

FRAMEWORK CONTRACT FOR SUPPLIES

Open Call for Tender for the Supply of Books to the Library of the European University Institute

Ref: **OP/EUI/LIB/2024/001**

1. The European University Institute (“the EUI”, “the contracting authority”), established in San Domenico di Fiesole, via dei Roccettini 9, Firenze, Italy, CF 80020410488, represented by its President, Prof Patrizia Nanz, for the purposes of the signature of this contract or by the Secretary General, Marco Del Panta, by delegation,

on the one part,

and

2. [Full official name]

[Official legal form]¹

[Statutory registration number or ID or passport number]²

[Full official address]

[VAT registration number]

(‘the contractor’), represented for the purposes of the signature of this framework contract by
[forename, surname, function of legal]

on the other part,

HAVE AGREED

to the **special conditions**, the **general conditions for framework contracts for supplies**, the *order form* module as well as to the following Annexes:

Annex I - Tender specifications;

Annex II - Contractor's tender;

Annex III - model for *order forms*

which form an integral part of this framework contract (hereinafter referred to as “the FWC”).

In the event of any conflict herein,

- The terms set out in the special conditions shall take precedence over those in the other parts of the FWC;

¹ Delete if contractor is a natural person or a body governed by public law.

² Delete if contractor is a body governed by public law. For natural persons, indicate the number of their identity card, or failing that, of their passport or equivalent.

- The terms set out in the general conditions shall take precedence over those in the *order form* (Annex III);
- The terms set out in the *order form* (Annex III) take precedence over those in the other annexes;
- The terms set out in the tender specifications (Annex I) shall take precedence over those in the tender (Annex II);
- The terms set out in the FWC take precedence over those in the *order form*;
- The terms set out in the *order form* take precedence over those in the *requests for supplies*;
- The terms set out in the *requests for supplies* take precedence over those in the specific tenders.

Any reference to *specific contracts* and/or *order forms* shall apply also to purchase orders.

This FWC sets out:

1. the procedure by which the EUI may order supplies from the contractor;
2. the provisions that apply to any *specific contract* which the EUI and the contractor may conclude under this FWC;
3. the obligations of the parties during and after the duration of this FWC.

All documents issued by the contractor (end-user agreements, general terms and conditions, etc.) except its tender are held inapplicable, unless explicitly mentioned in the special conditions of this FWC. In all circumstances, in the event of contradiction between this FWC and documents issued by the contractor, this FWC prevails, regardless of any provision to the contrary in the contractor's documents.

I - SPECIAL CONDITIONS

Article I.1 - Subject matter

I.1.1 The subject matter of the FWC is *[insert short description of subject]*.

I.1.2 The place of delivery of the supplies will be the premises of the EUI.

The delivery times and places will be agreed upon by the parties every time an order form will be issued.

I.1.3 The contractor shall deliver the supplies requested in accordance with the tender specifications annexed to the FWC (Annex I).

I.1.4 Signature of the FWC imposes no obligation on the EUI to purchase. Only *performance of the FWC* through *order forms* is binding on the EUI.

I.1.5 Multiple FWC

The contractor is selected for a multiple FWC in cascade in *[complete]* position.

Article I.2 - Entry into force and duration

I.2.1 The FWC shall enter into force [on the date on which it is signed by the last party.

1.2.2 The *implementation of the FWC* cannot start before its entry into force. Execution of the tasks may under no circumstances begin before the date on which the *order form* enters into force.

1.2.3 The FWC is concluded for a period of 60 (sixty) with effect from the date on which it enters into force. Unless otherwise specified, all periods outlined in the FWC are calculated in calendar days.

The above-mentioned period may be extended only with the express written agreement of the parties before the expiration of such period.

1.2.4 The parties must sign any *order form* before the FWC expires.

The FWC shall continue to apply to such *order forms* after its expiry. The supplies relating to such *order forms* must be delivered no later than 6 (six) months after its expiry.

1.2.5 The probationary period is not applicable to this FWC.

1.2.6 Where at the end of the natural term of the FWC, the EUI has not yet awarded a contract for the supply covering the immediately following period, the contractor shall be obliged to continue providing the supplies for a period not exceeding 6 (six) months under the same terms and conditions in force at the expiration date.

Article I.3 – Price

1.3.1 The maximum total amount excluding price revision covering all purchases under this FWC shall be € [amount in figures and in words]³ excluding VAT, covering all tasks executed (including charges). However, this must in no way be construed as a commitment on the EUI to purchase for the maximum amount.

The maximum prices of the supplies shall be those listed in Annex II C – Financial offer.

It is agreed that the charges include all other expenditure that may be incurred by the contractor in *performance of this FWC*, including travel, subsistence or any other related expenses.

The EUI is exempt from payment of value added tax for services and purchases under the normal course of business for amounts exceeding €300.00 (pursuant to Article 72- paragraph 1-e) and paragraph 2 of Presidential Decree 633 of 26/10/1972 and subsequent amendments).

The economic offer of the contractor is provided in Annex II C – Financial offer.

1.3.2 Price revision

1.3.2 Price revision

The total amount referred to in the Article I.3.1 shall be fixed and not subject to revision during the first year of the FWC.

At the beginning of the second and every following year of the FWC, each price may be revised upwards or downwards at the request of one of the parties.

A party may request a price revision in writing no later than 3 (three) months before the anniversary date of entry into force of the FWC. The other party must acknowledge the request within 15 (fifteen) days of receipt.

The EUI reserves the right to approve in writing the updated price lists of the products subject to this FWC notified by the contractor within the aforementioned deadlines.

³ The total amount is estimated according to the tender submitted by the contractor.

I.3.3 Reimbursement of expenses

Reimbursement of expenses is not applicable to this FWC.

Article I.4 - Payment arrangements and performance of the FWC

I.4.1 Multiple FWC in cascade

The FWC is implemented as follows: the EUI orders supplies by sending an *order form* to be signed by e-mail to the contractor who is ranked first in the cascade.

Within 5 (five) working days, the contractor must either:

- (a) send back to the EUI the *order form* duly signed and dated by e-mail; or
- (b) send an explanation of why it cannot accept the order.

If the contractor does not accept the order or fails to observe the deadline or if it is in a situation of conflicting interests that may negatively affect the *performance of the order form* (see Article II.5), the EUI may place the order with the next contractor on the cascade.

The period for the provision of the supplies starts to run from the date on which the *order form* is signed by the last party.

If the contractor repeatedly refuses to sign *order forms* or repeatedly fails to send them back on time, the contractor may be considered in breach of its obligations under this FWC as set out in Article II.16.1 (c).

I.4.2 Pre-financing

Pre-financing is not applicable to this FWC.

I.4.3 Interim payment

Interim payment is not applicable to this FWC.

I.4.4 Payment of the balance

The contractor shall submit an invoice for payment of the balance under an *order form*.

The EUI shall make the payment within 60 (sixty) days from the correct receipt of the invoice.

The specific rules are outlined in Article II.17-Payments and clauses II.17.3-Invoices and VAT of the general conditions.

Deductions resulting from economic penalties for non-compliance referred to in Article 7.1.16 of the tender specifications or reimbursement of expenses will be compensated simultaneously with the payment of invoices for the period of reference.

The EUI is, as a rule, exempt from payment of Value Added Tax (VAT) for the purchase of goods imported and services provided for the EUI's official activities for amounts exceeding €300.00 (three hundred/00).

For intra-community purchases, the statement "VAT Exemption / European University Institute / Article 151 para 1 (b) and para 2 of Council Directive 2006/112/EC, as last amended by Council Directive 2009/162/UE" should be added on the invoice.

Where VAT is due in Italy, the statement "Esenzione IVA - Articolo 72- comma 1 lettera e) e comma 2 del D.P.R. n. 633 del 26/10/1972 e successive modifiche" should be added on the invoice.

Article I.5 - Bank account

Payments shall be made to the contractor's bank account denominated in Euro (€) and identified as follows:

Name of bank:	
Branch address in full:	
Exact designation of account holder:	
IBAN code:	
SWIFT code:	

Article I.6 - Communication details and data controller

For the purposes of Article II.7, the data controller shall be the Director of the Library of the EUI.

Any notice or other communication relating to the FWC shall be made in writing, shall bear the FWC number and shall be sent to the appropriate addresses set out below:

EUI:

European University Institute EUI Library Via dei Roccettini, 9 - 50014 San Domenico di Fiesole (FI) E-mail address: LibraryTender@EUI.eu
--

Contractor:

Name and surname:	
Function:	
Operator's name:	
Full official address:	
Email:	

Article I.7 - Applicable law and settlement of disputes

I.7.1 The FWC shall be governed by the EUI's relevant regulatory acts (e.g. the EUI's regulation on Public Procurement and the EUI's Financial Rules), complemented, where necessary, by the law of Italy.

I.7.2 Any dispute arising in relation to the present FWC shall be submitted in good faith by either party to mediation under the [International Mediation Rules of the Milan Chamber of Arbitration](#) by filing a written request with the Secretariat of the Milan Chamber of Arbitration.

I.7.3 If for any reason the dispute remains unsettled 60 (sixty) days after the request for mediation, it shall be subject to arbitration under the [Rules of the Milan Chamber of Arbitration](#).

The seat of the arbitration shall be Milan and the language of the arbitration shall be English.

The award shall be final and binding for both parties.

The arbitral tribunal shall apply the EUI's relevant regulatory acts, including the [EUI's regulation on Public Procurement](#) and the [EUI's Financial Rules](#), complemented, where necessary, by the law of Italy.

Article I.8 - Exploitation of the results of the FWC

Exploitation of the results of the FWC is not applicable to this FWC.

Article I.9 – Termination of the FWC by either party

Either party may, unilaterally and without being required to pay compensation, terminate the FWC and/or the FWC and *order forms* by formally *notifying* the other party by giving 6 (six) months' notice. Should the EUI terminate and/or the FWC and *order forms*, the contractor shall only be entitled to payment corresponding to *part-performance of the contract* before the termination date (e.g. payment corresponding to the supplies which are the subject of valid *Purchase orders* before the date termination is *notified* to become effective ("Termination Date")). The first paragraph of Article II.16.3 shall apply.

On receipt of such notice from the EUI, the contractor shall take all appropriate measures to minimise costs, prevent damage, and cancel or reduce its commitments in relation to the EUI. It shall draw up any documents required by the FWC and its Annexes for the supplies delivered up to the Termination Date, within a period not exceeding 60 (sixty) days from the Termination Date.

Article I.10 - Mechanism of sanctions and penalties

The carrying out of the supplies by non-regular or unsatisfactory means in the opinion of the EUI, shall incur the application of penalties pursuant to Article 7.1.19 of the tender specifications.

The non-regular and unsatisfactory provision of the supplies will be *notified* in writing to the contractor who shall respond in any case with its comments in writing within 5 (five) days from the dispute. If said response is not acceptable according to the appreciation of the EUI or if there is no answer or the same is not received within the time specified, the EUI will apply the penalties referred to in Article 7.1.19 of the tender specifications, from the date of the commencement of the poor performance.

The request and/or payment of penalties shall not discharge the contractor under any circumstances from performance of the obligations for which they are currently responsible.

Article I.11 - Provisions relating to safety

Provisions relating to safety is not applicable to this FWC.

Article I.12 - Contractual fees

If applicable, any consequential contract costs (fixed-fee registration), will be paid by the contractor without the right of recourse against the EUI.

Article I.13 - Other special conditions

The following Articles from the General Conditions do not apply to the present FWC:

- Article II.2.2 Certificate of conformity;
- Article II.2.5 Assembly;
- Article II.11 - Ownership of the results – intellectual and industrial property rights;
- Article II.13 – Liquidated damages;

- Article II.14 – Reduction in price;
- Article II.17.5 Performance guarantees;
- Article II.18 – Reimbursements.

SIGNATURES:

For the contractor,

[name and surname, function of the legal
representative]

Signature: _____

Signed in _____, on _____

For the EUI,

Marco Del Panta.

Secretary General

Signature: _____

Signed in Florence, on _____

In duplicate, in English, if not signed by certified digital signature.

II - GENERAL CONDITIONS FOR FRAMEWORK CONTRACTS FOR SUPPLIES

Article II.1 - Definitions

For the purpose of this FWC, the following definitions (indicated in *italics* in the text) apply:

‘Breach of obligations’: failure by the contractor to fulfil one or more of its contractual obligations;

‘Confidential information or document’: any information or document received by either party from the other or accessed by either party in the context of the *implementation of the FWC*, that any of the parties has identified in writing as confidential. It may not include information that is publicly available;

‘Conflict of interest’: a situation where the impartial and objective *implementation of the FWC* by the contractor is compromised for reasons involving family, emotional life, political or national affinity, economic interest, any other direct or indirect personal interest, or any other shared interest with the EUI or any third party related to the subject matter of the FWC;

‘Creator’: means any natural person who contributes to the production of the *result*;

‘Force majeure’: any unforeseeable, exceptional situation or event beyond the control of the parties that prevents either of them from fulfilling any of their obligations under the FWC. The situation or event must not be attributable to error or negligence on the part of the parties or on the part of the subcontractors and must prove to be inevitable despite their exercising due diligence.

Defaults of service, defects in equipment or material or delays in making them available, labour disputes, strikes and financial difficulties may not be invoked as *force majeure*, unless they stem directly from a relevant case of *force majeure*;

‘Formal notification (or ‘formally notified’): form of communication between the parties made in writing by mail or email, which provides the sender with compelling evidence that the message was delivered to the specified recipient;

‘Fraud’: an act or omission committed in order to make an unlawful gain for the perpetrator or another by causing a loss to the EUI's financial interests, and relating to: i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds or assets from the EUI budget, ii) the non-disclosure of information in violation of a specific obligation, with the same effect or iii) the misapplication of such funds or assets for purposes other than those for which they were originally granted, which damages the EUI's financial interests;

‘Implementation/performance of the FWC’: the purchase of supplies envisaged in the FWC through the signature and *performance of specific contracts*;

‘Irregularity’: any infringement of a provision of Union law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the EUI's budget.

‘Notification’ (or ‘notify’): form of communication between the parties made in writing including by electronic means;

‘Order form’: a simplified form of *specific contract* by which the EUI orders supplies under this FWC;

‘Performance/implementation of a specific contract’: the execution of tasks and delivery of the purchased supplies by the contractor to the EUI;

‘Personnel’: persons employed directly or indirectly or contracted by the contractor to implement the FWC;

‘Pre-existing material’: any material, document, technology or know-how which exists prior to the contractor using it for the production of a *result* in the *implementation of the FWC*;

‘Pre-existing right’: any industrial and intellectual property right on *pre-existing material*; it may consist in a right of ownership, a licence right and/or right of use belonging to the contractor, the *creator*, the EUI as well as to any other third parties;

‘Request for supplies’: a document from the EUI requesting that the contractors in a multiple FWC with re-opening of competition provide a specific tender for supplies whose terms are not entirely defined under the FWC;

‘Result’: any intended outcome of the *implementation of the FWC*, whatever its form or nature. A *result* may be further defined in this FWC as a deliverable. A *result* may, in addition to newly created materials produced specifically for the EUI by the contractor or at its request, also include *pre-existing materials*;

‘Serious professional misconduct’: a violation of applicable laws or regulations or ethical standards of the profession to which a contractor or a related person belongs, including any

conduct leading to sexual or other exploitation or abuse, or any wrongful conduct of the contractor or a related person which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence;

‘Specific contract’: a contract implementing the FWC and specifying details of a service to be provided.

Article II.2 - Performance of the FWC

II.2.1 Delivery

(a) Time allowed for delivery

The time allowed for delivery shall be calculated in accordance with Article I.1.2.

(b) Date, time and place of delivery

The EUI shall be notified in writing of the exact date of delivery within the period indicated in Article I.1.2. All deliveries shall be made at the agreed place of delivery during the hours indicated in Article I.1.2 of the present FWC.

The contractor shall bear all costs and risks involved in delivering the supplies to the place of delivery.

(c) Consignment note

Each delivery shall be accompanied by a consignment note in duplicate, duly signed and dated by the contractor or its carrier, giving the contract number and particulars of the supplies delivered. One copy of the consignment note shall be countersigned by the EUI and returned to the contractor or to its carrier.

II.2.2 Certificate of conformity

Signature of the consignment note by the EUI, as provided in point c) of Article II.2.3, is simply an acknowledgment of the fact that the delivery took place and in no way implies conformity of the supplies with the *order form* or *specific contract*.

Conformity of the supplies delivered shall be evidenced by the signature of a certificate to this effect by the EUI no later than 1 (one) month after the date of delivery, unless otherwise specified in the special conditions or in the tender specifications (Annex I).

Conformity shall be declared only where the conditions laid down in the FWC and in the *order form* or *specific contract* are satisfied and the supplies conform to the tender specifications (Annex I).

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If, for reasons attributable to the contractor, the EUI is unable to accept the supplies, the contractor must be notified in writing at the latest by the deadline for conformity.

II.2.3 Conformity of the supplies delivered with the FWC

The supplies delivered by the contractor to the EUI must be in conformity in quantity, quality, price and packaging with this FWC and the relevant *order form* or *specific contract*.

The supplies delivered must:

- a) correspond to the description given in the tender specifications (Annex I) and possess the characteristics of the supplies provided by the contractor to the EUI as a sample or model;
- b) be fit for any specific purpose required of them by the EUI and made known to the contractor at the time of conclusion of this FWC and accepted by the contractor;

- c) be fit for the purposes for which supplies of the same type are normally used;
- d) demonstrate the high quality standards and performance which are normal in supplies of the same type and which the EUI can reasonably expect, given the nature of the supplies and taking into account any public statements on the specific characteristics of the supplies made by the contractor, the producer or its representative, particularly in advertising or on labelling; in accordance with the state of the art in the industry and the provisions of this FWC, in particular the tender specifications and the terms of its tender;
- e) be packaged according to the usual method for supplies of the same type or, failing this, in a way designed to preserve and protect them.

II.2.4 Remedy

The contractor shall be liable to the EUI for any lack of conformity which exists at the time the supplies are verified.

In case of lack of conformity, without prejudice to Article II.13 regarding liquidated damages applicable to the total price of the supplies concerned, the EUI is entitled:

- a) either to have the supplies brought into conformity, free of charge, by repair or replacement;
- b) or to have an appropriate reduction made in the price.

Any repair or replacement shall be completed within a reasonable time and without any significant inconvenience to the EUI, taking account of the nature of the supplies and the purpose for which they are required by the EUI.

The term 'free of charge' in paragraph a) refers to the costs incurred to bring the supplies into conformity, particularly the cost of postage, labour and materials.

II.2.5 Assembly

If required by the tender specifications (Annex I), the contractor must assemble the supplies delivered within a period of 1 (one) month unless otherwise specified in the special conditions.

Any lack of conformity resulting from incorrect installation of the supplies delivered must be deemed to be equivalent to lack of conformity of the supplies if installation forms part of this FWC and the supplies were installed by the contractor or under its responsibility. This applies equally if the product was to be installed by the EUI and was incorrectly installed owing to a shortcoming in the installation instructions.

II.2.6 Services provided to supplies

If required by the tender specifications (Annex I), services to supplies must be provided accordingly.

II.2.7 General provisions concerning supplies

(a) Packaging

The supplies shall be packaged in strong boxes or crates or in any other way that ensures that the contents remain intact and prevents damage or deterioration. Packaging, pallets, etc., including contents, must not weigh more than 500 kg.

Unless otherwise specified in the special conditions or in the tender specifications (Annex I), pallets must be considered as one-way packaging and must not be returned. Each box must be clearly labelled with the following information:

- name of the contracting authority (the EUI) and address for delivery;
- name of contractor;
- description of contents;

- date of delivery;
- number and date of the *order form* or *specific contract*.

(b) Guarantee

The supplies must be guaranteed against all defects in manufacture or materials for 2 (two) years from the date of delivery, unless provision is made for a longer period in the tender specifications (Annex I).

The contractor must guarantee that any permits and licences required for manufacturing and selling the supplies have been obtained.

The contractor must replace at its own expense, within a reasonable time limit to be determined by agreement between the parties, any items which become damaged or defective in the course of normal use during the guarantee period.

The contractor is responsible for any conformity defect which exists at the time of delivery, even if this defect does not appear until a later date.

The contractor is also responsible for any conformity defect which occurs after delivery and is ascribable to non-compliance with its obligations, including failure to provide a guarantee that, for a certain period, supplies used for the purposes for which they are normally used or for a specific purpose will preserve their qualities or characteristics as specified.

If part of an item is replaced, the replacement part must be guaranteed under the same terms and conditions for a further period of the same duration as that specified above.

If a defect is found to originate in a systematic flaw in design, the contractor must replace or modify all identical parts incorporated in the other supplies that are part of the order, even though they may not have been the cause of any incident. In this case, the guarantee period shall be extended as stated above.

II.2.8 General provisions on performance of the FWC

The contractor shall *perform the FWC* to the highest professional standards.

The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for *performance of the FWC* under the laws and regulations in force at the place where the tasks assigned to it are to be executed.

Without prejudice to Article II.6 any reference made to the contractor's *personnel* in the FWC shall relate exclusively to individuals involved in the *performance of the FWC*.

The contractor must ensure that the *personnel* implementing the FWC and any future replacement *personnel* possess the professional qualifications and experience required to provide the supplies, as the case may be on the basis of the selection criteria set out in the tender specifications (Annex I).

The contractor shall neither represent the EUI nor behave in any way that would give such an impression. The contractor shall inform third parties that it does not belong to the European public service.

The contractor is responsible for the *personnel* who performs the FWC and exercises its authority over its *personnel* without interference by the EUI. The contractor must inform its *personnel* that:

- a) they may not accept any direct instructions from the EUI; and
- b) their participation in providing the supplies does not result in any employment or contractual relationship with the EUI.

At the EUI's reasoned request, the contractor must replace any member of *personnel* who:

- (a) does not have the expertise required to provide the supplies; or
- (b) has caused disruption at the premises of the EUI.

The contractor bears the cost of replacing its *personnel* and is responsible for any delay in providing the supplies resulting from the replacement of *personnel*.

The contractor must record and report to the EUI any problem that affects its ability to deliver the supplies. The report must describe the problem, state when it started and what action the contractor is taking to resolve it. In such an event the contractor must give priority to solving the problem rather than determining liability.

Should the contractor fail to perform its obligations under the FWC, the EUI may - without prejudice to its right to terminate the FWC - reduce or recover payments in proportion to the scale of the unperformed obligations. In addition, the EUI may claim compensation or impose liquidated damages in accordance with Article II.13 of this FWC or the penalties indicated in the tender specifications (Annex I).

Article II.3 - Means of communication

II.3.1 Any communication relating to the FWC or to its *performance* shall be made in writing and shall bear the FWC number. Any communication is deemed to have been made when it is received by the receiving party unless otherwise provided for in this FWC.

II.3.2 Electronic communication shall be deemed to have been received by the parties on the day of dispatch of that communication provided it is sent to the addressees listed in article I.6. Without prejudice to the preceding, if the sending party receives a message of non-delivery to or of absence of the addressee, it shall make every effort to ensure the actual receipt of such communication by the other party.

Electronic communication shall be confirmed by an original signed paper version of that communication if requested by any of the parties provided that this request is submitted without unjustified delay. The sender shall send the original signed paper version without unjustified delay.

II.3.3 Mail sent using the postal services is deemed to have been received by the EUI on the date on which it is registered by the responsible service referred to in article I.6.

Any formal *notification* shall be made by registered mail with return receipt or equivalent, or by equivalent electronic means.

II.3.4 The parties agree that any communication made by emails has full legal effect and is admissible as evidence in judicial proceeding.

Article II.4 – Liability

II.4.1 The contractor shall be solely responsible for complying with any legal obligations incumbent to it.

II.4.2 The EUI shall not be held liable for any damage or loss caused or sustained by the contractor, including any damage caused by the contractor to third parties during or as a consequence of *performance of the FWC*, except in the event of wilful misconduct or gross negligence on the part of the EUI.

II.4.3 The contractor shall be held liable for any loss or damage, cost (including legal and other professional fees) or expenses sustained by the EUI but caused by the contractor in *performance of the FWC*, including in the event of subcontracting and for any claim by a third party but only to an amount not exceeding three times the total amount of the contract. The contractor shall remain liable without any limitation as to the amount if the damage or loss is caused by the gross

negligence or wilful conduct of the contractor or by its *personnel*, and for death caused by negligence or wilful conduct of its *personnel*.

II.4.4 In addition, the contractor shall, in the execution of supplies, comply with all procedures and precautions that apply to prevent the possibility of damage to property of the EUI and third parties, and especially of injury to persons engaged in the supplies and third parties, in compliance with the provisions of applicable law. Any liability, in the event of accidents, for damages caused by the contractor's staff will fall, therefore, upon the contractor, thus relieving the EUI.

II.4.5 The contractor shall indemnify and hold the EUI harmless for all damages and costs incurred due to any claim. The contractor shall provide compensation in the event of any action, claim or proceeding brought against the EUI by a third party as a result of damage caused by the contractor during the *performance of the FWC*. In the event of any action brought by a third party against the EUI in connection with the *performance of the FWC*, the contractor shall assist the EUI.

II.4.6 The contractor shall take out an insurance policy against risks and damage relating to the *performance of the FWC*, if required by the relevant applicable legislation. It shall take out supplementary insurance as reasonably required by standard practice in the industry. A copy of all the relevant insurance contracts shall be sent to the EUI should it so request.

II.4.7 If the contractor is composed of two or more economic operators (i.e who submitted a joint tender), they are all jointly and severally liable to the EUI for the *implementation of the FWC*.

Article II.5 – Conflict of interest

II.5.1 The contractor shall take all the necessary measures to prevent any situation of *conflict of interest*. Such situation arises where the impartial and objective *performance of the FWC* is compromised for reasons involving economic interest, political or national affinity, family or emotional ties, or any other shared interest.

II.5.2 Any situation constituting or likely to lead to a *conflict of interest* during the *performance of the FWC* shall be *notified* to the EUI in writing without delay. In the event of any such conflict, the contractor shall immediately take all the necessary steps to rectify the situation. The EUI reserves the right to verify that the steps taken are appropriate and may require that additional steps be taken within a specified deadline.

II.5.3 The contractor declares that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain and has not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, when such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, in so far as it serves as an incentive or reward relating to the *performance of the FWC*.

II.5.4 In compliance with the EUI's Staff Regulations, in particular Art. 11, EUI's staff members shall not, without the permission of the Appointing Authority, accept any gift, directly or indirectly connected with their own work activities. The contractor confirms acknowledgement of this rule and the consequent termination of the FWC in case of non-conformity.

II.5.5 The contractor shall pass on all the relevant obligations in writing to its *personnel* and to any natural person with the power to represent it or take decisions on its behalf and ensure that it is not placed in a situation which could give rise to conflicts of interest. The contractor shall also pass on all the relevant obligations in writing to third parties involved in the *performance of the FWC* including subcontractors.

Without prejudice to Article II.2 the contractor shall replace, immediately and without compensation from the EUI, any member of the contractor's *personnel* faced with or brought into such a situation.

Article II.6 – Confidentiality

II.6.1 The EUI and the contractor shall treat with confidentiality any information and documents, in any form, disclosed in writing or orally in relation to the *performance of the FWC* and identified in writing as confidential.

II.6.2 The contractor shall:

- a. not use *confidential information* and documentation for any purpose other than fulfilling its obligations under the FWC without prior written agreement of the EUI;
- b. ensure the protection of such *confidential information* and *documentation* with the same level of protection it uses to protect its own confidential information, but in no case any less than reasonable care;
- c. not disclose directly or indirectly *confidential information* and *documentation* to third parties without prior written agreement of the EUI.

II.6.3 The confidentiality obligation set out in Article II.6.1 shall be binding on the EUI and the contractor during the *performance of the FWC* and for 5 (five) years starting from the date of the payment of the balance unless:

- a. the disclosing party agrees to release the other party from the confidentiality obligation earlier;
- b. the *confidential information* becomes public through other means than via *breach of the confidentiality obligations*, through disclosure by the party bound by that obligation;
- c. the disclosure of the *confidential information* is required by law.

II.6.4 The contractor shall obtain from any person with the power to represent it or take decisions on its behalf, as well as from third parties involved in the *performance of the FWC*, *order form*, an undertaking that they will comply with the confidentiality obligations set out in Article II.6.1.

Article II.7 – Processing of personal data

II.7.1 Any personal data included in the FWC shall be processed by the EUI in accordance with the EUI's Data Protection Policy pursuant to the EUI rules on Data Protection (available at: <https://www.eui.eu/About/DataProtection>).

Such data shall be processed by the data controller solely for the purposes of the *performance*, management and monitoring of the FWC without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of relevant EU and national law.

II.7.2 The contractor shall have the right of access to its personal data and the right to rectify any such data. The contractor should address any queries related to the processing of its personal data to the Data Controller indicated in Art. I.6.

II.7.3 The contractor shall have the right of recourse at any time to the Director of Unit in charge of the procedure by simultaneous *notification* to the Data Protection Officer (data_protection_officer@eui.eu).

II.7.4 Where the FWC requires the processing of personal data by the contractor or any of its subcontractors, the contractor may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise its rights. In that respect, the contractor shall be bound by the relevant provisions of the EUI's President's Decision No. 10/2019 as well as by the General Data Protection Regulation (GDPR)

Regulation (EU) 2016/679 and all applicable national laws and regulations of the country where it is established regarding to the processing of personal data and privacy.

II.7.5 The contractor shall grant its *personnel* access to the data only to the extent strictly necessary for the *performance*, management and monitoring of the FWC.

II.7.6 The contractor undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:

- a) prevent any unauthorised person from gaining access to computer systems processing personal data, and especially:
 - i. unauthorised reading, copying, alteration or removal of storage media;
 - ii. unauthorised data input, as well as any unauthorised disclosure, alteration or erasure of stored personal data;
 - iii. unauthorised use of data-processing systems by means of data transmission facilities;
- b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers;
- c) record which personal data has been communicated, when and to whom;
- d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the EUI;
- e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation;
- f) design its organisational structure in such a way that it meets data protection requirements.

Article II.8 – Subcontracting

II.8.1 The contractor shall not subcontract without prior written authorisation from the EUI nor cause the FWC to be *de facto* performed by third parties.

II.8.2 The request for subcontracting must be accompanied by a clear indication of the activities that will be subcontracted and must necessarily satisfy the requirements of the current FWC and any applicable [Italian/national] regulations. In the case of subcontracting occurring during the period of validity of the FWC resulting from this procedure, the contractor must submit all required documentation to the EUI and await its prior authorisation before making it indispensable, effective and operational.

II.8.3 Even where the EUI authorises the contractor to subcontract to third parties, the contractor shall remain bound by its obligations to the EUI under this FWC and shall guarantee the provision of the supplies and be solely liable for the proper *performance of the FWC* as if it was performing the provision of supplies itself.

II.8.4 The contractor shall ensure that the subcontract does not affect rights and guarantees which the EUI has by virtue of this FWC and agrees to indemnify the EUI against any claim, loss, cost or expenses awarded against, suffered, incurred, or agreed to be paid by the EUI as a consequence thereof.

Article II.9 – Amendments

II.9.1 Any amendment to the FWC or a *specific contract* shall be made in writing before fulfilment of any new contractual obligations and in any case before the date of payment of the balance.

II.9.2 The amendment may not have the purpose or the effect of making changes to the FWC or a *specific contract* which might call into question the decision awarding the FWC or result in unequal treatment of tenderers.

Article II.10 – Assignment

II.10.1 The contractor shall not assign the rights, including claims for payments, and obligations arising from the FWC, in whole or in part, without prior written authorisation from the EUI. In such cases, the contractor must provide the EUI with the identity of the intended assignee.

II.10.2 In the absence of such authorisation, or in the event of failure to observe the terms thereof, the assignment of rights or obligations by the contractor shall not be enforceable against the EUI and shall have no effect on it.

Article II.11 – Ownership of the results - intellectual and industrial property rights

II.11.1 Ownership of the rights in the results

The EUI acquires irrevocably worldwide ownership of the *results* and of all intellectual property rights under the FWC. The intellectual property rights so acquired include any rights, such as copyright and other intellectual or industrial property rights, to any of the *results* and to all technological solutions and information created or produced by the contractor or by any of its subcontractors in *performance of the FWC*. The EUI may exploit and use the acquired rights as stipulated in this FWC. The EUI acquires all the rights from the moment the EUI approves the *results* delivered by the contractor. Such delivery and approval are deemed to constitute an effective assignment of rights from the contractor to the EUI.

The payment of the price includes any fees payable to the contractor about the acquisition of ownership of rights by the EUI including for all forms of exploitation and of use of the *results*.

II.11.2 Licensing rights on pre-existing materials

Unless provided otherwise in the special conditions, the EUI does not acquire ownership of *pre-existing rights* under this FWC.

The contractor licenses the *pre-existing rights* on a royalty-free, non-exclusive and irrevocable basis to the EUI, which may use the *pre-existing materials* for all the modes of exploitation set out in this FWC or in *specific contracts*.

Unless otherwise agreed, the licence is non-transferable and cannot be sub-licensed, except as provided hereafter:

(a) the *pre-existing rights* can be sub-licensed by the EUI to persons and entities working for it or cooperating with it, including contractors and subcontractors, whether legal or natural persons, but only for the purpose of their mission for the EUI;

(b) if the *result* is a "document" such as a report or a study, and it is meant to be published, the existence of *pre-existing materials* in the *result* may not prevent the publication of the document, its translation or its "reuse", it being understood however that the "reuse" may only be made of the *result* as a whole and not of the *pre-existing materials* taken separately from the *result*; for the sake

of this provision, "reuse" and "document" have the meaning given by the Commission Decision of 12 December 2011 on the reuse of Commission documents (2011/833/EU).

All *pre-existing rights* are licensed to the EUI from the moment the *results* are delivered and approved by the EUI.

The licensing of *pre-existing rights* to the EUI under this FWC covers all territories worldwide and is valid for the duration of intellectual property rights protection.

The payment of the price as set out in the *specific contracts* is deemed to also include any fees payable to the contractor in relation to the licensing of *pre-existing rights* to the EUI, including for all forms of exploitation and of use of the *results*.

Where *performance of the FWC* requires that the contractor uses *pre-existing materials* belonging to the EUI, the EUI may request that the contractor signs an adequate licence agreement. Such use by the contractor will not entail any transfer of rights to the contractor and is limited to the needs of this FWC and ends with the termination of the FWC.

II.11.3 Exclusive rights

The EUI acquires the following exclusive rights:

- (a) reproduction: the right to authorise or prohibit direct or indirect, temporary or permanent reproduction of the *results* by any means (mechanical, digital or other) and in any form, in whole or in part;
- (b) communication to the public: the exclusive right to authorise or prohibit any display, performance or communication to the public, by wire or wireless means, including the making available to the public of the results in such a way that members of the public may access them from a place and at a time individually chosen by them; this right also includes the communication and broadcasting by cable or by satellite;
- (c) distribution: the exclusive right to authorise or prohibit any form of distribution of *results* or copies of the *results* to the public, by sale or otherwise;
- (d) rental: the exclusive right to authorise or prohibit rental or lending of the *results* or of copies of the results;
- (e) adaptation: the exclusive right to authorise or prohibit any modification of the *results*;
- (f) translation: the exclusive right to authorise or prohibit any translation, adaptation, arrangement, creation of derivative works based on the results, and any other alteration of the results, subject to the respect of moral rights of authors, where applicable;
- (g) where the *results* are or include a database: the exclusive right to authorise or prohibit the extraction of all or a substantial part of the contents of the database to another medium by any means or in any form; and the exclusive right to authorise or prohibit the re-utilization of all or a substantial part of the contents of the database by the distribution of copies, by renting, by on-line or other forms of transmission;
- (h) where the *results* are or include a patentable subject-matter: the right to register them as a patent and to further exploit such patent to the fullest extent;
- (i) where the *results* are or include logos or subject-matter which could be registered as a trademark: the right to register such logo or subject-matter as a trademark and to further exploit and use it;
- (j) where the *results* are or include know-how: the right to use such know-how as is necessary to make use of the results to the full extent provided for by this FWC, and the right to make it available to contractors or subcontractors acting on behalf of the EUI, subject to their signing of adequate confidentiality undertakings where necessary;

- (k) where the *results* are documents:
- (i) the right to authorise the reuse of the documents in conformity with the Commission Decision of 12 December 2011 on the reuse of Commission documents (2011/833/EU), to the extent it is applicable and the documents fall within its scope and are not excluded by any of its provisions; for the sake of this provision, 'reuse' and 'document' have the meaning given to it by this Decision;
 - (ii) the right to store and archive the *results* in line with the document management rules applicable to the EUI, including digitisation or converting the format for preservation or new use purposes;
- (l) where the *results* are or incorporate software, including source code, object code and, where relevant, documentation, preparatory materials and manuals, in addition to the other rights mentioned in this Article:
- (i) end-user rights, for all uses by the EUI or by subcontractors which result from this FWC and from the intention of the parties;
 - (ii) the rights to decompile or disassemble the software;
- (m) the right to license to third parties any of the exclusive rights or of the modes of exploitation set out in this FWC; however, for *pre-existing materials* which are only licensed to the EUI, the right to sub-license does not apply, except in the two cases foreseen by Article II.11.2;
- (n) to the extent that the contractor may invoke moral rights, the right for the EUI, except where otherwise provided in this FWC, to publish the *results* with or without mentioning the *creator(s)*' name(s), and the right to decide when and whether the *results* may be disclosed and published.

The contractor warrants that the exclusive rights and the modes of exploitation may be exercised by the EUI on all parts of the *results*, be they created by the contractor or consisting of *pre-existing materials*.

Where *pre-existing materials* are inserted in the *results*, the EUI may accept reasonable restrictions impacting on the above list, provided that the said materials are easily identifiable and separable from the rest, that they do not correspond to substantial elements of the *results*, and that, should the need arise, satisfactory replacement solutions exist, at no additional costs to the EUI. In such case, the contractor will have to clearly inform the EUI before making such choice and the EUI has the right to refuse it.

II.11.4 Identification of pre-existing rights

When delivering the *results*, the contractor must warrant that, for any use that the EUI may envisage within the limits set in this FWC, the results and the *pre-existing material* incorporated in the results are free of claims from *creators* or from any third parties and all the necessary *pre-existing rights* have been obtained or licensed.

To that effect, the contractor must establish a list of all *pre-existing rights* to the *results* of this FWC or parts thereof, including identification of the rights' owners. If there are no *pre-existing rights* to the *results*, the contractor must provide a declaration to that effect. The contractor must provide this list or declaration to the EUI together with the invoice for payment of the balance at the latest.

II.11.5 Evidence of granting of pre-existing rights

Upon request by the EUI, the contractor must provide evidence that it has the ownership or the right to use all the listed *pre-existing rights*, except for the rights owned or licensed by the EUI. The EUI may request this evidence even after the end of this FWC.

This evidence may refer, for example, to rights to: parts of other documents, images, graphs, fonts, tables, data, software, technical inventions, know-how, IT development tools, routines, subroutines or other programs ('background technology'), concepts, designs, installations or pieces of art, data, source or background materials or any other parts of external origin.

This evidence must include, as appropriate:

- (a) the name and version number of a software product;
- (b) the full identification of the work and its author, developer, *creator*, translator, data entry person, graphic designer, publisher, editor, photographer, producer;
- (c) a copy of the licence to use the product or of the agreement granting the relevant rights to the contractor or a reference to this licence;
- (d) a copy of the agreement or extract from the employment contract granting the relevant rights to the contractor where parts of the *results* were created by its *personnel*;
- (e) the text of the disclaimer notice if any.

Provision of evidence does not release the contractor from its responsibilities if it is found that it does not hold the necessary rights, regardless of when and by whom this fact is revealed.

The contractor also warrants that it possesses the relevant rights or powers to execute the transfer and that it has paid or has verified payment of all due fees including fees due to collecting societies, related to the final *results*.

II.11.6 Quotation of works in the result

In the *result*, the contractor must clearly point out all quotations of existing works. The complete reference should include as appropriate, the following: name of the author, title of the work, date and place of publication, date of creation, address of publication on the internet, number, volume and other information that allows the origin to be easily identified.

II.11.7 Moral rights of creators

By delivering the results, the contractor warrants that the *creators* will not object to the following on the basis of their moral rights under copyright:

- (a) that their names be mentioned or not mentioned when the *results* are presented to the public;
- (b) that the *results* be divulged or not after they have been delivered in their final version to the EUI;
- (c) that the *results* be adapted, provided that this is done in a manner which is not prejudicial to the *creator's* honour or reputation.

If moral rights on parts of the *results* protected by copyright may exist, the contractor must obtain the consent of *creators* regarding the granting or waiver of the relevant moral rights in accordance with the applicable legal provisions and be ready to provide documentary evidence upon request.

II.11.8 Image rights and sound recordings

If natural persons appear in a result or their voice or any other private element is recorded in a recognisable manner, the contractor must obtain a statement by these persons (or, in the case of minors, by the persons exercising parental authority) giving their permission for the described use of their image, voice or private element and, on request, submit a copy of the permission to the EUI. The contractor must take the necessary measures to obtain such consent in accordance with the applicable legal provisions.

II.11.9 Copyright notice for pre-existing rights

When the contractor retains *pre-existing rights* on parts of the *results*, reference must be inserted to that effect when the *result* is used as set out in Article I.8.1, with the following disclaimer: '© — year — European University Institute. All rights reserved. Certain parts are licensed under conditions to the EUI', or with any other equivalent disclaimer as the EUI may consider best appropriate, or as the parties may agree on a case-by-case basis. This does not apply where inserting such reference would be impossible, notably for practical reasons.

II.11.10 Visibility of EUI funding and disclaimer

When making use of the *results*, the contractor must declare that they have been produced under a FWC with the EUI and that the opinions expressed are those of the contractor only and do not represent the EUI's official position. The EUI may waive this obligation in writing or provide the text of the disclaimer.

Article II.12 – Force majeure

II.12.1 A party faced with force majeure shall formally and immediately *notify* the other party, stating the nature of the circumstances, their likely duration and foreseeable effects.

II.12.2 The party faced with force majeure shall not be held liable for any delay or failure to perform its contractual obligations under the FWC, if that delay or failure is a result of force majeure. Where the contractor is unable to fulfil its contractual obligations owing to force majeure, it has the right to remuneration only for the supplies actually delivered and which obtain a certificate of conformity.

II.12.3 The parties shall take all the necessary measures to limit any damage due to force majeure.

Article II.13 – Liquidated damages

II.13.1 Delay in delivery

If the contractor fails to perform its contractual obligations within the applicable time limits set out in this FWC, the EUI may claim liquidated damages for each day of delay using the following formula:

$$0.3 \times (V/d)$$

where:

V is the price of the relevant purchase or *deliverable* or *result*;

d is the duration specified in the relevant *specific contract* for delivery of the relevant purchase or *deliverable* or *result* or, failing that, the period between the date specified in Article I.2.3 and the date of delivery or performance specified in the relevant specific contract, expressed in days.

Liquidated damages may be imposed together with a reduction in price under the conditions laid down in Article II.14.

II.13.2 Procedure

The EUI must *formally notify* the contractor of its intention to apply liquidated damages and the corresponding calculated amount.

The contractor has 30 (thirty) days following the date of receipt to submit observations. Failing that, the decision becomes enforceable the day after the time limit for submitting observations has elapsed.

If the contractor submits observations, the EUI, taking into account the relevant observations, must *notify* the contractor:

- (a) of the withdrawal of its intention to apply liquidated damages; or
- (b) of its final decision to apply liquidated damages and the corresponding amount.

II.13.3 Nature of liquidated damages

The parties expressly acknowledge and agree that any amount payable under this Article is not a penalty and represents a reasonable estimate of fair compensation for the damage incurred due to failure to provide the supplies within the applicable time limits set out in this FWC.

II.13.4 Claims and liability

Any claim for liquidated damages does not affect the contractor's actual or potential liability or EUI's rights under Article II.16 (termination of the FWC).

Article II.14 – Reduction in price

II.14.1 Quality standards

If the contractor fails to provide the supplies in accordance with the FWC or a *specific contract* ('unperformed obligations') or if it fails to provide the supplies in accordance with the expected quality levels specified in the tender specifications ('low quality delivery'), the EUI may reduce or recover payments proportionally to the seriousness of the unperformed obligations or low quality delivery. This includes in particular cases where the EUI cannot approve a result, report or deliverable as defined in Article I.4 after the contractor has submitted the required additional information, correction or new version.

A reduction in price may be imposed together with liquidated damages under the conditions of Article II.13.

II.14.2 Procedure

The EUI must *formally notify* the contractor of its intention to reduce payment and the corresponding calculated amount.

The contractor has 30 (thirty) days following the date of receipt to submit observations. Failing that, the decision becomes enforceable the day after the time limit for submitting observations has elapsed.

If the contractor submits observations, the EUI, taking into account the relevant observations, must *notify* the contractor:

- (a) of the withdrawal of its intention to reduce payment; or
- (b) of its final decision to reduce payment and the corresponding amount.

II.14.3. Claims and liability

Any reduction in price does not affect the contractor's actual or potential liability or the EUI's rights under Article II.16 (termination of the FWC).

Article II.15 – Suspension of the implementation of the FWC

II.15.1 Suspension by the contractor

The contractor may suspend the *performance of a specific contract* or of any part of it if the contractor is affected by a case of force majeure which makes such *performance* impossible or excessively difficult.

The contractor shall inform the EUI about the suspension without delay. The *notification* must include a description of the force majeure and the envisaged date for resuming the *performance of the contract*.

The contractor must *notify* the EUI as soon as it is able to resume the *performance of the specific contract*, unless the EUI has already terminated the FWC or the *specific contract*.

II.15.2 Suspension by the EUI

The EUI may suspend the *implementation of the FWC* or *performance of a specific contract* or any part of it:

- (a) if the FWC award procedure or the *performance of the FWC* prove to have been subject to substantial errors, *irregularities* or *fraud*;
- (b) in order to verify whether presumed substantial errors, *irregularities* or *fraud* have actually occurred.

Suspension shall take effect on the day the contractor receives formal *notification*, or at a later date provided in the *notification*.

The EUI shall give notice as soon as possible to the contractor to resume the service suspended or it shall inform the contractor that it intends to terminate the FWC or the *specific contract* under Article II.16.1 (d) or (i).

The contractor shall not be entitled to claim compensation on account of suspension of the FWC or of part thereof or a *specific contract*.

The EUI may in addition suspend the time allowed for payments in accordance with Art. II.17.4.

Article II.16 – Termination of the FWC

II.16.1 Grounds for termination

The present FWC shall be terminated automatically as soon as prohibitory sanctions or *informativa antimafia interdittiva* (antimafia prohibitory notice) are issued by the competent Prefecture towards the contractor, in accordance with D. Lgs. N. 159 of 9th September 2011 and its subsequent modifications. In that case, the FWC shall be automatically terminated and the EUI has the right to keep the performance guarantee submitted by the contractor, if any, and to submit any further claims against the contractor. The contractor may only be entitled to payment corresponding to *part-performance of the FWC* before the termination date, without any further obligations for the EUI.

Notwithstanding any other term of this FWC, the EUI may terminate the FWC, an *order form* or *specific contract* in the following circumstances:

- a. if a change to the contractor's legal, financial, technical or organisational or ownership situation is likely to affect the *performance of the FWC* substantially or calls into question the decision to award the FWC;
- b. if the execution of the tasks of the FWC or an *order form* or a *specific contract* has not actually commenced within 3 (three) months of the date foreseen, and the new date proposed, if any, is considered unacceptable by the EUI;
- c. if the contractor does not perform the FWC or an *order form* or *specific contract* as established in the tender specifications, the *request for supplies* or fails to fulfil any other substantial contractual obligation or repeatedly refuses to sign *specific contracts*. Termination of 3 (three) or more *specific contracts* in these circumstances also constitutes grounds for termination of the FWC;

- d. in the event of force majeure *notified* in accordance with Article II.12 or if the *performance of the contract* has been suspended by the contractor as a result of force majeure, *notified* in accordance with Article II.12, where either resuming *performance* is impossible or the modifications to the contract might call into question the decision awarding the FWC, the *order form* or the *specific contract* or result in unequal treatment of tenderers;
- e. if the contractor is declared bankrupt, is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- f. if the contractor or any natural person with the power to represent it or take decisions on its behalf has been found guilty of professional misconduct proven by any means;
- g. if the contractor is not in compliance with its obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established or with those of the country of the applicable law of this FWC or those of the country where the FWC is to be performed;
- h. if the EUI has evidence that the contractor or natural persons with the power to represent it or take decisions on its behalf have committed *fraud*, corruption or any other illegal activity detrimental to the financial interests of the EUI, or has evidence or seriously suspects that they are involved in a criminal organisation or money laundering;
- i. if the EUI has evidence that the contractor or natural persons with power to represent or take decisions on its behalf have committed substantial errors, *irregularities* or *fraud* in the award procedure or the *performance of the FWC*, including the case of submission of false information;
- j. if the contractor is unable, through its own fault, to obtain any permit or license required for the *performance of the FWC*, *order forms* or *specific contracts*;
- k. if the needs of the EUI change and it no longer requires new supplies under the FWC;
- l. in the presence of *serious misconduct by personnel*, duly reported in writing by the EUI and which are not promptly handled by replacement of *personnel* in question;
- m. when due to the termination of the FWC with one or more of the contractors there is no minimum required competition within the multiple FWC with reopening of competition;
- n. if the contractor is in a situation that could constitute *conflict of interest* as referred to Article II.5.

II.16.2 Procedure for termination

Whereby the EUI intends to terminate the FWC, an *order form* or *specific contract*, it shall *formally notify* the contractor of its intention, specifying the grounds thereof.

The EUI shall invite the contractor to make any observations and, in the case of point II.16.1, point c) to inform the EUI about the measures taken to continue the fulfilment of its contractual obligations, within 30 (thirty) days from receipt of the *notification*.

If the EUI does not confirm acceptance of these observations by giving written approval within 30 (thirty) days of receipt, the termination procedure shall proceed. In any case of termination, the EUI shall *formally notify* the contractor about its decision to terminate the FWC.

In the cases referred to in points in letter a), b), c), e), g), l), m), n) and j) of Article II.16.1, the formal *notification* shall specify the date on which the termination takes effect.

In the cases referred to in points d), f), h) and i) and k) of Article II.16.1, the termination shall take effect on the day following the date on which *notification* is received by the contractor.

II.16.3 Effects of termination

In the event of termination, the contractor shall waive any claim for consequential damages, including any loss of anticipated profits for uncompleted work. On receipt of the *notification* of termination, the contractor shall take all the appropriate measures to minimise costs, prevent damages, and cancel or reduce its commitments. The contractor shall have 60 (sixty) days from the date of termination to draw up the documents required by the special conditions for the tasks already executed on the date of termination and produce an invoice if necessary. The EUI may recover any amounts paid under the FWC.

The EUI may claim compensation for any damage suffered in the event of termination.

On termination the EUI may engage any other contractor to execute or complete the supplies. The EUI shall be entitled to claim from the contractor all extra costs incurred in this regard, without prejudice to any other rights or guarantees it may have under the FWC.

Article II.17 – Reporting and payments

II.17.1 Date of payment

Payments shall be deemed to be effected on the date when they are debited to the EUI's account.

II.17.2 Currency

The FWC shall be in Euro (€).

Payments shall be executed in Euro (€) [or in the local currency, if the receiving party has its legal seat outside Euro-area].

II.17.3 Invoices and VAT

The EUI is a teaching and research centre which uses a decentralised administrative structure and which manages, in addition to the different internal projects, several activities which are externally financed by both public and private sponsors. The contractor undertakes to follow the analytical invoicing procedures requested by the EUI, issuing on demand specific invoices for each cost centre/activity identified.

Invoices shall show the identification details of the contractor, the amount, currency and date, as well as the reference to the FWC, *order form* or *specific contract*.

The EUI is as a rule, exempt from payment of Value Added Tax (VAT) on goods imported and services provided for the EUI's official activities for amounts exceeding Euro 300.00 (three hundred/00), pursuant to art. 151, para 1 (b) and para 2 of Council Directive 2006/112/EC, as last amended by Council Directive 2009/162/UE.

Where VAT is due in Italy, the above exemption applies to goods imported and services provided for the EUI's official activities for amounts exceeding Euro 300.00 (three hundred/00), provided the invoice includes the statement: "Esenzione IVA - Articolo 72-comma 1 lettera e) e comma 2 del D.P.R. n. 633 del 26/10/1972 e successive modifiche."

The EUI is exempt from customs duties and direct taxes within the terms of Articles 4 and 5 of the "Protocol on the Privileges and Immunities of the European University Institute" (Legge 181 del 21 Novembre 2014).

The contractor shall accordingly complete the necessary formalities with the relevant authorities to ensure that supplies and services required for the *performance of the FWC* are exempt from taxes and duties, including VAT exemption.

II.17.4 Suspension of the time allowed for payment

The EUI may suspend the payment periods at any time by *notifying* the contractor that its invoice cannot be processed, either because it does not comply with the provisions of the FWC, or because the appropriate documents have not been produced.

The EUI shall inform the contractor in writing as soon as possible of any such suspension, giving the reasons for it.

Suspension shall take effect on the date the *notification* is sent by the EUI. The remaining payment period shall start to run again from the date on which the requested information or revised documents are received or the necessary further verification, including on-the-spot checks, is carried out. Where the suspension period exceeds 2 (two) months, the contractor may request the EUI to justify the continued suspension.

Where the payment periods have been suspended following rejection of a document, as indicated in the first paragraph of this Article, and the new document produced is also rejected, the EUI reserves the right to terminate the contract in accordance with Article II.16.1 (c).

II.17.5 Performance guarantees

Performance guarantees cover compliance with substantial contractual obligations until the EUI has given its final approval for the supply. The performance guarantee must not exceed 10% of the total price of the *order form* or *specific contract*.

Where, in accordance with Article I.4, a financial guarantee is required for the payment of pre-financing, or as performance guarantee, it shall fulfil the following conditions:

- a. the financial guarantee is provided by a bank or an approved financial institution or, at the request of the contractor and agreement by the EUI, by a third party;
- b. the guarantor stands as first-call guarantor and does not require the EUI to have recourse against the principal debtor (the contractor).

The cost of providing such guarantee shall be borne by the contractor.

Article II.18 – Reimbursements

II.18.1 Where provided by the special conditions or by the tender specifications, the EUI shall reimburse the expenses which are directly connected with execution of the tasks on production of original supporting documents, including receipts and used tickets, or failing that, on production of copies or scanned originals, or on the basis of flat rates.

II.18.2 Travel and subsistence expenses shall be reimbursed, where appropriate, on the basis of the shortest itinerary and the minimum number of nights necessary for overnight stay at the destination.

II.18.3 Travel expenses shall be reimbursed as follows:

- a. travel by air shall be reimbursed up to the maximum cost of an economy class ticket at the time of the reservation;
- b. travel by boat or rail shall be reimbursed up to the maximum cost of a first class ticket;
- c. travel by car must be authorized by the EUI and shall be reimbursed on the basis of a Kilometre allowance, currently fixed at Euro 0,22 per kilometre. Other expenses (motorway tolls, ferry crossings, etc.) can also be reimbursed on presentation of the corresponding supporting documents.

II.18.4 Subsistence expenses shall be reimbursed up to Euro 175 per day as follows:

- a. for journeys of less than 80 km for a return trip, no subsistence allowance shall be payable;
- b. daily subsistence allowance shall be payable only on receipt of supporting documents proving that the person concerned was present at the destination;
- c. daily subsistence allowance is paid as a flat-rate and is considered to cover the hotel or other related cost (if applicable) breakfast and the two main meals, local travel, the cost of telecommunications, including fax and internet, and all other sundries;
- d. taxi expenses are reimbursed up to a maximum of Euro 70 per visit.

Parking expenses (airports only) are reimbursed up to a maximum of 4 (four) days per visit.

All supporting documents (duly completed) must always be attached to the statement of expenses.

II.18.5 Conversion between the Euro and another currency shall be made monthly applying the market rates for the penultimate day of the previous month quoted by the European Central Bank or, depending on availability, provided by the delegations or other appropriate sources close to that date.

Article II.19 – Recovery

II.19.1 If an amount is to be recovered under the terms of the FWC, the contractor shall repay the EUI the amount in question according to the terms and by the date specified in the debit note.

II.19.2 If the obligation to pay the amount due is not honoured by the date set by the EUI in the debit note, the amount due shall bear interest at the rate applied by the European Central Bank for its main refinancing operations in Euros (the reference rate) plus 3,5%. The reference rate shall be the rate in force on the first day of the month in which the payment period ends, as published in the C series of the Official Journal of the European Union. Interest on late payments shall cover the period from the day following the due date for payment, up to and including the date when the EUI receives full payment of the amount owed.

Any partial payment shall first be entered against charges and interest on late payment and then against the principal amount.

II.19.3 If payment has not been made by the due date, the EUI may, after informing the contractor in writing, recover the amounts due by offsetting them against any amounts owed to the contractor by the EUI.

Article II.20 – Checks and audits

II.20.1 The EUI may check or have an audit on the *performance of the FWC*. It may be carried out either directly by its own staff or by any other outside body authorised to do so on its behalf.

Such checks and audits may be initiated during the *performance of the FWC* and during a period of 5 (five) years which starts running from the date of the payment of the balance.

The audit procedure shall be deemed to be initiated on the date of receipt of the relevant letter sent by the EUI. Audits shall be carried out on a confidential basis.

II.20.2 The contractor, during the lifetime of the FWC shall, or shall procure that its subcontractors shall gather, compile, correlate, collect and otherwise maintain all relevant accounts, records, books and other information in documentary form or on easily accessible electronic media ("Records"), arising in connection with the *performance of the FWC*.

The contractor shall keep all original documents stored on any appropriate medium, including digitised originals when they are authorised by national law and under the conditions laid down

therein, for a period of 5 (five) years which starts running from the date of payment of the balance of the last *specific contract* issued under this FWC..

II.20.3 The contractor shall allow the EUI's staff and outside *personnel* authorised by the EUI the appropriate right of access to sites and premises where the FWC is performed and to all the information, including information in electronic format, needed in order to conduct such checks and audits. The contractor shall ensure that the information is readily available at the moment of the check or audit and, if so requested, that information be handed over in an appropriate form.

II.20.4 On the basis of the findings made during the audit, a provisional report shall be drawn up. It shall be sent to the contractor, which shall have 30 (thirty) days following the date of receipt to submit observations. The final report shall be sent to the contractor within 60 (sixty) days following the expiry of that deadline.

On the basis of the final audit findings, the EUI may recover all or part of the payments made and may take any other measure which it considers necessary.

Article II.21 – Severability

Each provision of this FWC is severable and distinct from the others. If a provision is or becomes illegal, invalid or unenforceable to any extent, it must be severed from the remainder of the FWC. This does not affect the legality, validity or enforceability of any other provisions of the FWC, which continue in full force and effect. The illegal, invalid or unenforceable provision must be replaced by a legal, valid and enforceable substitute provision which corresponds as closely as possible with the actual intent of the parties under the illegal, invalid or unenforceable provision. The replacement of such a provision must be made in accordance with Article II.9 (amendment). The FWC must be interpreted as if it had contained the substitute provision as from its entry into force.