

## GENERAL CONDITIONS FOR LOW VALUE CONTRACTS

These general conditions shall apply to contracts for the supply of goods, provision of services and works purchased by the European University Institute (EUI).

In the event of conflicting interpretations, the contract special conditions shall take precedence over the general conditions.

If the tender specifications and the contractor's tender are annexed to the contract special conditions, the provisions set out in the general conditions take precedence over those set out in the tender specifications while the provisions set out in the tender specifications take precedence over those set out in the contractor's tender.

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 contract. In all circumstances, in the event of contradiction between this contract and documents issued by the contractor, this contract prevails, regardless of any provision to the contrary in the contractor's documents.

### DEFINITIONS

For the purpose of this contract, the following definitions apply:

**'Breach of obligations'**: failure by the contractor to fulfil one or more of its contractual obligations.

**'Contract'**: means the contract concluded through the acceptance of the contract special conditions (including its attachments such as, specifications and these general conditions) by the contractor. The contract special conditions must be received duly countersigned by the contractor for the conclusion of the contract.

**'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 performance of the contract, 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 performance of the contract by the contractor is compromised for reasons involving family, emotional life, political, financial, economic interest, any other direct or indirect personal interest, or any other shared interest with the EUI or any third party including professional conflicting interests.

**'Creator'**: means any natural person who contributes to the production of the result.

**‘Force majeure’:** any unforeseeable and exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their obligations under the contract, which was not attributable to error or negligence on their part or on the part of subcontractors and which proves to be inevitable in spite of exercising due diligence. Any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure, as well as labour disputes, strikes or financial difficulties, cannot be invoked as force majeure.

**‘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.

**‘Irregularity’:** 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 EUI's budget.

**‘Performance of the contract’:** the execution of tasks and delivery of the purchased services by the contractor to the EUI.

**‘Personnel’:** persons employed directly or indirectly or contracted by the contractor to perform the contract.

**‘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 performance of the contract.

**‘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.

**‘Result’:** any intended outcome of the performance of the contract, whatever its form or nature. A result may be further defined in this contract 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.

## **Article 1 – Performance of the contract**

- (1)** The contractor shall perform the contract according to the highest professional standards.
- (2)** The contractor shall be solely responsible for taking the necessary steps to obtain any permit or licence required for performance of the contract under the laws and regulations in force at the place where the assigned tasks are to be executed.
- (3)** Without prejudice to Article 1.4, any reference made to the contractor's personnel in the contract shall relate exclusively to individuals involved in the performance of the contract.

(4) The contractor must ensure that the personnel performing the contract possesses the professional qualifications and experience required for the execution of the tasks assigned to it.

(5) The contractor shall neither represent the EUI nor behave in any way that would give such an impression.

(6) The contractor shall be solely responsible for the personnel who executes the tasks assigned to the contractor. The contractor shall stipulate the following employment or service relationships with its personnel:

- a. personnel executing the tasks assigned to the contractor may not be given orders directly by the EUI;
- b. the EUI may not under any circumstances be considered to be the employer of the personnel referred to in point (a) and the personnel shall undertake not to invoke against the EUI any right arising from the contractual relationship between the EUI and the contractor.

(7) In the event of disruption resulting from the action of one of the contractor's personnel working on the contracting authority's premises or in the event that the expertise of a member of the contractor's personnel fails to correspond to the profile required by the contract, the contractor shall replace him without delay. The EUI shall have the right to make a reasoned request for the replacement of any such personnel. The replacement personnel must have the necessary qualifications and be capable of performing the contract under the same contractual conditions.

The contractor shall be responsible for any delay in the execution of the tasks assigned to it resulting from the replacement of personnel.

(8) Should the execution of the tasks be directly or indirectly hampered, either partially or totally, by any unforeseen event, action or omission, the contractor shall immediately and on its own initiative record it and report it to the EUI. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the contractor to ensure full compliance with its obligations under this contract. In such an event the contractor shall give priority to solving the problem rather than determining liability.

(9) Should the contractor fail to perform its obligations under the contract, the EUI may - without prejudice to its right to terminate the contract - reduce or recover payments in proportion to the scale of the unperformed obligations.

## **Article 2 – Means of communication**

(1) 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 the contract. 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.

**(2)** 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 the contract.

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

### **Article 3 – Liability**

**(1)** The contractor shall be solely responsible for complying with any legal obligations incumbent to it.

**(2)** The EUI shall not be held liable for any claim, loss, cost or expense or other any damage 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 contract, except in the event of wilful misconduct or gross negligence on the part of the EUI.

**(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 contract, including in the event of subcontracting and for any claim by a third party but only to an amount not exceeding 2 (two) 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 misconduct of the contractor or by its employees, and for death caused by negligence or wilful misconduct of its employees.

**(4)** In addition, the contractor shall, in the execution of service, 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 service 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.

**(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 contract. In the event of any action brought by a third

party against the EUI in connection with the performance of the contract, the contractor shall assist the EUI.

**(6)** The contractor shall take out an insurance policy against risks and damage relating to the performance of the contract, 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.

#### **Article 4 – Conflict of interest**

**(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 contract is compromised for reasons involving economic interest, political or national affinity, family or emotional ties, or any other shared interest.

**(2)** Any situation constituting or likely to lead to a conflict of interest during the performance of the contract 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.

**(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 contract.

**(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 contract in case of non-conformity.

**(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 contract including subcontractors.

Without prejudice to Article 1 the contractor shall replace, immediately and without compensation from the EUI, any member of the contractor's staff faced with or brought into such a situation.

## Article 5 – Confidentiality

(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 contract and identified in writing as confidential.

(2) The contractor shall:

- a. not use confidential information and documentation for any purpose other than fulfilling its obligations under the contract 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.

(3) The confidentiality obligation set out in Article 5.1 shall be binding on the EUI and the contractor during the performance of the contract 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.

(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 contract, an undertaking that they will comply with the confidentiality obligations set out in Article 5.1.

## Article 6 – Processing of personal data

(1) Any personal data included in the contract shall be processed by the EUI in accordance with the EUI's Data Protection Policy pursuant to the [EUI President's Decision n. 10/2019](#) regarding Data Protection at the EUI. Such data shall be processed by the data controller solely for the purposes of the performance, management and monitoring of the contract without prejudice to its possible transmission to the bodies charged with monitoring or inspection tasks in application of relevant EU and national law.

(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, which for the purpose of this Article is the Head of the unit requesting the service.

**(3)** The contractor shall have the right of recourse at any time to the Head of the Unit requesting the service by simultaneous notification to the EUI Data Protection Officer ([Data\\_Protection\\_Officer@EUI.eu](mailto:Data_Protection_Officer@EUI.eu)).

**(4)** Where the contract 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 President's Decision n. 10/2019](#) as well as by the General Data Protection Regulation (GDPR) /Regulation (EU) 2018/1725 and 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.

**(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 contract.

**(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 7 – Subcontracting

- (1) The contractor shall not subcontract without prior written authorisation from the EUI nor cause the contract to be *de facto* performed by third parties.
- (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 contract and any applicable regulations. In the case of subcontracting occurring during the period of validity of the contract 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.
- (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 contract and shall guarantee the provision of the services and be solely liable for the proper performance of the contract as if it was performing the services itself.
- (4) The contractor shall ensure that the subcontract does not affect rights and guarantees which the EUI has by virtue of this contract 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 8 – Amendments

- (1) Any amendment to the contract shall be made in writing before fulfilment of any new contractual obligations.
- (2) The amendment may not have the purpose or the effect of making changes to the contract which might alter the initial conditions of the procurement procedure or result in unequal treatment of tenderers.

## Article 9 – Assignment

- (1) The contractor shall not assign the rights, including claims for payments, and obligations arising from the contract, in whole or in part, without prior written authorisation from the EUI.
- (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 10 – Ownership of the results - Intellectual and industrial property rights

- (1) The EUI acquires irrevocably worldwide ownership of the results and of all intellectual property rights under the contract. 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 its



subcontractor in performance of the contract. The EUI may exploit and use the acquired rights as stipulated in this contract. The EUI acquires all the rights as from the moment the EUI approves the results delivered by the contractor. 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.

### **Article 11 – Licensing rights on pre-existing materials**

- (1) The EUI does not acquire ownership of pre-existing rights under this contract.
- (2) 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 contract. All pre-existing rights are licensed to the EUI from the moment the results are delivered and approved by the EUI.
- (3) The licensing of pre-existing rights to the EUI under this contract covers all territories worldwide and is valid for the duration of intellectual property rights protection.
- (4) 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.
- (5) Where performance of the contract 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 contract and ends with the termination of the contract.

### **Article 12 – Force Majeure**

- (1) A party faced with force majeure shall formally notify the other party without delay, stating the nature, likely duration and foreseeable effects.
- (2) The party faced with force majeure shall not be held in breach of its contractual obligations if it has been prevented from fulfilling them by force majeure. Where the contractor is unable to fulfil its contractual obligations owing to force majeure, it shall have the right to remuneration only for the tasks actually executed.
- (3) The parties shall take all the necessary measures to limit any damage due to force majeure.

### **Article 13 – Suspension of the performance of the contract**

#### **(1) Suspension by the contractor**

The contractor may suspend the performance of the contract or any part thereof if a case of force majeure makes such performance impossible or excessively difficult. The contractor shall inform

the EUI about the suspension without delay, giving all the necessary reasons and details and the envisaged date for resuming the performance of the contract by using the communication details and with the modalities provided in this contract.

Once the circumstances allow resuming performance, the contractor shall inform the EUI immediately, unless the EUI has already terminated the contract.

## **(2) Suspension by the EUI**

The EUI may suspend the performance of the contract or any part thereof:

- (a) if the contract award procedure or the performance of the contract 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 inform the contractor that it is proceeding with the termination of the contract. The contractor shall not be entitled to claim compensation on account of suspension of the contract or of part thereof.

## **Article 14 – Termination by either party**

**(1)** Either party may, unilaterally and without being required to pay compensation, terminate the contract by formally notifying the other party by giving 5 (five) working days-notice. Should the EUI terminate the contract, 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 services already provided before the date termination is notified to become effective (“Termination Date”).

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 contract for the services provided up to the Termination Date.

## **(2) 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.

The EUI may claim compensation for any damage suffered in the event of termination and may recover any sums paid to the contractor under the contract.

On termination the EUI may engage any other contractor to execute or complete the services. 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 contract.

## **Article 15 – Reporting and payments**

### **(1) Payment**

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

Payments will be made by bank transfer only if the contractor has fulfilled all its contractual and legal obligations. All bank fees arising in Italy shall be borne by the EUI. Any banking fees in other countries shall be borne by the contractor.

### **(2) Currency**

The contract shall be in euros or in the local currency, if the receiving party has its legal seat outside Euro-area.

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

### **(3) 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 contract, 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 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 and the new document produced is also rejected, the EUI reserves the right to terminate the contract in accordance with Article 14.

## **Article 16 – Recovery**

**(1)** If an amount is to be recovered under the terms of the contract, the contractor shall repay the EUI the amount in question according to the terms and by the date specified in the debit note.

**(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.

**(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 17 – Checks and audits**

**(1)** The EUI may check or have an audit on the performance of the contract. 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 contract 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.

**(2)** The contractor, during the lifetime of the contract 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 contract.

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.

**(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 contract 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.

**(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 18 – Applicable law and settlement of disputes**

(1) The contract shall be governed by the EUI's relevant regulatory acts (e.g. the [EUI Regulation on Public Procurement](#) & the [EUI Financial Rules](#)), complemented, where necessary by the law of Italy.

(2) Any dispute arising in relation to the present contract 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.

(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.