 days after the Commencement Date, the Contractor shall submit a document entitled ‘Health, Safety and Environmental Plan’ giving a detailed description of his proposed methods for ensuring safety of the Works and of the staff and labour involved in the execution of the Contract during all stages of construction and commissioning.</p> <p>The Health, Safety and Environmental Plan shall be presented in sufficient detail to ensure that there can be no ambiguity in its interpretation at a later date. The Health, Safety and Environmental Plan shall be subject to the acceptance of the Engineer, who will not allow any work on site to proceed until such time as it has been fully and formally accepted.</p> <p>The Health, Safety and Environmental Plan, and any subsequent revisions to it, will be deemed acceptable to the Engineer if the Engineer fails to give a response within seven calendar days.</p> <p>Acceptance of the Health, Safety and Environmental Plan shall not relieve the Contractor of any of his responsibilities with regard to safety.</p> <p>The Health, Safety and Environmental Plan shall be revised as necessary during the course of the works and resubmitted to the Engineer for his acceptance.”</p> <p>Delete second and third paragraph and insert:</p> <p>The Contractor shall have on his staff on Site an officer solely responsible for dealing with questions regarding the safety and protection against accidents of all staff and labour. This officer shall be qualified for this work and shall have the authority to issue instructions and shall take protective measures to prevent accidents.</p> <p>The Safety Officer shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the Engineer immediately by the quickest available means.</p> <p>Further shall he maintain records and make reports to the Engineer concerning the safety, health and welfare of the Contractors and Sub-Contractors staff and labour and of damage to property in such form and detail as the Engineer shall reasonably prescribe.</p> <p>Within 21 days after the Commencement Date, the Contractor shall submit to the Engineer a “Health and Safety Plan”, wherein the Contractor provides a detailed description of his proposed methods for ensuring safety of the Works during all stages of the Contract”.</p> <p>The Engineer shall continuously monitor the Contractor's compliance with its obligations under this Sub-Clause 6.7.</p>
6.8	<p>Contractor's Superintendence</p> <p>At the end of Sub-Clause 6.8, insert the following paragraph:</p> <p>“A sufficient proportion of the Contractor's supervisory staff shall also have a working knowledge of either oral or written Serbian language or the Contractor shall have a sufficient number of competent interpreters available on Site during all working hours, to ensure the proper transmission of instructions and information to all staff and labour on site.”</p>

Reference to Sub-Clause	Text
6.9	<p>Contractor's Personnel</p> <p>At the end of Sub-Clause 6.9, add the following sentence:</p> <p>"The Contractor shall obtain prior approval of the Engineer for replacing the key personnel in the Contract."</p>
6.10	<p>Records of Contractor's Personnel and Equipment</p> <p>In 1st paragraph, line 3: delete 'each calendar month,' and replace with "for each week no later than 12.00 hrs on the Monday of the following week "</p> <p>At end of clause add the following:</p> <p>"The Engineer may request daily submission of reports if the nature of the work or Contractor's submissions means such reporting is necessary to achieve accurate records".</p>
6.11	<p>Disorderly Conduct</p> <p>Add as separate paragraphs at the end of Sub-Clause 6.11:</p> <p>"With respect to the Contractor's personnel:</p> <p>(a) The Contractor shall not allow the bringing, selling or consumption of alcoholic drinks, drugs or any other products on Site.</p> <p>(b) The Contractor shall not allow the bringing, selling or illegal carrying of weapons and ammunition on Site.</p> <p>(c) The Contractor shall bear any additional cost and expenses (taxes, duties, penalties, insurance, overtime, etc.) arising as a consequence of the contravention of this Clause by the Contractor's Personnel."</p>
7	<p>Plant, Materials and Workmanship</p>
7.2	<p>Samples</p> <p>In sub paragraph (a) after Contract, add "or required by Serbian Law on Planning and construction ""</p>
7.4	<p>Testing</p> <p>Delete in the second paragraph</p> <p>"The Contractor shall provide all..." and substitute with "The Contractor shall provide by his own means and costs all...".</p> <p>In 5th paragraph, 2nd line: After 'Employer' insert "or the Beneficiary"</p> <p>At the end of Clause add the following</p> <p>"Detailed requirements and procedures for the tests are stated in the Employer's Requirements (Volume 3)".</p>
7.9	<p>Eligibility of Plant, Materials and Services</p> <p>Insert new Sub-Clause:</p> <p>"All Plantand Material must originate in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed (IPA Council Regulation (EC) No. 1085/2006 as adopted on 17 July 2006).</p> <p>For the purpose of this clause, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, or from which the services are provided.</p>

Reference to Sub-Clause	Text
	<p>Goods shall be transported by carriers from such eligible source countries, unless exempted by the Employer in writing on the basis of potential excessive costs or delays. Surety, insurance and banking services shall be provided by insurers and bankers from such eligible source countries.</p> <p>The origin of the goods must be determined according to the rules laid down in the Community Customs Code.</p> <p>The Contractor must certify that the goods comply with this requirement, specifying the respective country of origin. He may be required to provide more detailed information in this respect.</p> <p>The Contractor shall present an official Certificate of Origin (i.e. issued by the Chamber of Commerce of the country of origin) on provisional acceptance. Failure to comply with this obligation shall lead, after formal notice, to termination of the Contract.</p>
8	Commencement, Delays and Suspension
8.1	<p>Commencement of Works</p> <p>In the first sentence of this Sub-clause delete "receives the Letter of Acceptance" and substitute "returns the signed Contract Agreement and Performance Security to the Employer".</p> <p>At the end of the second sentence of Sub-clause 8.1., add the following: "but not before the contract signature and the submission of the Performance Security."</p>
8.3	<p>Programme</p> <p>Add the following sentence at the end of the first sentence in Sub-Clause 8.3: "During the development of the programme the Contractor shall take into account the relevant parts of the Employer's Requirements in relation to testing."</p> <p>Insert text at the end of Sub-paragraph (a): "including handing-over procedures in compliance with Serbian legislation in force".</p> <p>Insert new Sub-Paragraphs (iii) through (vi):</p> <ul style="list-style-type: none"> (iii) a detailed Environmental Management and Protection Plan (EMPP) (iv) a detailed Health, Safety and Accident Prevention Plan (HSAPP) (v) a detailed Quality Assurance System (QAS) related to the Works (vi) a detailed Cash Flow Estimate (CFE) <p>Insert new paragraphs at the end of (vi):</p> <p>In the preparation of the Programme, the Contractor shall take into account adverse weather conditions which may severely restrict progress. Programmes incorporating restricted working or a temporary suspension of works will be accepted by the Engineer, but such acceptance shall not relieve the Contractor from his obligations under the Contract to complete the Works in accordance with the stated time for completion of the Works or parts thereof.</p> <p>The Contractor shall take further into account time requirements as set out in the Employers' requirements for completing each stage of the Design in accordance with the Serbian Legislation.</p> <p>Add to the end of the last paragraph the following phrases:</p>

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Reference to Sub-Clause	Text
	<p>"The revised programme shall be submitted by the Contractor within 28 days, after receiving the Engineer's request in writing in this respect.</p> <p>If the Contractor fails to submit the revised programme within this prescribed period, an amount of 0.2 % of the sum of the current interim payment certificate shall be withheld from the payment due to the Contractor, for each day of delay, and shall remain withheld until such time as a satisfactory programme is submitted. If the Contractor fails to do so, after 90 days the withheld sum (18% of the current interim payment certificate) shall be definitively deducted from the Employer's payment obligation."</p>
8.4	<p>Extension of Time for Completion</p> <p>At the end of Sub-Clause 8.4, add the following paragraphs:</p> <p>"An Extension of Time for Completion does not by itself entitle the Contractor to any additional payment.</p> <p>The Contractor shall not be entitled to a separate Extension of Time for Completion for each one of several causes of delay running concurrently but only for the actual period of delay determined by the Engineer irrespective of the causes contributing to produce such delay. If one of several causes of delay operating concurrently is due to the fault of the Contractor and would itself, irrespective of the other concurrent causes, have delayed the completion of the Works or part thereof no Extension of Time for Completion shall be granted for the period of such delay."</p> <p>"An extension of Time for Completion made by the Engineer or by the Dispute Adjudication Board shall be formalised as an Addendum to Contract approved by the Employer."</p>
8.5	<p>Delays Caused by Authorities</p> <p>Insert a new paragraph at the end of the sub-clause:</p> <p>This Sub-Clause does not give the Contractor any rights to claim costs for damages from the Employer.</p>
8.6	<p>Rate of Progress</p> <p>Replace Sub-Clause 8.6 with the following:</p> <p>"If, at any time:</p> <p>(a) actual progress is too slow to complete the Works within the Time for Completion, and/or</p> <p>(b) progress has fallen (or will fall) behind the current programme under Sub-Clause 8.3 [Programme], other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Engineer may:</p> <p>(i) issue a Taking-Over Certificate for the part of the Works that have been executed; in such case, the Contractor shall be compelled to pay Delay Damages calculated in accordance with Sub-Clause 8.7, calculated to the Total Accepted Amount; and/or</p> <p>(ii) instruct the Contractor to submit, under Sub-Clause 8.3 [Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion. Unless the Engineer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Employer to incur additional costs, the Contractor shall, subject to Sub-Clause 2.5 [Employer's Claims], pay these costs to the</p>

Reference to Sub-Clause	Text
	Employer, in addition to delay damages (if any) under Sub-Clause 8.7 below.”
8.7	<p>Delay Damages</p> <p>Insert at the end of Sub-Clause 8.7, the following:</p> <p>“Any delay damages shall be deducted from the Contractor at the end of each month during the period of delay and the Contractor will pay the amount due. The Contractor shall pay financing charges compounded monthly at the rate specified in Sub-Clause 14.8 [Delayed Payment] on any overdue amount until payment. For the avoidance of doubt, such financing charges shall not constitute consequential losses.</p> <p>Notwithstanding any other provision of the Contract, the Employer shall have the right to set off any delay damages due under this Clause 8 [Commencement, Delays and Suspension] against any remaining payments of the Contract Price.”</p>
8.8	<p>Suspension of the Works</p> <p>In Sub-Clause 8.8, insert at the end of the first paragraph, the following:</p> <p>‘The Contractor shall use all reasonable endeavours to minimise and mitigate all costs associated with any such suspension. Unless otherwise instructed by the Engineer, the Contractor shall, during any suspension affecting the progress of the Works, maintain the Contractor’s personnel and Contractor’s Equipment on or near the Site ready to proceed with the Works upon receipt of the Employer’s further instructions.’</p>
8.10	<p>Payment for Plant and Materials in Event of Suspension</p> <p>Add at the end of Sub-Clause 8.10:</p> <p>‘The Employer shall then, if requested by the Contractor, take over the responsibility for protection, storage, security and insurance of such suspended Plant and/or Materials; the risk of loss or damage to the suspended works shall then pass to the Employer.’</p>
9	Tests on Completion
9.1	<p>Contractor’s Obligations</p> <p>Add the following paragraph at the beginning of the Sub-clause:</p> <p>All tests will be undertaken under the supervision of the Engineer (or his Representative) or, if deemed necessary, under the supervision of independent experts.</p> <p>At the end of Clause add the following;</p> <p>“Detailed requirements and procedures for the tests are stated in the Employer’s Requirements (Volume 3)”.</p>
9.2	<p>Delayed Tests</p> <p>In Sub-Clause 9.2, in the first sentence, after ‘Employer’ insert ‘or the Beneficiary,’</p>
10	Employer’s Taking Over
10.1	<p>Taking Over of the Works and Sections</p> <p>In the first paragraph delete “and except as allowed in sub-paragraph (a) below”.</p> <p>In the second paragraph, after “...notice to the Engineer”, insert “and copied to the Employer”.</p> <p>Delete the following words from the third paragraph of Sub-Clause 10.1:</p> <p>“The Engineer shall within 28 days after receiving the Contractor’s application”</p> <p>Insert after paragraph 2:</p>

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Reference to Sub-Clause	Text
	<p>"Within seven days after receiving the Contractor's application, the Engineer shall request the Beneficiary to provide details of the Taking Over and Performance Assessment Committee who shall approve or reject the taking-over of the works or parts therefore. The Committee shall provide its decision within 28 days of the Engineer receiving the Contractor's application.</p> <p>Within two days of receiving the decision of the Taking Over and Performance Assessment Committee the Engineer shall:"</p> <p>Add at the end of Sub-Clause:</p> <p>The Taking-Over Memorandum that will be prepared and signed by the Taking-Over Committee on site, with respect to the whole of the Works will be issued after the successful implementation of Tests on Completion. The Taking Over Committee is composed of the Engineer, Contractor and representatives of the Employer and the Beneficiary. The Taking-Over Certificate will be issued by the Employer.</p>
10.2	<p>Taking Over of Parts of the Works</p> <p>Before 3rd paragraph Add additional sub-paragraph (d)</p> <p>"(d) notwithstanding the above provisions, if the any part of the Works is used by the Employer or any other person entitled in this respect, the use of such part of the works that is necessary in order to maintain the continuous operation of the Plant, shall not be deemed to be taken over by the Employer as long as such operations are performed under the supervision and control of and in accordance with the instructions of the Contractor."</p>
10.3	<p>Interference with Tests on Completion</p> <p>In Sub-Clause 10.3, in the first sentence, after 'for which the Employer' insert: 'or Beneficiary'.</p>
10.5	<p>Taking Over by the Beneficiary</p> <p>Add the following new Sub-Clause 10.5:</p> <p>"The Contractor acknowledges that whenever the Employer takes over the Works or a Section or other part of the Works under this clause (Clause 10), then the entire and all and any responsibility for the care of the Works, Section or part the Works so taken over immediately passes to the Beneficiary."</p>
11	<p>Defects Liability</p>
11.1	<p>Completion of Outstanding Work and Remedying Defects</p> <p>At the end of Clause add the following:</p> <p>"Defects Notification Period is 365 days from the date of issuance of the Taking Over Certificate. Failure to meet any of the Employer's Requirements, including the guarantees undertaken within the Schedules shall be considered defect under these conditions of contract."</p>
11.7	<p>Right of Access</p> <p>In Sub-Clause 11.7, after 'Employer's', add: 'and/or Beneficiary's'</p>
11.9	<p>Performance Certificate</p> <p>Insert a new paragraph at the end of the sub-clause:</p>

Reference to Sub-Clause	Text
	The expiration of the Defects Notification Period and the issuance of the Performance Certificate do not influence the rights of the Employer during the Warranty Period.
12	Test after Completion
12.1	<p>Procedure for Tests after Completion</p> <p>Delete the term "Employer" from first paragraph of Sub-Clause 12.1 and substitute with the term "Beneficiary"</p> <p>Insert the following after the last paragraph:</p> <p>"For each Test After Completion specified in the Employer's Requirements, the Contractor shall submit a report to the Employer within ten days of the completion of the test. If the Contractor does not attend the tests, then the Engineer shall prepare a report, which will be deemed to have the same status as if it had been prepared by the Contractor. The report shall set down the nature of the test, the prevailing input conditions and the results achieved. The report shall give a clear and unequivocal statement that any performance guarantees relating to the test have been fulfilled or remain unfulfilled. If, in the Engineer's opinion, the Test After Completion has been done as specified, the Engineer shall reconvene the Taking Over and Performance Assessment Committee within ten days of receiving the report. Following the recommendation of the committee, the Engineer shall approve or reject the results of the test.</p> <p>The detailed requirements are provided in Volume 3: "Employer's Requirements."</p>
12.2	<p>Delayed Tests</p> <p>In 1st paragraph, line 1: After 'Employer' insert "or the Beneficiary"</p>
12.3	<p>Retesting</p> <p>In 2nd paragraph, last line: After 'Employer.' delete full-stop and insert "or the Beneficiary."</p>
12.4	<p>Failure to Pass Tests after Completion</p> <p>In item (c) of Sub-Clause 12.4 delete the word:</p> <p>'Employer.'</p> <p>and replace with:</p> <p>'Beneficiary'.</p>
12.5	<p>Failure of Plant to meet Performance Guarantees</p> <p>Add the following new sub-clause 12.5</p> <p>"Where the Contract requires the Works to perform in accordance with performance guarantees stated in the Contract the provisions of this Clause shall apply. If the following conditions apply, namely:</p> <ul style="list-style-type: none"> (a) the Works, or a Section, fail to conform with any or all the performance guarantees, (b) the relevant sum payable as non-performance damages for this failure is stated (or its method of calculation is defined) in the Contract, and (c) the Contractor pays this relevant sum to the Employer during the Defects Notification Period, then the Works or Section shall be deemed to be in accordance with the Performance Guarantees. <p>If the Works, or a Section, fail to meet the performance guarantees and the Contractor</p>

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Reference to Sub-Clause	Text
	proposes to make adjustments or modifications to the Works or such Section, the Contractor may be instructed by (or on behalf of) the Employer or the Beneficiary that right of access to the Works or Section cannot be given until a time that is convenient to the Employer or the Beneficiary. The Contractor shall then remain liable to carry out the adjustments or modifications, within a reasonable period of receiving notice by (or on behalf of) the Employer or the Beneficiary of the time that is convenient for the Employer or the Beneficiary. However, if the Contractor does not receive this notice during the relevant Defects Notification Period, the Contractor shall be relieved of his obligation and the Works or Section (as the case may be) shall be deemed to be in accordance with the performance guarantees."
13	Variations and Adjustments
13.1	<p>Right to Vary</p> <p>At the end of Sub-Clause add the following provisions:</p> <p>"Substantial changes can, however, only be made by means of a formal Addendum to the Contract. The following types of changes shall be regarded as substantial:</p> <p>A Changes with technical impact that:</p> <ul style="list-style-type: none"> i. modify the scope of works as defined in the Financing Memorandum, or ii. alter the conditions on which the Contract was evaluated and awarded (e.g. substantial changes in the Contractor's Proposals in a design-build contract, technical specifications in a construction contract, minimum standards for materials; etc.). <p>B. Changes with financial impact that lead to an increase in the total Contract Price, such that it exceeds the Accepted Contract Amount (inclusive of the contingencies).</p> <p>C. Changes of the contractual essence, such as changes in the Conditions of Contract, Contract Agreement, or Appendix to Tender."</p>
13.2	<p>Value Engineering</p> <p>In Sub-Clause 13.2, in first paragraph after each of the occurrences of 'Employer insert: 'or the Beneficiary'.</p>
13.3	<p>Variation Procedure</p> <p>Add at the end of the sub-clause</p> <p>The variations or modifications of the scope of works that influences the total contract value, provisional sum excluded, can only be approved by the Employer through an addendum to the existing contract. The request for addendum should be prepared by the Contractor and submit to the approval of the Engineer.</p> <p>10% of the Contract price foreseen as provisional sum covers additional works not included in the original Technical Specifications. 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.</p> <p>"When the Variation or Variations issued by the Engineer affect the Contract Price and/or the Implementation Period then this shall be formalised as an Addendum to the Contract. The use of the foreseen contingencies requires as well a prior approval by the Employer.</p> <p>Addendum will enter into force at the date it is signed by both parties.</p>

Reference to Sub-Clause	Text
13.5	<p>Provisional Sums</p> <p>Delete the first sentence of Sub-Clause 13.5 and substitute with:</p> <p>“A Provisional Sum is a sum included in the contract and so designated for the implementation of works or the supply of goods, materials, plant or services, or for contingencies, which sum may be used in whole or in part, or not at all, as instructed by the Engineer, and the Contract Price shall be adjusted accordingly.”</p> <p>Insert the following additional paragraphs before the final paragraph in Sub-Clause 13.5:</p> <p>“The following costs shall be deducted from the Total Accepted Amount:</p> <ul style="list-style-type: none"> (c) The costs paid by the Employer and/or the Beneficiary for any electrical Works undertaken directly by the Electrical Supply Company by direct payment by the Beneficiary to that company. (d) The costs paid by the Employer and/or the Beneficiary for works carried out on a Dayworks basis and valued in accordance with the Dayworks Schedule.”
13.6	<p>Dayworks</p> <p>After the first paragraph of Sub-Clause 13.6 insert:</p> <p>“No change in the rates or prices shall be considered for the items included in the Schedule of Prices for Daywork, notwithstanding the quantity of work performed under such schedule.”</p>
13.7	<p>Adjustment for Changes in Legislation</p> <p>Delete Sub-clause 13.7</p>
13.8	<p>Adjustment for Changes in Cost</p> <p>Delete Sub-clause 13.8</p>
13.9	<p>Procedures for Addendum</p> <p>Insert new Sub-Clause:</p> <p>Should a necessity arise for modification of the Contract during the Legal Duration of the Contract, which is due to a change of the circumstances affecting the implementation of the Project, then any such modification of the Contract shall be formalized through an Addendum to the Contract. Such Addendum shall be prepared by the Employer pursuant to terms of conditions set out in PRAG (Section 5 "Work Contracts", Sub-Section 5.7 "Modifying Work Contracts", Items 5.7.1 "General Principles" and 5.7.2 "Preparing and Addendum"). The Addendum shall be signed by the Employer and the Contractor and shall not become effective before the Employer's endorsement.</p>
14	<p>Contract Price and Payment</p>
14.1	<p>The Contract Price</p> <p>Add the following after 14.1.(b):</p> <p>“For the Contract Price financed by IPA, the following apply:</p> <ul style="list-style-type: none"> i) The contractor is exempted from VAT in accordance with the Legislation in force (The European Commission and the Republic of Serbia have agreed in the Framework Agreement signed on 29/11/2007 to fully exonerate the following taxes: customs duties, import duties, taxes or fiscal charges in connection with import, value added tax, documentary stamp or registration duties or fiscal charges having an equivalent effect) concerning the Fiscal Code of Serbia, as well

Reference to Sub-Clause	Text
	<p>as further amendments and modifications, for the part of the contract financed by EU, and</p> <p>ii) The Contractor is exempted from import duties and import taxes levied on import of Contract items into the Country for contract part financed by EU.</p> <p>iii) Relevant Serbian authorities will provide the Contractor with the tax exemption form. The Contractor then shall prepare the necessary exemption and other documents in accordance with the Laws of the Country (in particular Law concerning the Fiscal Code of Serbia), the requirements of customs and other legally constituted authorities, and any other reasonable requirements of the Employer.</p> <p>iv) The Contractor shall be entirely responsible for the presentation of documentation in order to clear the Goods through the customs authorities, and shall be deemed to have been satisfied (before submitting the Tender) as to all relevant procedures.</p> <p>All imported Goods, which are not incorporated in or expended in connection with the Works, shall be exported on completion of the Contract. If not exported, or if used in connection with other contracts, the Goods will be assessed for duties (as applicable to the Goods involved) in accordance with the Laws of the Country, and the Contractor shall pay such duties accordingly.</p> <p>Add the following after 14.1. (d)</p> <p>“(e) The Final Contract Price shall not include item 14.1.b. (i) and 14.1.b. (ii), but shall be deemed to include all taxes, business taxes, duties, port dues, quay dues, and other charges that may be levied in accordance with laws and regulation in force on the date 28 days prior to the latest date for submission of tender, imposed both outside and inside the Employer's Country on the Contractor's Equipment, Plant, Materials, and supplies (whether permanent or temporary) acquired for the Contract, and on services performed under the Contract. This shall be deemed to include payments or compensation, if any, levied in relation to dumping of waste, debris and hazardous waste.”</p> <p>(f) the Contractor shall submit to the Engineer, within 28 days after the commencement date, a proposed breakdown of each lump sum price in the schedules. The Engineer may take account of the breakdown in preparing payment certificates, but shall not be bound by it.</p>
14.2	<p>Advance Payment</p> <p>After the second paragraph add:</p> <p>“The Employer may make an advance payment, based on Contractor’s invoice, sent to the Employer in accordance with Employer’s and/or Beneficiary’s requirements, as pre-financing for operations connected with the execution of the works, in the cases listed hereinafter:</p> <p>(i) as a lump-sum advance enabling him to meet the expenditure resulting from the commencement of the Contract;</p> <p>(ii) if he affords proof of the conclusion of a contract and payment for the purchase or order of materials, plant, equipment, machines and tools necessary for the execution of the Contract, and of any other substantial prior expenses such as the acquisition of patents or study costs.</p> <p>The total advance payment shall be as stated in the Appendix to Tender, which shall not exceed 10% of the Accepted Contract Amount less Provisional Sums, for the lump-sum advance referred to in (i) above, and 20% of the Accepted Contract Amount less</p>

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Reference to Sub-Clause	Text
	<p>Provisional Sums for all the other pre-financing referred to in (ii) above. In the case of payments under (ii) above, the Employer may waive the right to a guarantee if the Contractor proves that the Employer has unambiguous ownership of the subject of the advance.</p> <p>The Contractor is under obligation to justify all the expenses incurred in advance, enclosing with the Interim Certificate all the supporting documents provided by tax legislation which should cover the amount constituted as advance payment."</p> <p>Substitute in the third paragraph the second sentence under (ii) with:</p> <p>The guarantee is to be provided in the form of a bank guarantee and shall be issued by a first class bank from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the Particular Conditions or in another form approved by the Employer.</p>
14.3	<p>Application for Interim Payment Certificates</p> <p>Delete Sub-Clause 14.3 and substitute</p> <p>"The Contractor shall submit a Statement in six copies to the Engineer after the end of the period for payment stated in the Contract (if not stated after the end of each month), in a form approved by the Engineer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the relevant report on progress in accordance with Sub-Clause 4.21 [Progress Reports].</p> <p>The statement shall include the following items, as applicable, in the sequence listed:</p> <ul style="list-style-type: none"> (a) The estimated value of the activities completed up to the end of the month, based on the Activity Schedule (Breakdown of Contract Price). (This value shall include Variations and expenditure of Provisional Sums instructed by the Engineer but exclude items described in sub-paragraphs (b) to (g) below); (b) any amounts to be added and deducted for changes in legislation in accordance with Sub-Clause 13.7 [Adjustment for Changes in Legislation]; (c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in the Appendix to Tender to the total of the above amounts, until the amount so retained by the Employer reaches the limit of Retention Money stated in the Appendix to Tender. In any event, the Limit of Retention should not exceed 10% of the Accepted Contract Sum. <p>Subject to the approval of the Employer, the Contractor may replace these retention money by a retention guarantee issued in accordance with the procedures and requirements of Sub-Clause 4.2. Payment of retention monies has to be in accordance with Clause 14.9;</p> <ul style="list-style-type: none"> (d) any amounts to be added and deducted for the advance payments and repayments in accordance with Sub-Clause 14.2 [Advance Payment]; (e) any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and (f) the deduction of amounts certified in all previous Payment Certificates."
14.4	<p>Schedule of Payments</p> <p>In the last paragraph of Sub-Clause 14.4, delete the first sentence and replace with:</p> <p>"The Contractor shall submit non-binding estimates of the payments which he expects to become due during each month together with a justification of these amounts."</p>

Reference to Sub-Clause	Text
	<p>Replace "42 days" in the last paragraph with "28 days".</p> <p>Add the following to the end of Sub-Clause 14.4:</p> <p>"The Contractor shall subsequently supply revised cash flow estimates at quarterly intervals, if required to do so by the Engineer. Prior to commencing construction of the Permanent Works, the Contractor shall submit a Bill of Principal Quantities of the Permanent Works (the "BPQPW")', together with any supporting information and calculations reasonably required by the Engineer. The BPQPW shall include the anticipated final quantities of the principal items of Permanent Works, which shall have been priced using all-in rates such that the total amount equals the estimated final Contract Price. The BPQPW shall not contain priced items for design or Temporary works. The value of each element of this work, and of any other work elements not described in the BPQPW, shall each be included in the rates for permanent works which are to be constructed after the element is carried out.</p> <p>The BPQPW shall be subject to the approval of the Engineer, which may be withdrawn at any time, and shall be without prejudice to the final amount due under the Contract. The BPQPW shall be revised and reissued if it appears at any time before the taking-over that it will not fully represent the Permanent Works when complete.</p> <p>The Schedule of Payments shall be in the form of an Activity Schedule. The total of the items in the Activity Schedule shall be equal to the Contract Price, unless varied in accordance with the Contract.</p> <p>The activities in the Activity Schedule shall correspond to activities in the Programme referred to in Sub-Clause 8.3. If requested by the Engineer at any time, the Contractor shall provide a breakdown of the prices of activities in the Activity Schedule to assist in the valuation of variations under Sub-Clause 13.3."</p>
14.5	<p>Plant and Materials intended for the Works</p> <p>Delete second paragraph entirely</p> <p>Delete "and either" at the end of Sub-Paragraph (a) and Sub-Paragraph (b) entirely</p> <p>Insert sub-paragraphs at the end of Sub-Paragraph (c):</p> <p>(iii) are in accordance with the Employer's Requirements/Technical Specifications;</p> <p>(iv) have all Contractor's records of requirements, usage, orders, and receipts kept in a form approved by the Engineer and made available for inspection by the Engineer;</p> <p>(v) that the Contractor has submitted with his monthly statement documents required by the Engineer for their valuation and providing evidence of the Contractor's ownership and payment therefore; and,</p> <p>(vi) have available all documents proving that they are owned by the Contractor".</p>
14.7	<p>Payment</p> <p>Replace points a, b and c in Sub-Clause by the following:</p> <p>"a) the first instalment of the advance payment within 56 days after receiving the documents in accordance with Sub-Clause 4.2 (Performance Security) and Sub-Clause 14.2 (Advance Payment), whichever is later.</p> <p>b) the amount certified in each Interim Payment Certificate (passed for payment), within no more than 45 calendar days from the date on which the Engineer's Certificate and supporting documents are received by the Employer.</p> <p>The Contractor must be informed of the certified amount for payment in order that he</p>

Reference to Sub-Clause	Text
	<p>can issue an Invoice.</p> <p>The date of payment shall be the date on which the Contractor's account is credited.</p> <p>c) the amount certified in the Final Payment Certificate within 56 days after the Employer receives this Payment Certificate."</p> <p>Insert new paragraphs at the end of the Sub-Clause:</p> <p>If errors are found in the invoices and Interim payment certificates, the documents will be returned to the Contractor and the time for payment shall be calculated from the new submission of the correct version of Invoices and related Interim payment certificates.</p> <p>If the financing disbursement period -as stated in the Financing Memorandum- expires before the end of the Defects Notification Period, the Employer shall pay the outstanding part of the Retention Money to the Contractor against a Retention Money guarantee, provided by the Contractor in the form set out in Section 6 in Volume 2 of Tender Dossier.</p> <p>The Retention Money Guarantee will be released following the end of the Defects Notification Period, if the Contractor has completed all outstanding works and has remedied all defects or damages occurred during the Defects Notification Period.</p> <p>All the bank charges incurred by the Contractor as a result of payments made to him by the Employer shall be at the Contractor's own cost.</p>
14.8	<p>Delayed Payment</p> <p>Replace this Clause with:</p> <p>If the period laid down for payment has been exceeded, the Contractor shall receive late payment interest:</p> <ul style="list-style-type: none"> - at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euro, - at the rediscount rate applied by the central bank of the beneficiary country if payments are in the currency of that country, on the first day of the month in which the deadline expired, plus three and a half percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline, and the date on which the Contracting Authority's account is debited. By way of exception, when the interest calculated in accordance with this provision is lower than or equal to EUR 200, it shall be paid to the Contractor only upon a demand submitted within two months of receiving late payment.
14.9	<p>Payment of Retention Money</p> <p>Include before the first paragraph of this sub-clause:</p> <p>A sum equivalent to 10% of the amount invoiced by the Contractor at each interim payment will be retained from that interim payment to guarantee performance of the Contractor's obligations during the Defects Notification Period. The overall amount of the monies thus retained shall not exceed 10% of the contract price.</p> <p>Subject to the approval of the Employer, the Contractor may, during the implementation of the Contract, replace these retention monies by a "Retention Money Guarantee" issued in accordance with Volume 2 Section 4 "Annex C – Form of Retention Money Guarantee". The Employer will approve such replacement only if it receives a proper Retention Money Guarantee prior to the payment of the interim payment(s) concerned.</p> <p>The Retention Money Guarantee shall be released at the time indicated in Volume 2 Section 4 "Annex C – Form of Retention Money bond".</p>

Reference to Sub-Clause	Text
	<p>Add at the end of the first paragraph of this Sub-Clause:</p> <p>If the Contractor decides to replace the Retention Money Guarantee with a Bank Guarantee the rules and procedures set out in this paragraph shall apply, by analogy, to the release of that Guarantee to the extent that the Employer holds a Retention Money Guarantee for an amount of 5% of the contract price during the Defects Notification Period until its expiration.</p>
14.11	<p>Application for Final Payment Certificate</p> <p>Delete the first paragraph of Sub-Clause 14.11 and substitute:</p> <p>“Within 28 days after receiving the Final Statement and written discharge in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Engineer shall issue, to the Employer, the draft Final Payment Certificate for approval. The draft Final Payment Certificate shall state:</p> <ul style="list-style-type: none"> (a) the amount which is finally due, and (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled, the balance (if any) due from the Employer to the Contractor or from the Contractor to the Employer, as the case may be. <p>The Employer shall, within 21 days after receiving the Engineer’s draft Final Payment Certificate, approve or reject the application providing the reasons of rejection. The certificate shall become final upon approval by the Employer.”</p>
14.15	<p>Currencies of payment</p> <p>Delete Sub-clause 14.15 and substitute:</p> <p>“The currency of account shall be the Foreign Currency, and all payments made by either Party to the other Party shall be computed and/or performed in the Foreign Currency. However, if the Contractor is a Serbian person the payment shall be made in RSD at exchange rate of Employer’s bank at the payment date.</p> <p>The Foreign Currency in which payments will be made is stated in the Appendix to Tender.”</p>
14.16	<p>Administrative and financial penalties</p> <p>Add new sub-clause 14.16:</p> <p>“a) Without prejudice to the application of penalties laid down in the contract, a Contractor who has been guilty of making false declarations or has been found to have seriously failed to meet his contractual obligations in an earlier procurement procedure shall be excluded from all contracts and grants financed by the Community budget for a maximum of two 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 three years in the event of a repeat offence within five years of the first infringement.”</p> <p>b) 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</p>

Reference to Sub-Clause	Text
	<p>question. That rate may be increased to 20% in the event of a repeated offence within five years of the first infringement.</p> <p>Where the performance of the contract is vitiated by substantial errors or irregularities or by fraud, the Employer will suspend performance of the contract. Where such errors, irregularities or fraud are attributable to the contractor, the Employer may in addition refuse payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularities or fraud.</p> <p>The purpose of suspending the contract is to verify whether presumed substantial errors and irregularities or fraud have actually occurred. If they are not confirmed, performance of the contract will resume as soon as possible. A substantial error or irregularity is any infringement of a provision of a contract or regulation resulting from an act or an omission which causes or might cause a loss to the Community budget."</p>
14.17	<p>Repayment</p> <p>Add new Sub-Clause 14.17:</p> <p>"The Contractor undertakes to repay to the Employer any amounts paid in excess of the final amount due within 45 days of receiving a request to do so. Should the Contractor fail to make repayment within the deadline set by the Employer, the Employer may increase the amounts due by adding interest:</p> <ul style="list-style-type: none"> - at the discount rate applied by the central bank of the country of the Employer if payments are in the currency of that country; - at the rate applied by the European Central Bank to its main refinancing transactions in Euro where payments are in Euro, <p>on the first day of the month in which the time-limit expired, plus three and a half percentage points. The default interest shall be incurred over the time which elapses between that date of the payment deadline set by the Employer (exclusive), and the date on which payment is actually made (inclusive). Any partial payments shall first cover the interest thus established.</p> <p>Amounts to be repaid to the Employer may be offset against amounts of any kind due to the Contractor. This shall not affect the Parties' right to agree on payment in instalments. Bank charges incurred by the repayment of amounts due to the Employer shall be borne entirely by the Contractor."</p>
15	<p>Termination by Employer</p>
15.2	<p>Termination by Employer</p> <p>In Sub-Clause 15.2, in paragraph (f) before "gives or offers", insert: "is shown to have given or offered or":</p> <p>In paragraph (f), sub-paragraph (i) after 'Contract', insert:</p> <p>"including the award of this Contract"</p> <p>Replace the 2nd paragraph with:</p> <p>"In any of these events and circumstances, the Employer is entitled to terminate this Contract by written notice to the Contractor. In such case, the Contract is considered terminated de jure at the date indicated in the notification without any other formality, and without any intervention of any Court or of any other authority."</p> <p>Insert the following phrase within the last paragraph, after the second phrase:</p> <p>"If the Contractor fails to remove his equipment and temporary works within 21 days after</p>

Reference to Sub-Clause	Text
	receiving the notice, the Employer is entitled to use so much of the Contractor's Equipment and temporary works which have been deemed to be reserved exclusively for the execution of the Works, under the provisions of the Contract, as he may consider proper, up to the completion of the respective works".
15.4	<p>Payment after Termination</p> <p>In Sub-Clause 15.4 sub-paragraph (b), after 'Employer,' insert "or the Beneficiary".</p> <p>In sub-paragraph (c) After all 'Employer,' insert "or the Beneficiary,"</p> <p>Insert a new sub-paragraph:</p> <p>(d) receive remedy from the Performance Security for the above losses and damages.</p> <p>Insert a new paragraph at the end of the sub-clause:</p> <p>If the Employer terminates the Contractor's employment under this Clause, he shall not be liable to pay to the Contractor any further amount (including damages) in respect of the Contract until the expiration of the Defects Notification Period and there after until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any) and all other expenses incurred by the Employer have been ascertained and the amount thereof certified by the Engineer. The Contractor shall then be entitled to receive only such sum (if any) as the Engineer may certify would have been payable to him upon due completion by him after deducting the said amount.</p>
15.6	<p>Anti-Corruption</p> <p>Add new Sub-Clause 15.6:</p> <p>"If the Contractor or any of his sub-contractors, agents or servants gives or offers to give to any person any bribe, gift, gratuity or commission as an inducement or reward:</p> <p>(a) for doing or forbearing to do any action in relation to the Contract or any other Contract with the Employer, or</p> <p>(b) for showing or forbearing to show favour or disfavour to any person in relation to the Contract or to any other Contract with the Employer,</p> <p>then the Employer may, after having given 14 days notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of this Clause shall apply as if such termination and expulsion had been made under Sub-Clause 15.2.</p> <p>Any such practice will be grounds for immediate termination of the Contract under Sub-Clause 15.2 and for such additional actions (civil and/or criminal) as may be appropriate".</p>
17	Risk and Responsibility
17.1	<p>Indemnities</p> <p>In 1st paragraph, line 1: After 'Employer,' insert "the Beneficiary,"</p> <p>Substitute in the second paragraph (1) with:</p> <p>"bodily injury, sickness, disease or death, which is attributable to any gross negligence, wilful act or wilful breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and"</p> <p>Insert a third paragraph:</p> <p>The Contractor shall be responsible for any compensation resulting from the Contractor's, his Subcontractor's or their workmen's negligence in connection with the above-mentioned</p>

Reference to Sub-Clause	Text
	obligations, or due to carelessness, default, or error.
17.3	Employer's Risks In Sub-Clause 17.3, in sub-paragraph (f), after 'Employer' insert "or the Beneficiary."
17.5	Intellectual and Industrial Property Rights In Sub-Clause 17.5, in paragraph (b) after 'Employer' insert "or by the Beneficiary." In 4 th paragraph: After 'Employer' insert "and the Beneficiary:"
17.6	Limitation on Liability In Sub-Clause 17.6, the sum referred in the penultimate sentence shall be the Accepted Contract Amount.
17.7	Intellectual and Industrial Property Rights of the Beneficiary Add as new Sub-Clause 17.7: 'For the purposes of interpreting this Clause 17 the liabilities of the Beneficiary to the Contractor shall be considered as the same as the liabilities of the Employer to the Contractor. The liabilities of the Contractor to the Beneficiary shall be as the same as the Contractor's liabilities to the Employer.'
17.8	Contractor's Care of the Existing Facilities Add as new Sub-Clause 17.8 as follows: 'The Contractor shall take full responsibility for the care of those parts of the existing facilities listed in the Employer's Requirements from the date of occupation by the Contractor until the date of hand-over to the Employer (where hand-over occurs after takes place after the date stated in any relevant Taking-Over Certificate). If any loss or damage happens to any of those parts of the existing facilities while the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [<i>Employer's Risks</i>] or for which the Employer is liable under the Contract, the Contractor shall rectify the loss or damage at the Contractor's risk and cost.'
18	Insurance
18.1	Insurance Delete first paragraph and substitute with: In this Clause, "insuring Party" means, for each type of insurance, the Contractor. The Contractor is responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.
18.2	Insurance of the Work and Contractor's Equipment Replace the 1st paragraph of Clause 18.2 with the following: "The Contractor shall take out all risk insurance (CAR) in both his own and the Employer's name against any loss or damage for which he is liable under the Contract. Such insurance shall, cover : a) the works, together with materials and plant for incorporation therein, to the full replacement cost against all loss or damage from whatever cause arising other than force majeure or risks attributable under the Contract to the Employer ; b) an additional sum of 15% of such replacement cost or any other amount specified in the Particular Conditions, to cover all the additional direct or indirect costs of making good losses or damage, including professional fees and the cost of

Reference to Sub-Clause	Text
	<p>demolishing and removing any part of the works and of removing debris of whatever nature.</p> <p>This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the expiration of the warranty period"</p> <p>In Sub-Clause 18.2, in the 4th paragraph, sub-paragraph (d) after 'Employer' insert "or the Beneficiary'."</p> <p>Add the following paragraph:</p> <p>"It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature, extent or programme for the execution of the Works and to ensure adequacy of the insurance coverage at all times during the period of the Contract."</p>
18.3	<p>Insurance against Injury to Persons and Damage to Property</p> <p>Insert at the end of the first paragraph:</p> <p>"Insurance shall include cover against liability to third parties arising from accidents in the Country involving vehicles supplied by the Contractor and used by the Employer, the Beneficiary, the Contractor or the Engineer under the Contract."</p> <p>In 3rd paragraph, sub-paragraph (c): After 'Employer's' insert "and the Beneficiary's property:"</p> <p>In 3rd paragraph, sub-paragraph (d) (i): After 'Employer's' insert "and/or the Beneficiary's"</p>
18.4	<p>Insurance for Contractor's Personnel</p> <p>In 2nd paragraph, line 3: After 'Employer' insert "or the Beneficiary"</p> <p>In 2nd paragraph, line 3: After 'Employer's' insert "or the Beneficiary's,"</p> <p>In Sub-Clause 18.4, at the end of the Clause, add:</p> <p>'The minimum amount for insurances is stated in the Appendix to the Letter of Tender.'</p>
18.5	<p>Insurance for Design</p> <p>Add new Sub-Clause 18.5:</p> <p>'The Contractor shall provide professional indemnity insurance, which shall cover the risk of professional negligence in the design of the Works. This insurance shall be for a limit of not less than the amount stated in the Appendix to Tender.</p> <p>The Contractor shall use his best endeavours to maintain the professional indemnity insurance in full force and effect until the date stated in the Appendix to Tender. The Contractor undertakes to notify the Employer promptly of any difficulty in extending, renewing or reinstating this insurance.'</p>
18.6	<p>Currency of All Insurances</p> <p>Add new Sub-Clause 18.6:</p> <p>"The currency of all insurances under Clause 18 shall be EURO."</p>
19	<p>Force Majeure</p>
19.1	<p>Definition of Force Majeure</p> <p>Insert at the end of the third paragraph:</p> <p>Where the Contractor was already in default, he may not invoke force majeure.</p>

Reference to Sub-Clause	Text
	<p>At the end of Sub-Clause 19.1, add the following sentence:</p> <p>"The force majeure should be invoked within 14 days from its occurrence and confirmed within 28 days from its occurrence with a certificate issued by the Serbian Government".</p>
19.4	<p>Consequences of Force Majeure</p> <p>Insert a new first paragraph :</p> <p>The performance of obligations and the related counter-obligations shall be suspended for the duration of the force majeure.</p> <p>Delete subparagraph (b).</p>
19.6	<p>Optional Termination, Payment and Release</p> <p>Insert after the first paragraph a new paragraph:</p> <p>Notwithstanding the above provision of this clause, should the duration of the force majeure be such that the Employer loses its interest in the performance before the end of the above period, he shall be entitled to terminate the contract.</p> <p>Delete in the second paragraph subparagraphs (d) and (e).</p>
20	<p>Claims, Disputes and Arbitration</p>
20.2	<p>Appointment of the Dispute Adjudication Board</p> <p>In Sub-Clause 20.2, replace the first four paragraphs with the following:</p> <p>"Disputes shall be adjudicated by a DAB in accordance with Sub-Clause 20.4 [<i>Obtaining Dispute Adjudication Board's Decision</i>].</p> <p>The DAB shall comprise one member who shall be appointed at the joint request of the Parties by the President of FIDIC or by a person appointed by the President. Such nomination shall be deemed to be accepted by both the Employer and the Contractor.</p> <p>The Parties shall enter into the Dispute Adjudication Board Agreement (in the form annexed to the Conditions) with the member appointed following the above procedure within 42 days after the date when one of the Parties request the appointment of the DAB".</p>
20.3	<p>Failure to Agree Dispute Adjudication Board's Decision</p> <p>Add to the end of Sub-Clause 20.3 as final paragraph:</p> <p>'The appointing official is the President of FIDIC, or a person appointed by the President.'</p>
20.6	<p>Arbitration</p> <p>In the first paragraph, after "...notice to the Engineer", insert "and copied to the Employer".</p> <p>Replace in (b) "three" with "one"</p> <p>Add to the end of Sub-Clause 20.6, the following:</p> <p>"The Place of Arbitration shall be chosen by the Employer. The Employer shall also have, if it acts as Claimant in the dispute, the possibility to unilaterally choose the settlement of the dispute by the Belgian courts of law in Belgrade, having jurisdiction at the time of the dispute, instead of arbitration; in such case, a possible counter claim filed by the Contractor shall be also under the jurisdiction of the Serbian courts of law in Belgrade.</p> <p>In the case of a dispute between the Employer and a Serbian contractor sub-clause (a) shall be deleted and substituted by the following:</p>

Reference to Sub-Clause	Text
	<p>"Any dispute arising from or in relation to this contract, including the conclusion, interpretation, performance or termination thereof shall be settled by the Serbian courts of law having jurisdiction. Should the Serbian legislation in force at the time of the dispute allow the settlement of such disputes in arbitration, parties are not prevented from unanimously deciding, during the pre-dispute negotiation, to enter into an arbitration agreement, choosing the settlement of the dispute by arbitration and not by the courts of law."</p>
	<p>Add new Clause 21 as follows:</p>
21	<p>Taxes and Duties</p>
21.1	<p>Payment and Repayment of Taxes and Duties The payment and repayment of taxes and duties shall be in Serbian Dinar (RSD).</p>
21.2	<p>Value Added Tax For the contract value, representing the IPA financing, the Beneficiary will obtain VAT exemption certificates for the Contractor.</p>
21.3	<p>Customs and Import Duty For the equipment to be imported, the Beneficiary will assist the Contractor in obtaining the necessary import licenses. The Employer and the Beneficiary will support the Contractor in obtaining the tax exemptions and performing the customs formalities.</p>
	<p>Add new Clause 22 as follows:</p>
22	<p>Ethics</p>
22.1	<p>Ethics Clauses Add new Sub-Clause 22.1: 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. 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. 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. When putting forward a candidacy or tender, the candidate or tenderer shall declare that it is affected by no 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. 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. 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. The Contractor may accept no payment connected with the contract other than that</p>

Reference to Sub-Clause	Text
	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>
22.2	<p>Conflict of Interest</p> <p>Add new Sub-Clause 22.2:</p> <p>"Without the Employer's prior written authorisation, a Contractor and his staff or any other company with which the Contractor is associated or linked shall not, even on an ancillary or subcontracting basis, perform other services, carry out works or supply equipment for the project of which the Works form a part. This prohibition also applies to any other projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.</p> <p>Should a situation arise during execution of the Contract, where the Contractor becomes affected by a conflict of interest and/or forms a particular link with another tenderer or a party involved in the project, the Contractor must immediately inform the Contracting Authority."</p>
	Add new Clause 23 as follows:
23.	Checks and Audits by Community Bodies
23.1	<p>Checks and Audits by European Union Bodies</p> <p>Add new Sub-Clause 23.1:</p> <p>The Contractor will allow the European Commission, the European Anti-Fraud Office and the European Court of Auditors to verify, by examining the documents and to make copies thereof or by means of on-the-spot checks, including checks of original documents, the implementation of the contract. In order to carry out these verifications and audits, the EU bodies mentioned above shall be allowed to conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the project. The Contractor shall ensure that on-the-spot accesses is available at all reasonable times, notably at the Contractor's offices, to its computer data, to its accounting data and to all the information needed to carry out the</p>

Reference to Sub-Clause	Text
	audits, including information on individual salaries of persons involved in the project. The Contractor shall ensure that the information is readily available at the moment of the audit and, if so requested, that data be handed over in an appropriate form. These inspections may take place up to 7 years after the final payment."
23.2	<p>European Anti-Fraud Office</p> <p>Add new Sub-Clause 23.2:</p> <p>"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."</p>
23.3	<p>Access to Staff or Agents of the European Commission</p> <p>Add new Sub-Clause 22.3:</p> <p>"In relation to Sub-Clause 23.2, 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 Employer of their precise location."</p>
23.4	<p>Guarantee of Rights of European Commission</p> <p>Add new Sub-Clause 23.4:</p> <p>"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."</p>
New clause 24	<p>Administrative and financial penalties</p> <p>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 EU budget/EDF 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.</p> <p>If the Contractor is found to have seriously failed to meet its contractual obligations, it shall incur financial penalties representing 2-10% of the total value of the contract in question. That rate may be increased to 4-20% in the event of a repeat offence within five years of the first infringement.</p> <p>Where the Contracting Authority is entitled to impose financial penalties, it may deduct</p>

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Reference to Sub-Clause	Text
	such financial penalties from any sums due to the Contractor or call on the appropriate guarantee.
New clause 25	<p>Contractor's General Obligations</p> <p>All supplies and material to be incorporated in or required for the works shall have their origin in any eligible source country as defined in these Particular Conditions.</p> <p>The Contractor shall not bring plant and materials onto site without the written approval of the Engineer and shall follow local working instructions for their management whilst on site and their removal.</p> <p>The Contractor is obliged to act fully in compliance with received shipping instructions issued by / or on behalf of the Employer.</p> <p>The Contractor shall comply with all legislative requirements for working in the country concerned and all local site requirements and procedures. The Contractor shall follow all instructions provided by the Employer, or his representative, whether written or verbal.</p> <p>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/work/visibility/index_en.htm.</p>

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VOLUME II

SECTION 4:

FORMS

FORM OF PERFORMANCE GUARANTEE

Design, Construction and Commissioning of contract:

"Construction of the Regional Waste Management Centre for Subotica District"

To: «Contracting Authority»,

Delegation of the European Union to the Republic of Serbia, Vladimira Popovica 40, GTC Avenue
block 19a, 11070 New Belgrade, Republic of Serbia

Invitation to tender EuropeAid/133971/C/WKS/RS

We have been informed that [name of Contractor] (hereinafter called the 'Principal') is your contractor under such Contract, which requires him to obtain a performance security.

At the request of the Principal, we [name of bank] hereby irrevocably undertake to pay you, the Beneficiary/Employer, any sum or sums not exceeding in total the amount of € [required Performance Security amount] (the 'guaranteed amount', say: [amount in words] EURO) upon receipt by us of your demand in writing and your written statement stating:

(a) that the Principal is in breach of his obligation(s) under the Contract, and

(b) the respect in which the Principal is in breach.

Any demand for payment must contain your director's signature. The demand and statement must be received by us at this office on or before [the date 70 days after the expected expiry of the Defects Notification Period for the Works] (the 'expiry date'), when this guarantee shall expire and shall be returned to us.

We have been informed that the Beneficiary may require the Principal to extend this guarantee if the performance certificate under the Contract has not been issued by the date 28 days prior to such expiry date. We undertake to pay you such guaranteed amount upon receipt by us, within such period of 28 days, of your demand in writing and your written statement that the performance certificate has not been issued, for reasons attributable to the Principal, and that this guarantee has not been extended.

This guarantee shall be governed by the laws of Belgium and shall be subject to the Uniform Rules for Demand Guarantees, published as number 458 by the International Chamber of Commerce, except as stated above.

Done at, Date / /

Name and first name: On behalf of:

Signature:

[stamp of the body providing the guarantee]

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ADVANCE PAYMENT GUARANTEE

Design, Construction and Commissioning of contract:

"Construction of the Regional Waste Management Centre for Subotica District"

To: «Contracting Authority»,
Delegation of the European Union to the Republic of Serbia, Vladimira Popovica 40, GTC
Avenue block 19a, 11070 New Belgrade, Republic of Serbia

Invitation to tender EuropeAid/133971/C/WKS/RS

We have been informed that [name of Contractor] (hereinafter called the 'Principal') is your contractor under such Contract and wishes to receive an advance payment, for which the Contract requires him to obtain a guarantee.

At the request of the Principal, we [name of bank] hereby irrevocably undertake to pay you, the Beneficiary/Employer, any sum or sums not exceeding in total the amount of € [amount of advance payment] (the 'guaranteed amount', say: [amount in words] EURO) upon receipt by us of your demand in writing and your written statement stating:

(a) that the Principal has failed to repay the advance payment in accordance with the conditions of the Contract, and

(b) the amount which the Principal has failed to repay.

This guarantee shall become effective upon receipt of the advance payment by the Principal. Such guaranteed amount shall be reduced by the amounts of the advance payment repaid to you, as evidenced by your notices issued under sub-clause 14.6 of the conditions of the Contract. Following receipt (from the Principal) of a copy of each purported notice, we shall promptly notify you of the revised guaranteed amount accordingly.

Any demand for payment must contain your director's signature. The demand and statement must be received by us at this office on or before [the date 70 days after the expected expiry of the Time for Completion] (the 'expiry date'), when this guarantee shall expire and shall be returned to us.

We have been informed that the Beneficiary may require the Principal to extend this guarantee if the advance payment has not been repaid by the date 28 days prior to such expiry date. We undertake to pay you such guaranteed amount upon receipt by us, within such period of 28 days, of your demand in writing and your written statement that the advance payment has not been repaid and that this guarantee has not been extended.

This guarantee shall be governed by the laws of Belgium and shall be subject to the Uniform Rules for Demand Guarantees, published as number 458 by the International Chamber of Commerce, except as stated above.

Name and first name:

On behalf of:

Signature:

Date.....

[stamp of the body providing the Guarantee]

FORM OF RETENTION GUARANTEE

Design, Construction and Commissioning of contract:

"Construction of the Regional Waste Management Centre for Subotica District"

To: «Contracting Authority»,
Delegation of the European Union to the Republic of Serbia, Vladimira Popovica 40, GTC
Avenue block 19a, 11070 New Belgrade, Republic of Serbia

Invitation to tender EuropeAid/133971/C/WKS/RS

We have been informed that [name of Contractor] (hereinafter called the 'Principal') is your contractor under such Contract and wishes to receive early payment of the retention money, for which the Contract requires him to obtain a guarantee.

At the request of the Principal, we [name of bank] hereby irrevocably undertake to pay you, the Beneficiary/Employer, any sum or sums not exceeding in total the amount of € [amount of Retention Money] (the 'guaranteed amount', say: [amount in words] EURO) upon receipt by us of your demand in writing and your written statement stating:

(a) that the Principal has failed to carry out his obligation(s) to rectify certain defect(s) for which he is responsible under the Contract, and

(b) the nature of such defect(s).

At any time, our liability under this guarantee shall not exceed the total amount of retention money released to the Principal by you, as evidenced by your notices issued under sub-clause 14.6 of the conditions of the Contract with a copy being passed to us.

Any demand for payment must contain your director's signature. The demand and statement must be received by us at this office on or before [the date 70 days after the expected expiry of the Defects Notification Period for the Works], (the 'expiry date'), when this guarantee shall expire and shall be returned to us.

We have been informed that the Beneficiary may require the Principal to extend this guarantee if the performance certificate under the Contract has not been issued by the date 28 days prior to such expiry date. We undertake to pay you such guaranteed amount upon receipt by us, within such period of 28 days, of your demand in writing and your written statement that the performance certificate has not been issued, for reasons attributable to the Principal, and that this guarantee has not been extended.

This guarantee shall be governed by the laws of Belgium and shall be subject to the Uniform Rules for Demand Guarantees, published as number 458 by the International Chamber of Commerce, except as stated above.

Done at

Date:.....

Name and first name: On behalf of:

Signature:

[Stamp of the body providing the guarantee]

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FORM OF PARENT COMPANY GUARANTEE

Design, Construction and Commissioning of contract:

"Construction of the Regional Waste Management Centre for Subotica District"

To: «Contracting Authority»,
Delegation of the European Union to the Republic of Serbia, Vladimira Popovica 40, GTC
Avenue block 19a, 11070 New Belgrade, Republic of Serbia

Invitation to tender EuropeAid/133971/C/WKS/RS

(together with successors and assigns).

We have been informed that (name and address of Contractor) (hereinafter called the 'Contractor') is submitting an offer for such Contract in response to your invitation, and that the conditions of your invitation require his offer to be supported by a parent company guarantee.

In consideration of you, the Employer, awarding the Contract to the Contractor, we (name and address of parent company)

irrevocably and unconditionally guarantee to you, as a primary obligation, the due performance of all the Contractor's obligations and liabilities under the Contract, including the Contractor's compliance with all its terms and conditions according to their true intent and meaning.

If the Contractor fails to so perform his obligations and liabilities and comply with the Contract, we will indemnify the Employer against and from all damages, losses and expenses (including legal fees and expenses) which arise from any such failure for which the Contractor is liable to the Employer under the Contract.

This guarantee shall come into full force and effect when the Contract comes into full force and effect. If the Contract does not come into full force and effect within a year of the date of this guarantee, or if you demonstrate that you do not intend to enter into the Contract with the Contractor, this guarantee shall be void and ineffective. This guarantee shall continue in full force and effect until all the Contractor's obligations and liabilities under the Contract have been discharged, when this guarantee shall expire and shall be returned to us, and our liability hereunder shall be discharged absolutely.

This guarantee shall apply and be supplemental to the Contract as amended or varied by the Employer and the Contractor from time to time. We hereby authorise them to agree any such amendment or variation, the due performance of which and compliance with which by the Contractor are likewise guaranteed hereunder. Our obligations and liabilities under this guarantee shall not be discharged by any allowance of time or other indulgence whatsoever by the Employer to the Contractor, or by any variation or suspension of the works to be executed under the Contract, or by any amendments to the Contract or to the constitution of the Contractor or the Employer, or by any other matters, whether with or without our knowledge or consent.

This guarantee shall be governed by the law of the same country (or other jurisdiction) as that which governs the Contract and any dispute under this guarantee shall be finally settled under the Rules of

Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with such Rules. We confirm that the benefit of this guarantee may be assigned subject only to the provisions for assignment of the Contract.

Date: _____ Signature: _____

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FORM OF DISPUTE ADJUDICATION AGREEMENT

[for a one-person DAB]

Name and details of Contract: - "Construction of the Regional Waste Management Centre for Subotica District" - EuropeAid/133971/C/WKS/RS

Name and address of Employer:

Delegation of the European Union to the Republic of Serbia
GTC 19 Avenue Building Block 19a
Vladimira Popovica 40
11070 New Belgrade, Serbia

Name and address of Contractor

Name and address of Member

Whereas the Employer and the Contractor have entered into the Contract and desire jointly to appoint the Member to act as **sole adjudicator** who is also called the "DAB" to adjudicate a dispute which has arisen in relation to _____*

The Employer, Contractor and Member jointly agree as follows:

1. The conditions of this Dispute Adjudication Agreement comprise the "General Conditions of Dispute Adjudication Agreement", which is appended to the General Conditions of the "Conditions of Contract for Construction" First Edition 1999 published by the Fédération Internationale des Ingénieurs-Conseils (FIDIC), and the following provisions. In these provisions, which include amendments and additions to the General Conditions of Dispute Adjudication Agreement, words and expressions shall have the same meanings as are assigned to them in the General Conditions of Dispute Adjudication Agreement.
2. [Details of amendments to the General Conditions of Dispute Adjudication Agreement, if any. For example: In the procedural rules annexed to the General Conditions of Dispute Adjudication Agreement, Rule X is deleted and replaced by: "..."]
3. In accordance with Clause 6 of the General Conditions of Dispute Adjudication Agreement, the Member shall be paid as follows:

A retainer fee of	per calendar month,
plus a daily fee of	per day.
4. In consideration of these fees and other payments to be made by the Employer and the Contractor in accordance with Clause 6 of the General Conditions of Dispute Adjudication Agreement, the Member undertakes to act as the DAB (as adjudicator) in accordance with this Dispute Adjudication Agreement.
5. The Employer and the Contractor jointly and severally undertake to pay the Member, in consideration of the carrying out of these services, in accordance with Clause 6 of the General Conditions of Dispute Adjudication Agreement.
6. This Dispute Adjudication Agreement shall be governed by the law of Serbia.

SIGNED by:..... SIGNED by:..... SIGNED by:.....

Name: Name: Name:
for and behalf of the Employer for and behalf of the Contractor The Member in the presence of
in the presence of
in the presence of

Witness: Witness: Witness:

Name: Name: Name:

Address: Address: Address:

Date: Date: Date:

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