

## **PROCEDURAL RULES FOR CCNR CONTRACTS**

### **Heading 1: Legal and institutional context**

#### **Article 1**

##### Scope of application

These procedural rules govern the call for applications, selection of tenderers, the invitation to tender, selection of the best tender and the conclusion of CCNR contracts worth in excess of 50,000 euros excluding taxes<sup>1</sup>.

#### **Article 2**

##### Applicable principles

I. The adjudicating authority shall be the Central Commission for the Navigation of the Rhine, hereinafter referred to as CCNR, an international organisation with its seat in Strasbourg.

In accordance with the Seat Agreement concluded with the French Republic, this institution has a legal personality and is able to conclude contracts in respect of, and acquire, movable and immovable property.

II. The CCNR, a legal entity under international law, is not subject to the public procurement regulations of the French Republic or of another Member State. However, under these procedural rules, it takes care to observe the principles underpinning European Union public procurement regulations, namely the principles of transparency and competitive tendering. The CCNR's invitation to tender, contractor selection and contract award procedures referred to in article 1 are based entirely on these procedural rules.

Any dispute concerning the invitation to tender procedure, candidate selection and choice of contractor may only be referred to the examination committee provided for in article 5 and within 15 days from notification of the disputed decision.

The CCNR shall not defray the cost of participating in the procedure incurred by the companies in question. It shall restrict any compensation of the concerned or candidate companies to one single invitation to tender, even if the procedure is aborted.

III. Any commitment by the CCNR shall only come into being upon contract signature and relates solely to its contractor.

Generally speaking, concerning the contracts it concludes, the CCNR shall enjoy immunity from jurisdiction and execution under article 11 of the Seat Agreement. Under article 20 of the Agreement, any dispute concerning the interpretation and performance of contracts to which the CCNR is party, shall be submitted to arbitration, at the other party's request, as described in article 28 hereafter.

---

<sup>1</sup> Amended by resolution CCR 2015-I-26

### **Article 3**

#### Discontinuation of the invitation to tender

For reasons it deems legitimate, the CCNR may discontinue the procedure at any time. It shall notify the reasons for this discontinuation in writing in accordance with the exact same procedures by which the information pack was made public. The candidate companies or tenderers shall be informed immediately in writing.

### **Article 4**

#### Applicable contract law

For matters not governed by these procedural rules and by the list of legal clauses, the contract entered into may provide for a State's substantive law to be applied in the alternative. In the absence of any express provisions to the contrary, French substantive law, the law of the State in which the CCNR has its seat, shall apply in the alternative.

The designation of a substantive law in the alternative shall not entail the jurisdictions of the State in which the seat is located being competent for disputes concerning contract performance. These disputes shall be settled in accordance with the provisions of the Seat Agreement and by article 28 of these procedural rules.

### **Article 5**

#### Examination committee

An examination committee shall be set up to select candidates, examine tenders and any claims prior to contract signature.

The composition of the examination committee shall be determined by the CCNR's administrative subcommittee. The commission shall define its operating conditions. Its members shall be bound by strict rules of impartiality and confidentiality. In discharging their duties, they must be free from any direction or influence by their country of origin. The obligations incumbent on examination committee members may be defined by an annex to these procedural rules.

## **Heading 2: Consultation procedures**

### **Article 6**

#### Enhanced procedure and simplified procedure

- l) The enhanced procedure shall comprise the following stages:
- 1) Tenderer selection stage, described in heading 3 below, comprising:
    - a) provision of information to the sector concerned by the project being pursued by the CCNR and invitation to the companies considered likely to be interested to apply for the selection procedure;
    - b) receipt of applications from the interested companies;
    - c) selection process of the companies invited to submit a tender;
    - d) approval of the selection decision and its notification to the companies in question.

2) Contract award stage described under heading 4, comprising:

- a) invitation to the selected companies to submit their tender;
- b) examination of the submitted tenders, evaluation of the accepted tenders and selection procedure between tenders;
- c) approval of the contract award decision and its notification to the tenderers;
- d) conclusion of the contract.

The consultation and tender selection process shall take place in accordance with the timetable defined by the examination committee. The examination committee may, if so required, amend this schedule. Where necessary, the interested parties or tenderers shall be informed of these amendments.

II) The simplified procedure comprises an informal invitation to a limited number of companies selected by the examination committee as being representative of the state of the market, inviting them to submit a tender.

This procedure shall only apply to contracts worth less than 150,000 euros excluding taxes<sup>2</sup>.

In this case, only heading 4 on contract award shall apply.

However, the examination committee may decide to subject a contract for an amount less than 150,000 euros excluding taxes to the enhanced procedure.

### **Heading 3: Candidate selection**

#### **Article 7**

##### Information pack

An information pack for the companies likely to be interested in the work to be done or the services to be rendered, inviting them to submit their application shall be prepared by the CCNR Secretariat.

This information pack shall comprise a description of the product characteristics or services that the CCNR wishes to acquire, the qualification requirements and selection criteria.

The pack shall also include information on the legal framework of the CCNR's contracts and the anticipated timetable.

The CCNR shall distribute this information pack as required to ensure the procedure is both competitive and transparent. Specifically, it shall publish the information on its website, it may avail itself of its Member States' communication channels and may pass this information pack directly to the companies which have been brought to its attention.

Any interested company may obtain the information pack from the Secretary General and participate in the selection procedure.

---

<sup>2</sup> Amended by resolution CCR 2015-I-26

## **Article 8**

### Timescale for submission of applications

To take part in the selection procedure, the candidate companies shall be required to submit their application file before the deadline laid down in the timetable set out in the information pack. This file shall include useful information on their technical capabilities and financial guarantees, as specified in the information pack.

From this stage onward, the examination committee may permit candidate companies to submit a tender as envisaged in article 15 if, having regard to the characteristics of the product or service to be acquired, the file referred to in article 7 contains the information referred to in article 13 .

In this case, the procedures for verifying the acceptability of the applications and acceptability of the tenders shall be combined.

## **Article 9**

### Role of the CCNR Secretariat

The file on the participation in the selection procedure shall be passed to the Secretary General of the CCNR in the format indicated in the information pack.

The Secretary General of the CCNR shall draw up a list of the interested companies, recording the date on which their application file was received and shall issue them a confirmation of receipt.

## **Article 10**

### Formal application file criteria

The applications must be written in a language permitted by the information pack.

The documents submitted by the candidates must be dated and duly signed by a representative appointed and delegated by the company. The supporting documentation required by the information pack must be appended.

## **Article 11**

### Information requests

Any candidate company may request additional explanations within the timescale indicated in the information pack. These requests shall be submitted to the examination committee. Each request will be answered. The response will be passed to the relevant company and published on the CCNR's website.

A candidate company must report any errors, deficiencies or discrepancies affecting the information in the information pack at the earliest opportunity.

The CCNR shall handle any communication in such a way as to ensure the confidentiality of the applications and safeguard the non-discriminatory nature of the procedure.

## **Article 12**

### Verification of fitness to tender

Applications submitted after the appointed deadline shall be ineligible for selection and will not be considered.

The same shall apply if the required testimonials and information submitted are incomplete.

The examination committee shall confirm whether the files received from applicant companies comply with the qualification requirements appearing in the information pack. An application that fails to meet these requirements will not be considered.

Finally, the examination committee shall judge the adequacy of the technical qualifications, financial guarantees and the compliance of the candidate companies whose file has not already been rejected with the other selection criteria itemised in the information pack. It will confirm the absence of any criminal convictions on the part of the candidate companies or their managers.

Based on this evaluation, the examination committee shall draw up the list of companies eligible to submit a tender.

It shall be empowered to restrict the number of companies permitted to submit a tender.

All those companies that have submitted an application file shall be informed of the decisions of the examination committee by the Secretary General of the CCNR.

## **Heading 4: Contract award**

### **Article 13**

#### Invitation to tender file

The companies selected to take part in the contract award procedure shall be invited to submit a tender complying with the invitation to tender file that shall be given to them.

The invitation to tender file must include:

- a) the tender submission arrangements;
- b) the timetable for the invitation to tender procedure;
- c) the defined criteria for evaluating the tenders.

It may also include

- d) a technical specification describing the expected functionality and any price information if such a document is envisaged;
- e) these procedural rules;
- f) a list of legal clauses and a contract award letter;
- g) various documents.

## **Article 14**

### Information requests

Any selected company may request additional explanations no later than the 15th day prior to the date referred to in article 18 below. These requests shall be submitted to the examination committee. Each request submitted shall be answered within the time limit. The response shall be notified to all the tenderers.

The tenderer must report any errors, deficiencies or discrepancies affecting the information in the invitation to tender documents at the earliest opportunity.

The CCNR shall handle any communication in such a way as to ensure the confidentiality of the tenders and to safeguard the non-discriminatory nature of the procedure.

## **Article 15**

### Form of the tender

The tender must be written in the language determined by the examination committee. It may include translations into one or more languages.

The tender pack must include:

- a) If provided for, the technical specification and the list of legal clauses, accepted, dated and signed by a person with the requisite authority;
- b) A comprehensive service offering in accordance with the technical requirements;
- c) The other information provided for by these procedural rules or by the list of legal clauses or stipulated by the examination committee.

The tenderer shall expressly state that the tender is valid for a minimum period of three months from the date of submission.

## **Article 16**

### Submission of the tender

The tenderer shall address his tender to the Secretary General of the CCNR.

Unless the examination committee decides to apply other rules, the tender shall be submitted, duly signed, sealed in an outer envelope and an inner sealed envelope containing the tender documents. It may also decide that all the documents constituting this offer must also be provided on another medium, such as an electronic medium. In the event of any discrepancy between the paper and electronic versions, the signed version of the first such medium shall be selected.

The Secretary General shall retain the unopened inner envelopes containing the tenders. He shall compile the list of tenders received, indicating the date of receipt, and shall issue a confirmation of receipt to each tendering company.

The Secretary General shall submit the tenders to the examination committee at the start date of the selection process.

## **Heading 5: Acquaintance with and examination of the tenders**

### **Article 17**

#### Confidentiality of deliberations

Unless otherwise decided by the examination committee, the tender examination procedure, deliberations and evaluation process shall remain confidential and be in writing.

### **Article 18**

#### Conditions governing admissibility of the tender

To be admissible, a tender, duly signed, must have been submitted within the time-scale stated in the timetable determined by the invitation to tender pack, include information stipulated in the preceding articles, as well as all the information provided for by the invitation to tender pack, and address all the work, supplies or services covered by the invitation to tender.

### **Article 19**

#### Examination of tenders

The examination committee shall examine the tenders. It shall begin by verifying the tenders' admissibility. It shall reject those tenders that do not comply with the conditions of the invitation to tender. It shall substantiate its rejection decisions. The latter shall be notified in writing to the tenders. The examination committee may accept the correction of any evidently unintentional mistakes affecting the tender.

### **Article 20**

#### Evaluation of tenders

The examination committee shall review the tenders declared to be admissible. It shall then evaluate the tenders. To this end it may employ the panel of experts of its choosing.

### **Article 21**

#### Additional discussions

Additional discussions may be conducted with each of the tenderers whose tender has been declared admissible. The specific purpose of these additional discussions shall be to enable the examination committee to obtain further clarification of various aspects of a tender and to correct obvious mistakes.

The examination committee may decide to begin a competitive dialogue with the companies. Within this framework, and based on the information provided by the examination committee, the latter may put forward proposals that depart from the technical specification or the list of legal clauses. The committee shall ensure that the tenders arising from these proposals are comparable.

## **Article 22**

### Criteria for comparing tenders

The tender to be selected shall be the tender that most closely matches the criteria stipulated in the invitation to tender pack.

## **Article 23**

### Selection of the tender

Upon completion of the evaluation, the examination committee shall write a report, which it will send to the Secretary General, stating the reasons why a tender has been selected on the grounds that it has been judged to be the closest match with the chosen criteria.

## **Article 24**

### Definitive decision

The Secretary General may either award the contract in accordance with the examination committee's proposal or not proceed with the contract award procedure. He shall communicate this decision to all the tenderers.

## **Article 25**

### Contract signature arrangements

Together with the chosen company, the Secretary General shall make the necessary arrangements for signing the contract.

## **Heading 6: Arrangements pertaining to the contract**

## **Article 26**

### Contract provisions

In addition to these procedural rules, the contract shall comprise the items mentioned in the list of legal clauses and in the contract award letter. It shall also include the tender submitted in accordance with article 15 and specified in accordance with article 21, which the tenderer has undertaken to implement.

## **Article 27**

### Place of contract

The place of contract performance shall be designated as being the seat of the CCNR.



## **Chapter 7: Disputes regarding contract performance**

### **Article 28**

#### Jurisdiction

Under the provisions of the CCNR Seat Agreement, disputes regarding contract performance, in the absence of an amicable agreement between the parties, shall be put to an arbitration commission for adjudication.

Notwithstanding, the CCNR may make a formal decision prior to the setting up of the arbitration commission specifically renouncing jurisdiction. In this case, the competent court shall be determined in accordance with the general contract provisions.

Apart from the aforementioned formal resolution by the CCNR, no provision of these procedural rules or other elements of the contract may be deemed to be a waiver of immunity from legal proceedings.

### **Article 29**

#### Composition of the arbitration commission

The arbitration commission shall comprise two arbitrators, designated respectively by either party, and an arbitrator in chief designated by the two arbitrators. Should the two arbitrators fail to agree on the designation of the arbitrator in chief within three months, he shall be designated by the President of the Tribunal de Grande Instance in Strasbourg.

The parties may designate another arbitration body by their expressly declared content.

### **Article 30**

#### Procedure

The arbitration commission sits in Strasbourg. It determines its rules of procedure. The language of the proceedings shall be determined by the arbitration commission.

### **Article 31**

#### Law governing the dispute

In addition to the provisions of the contract, in either a complementary or subsidiary capacity, the arbitration commission shall apply general legal principles and general commercial practices.

### **Article 32**

#### Enforcement of the arbitration decision

Under the terms of the provisions of the Seat Agreement, the enforcement of the arbitration decision handed down as a consequence of the arbitration process shall be subject to the regulations of the State on whose territory the enforcement shall be effected.

**Article 33**

Definitive nature of the arbitration decision

The arbitration decision shall be binding upon the parties and is definitive.

The costs of the arbitration proceedings shall be borne in accordance with the ruling defined by the arbitration commission.

If so required, the arbitrators may be granted advance payments. These advance payments shall be borne equally by the parties.

## **List of legal clauses**

### 1. Object of the list of legal clauses

The list of legal clauses shall specify the clauses defining the rights and obligations of the CCNR and its co-contractor.

Derogations from this list of legal clauses may be made by formal provisions in the contract.

### 2. Contract documents

The contractual documents of a tender shall comprise:

- the contract;
- where appropriate, the technical specifications;
- the list of legal clauses;
- the Procedural rules for prior consultation and for concluding CCNR contracts;
- the contractor's documents describing his tender;
- the documents drafted in the course of the contract as part of this information pack, in particular contract addendums.

In the event of any contradiction or discrepancies between contractual documents, they shall be prioritised according to the above order of precedence.

### 3. Applicable contract law

The applicable legal rules shall be defined by the contract documents.

Where these are insufficient to settle a point of law, recourse shall be had in the alternative to national substantive law referred to in the contract. Should this not enable the matter to be settled, recourse shall be had to general legal principles and international commercial custom and practice.

The contractor's or suppliers' general terms and conditions may only apply if they have been explicitly accepted by the CCNR and provided that they do not contravene any contract provisions.

### 4. Contractor's awareness of the terms and conditions of his involvement

The contractor shall declare that he has acquainted himself with all the contractual documents. He shall declare that he has full knowledge of the project, its purpose, the technical constraints and performance time-scales.

He shall be deemed to have all the necessary information for implementing the project at his disposal.

5. Individuals responsible for contract performance

The contractor shall designate named individuals who will be specifically responsible for contract performance, and any replacements, and shall immediately notify the CCNR to this effect in writing.

The CCNR shall appoint individuals responsible for monitoring contract performance and receiving notifications from the contractor. It shall inform the contractor to this effect.

6. Legal compliance

The contractor shall undertake to perform the contract in compliance with all the applicable legal provisions, specifically as concerns labour law, social law and employee protection regulations.

7. Contractor's independent status

No provision of the contract may be interpreted as establishing a client-agent or employer-employee relationship between the CCNR and contractor, the co-contractor being deemed to be an independent contractor having no legal connection with the CCNR other than the contract in question.

8. Duty of loyalty

The contractor shall undertake not to grant or offer any advantage, direct or indirect, upon award of the contract to any CCNR official, or to any member of a CCNR Member State delegation.

He shall also undertake not to offer or grant any illicit advantage to a third party under the contract.

The contractor shall not solicit nor accept any instruction associated with performance of the contract from any authority external to the CCNR. He shall do nothing that might be prejudicial to the CCNR and shall discharge his obligations having the greatest possible regard to the CCNR's interests.

Any breach of the aforementioned provisions shall entitle the CCNR to withdraw from the contract at the contractor's sole cost.

9. Confidentiality

The contractor shall undertake to observe strict confidentiality in respect of any information or document associated with the performance of the contract. He shall remain bound by this undertaking after the contract has been fulfilled. He shall pledge his staff to abide by this confidentiality rule.

10. Mandatory written form

To be valid, any notification, request, declaration or approval that shall be required or necessitated by contract performance must be in the written form. This document must be in the form of a letter, telex, fax or electronic message with acknowledgement of receipt. The CCNR shall not be bound by any verbal agreement.

Notifications to the CCNR shall be made to the latter's seat. Notifications to the contractor shall be made to the company's seat. All notifications must be accompanied by acknowledgement of receipt.

11. Contract amendment

A contract amendment that does not affect the object of the contract may be agreed in writing between the parties. Specifically, amendments of a technical nature or amendments of the performance time-scales may be agreed while the contract is in progress.

If an amendment does not affect the contract price, it may take the form of a simple exchange of letters.

Any amendment that supposes a price change shall require the signing of a formal addendum to the contract.

12. Calculation of time periods

Any time period mentioned in the contract documents shall be construed as commencing the day after the day on which the fact acting as the start point of this time period occurred. It shall expire at the end of the last day of the anticipated duration. Where the last day is a Saturday, a Sunday or a public holiday (either in the State in which the CCNR has its seat or State in which the contractor has his seat), the time period shall be extended until the end of the next working day.

13. Subcontracting

The contractor may not assign or transfer, nor even pledge the contract or a part thereof, without the CCNR's prior formal written approval.

Specifically, the use of subcontractors must be approved by the CCNR. The CCNR's acceptance of subcontractors shall create no obligation on its part with respect to the latter, and shall not release the contractor from his obligations under the contract, nor from his liability. At all events, the terms of the subcontracting contract must comply with the rules contained in the contract concluded with the CCNR.

14. Contractor's responsibilities and guarantees given to the CCNR

No person hired by the co-contractor can be deemed to be a CCNR agent. The contractor alone shall be responsible for any claim that such an individual might bring in relation to this undertaking. He shall indemnify the CCNR against any such action.

The CCNR cannot be held liable for any damage suffered by the contractor or his agents during performance of the contract, except where this damage is due to serious and intentional misconduct on the part of the CCNR or of its agents.

The contractor shall also be solely liable for the actions, damage, obligations arising in the context of any subcontracting contracts.

The contractor shall guarantee the CCNR and its agents in the event of actions brought by third parties or by agents of the contractor for damages caused during contract performance.

The contractor shall be solely liable for his employees.

The contractor shall guarantee the CCNR against any action or demand for payment arising from the use under the contract of products, patents, documents covered by copyright or other intellectual property rights that have not been expressly provided for in the contract's tender and accepted by the CCNR, and generally against any third party claims. Termination of the contract shall not release the contractor from the obligations referred to in these provisions.

15. Insurance or warranty

The contractor shall take out insurance cover against all contract performance-related risks and damages. Specifically, he must provide evidence of insurance cover for possible third-party damage. He shall also take out the necessary insurance cover to ensure payment of the penalties that he may have to pay the CCNR for delays, malfunction or defect in the work or services he is responsible for providing. A copy of the relevant insurance policies shall be sent to the CCNR, no later than in the month following conclusion of the contract, failing which the latter shall be suspended.

The contractor may also provide a guarantee instead of insurance cover on first demand. A request to provide a guarantee means that the contractor shall appoints a bank or equivalent who undertakes to pay the guaranteed amount when called upon to do so by the CCNR, without being able to rely on any non-performance clause.

As concerns penalties for delays, malfunction or defect in work or services, if the contract is for less than 50,000 euros including taxes, the contractor may be released from all or part of these conditions.

16. Other warranties

The contractor shall warrant that the work, supplies and services rendered comply with all the requirements in the contract documents.

The contractor shall provide the CCNR with a two-year contractual warranty. This warranty shall include the reliability and quality of services rendered as well as the proper functioning of all parts of the contract.

The contractor shall thus be under an obligation to deliver an outcome. During the warranty period, he shall undertake to repair any defects, free of charge, and to correct any deficiencies in performance.

The aforementioned warranty period shall commence on the acceptance date announced by the CCNR after the end of the trial period.

17. Progress of work, performance deadlines and trials

For work worth more than 50,000 euros including taxes, the contractor shall furnish the CCNR with a performance schedule. He shall keep the CCNR informed of progress with the work. A status report shall be provided once a month. The CCNR may take the initiative to request periodic review meetings.

The performance deadlines shall be those defined in the contract.

The contractor shall notify the CCNR when the work has been completed. The CCNR shall verify the work, supplies and services rendered. This verification shall address their compliance with the requirements in the technical specification or in other contractual documents. Acceptance reports for each delivery milestone in the performance schedule shall be made at the behest of either party.

18. Provenance of hardware and software

The provenance of the hardware and software used shall comply with the conditions stipulated in the technical specification or in other contractual documents.

This provenance shall be accurately identified by the contractor.

Only certified hardware may be used.

19. Documents

The contractor shall produce all the technical documentation required to understand and use the products, hardware or installations and software that have been made or supplied. The CCNR shall draw up an acceptance certificate for these documents.

Should all the required documents not be provided, the CCNR may make a deduction from the amount to be paid. This deduction shall be commensurate with the importance of the documents that have not been provided and may not exceed 5% of the contract value.

20. Standards

In the event of a reference to technical standards, these standards must be recognised in all CCNR Member States.

In the absence of technical standards recognised in all Member States, by default reference should be made to the technical standards recognised in France.

21. Property rights

a) Intellectual property rights

In the absence of any formal and written agreement to the contrary, all intellectual property rights and other exclusive rights pertaining to any element that has been designed, developed or collated as part of the contract shall become the CCNR's exclusive property, subject to the existence of rights pre-dating the conclusion of the contract.

The CCNR may use, reproduce, transfer, unconditionally and without restriction, all those items created by the contractor to make the product or service that is the object of the contract, and which have become its property under the provisions of the contract.

Concerning those parts of the product (hardware, software, etc.) which are not peculiar to it but in respect of which the right of exploitation has been acquired by the contractor, or which have been designed by him separately to the manufacturing of the product, the CCNR shall acquire a right of use in accordance with the following conditions. The contractor shall ensure that this right of use (concerning patents, licenses, etc.) shall allow the full and uninterrupted use by the CCNR of the product that is the object of the contract.

Should, under the above provisions, the CCNR not acquire ownership of the inventions arising from, developed or used during performance of the contract, this provision shall be stipulated in the tender and appear explicitly in the contract agreed between the CCNR and the contractor.

In any case, the contractor shall be bound to notify the CCNR of the knowledge acquired in the course of performing the contract, whether or not the knowledge has resulted in the filing of a patent.

Should the contractor use items protected by intellectual property rights or other exclusive rights, whatever they may be, he shall, without any further costs to the CCNR other than those expressly envisaged in the contract, obtain from the holders of the intellectual property rights or other exclusive rights, the appropriate authorisations to use, modify or publish these items, and furnish proof of these authorisations to the CCNR.

The contractor shall hold the CCNR harmless against any third-party claim arising from the use, in the product or service to be rendered, of any item protected by intellectual property rights or other exclusive rights, including software. The aforementioned obligations shall remain in place after the end of the contract.

The contractor shall guarantee the CCNR against any claim relating to the exercise of the intellectual property rights associated with performance of the contract.

b) Material property rights

The products, equipment and installations produced in performing the contract shall become the full and exclusive property of the CCNR according to the relevant arrangements, unless there are any express contract provisions to the contrary. Full ownership of all equipment will be acquired on the commissioning date.

22. Delays or defects

The contractor shall be liable for any performance delays, unless the latter are attributable to the CCNR or to force majeure. In the event of such a delay attributable to the contractor, the CCNR shall be entitled to demand the following penalties for late completion:

- 15 days delay                      5 %
- 1 month delay                      10 %
- 2 month delay                      20 %
- 3 month delay                      35 %

(corresponding to the purchase price including taxes).

These amounts may be amended by the contract.

After commissioning, a defect in the products, hardware or installations resulting in inoperability shall entitle the CCNR to compensation as defined by the contract. By default, this amount shall be 1% of the contract price including taxes for each day of idle time. In the event of malfunctions involving only partial non-use, the compensation shall be a fraction of the aforementioned amount commensurate with the seriousness of the hindrance to use.



23. Staff training and technical support

Depending on the arrangements defined in the technical specification, the contractor shall be required to train the staff whose task it will be to use the products, hardware or installations.

For a period of 5 years from the date the installation is received, the contractor shall be bound to provide, at CCNR's request, the technical assistance required for normal use of the work, supply, or service. These services shall be financed by the total price provided for in the contract.

24. Contract termination

I. The contract may be terminated by the CCNR due to the contractor's fault in the following instances:

- discontinuation of the contract by the contractor; this abandonment shall result from a declaration by the contractor or by the absence of more than 3 months of work, as evidenced by the non-communication of information on progress with the work;
- a delay of more than three months;
- unauthorised subcontracting;
- absence of measures, for a period exceeding three months, enabling the serious problems or malfunctions affecting the installations to be brought to an end;
- serious disruption to the enjoyment of the product or service that is the object of the contract as a result of the rules pertaining to the patents and patents or licences;
- seriously inadequate outcomes compromising the normal use of the product or service that is the object of the contract;
- fraudulent or seriously illegal acts on the contractor's part;
- liquidation, receivership or insolvency of the contractor;
- debarment affecting the contractor's ability to exercise the professional activity in question.

Termination shall be pronounced in writing after formal notice has been served.

In this case, the CCNR shall draw up a liquidation statement. Debited to the contractor, the CCNR shall be entitled to charge:

- advance payments to be reimbursed;
- penalties to be paid;
- expenses arising from re-awarding the contract at the contractor's risk and expense for the unperformed part of the contract;
- losses suffered as a result of the ending of the contract.

The CCNR shall credit to the contractor the value of those services rendered that are usable.

Should the contract be cancelled, the CCNR shall also be entitled to demand that the contractor transfer full title to services rendered and take any protective measure.

Should the object of the contract entail the use of patents belonging to the contractor, the latter shall be bound, notwithstanding the termination, to allow their use by the CCNR or its beneficiaries for the object of the contract. If the contractor is only the licence holder for the aforementioned patents, he shall be bound to grant a sub licence for the object of the contract, or to take all such measures such that this sub licence can be granted to the CCNR or its beneficiaries.

II. The CCNR may cancel the contract without fault of the contractor. In this case, it shall be required to pay him appropriate compensation, taking account of all his outlays and the loss of earnings he has suffered, to the exclusion of any other compensation or penalty.

25. Insolvency, bankruptcy or liquidation

Should the contractor be declared bankrupt, be put into liquidation or become insolvent, the CCNR may, without prejudice to other rights and remedies, immediately cancel the contract. The contractor shall be bound to notify the CCNR immediately of any of the aforementioned events.

26. Other difficulties

Should the contractor encounter difficulties in performing the contract, he shall inform the CCNR thereof immediately.

The contractor shall be bound to notify the CCNR of any change in his situation relevant to the performance of the contract (change affecting the company's legal form, change in individuals in positions of responsibility, geographical location of the services, etc.).

27. Advances and payment

The contract may differentiate between the product or service purchase price and the operating and maintenance price.

*Purchase price*

Each payment must depend on the satisfactory completion of one stage of the project and on its formal acceptance.

The payment of advances on the contract price shall be concluded prior to the signing of the contract and is to be mentioned in the contract. Advances may not exceed 50% of the contract amount. 25% of the balance shall be settled upon commissioning and 25% after final acceptance.

*Maintenance price*

This price shall be agreed in the contract.

Payments shall be made by transfer to the contractor's designated bank account.

Should the CCNR be late in paying the agreed amounts, the contractor shall be entitled to interest on late payment. This interest shall be due 30 days after the date the payment request was received, provided that the latter complies with the agreed time scales and the arrangements defined above. The interest rate for late payment shall be 4%.

28. Settlement of accounts

All payment requests and settlements shall be the subject of a summary upon final acceptance.

29. Prices

Prices shall be deemed to be all-inclusive and fixed. They shall be expressed excluding VAT then including VAT. They shall include all fiscal and parafiscal charges and other such charges on the contract's work, supplies and services. They shall be all-inclusive, remunerating all contract products and services. They cannot be amended. No surcharge will be accepted.

They shall include all the licences and fees payable for use of the intellectual rights.

30. Operation and maintenance

The contractor may, where appropriate, conclude an operating and maintenance contract with the CCNR in accordance with the arrangements stipulated in the technical specification and the contract. This contract shall be subject to the rules of this list of legal clauses.

31. Settlement of disputes

The procedures, functioning and decisions of the arbitration body shall be defined by articles 29 to 31 of the Procedural rules for CCNR contracts.

Should a dispute arise in connection with the interpretation or performance of the contractual commitments, the CCNR and contractor shall do their utmost to resolve the difficulty amicably.

Disagreements that prove incapable of resolution in this manner within 60 days shall be settled by arbitration in accordance with the provisions of article 28 et seq of the Procedural rules for CCNR contracts.

However, the CCNR may make a formal and express decision renouncing its immunity from jurisdiction. In this case, the competent jurisdiction shall be the Tribunal de Grande Instance in Strasbourg.

The composition of the arbitration commission shall be in accordance with article 28 of the Procedural rules for CCNR contracts.

The Parties shall undertake to be diligent in complying with the arbitration decision. In the absence of compliance, the decision handed down as a consequence of the arbitration shall be subject to the regulations of the State on whose territory the enforcement shall be effected.

\*\*\*