

EUROCOR UNCLASSIFIED

EUROCORPS HEADQUARTER STRASBOURG

G8 BRANCH

PURCHASING & CONTRACTING SECTION

**Quartier Aubert de Vincelles – BP 70082 – F - 67020 Strasbourg CEDEX -
FRANCE**



CONTRACT IFB 26SC08

**EXERCISE PLANNING, EXECUTION AND PRODUCT
DEVELOPMENT FOR COMMON TENACITY 26**

PART II

GENERAL PROVISIONS

EUROCOR UNCLASSIFIED

1.	DEFINITIONS	4
2.	CONTRACTING OFFICER TECHNICAL REPRESENTATIVES	4
3.	ORDER OF PRECEDENCE	5
4.	APPLICABLE LAW.....	5
5.	CONTRACT EFFECTIVE DATE	5
6.	LANGUAGE	5
7.	SECURITY.....	6
8.	ACCESS CONTROL	7
9.	HQ EC FURNISHED PROPERTY.....	8
10.	OPTION	8
11.	MODIFICATIONS TO CONTRACT	8
12.	CONTRACTOR RESPONSIBILITY.....	8
13.	SUB-CONTRACTS	8
14.	WORKING HOURS.....	9
15.	IMPLEMENTATION SCHEDULE.....	9
16.	CONTRACTOR PERSONNEL.....	9
17.	AUTHORIZATION TO PERFORM	10
18.	INSURANCE.....	10
19.	PREFERRED CUSTOMER.....	10
20.	PRICES.....	10
21.	TAXES AND DUTIES	11
22.	INVOICES.....	11
23.	PAYMENTS.....	11
24.	PROTECTION AND INDEMNIFICATION	12
25.	INSPECTION	12
26.	MARKING AND LABELLING	12
27.	TITLE TO PROPERTY AND RISK OF LOSS.....	13
28.	ACCEPTANCE	13
29.	WARRANTY	14
30.	HQ EC DELAY OF WORK.....	14
31.	LATE PENALTIES.....	15
32.	CONTRACTOR NOTICE OF DELAY.....	15

33. LIQUIDATED DAMAGES 15

34. TERMINATION FOR CONVENIENCE 16

35. TERMINATION FOR DEFAULT 17

36. SPECIAL TERMINATION ARTICLE 18

37. DISPUTES 18

38. SIDE AGREEMENTS 19

39. DECLARATION OF ACCEPTANCE 19

40. RELEASE OF INFORMATION 19

41. CORRUPTION AND ILLICIT GRATUITIES 19

42. CONTRACT ADMINISTRATIONS AND COMMUNICATIONS 19

1. DEFINITIONS

- a. HQ EC means Eurocorps Headquarters, the legal entity awarding the Contract.
- b. Contractor means the legal entity (firm or person) to whom the contract is awarded and on whose behalf, duly authorized persons shall execute it.
- c. Contract means the agreement concluded between the Purchaser and Contractor, duly signed by both parties.
- d. Contracting Officer Technical Representative, or COTR or Technical Director means a person monitoring and determining compliance with the technical requirements of the contract.
- e. Sub-contractor means any person or firms directly or indirectly under sub-contract.
- f. Sub-contract means any agreement, contract, sub-contract or purchase order made by the Contractor with any other party in order to fulfil any part of this contract.
- g. Country of Origin means the home country of a contractor or Sub-Contractor.
- h. Work means any tangible thing furnished or any service performed by the Contractor under the terms of this contract.
- i. Days shall be interpreted as meaning calendar days.
- j. Contracting Officer" means the person executing and managing this contract on behalf of HQ EC.

2. CONTRACTING OFFICER TECHNICAL REPRESENTATIVES

- a. Any modifications, including changes, additions or deletions and instructions under this Contract shall not be binding unless issued in writing and signed by the Contracting Parties.
- b. For Contracting Officers Technical Representatives, the authority and responsibility is limited to what is stipulated in the relevant articles of these General Provisions and only the authority to provide advice and/or direction to the Contractor that does not create an additional financial liability above what has already been contractually established under this contract. **The HQ EC Contracting Authority is the only one that can financially and contractually obligate HQ EC.** Any modification proposed by the COTR and accepted by the Contractor shall be considered as performed under the only contractor's responsibility and will not be considered for payment.
- c. EUROCORPS accepts no responsibility for inappropriate contractual obligations entered into by individuals other than Contracting Officers. Individuals entering into such arrangements do so at their own personal financial liability.

- d. The Contractor shall not accept any instructions issued by any person employed by HQ EC or otherwise, other than by the Contracting Officer or the Contracting Officer Technical Representative.
- e. The designated COTR for this contract is OF-4 (POL A) SŁUGOCKI, Wojciech (SLUGOCKI.W@eurocorps.org; g7@eurocorps.org)

3. ORDER OF PRECEDENCE

- a. In the event of any inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved giving precedence in the following descending order:
 - (1) IFB Signature Part of the Contract
 - (2) IFB Part I Annex A-3 Price Offer
 - (3) IFB Part II General Provisions
 - (4) IFB Part III Technical Specifications
 - (5) The Contractor's technical Bid accepted by HQ EC
 - (6) The laws and customary practices of the country where the contract is performed

4. APPLICABLE LAW

- a. Except as otherwise provided in this Contract, this Contract shall be governed, interpreted and construed in accordance with the laws of France.
- b. It is the contractor's responsibility, without expense to the HQ EC, to obtain and keep valid the necessary permits and/or licenses to comply with national codes, laws and regulations or local rules and practices of the Nation with respect to the execution of the works carried out under this Contract.
- c. When performing at HQ EC facilities, the Contractor and his personnel (including also the Sub-contractor's personnel, if any) shall comply with all relevant official NATO and HQ EC Directives and any applicable laws of France.

5. CONTRACT EFFECTIVE DATE

- a. The effective date of the contract is the date of last signature by the contracting parties.

6. LANGUAGE

- a. All inquiries, notices and communications between the Contractor and HQ EC shall be written in English.
- b. In the event of inconsistency between any terms of this contract and any translation thereof into another language, the English language meaning shall control.

7. SECURITY

- a. The Contractor shall comply with all security measures as are prescribed by the HQ EC and the National Security Authority or designated security Agency of each of the HQ EC Framework Nations in which the contract is being performed. He shall be responsible for the safeguarding of classified information, documentation, material and equipment entrusted to him or generated by him in connection with the performance of the Contract.
- b. This contract requires a **NATO SECRET facility security clearance, as well as NATO SECRET personal security clearances** for all personnel dedicated to its execution. As a result, the Contractor agrees to :
 - (1) Provide the security clearance for all the personnel assigned to perform the contract before commencing the tasks specified in the contract,
 - (2) Ensure that said security clearances remain valid for the entire duration of the contract. It is the Contractor's responsibility to seek renewal of expiring clearances in a timely manner to ensure continuation of valid security clearances for all the personnel who will perform the services under the Contract.
 - (3) Abstain from copying by any means, without the authorization of the HQ EC, the National Security Authority or designated security agency, any classified documents, plans, photographs or other classified material entrusted to him.
 - (4) Maintain at the work site a current record of his employees at the site who have been cleared for access to classified information. The record should show the date and level of clearance.
 - (5) Deny access to classified information to any person other than those persons authorized to have such access by the National Security Authority or designated security agency.
 - (6) Limit the dissemination of classified information to the smallest number of persons as is consistent with the proper execution of the contract.
 - (7) Comply with any request from HQ EC and the National Security Authority or designated security agency that **persons entrusted with classified information sign a statement undertaking to safeguard that information and signifying their understanding both of their obligations under national legislation affecting the safeguarding of classified information**, and of their comparable obligations under the laws of the other nations comprising HQ EC in which they may have access to classified information.
 - (8) Report to the Contracting Authority and National Security Authority or designated Security Agency any breaches or suspected breaches of security, suspected sabotage, or other matters of security significance which would include any changes that may occur in the ownership, control or management of the facility

or any changes that affect the security arrangements and security status of the facility and to make such other reports as may be required by the National Security Authority or designated Security Agency, e.g. reports on the holdings of classified information.

- (9) Apply to the HQ EC for approval before sub-contracting any part of the work, if the sub-contract would involve the sub-contractor in access to classified information, and to place the sub-contractor under appropriate security obligations no less stringent than those applied to his own contract.
 - (10) Undertake not to use, other than for the specific purpose of the Contract, without the prior written permission of the HQ EC or his authorized representative, any classified information furnished to him, including all reproductions thereof in connection with the Contract, and to return all classified information referred to above as well as that developed in connection with the Contract, unless such information has been destroyed, or its retention has been duly authorized with the approval of the HQ EC. Such classified information will be returned at such time as the HQ EC or his authorized representative may direct.
 - (11) Classify any produced document with the highest classification of the classified information disclosed in that document.
 - (12) The Contractor ensures that its employees are informed that they may be searched when they enter or leave HQ EC premises.
 - (13) The Contractor shall place the sub-contractor, if any, under security obligations no less stringent than those applied to its own contract.
 - (14) The Contractor undertakes to provide HQ EC Security Office with an information sheet on all its employees, before they take up their duties, using the form provided by that Office.
- c. The Contractor accepts to terminate immediately the duties at HQ EC of any employee whose presence is deemed undesirable by HQ EC on the same day that such notification is given by the Contracting Officer or HQ EC Security Officer, without HQ EC being required to state the reasons. Furthermore, in no case HQ EC may be held responsible for the consequences of such a decision.

8. ACCESS CONTROL

- a. Before entering on HQ EC installations, the Contractor may be required to be in possession of access cards for personnel and vehicles. It is a contractor's responsibility to contact in advance with G2X for getting these types of security cards.
- b. Time lost due to the failure of the Contractor to request in a timely manner access cards and access permits will not entitle him to a claim for lost time or for an extension of the completion date for the performance of the contract.

Commented [EGPKpFO21]: C'est pas le COTR qui fait les demandes au S2 plutôt ??

9. HQ EC FURNISHED PROPERTY

- a. The term HQ EC Furnished Property as used in this article refers to items of equipment, material or property furnished by HQ EC to the Contractor which shall be subject to overhaul, repair, test, embodiment or other work as specified in the Contract to be performed by the Contractor.

10. OPTION

- a. HQ EC shall have the right to exercise any or all the options, in whole or in part, at the firm fixed prices and at the conditions set forth in this contract. Options are exercised in writing by the Contracting Officer at least 15 days before the expiration of the contract.
- b. The options may be exercised by HQ EC either as a modification to the initial contract or as a separate contract, incorporating all applicable terms and conditions.

11. MODIFICATIONS TO CONTRACT

- a. The Contracting Officer may, at any time, by a written order, make changes within the general scope of the contract.
- b. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, a negotiated adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly.
- c. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the article of this contract entitled "Disputes". However, nothing in this article excuse the Contractor from proceeding with the contract as changed.

12. CONTRACTOR RESPONSIBILITY

- a. The Contractor shall be responsible for the execution of all terms of this Contract. It may not delegate its rights or transfer its obligations without the prior permission of the Contracting Officer.

13. SUB-CONTRACTS

- a. The Contractor may place and shall be responsible for the administration and performance of all sub-contracts that it deems necessary to meet the requirements of this Contract in full up to a 60% of the total amount of the contract. The Contractor shall apply to the Contracting Officer for approval before sub-contracting any part of the work, being such approval pending the presentation of the same documentation, related to sub-contractor's personnel to be employed at HQ EC.
- b. Even if a sub-contract is placed, the Contractor remains responsible to HQ EC for all obligations it assumes under this contract.

- c. The Sub-contractor, if any, shall procure all permits and licenses necessary for the execution of the contract, at no cost to HQ EC.

14. WORKING HOURS

- a. The work shall be performed on weekdays in accordance with the official working hours of HQ EC. The Contractor shall obtain from the Contracting Officer the list of HQ EC holidays during the period of performance of the contract.
- b. Special requests shall be made to the Contracting Officer for permission to work outside normal HQ EC working hours or on HQ EC holidays. Start times and planning of various stages of the work shall be coordinated with the Contracting Officer and these times shall be adhered to.
- c. Exceptionally, the Contractor accepts that HQ EC may have requirement that work be performed outside the normal working hours. The financial compensation, if any, shall be mutually agreed between the Contractor and the Contracting Officer.

15. IMPLEMENTATION SCHEDULE

- a. For all works or projects stipulated in this contract, the Contractor shall submit prior to commencing any works and for approval by the Contracting Officer, a practicable planning and implementation schedule. The schedule shall show as a minimum the supply phase, and the test and acceptance phase. The date to begin and end the phases and activities must be clearly indicated.
- b. Failure of the Contractor to comply with the above may result in imposition of late penalties as per Article 31, or termination for default of the project by the Contracting Officer on the grounds that the Contractor is not executing the project with such diligence as will ensure completion with the time specified in the contract.

16. CONTRACTOR PERSONNEL

- a. The Contractor shall provide and pay, as required, qualified personnel as needed for the proper performance of the services required under this Contract; it shall strictly comply with all National Labor Laws, tariffs and social security and other regulations applicable to the employment of its personnel.
- b. The Contractor's status shall be that of an independent Contractor and it is expressly understood that neither the Contractor (and its personnel) nor the Sub-Contractors shall be considered in any respect as being employees, servants or agents of HQ EC.
- c. HQ EC will not give any directives to the Contractor's personnel for any matter under this contract other than safety and security instructions. For coordinating and performance issues, the contractor shall appoint a Technical Representative who will be the only contractor's point of contact with the HQ EC.

17. AUTHORIZATION TO PERFORM

- a. The Contractor warrants that he and his sub-contractors are duly authorized to operate and do business in the country or countries in which this Contract is to be performed; that he and his sub-contractors have obtained or will obtain all necessary licenses and permits required in connection with the Contract; that he and his sub-contractors are responsible for ascertaining and complying with all the national laws, decrees, labour standards and regulations of such country or countries, including any HQ EC regulations, during the performance of this Contract; and that no claim for additional monies with respect to any authorizations to perform will be made upon HQ EC.

18. INSURANCE

- a. At all times during the performance, the Contractor agrees to procure and maintain, without any cost to HQ EC, any workmen's compensation, employees liability or other type of insurance required by the law.
- b. The Contractor agrees to procure and maintain, without any cost to HQ EC, a suitable civil liability insurance to cover damage that could be caused to HQ EC property and/or individuals in France.

19. PREFERRED CUSTOMER

- a. The Contractor warrants that the prices set forth in this Contract, and appendices thereto, are as favorable as those extended to any Government, Agency, Company, Organization or individual purchasing or handling like quantities of services, equipment and/or parts covered by the Contract under similar conditions. In the event that prior to complete the service under this Contract the Contractor offers any of such items in substantially similar quantities to any customer at prices lower than those set forth herein, the Contractor shall so notify HQ EC and the prices of such items shall be correspondingly reduced by a supplement to this Contract.
- b. Price in this sense means "Base Price" prior to applying any bonuses, export tax reduction, turnover tax exemptions and other reductions based on National Policies.

20. PRICES

- a. Unless otherwise indicated in the contract, all prices are firm and fixed, except for taxes and customs and charges, if due.
- b. Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefore have been authorized in writing by the Contracting Office.

21. TAXES AND DUTIES

- a. HQ EC is exempted from VAT, but in accordance with French Tax laws, EC shall pay VAT in advance and the recover afterwards. The Contractor shall include taxes and duties in the offer in accordance with the procedures outlined below.
- b. The HQ EC VAT depends on the country where the company has its fiscal address. Value Added Tax Procedures are as follow:
- c. Goods/services acquired from companies established in France: VAT is collected directly by the supplier as common French rule.
- d. Goods/services acquired from companies whose main office is located out of France but in European Union area and directly provided/picked up in supplier's office/shop: The supplier provide an invoice with local VAT (supplier country's rules).
- e. Goods/services acquired from companies whose main office is located out of France but in European Union area and directly delivered in France: The supplier provide an invoice without VAT and the ECHQ self-liquidate VAT with France administration.
- f. Goods/services acquired from companies whose main office is located outside of European Union: The supplier provide an invoice without VAT and the ECHQ self-liquidate VAT with France administration.

22. INVOICES

- a. An original invoice shall be submitted and shall contain: contract number, order number (if any), item number (as defined in the Contract), contract description of supplies or services, sizes, quantities, unit prices, and extended totals (inclusive of taxes and duties for which relief is available) and bank details (IBAN & BIC Codes). If it is the case, details of Bills of Lading or Freight Warrant numbers and weight of shipment shall be identified on each invoice as appropriate.

23. PAYMENTS

- a. Payments for all supplies and services shall be made after properly supported and acceptable invoices submitted upon completion of delivery or of the works, inspection and acceptance.
- b. No payment shall be made with respect to undelivered supplies, work not performed and/or services not rendered under this Contract.
- c. Payment will be effected in the currency or currencies of the contract.
- d. HQ EC shall not bear any cost related to financial guarantees, which the Contractor is required to provide under this Contract.

24. PROTECTION AND INDEMNIFICATION

- a. The Contractor shall at all times hold HQ EC, its agents, representatives and employees harmless from any and all suits, claims, charges and expenses which arise from acts or omissions of the Contractor, its agents, representatives, employees or Sub-contractors.
- b. The Contractor shall pay compensation for all damage occurring to any HQ EC property, facilities and utilities, occasioned by the Contractor, its agents, representatives, employees or Sub-contractors, arising from its or their presence on HQ EC premises in connection with the Contract.
- c. If a defective product causes any physical damage to consumers or their property, EU legislation on liability for defective products will apply.

25. INSPECTION

- a. Unless otherwise specifically provided for in the specifications, all equipment, materials and articles incorporated in the work covered under this contract are to be new and of the most suitable grade of their respective kinds for the purposes intended.
- b. All supplies (which terms throughout this article includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by HQ EC, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.
- c. In case any supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, HQ EC shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction or to accept them against reductions in price, which is equitable under the circumstances.
- d. The inspection and test by HQ EC of any supplies does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements, which may be discovered prior to acceptance. Except as otherwise provided in the contract, acceptance shall be conclusive except as regards latent defects, hidden deficiencies, fraud or such gross mistakes as amount to fraud.

26. MARKING AND LABELLING

- a. A label showing the HQ EC contract number and the name of the Contractor shall be affixed in a visible place to each major item of equipment and independent component. The label shall resist rubbing and minor abrasion.

27. TITLE TO PROPERTY AND RISK OF LOSS

- a. Unless this contract specifically provides for earlier passage of title, title to property of the supplies covered by this contract shall pass to HQ EC upon formal acceptance, regardless of when or where HQ EC takes physical possession.
- b. Unless the Contract specifically provides otherwise, risk of loss or damage to supplies covered by this Contract shall remain with the Contractor until, and shall pass to HQ EC upon:
 - (1) Delivery of supplies as specified in accordance with the Contract; or
 - (2) Acceptance by HQ EC or receipt of the supplies by HQ EC at the destination specified in the Contract, whichever is the later.
- c. Risk of loss or damage to supplies which fail to conform to the contract as to give a right of rejection, shall remain with the Contractor until cure or acceptance.
- d. Notwithstanding the above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents or employees of HQ EC acting within the scope of their employment.

28. ACCEPTANCE

- a. Acceptance or rejection of the supplies or works shall be made as promptly as practicable and, in any case, not later than 1 month after delivery or completion, except as otherwise provided in this contract.
- b. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or otherwise stated in the contract. It is the action by which HQ EC acknowledges that the Contractor has fully demonstrated that the deliveries or works are complete and operational.
- c. The formal acceptance will take place when the following requirements have been met:
 - (1) Availability at final destination of all deliverables or completion of all the works.
 - (2) Satisfactory completion of all training or other services, if any, required by that date.
 - (3) Agreement between the Contracting Officer and the Contractor on a discrepancy list (if necessary) and corresponding clearance dates.
- d. When discrepancies exist and if these do not prevent satisfactory use or operation of the supplies, the Contracting Officer may declare the acceptance provisional. In this case he will withhold from payment an amount commensurate with the importance of the discrepancies but in any case, not more than ten (10) percent of the total contract value and this until all discrepancies have been cleared; at that time the acceptance becomes final.

29. WARRANTY

- a. Notwithstanding inspection and acceptance by HQ EC of work performed under the contract or any provision of this contract concerning the conclusiveness thereof, the Contractor warrants that for a period of twenty-four (24) months or whichever longer period provided by either the manufacturer or relevant EU law following the date of acceptance:
 - (1) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with the specifications and all other requirements of this contract; and
 - (2) The preservation, packaging, packing and marking and the preparation for and method of shipment of such supplies will conform to the requirements of this contract.
- b. The Contracting Officer shall give written notice to the Contractor of any breach of the warranties in the first paragraph of this article within thirty days (30) after discovery of any defect.
- c. Within a reasonable time after such notice, the Contracting Officer may either:
 - (1) By written notice require the prompt correction or replacement of any supplies or part thereof (including preservation, packaging, packing and marking) that do not conform with requirements of this contract; or
 - (2) Retain such supplies, whereupon the contract price thereof shall be reduced by an amount equitable under the circumstances and the Contractor shall promptly make appropriate payment.
- d. When return, correction or replacement is required, the Contracting Officer shall return the supplies and transportation charges and responsibility for such supplies while in transit shall be borne by the Contractor.
- e. If the Contractor does not agree as to his responsibility to correct or replace the supplies delivered, he shall nevertheless proceed in accordance with the written request issued by the Contracting Officer under paragraph c to correct or replace the defective or non-conforming supplies. In the event it is later determined that such supplies were not defective or non-conforming within the provision of this article, the contract price will be equitably adjusted. Failure to agree to such an equitable adjustment of price shall be a dispute concerning a question of fact within the meaning of the article of this contract entitled "Dispute".

30. HQ EC DELAY OF WORK

- a. If the performance of all or any part of the work needed to get the equipment operational is delayed or interrupted by an act of HQ EC in the administration of this contract, which act is not expressly or implicitly authorized by this contract, or by his failure to act within the time specified in this Contract (or within a reasonable time if no time is specified), an adjustment shall be made for any increase in the cost of

performance of this contract caused by such delay or interruption and the contract modified in writing accordingly.

- b. No claim under this article shall be allowed for any delay resulting from restriction of access to HQ EC facilities.

31. LATE PENALTIES

- a. In the event the Contractor fails to meet the deadlines specified in the contract, HQ EC reserves the right to apply the late penalties specified below.
- b. Unless otherwise stated in this contract, it is considered late performance the delay in the arrival time in more than 12 hours in the scheduled time. Liabilities for late performance shall be 0.025 % of the total contract price of the year for each calendar day of delay and to a maximum of 10% of the annual contract price.

32. CONTRACTOR NOTICE OF DELAY

- a. In the event the Contractor encounters difficulty in meeting performance requirements, or when he anticipates difficulty in complying with the Contract delivery schedule or date or to get the equipment ready to start work for whatever reason, including actual or potential labor disputes, he shall immediately notify the Contracting Officer in writing, giving pertinent details. This data shall be deemed to be information only in character and this provision shall not be construed as a waiver by HQ EC of any delivery schedule or date, or of any rights or remedies provided by law or under this Contract.
- b. When such delay has been caused by the occurrence of any cause constituting Force Majeure and as soon as possible, the Contractor shall give notice and full particulars in writing to the Contracting Officer of such occurrence, as well as its claim for a reasonable extension in time for completion of its obligations under this Contract. If the Contractor, in despite of that extension, remains unable by reason of Force Majeure to perform its obligations and meet its responsibilities under this Contract, HQ EC has the right to suspend or terminate this Contract on the same terms and conditions as are provided for in the article titled "DEFAULT" herein.

33. LIQUIDATED DAMAGES

- a. In lieu of actual damage the Contractor shall pay to HQ EC as fixed, agreed and liquidated damages for each calendar day of delay, 0,025% of the total contract price of the year, less handling, transportation and taxes, to a maximum of 10% of contract price.
- b. Alternatively, HQ EC may terminate this contract in whole or in part as provided in paragraph (a) of the Termination for Default Article and in that event the Contractor shall be liable, in addition to the excess costs provided in paragraph (b) of the Default

Article, for such liquidated damages accruing until such time as HQ EC may reasonably obtain delivery or performance of similar supplies or services.

- c. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Contractor, as defined in paragraph (c) of the Default article.
 - (1) In such event, the Contracting Officer shall ascertain the facts and extent of the delay and shall extend the time for performance of the contract when in his judgment the findings of fact justify an extension.
- d. The HC EC may exonerate the Contractor to pay the penalties if the explanation provided by the Contractor seems justified enough

34. TERMINATION FOR CONVENIENCE

- a. HQ EC may terminate the performance of work under this contract in accordance with this article in whole, or in part, whenever due to unexpected circumstances, the Contracting Officer shall determine that such termination is in the best interest of HQ EC. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.
- b. After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:
 - (1) Stop work under the contract on the date and to the extent specified in the Notice of Termination;
 - (2) Place no further orders for deliveries/services, except as may be necessary for completion of such portion of the work under the contract as is not terminated;
 - (3) Terminate all orders to the extent that they relate to the performance of work terminated by the Notice of Termination;
 - (4) Settle all liabilities and all claims arising out of such termination of orders, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this article;
 - (5) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
- c. After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form and with certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than six months from the effective date of termination. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay the Contractor the amount so determined.

- d. Subject to the provisions of paragraph c., the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this article, which amount or amounts may include a reasonable allowance for profit on work done; provided that such agreed amount or amounts exclusive of settlement costs shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated.
- e. In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph d. upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this article, HQ EC shall pay to the Contractor the amounts determined by the Contracting Officer. The Contractor may then raise a claim in accordance with the "Dispute" Article.

35. TERMINATION FOR DEFAULT

- a. HQ EC may, subject to the provisions of paragraph c. below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:
 - (1) If the Contractor fails to perform the services/deliver the supplies within the time specified herein or any extensions thereof; or
 - (2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms and in either of these two circumstances does not cure such failure within a period of 14 days after receipt of notice from the Contracting Officer specifying such failure.
- b. In the event the HQ EC terminates this contract in whole or in part, as provided in paragraph a. of this article, the HQ EC may procure, upon such terms and in such manner as the HQ EC may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the HQ EC for an amount equivalent to 3% of these excess costs; however, the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this article.
- c. The contractor shall be liable for all damage or loss of goods, as well as delay in their delivery, caused while they are under his custody.
- d. The liability of the carrier for loss or damage of the goods shall be limited to the figures established in the national/international legislation.
- e. The Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond his control and without the fault or negligence of the contractor. If the failure to perform is caused by the default of a sub-contractor, and if such default arises out of causes beyond the control of both the Contractor and sub-contractor, without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless the supplies or services

to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

- f. Both parties are under duty of good faith. The contract includes not only the specific terms, but also law and customary practice applicable in France and to the type of trade to which the contract relates.

36. SPECIAL TERMINATION ARTICLE

- a. If at any time while this contract is in force either party find itself in one of the following situation:
 - (1) Death, supervened incapacity or extinction of its legal entity;
 - (2) Declaration of bankruptcy, reorganization of debts, take over by a trusty, or any other legal status implying lack of capacity to enter new financial liabilities;
 - (3) Change of activity in such a manner that it becomes incompatible with the purpose of this contract;
 - (4) Closing of HQ EC activities in Strasbourg.
- b. Then the other party shall be entitled to terminate this contract upon giving written notice of termination under the provisions of this article to the other party. Such termination shall not be considered as termination for convenience and shall be effective on the date stated on the notice of termination.

37. DISPUTES

- a. All disputes arising out of the performance of this contract will be settled through amicable settlement between the Contracting Officer and the Contractor.
- b. Should the Contracting Officer and the Contractor fail to come to an amiable settlement of the dispute, the dispute will be settled in the competent Court of Strasbourg, arbitration councils included, unless otherwise specified in this contract. In case of using judicial avenue, the Contractor shall waive the coverage of those courts corresponding to its fiscal residence in order to rise before the competent Strasbourg Court.
- c. Any claim coming from any of the Parties shall be notified in writing to the other Party; there will be a period of 30 days since the official reception of the letter to answer and justify the disagreement. If it is not the case, the Contracting Officer decision shall be conclusive and the other Party can file a claim in accordance with the above paragraph.

38. SIDE AGREEMENTS

- a. The entire agreement between the contracting parties is contained in this Contract and is not affected by any oral understanding or representation whether made previous to or subsequent to this Contract.

39. DECLARATION OF ACCEPTANCE

- a. The Contractor certifies that he has read, fully understands and unreservedly accepts all terms and conditions, specifications, plans, drawings and other documents, which are relevant to the Contract.

40. RELEASE OF INFORMATION

- a. Except as otherwise specified elsewhere in the Contract, and to the extent that it is demonstratively unavoidable and without prejudice to the "Security" Article of the General Provisions, the Contractor or his employees shall not, without prior authorization of HQ EC, release any information pertaining to this Contract, its subject matter, performance there under or any other aspect thereof.

41. CORRUPTION AND ILLICIT GRATUITIES

- a. The Contractor certifies that neither it nor its agents or representatives have offered or given any gratuity whatsoever to any HQ EC personnel, with a view to securing a contract or favourable treatment with regard to the award, modification or execution of this Contract.
- b. HQ EC may, by registered letter, terminate this Contract without notice if it is found, after an investigation instituted by HQ EC, that gratuities (in the form of entertainment, gifts or others) were offered or given by the Contractor to HQ EC personnel with respect to the award of this Contractor to the taking of any decision regarding its execution

42. CONTRACT ADMINISTRATIONS AND COMMUNICATIONS

- a. The Contractor shall direct all inquiries, notices and communications regarding this Contract to the Contracting Officer, which may be personally delivered, mailed, or copied to the following address:

QUARTIER GENERAL DU CORPS EUROPEEN
BUREAU G8 / P&C
BP 70082
67020 STRASBOURG
FRANCE
Telephone: +33 (0)3 88 43 29 69
E-mail: g8-contract@eurocorps.org