

## Contract Agreement No. 47899/W/02/2 Lot 2

THIS CONTRACT AGREEMENT is made on the 16<sup>th</sup> day of March, 2021.

## BETWEEN

- (1) The Municipality of Chisinau, having its principal place of business at 83 Stefan cel Mare blvd., Chisinau MD-2012, Republic of Moldova (hereinafter called "the Employer"), and
- (2) The Eurostil Construct SRL, a corporation incorporated under the laws of Republic of Moldova under reg. No. 1010600001209 and having its principal place of business at 1, Mitropolit Gurie Grosu str., of. 28, Chisinau MD-2028, Republic of Moldova (hereinafter called "the Contractor").

WHEREAS the Employer invited tenders for the execution of the Works, described as Energy Efficiency Rehabilitation of 17 Public Buildings, Re-tender (Lot 1: 3 Hospitals; Lot 2: 6 Lyceums and Lot 3: 8 Lyceums) and has accepted a Tender by the Contractor for the execution and completion of these Works for the Lot 2 and the remedying of any defects therein, and the Employer agrees to pay the Contractor the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

The Employer and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents, in order of precedence, shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - (a) the Letter of Acceptance
  - (b) the Letter of Tender
  - (c) the Particular Conditions
  - (d) the General Conditions
  - (e) the Specification
  - (f) the completed Schedules and any other documents forming part of the Contract
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Agreement, the Contractor hereby covenants with the Employer to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. Payment of the amounts due to the Contractor under the Contract may only be made to the following bank account(s):

Payee's Account Name: "Eurostil Construct" SRL, Cod fiscal 1010600001209

Payee's Account No. (IBAN): MD47ML000000000225122029

Payee's Bank Name: BC Moldindconbank S.A.

Payee's Bank Address: str. Armeneasca, 38, mun. Chisinau

SWIFT CODE: MOLDDMD2X

Payee's Bank's Correspondent details:

Correspondent Bank Name: Landesbank BADEN - Wurtemberg,

Address: Stuttgart, Germany

Account Number: 2808114



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Account Name (IBAN): MD47ML000000000225122029

SWIFT CODE: SOLADESTXXX

5. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

Agreement to be executed in accordance with the laws of the Republic of Moldova on the day, month and year indicated above.

Signed by: Ion CEBAN

Name and Title of Signatory: Mayor-General

For and on behalf of the Employer

Date: 16/03/2021



Signed by: Angela SCERBINA

Name and Title of Signatory: Director Eurostil Construct SRL

For and on behalf the Contractor

Date: 16/03/2021



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## General Conditions of Contract (GCC)

*The example below is for use with FIDIC Conditions of Contract for Plant and Design-Build for Electrical and Mechanical Plant and for Building and Engineering Works Designed by the Contractor, First Edition, 1999.*

*While this tender document has been prepared with great care, taking into account international procurement and contracting experience, the Bank does not assume any responsibility that the Contract forms, including example provisions and guidance notes, contained in this Tender Document, are suitable, adequate and complete in respect of any particular project.*

The General Conditions of Contract comprise the "General Conditions" which form part of "Conditions of Contract for Plant and Design-Build" for Electrical and Mechanical Plant and for Building and Engineering Works Designed by the Contractor, First Edition 1999 prepared by the Fédération Internationale des Ingénieurs-Conseils (FIDIC).

These Conditions are subject to the variations and additions set out in Section "Particular Conditions of Contract" (PCC)

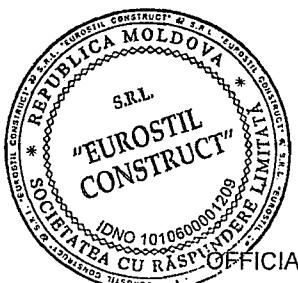
*Use of FIDIC documents are subject to copyright laws.*

*Add the following text if the Tender Document, as issued, do not include a copy:*

Copies of the FIDIC Conditions of Contract can be obtained from:

**International Federation of Consulting Engineers**  
World Trade Centre II  
P.O. Box 311  
CH-1215 Geneva 15  
Switzerland

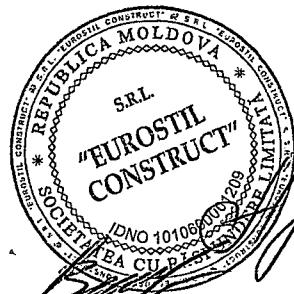
Phone: +41 22 799 49 00  
Fax: +41 22 799 49 01  
email: fidic@fidic.org  
www: <http://www.fidic.org>



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# **CONDITIONS OF CONTRACT FOR PLANT AND DESIGN-BUILD FIRST EDITION 1999**





## **General Conditions**

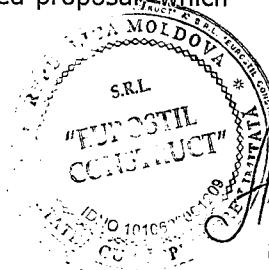
### **1 General Provisions**

#### **1.1 Definitions**

In the Conditions of Contract ("these Conditions"), which include Particular Conditions and these General Conditions, the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

##### **1.1.1 The Contract**

- 1.1.1.1 "**Contract**" means the Contract Agreement, the Letter of Acceptance, the Letter of Tender, these Conditions, the Employer's Requirements, the Schedules, the Contractor's Proposal, and the further documents (if any) which are listed in the Contract Agreement or in the Letter of Acceptance.
- 1.1.1.2 "**Contract Agreement**" means the Contract Agreement (if any) referred to in Sub-Clause 1.6 [*Contract Agreement*].
- 1.1.1.3 "**Letter of Acceptance**" means the letter of formal acceptance, signed by the Employer, of the Letter of Tender, including any annexed memoranda comprising agreements between and signed by both Parties. If there is no such Letter of Acceptance, the expression "Letter of Acceptance" means the Contract Agreement and the date of issuing or receiving the Letter of Acceptance means the date of signing the Contract Agreement.
- 1.1.1.4 "**Letter of Tender**" means the document entitled Letter of Tender, which was completed by the Contractor and includes the signed offer to the Employer for the Works.
- 1.1.1.5 "**Employer's Requirements**" means the document entitled Employer's Requirements, as included in the Contract, and any additions and modifications to such document in accordance with the Contract. Such document specifies the purpose, scope, and/or design and/or other technical criteria, for the Works.
- 1.1.1.6 "**Schedules**" means the document(s) entitled Schedules, completed by the Contractor and submitted with the Letter of Tender, as included in the Contract. Such document may include data, lists and Schedules of payments and/or prices.
- 1.1.1.7 "**Contractor's Proposal**" means the document entitled proposal, which



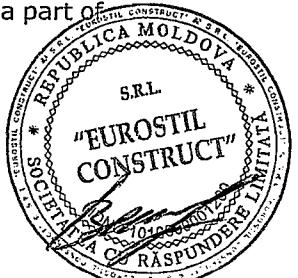


the Contractor submitted with the Letter of Tender, as included in the Contract. Such document may include the Contractor's preliminary design.

- 1.1.1.8 "Tender" means the Letter of Tender and all other documents which the Contractor submitted with the Letter of Tender, as included in the Contract.
- 1.1.1.9 "Appendix to Tender" means the completed pages entitled Appendix to Tender which are appended to and form part of the Letter of Tender.
- 1.1.1.10 "Schedule of Guarantees" and "Schedule of Payments" mean the documents so named (if any) which are comprised in the Schedules.

#### **1.1.2 Parties and Persons**

- 1.1.2.1 "Party" means the Employer or the Contractor, as the context requires.
- 1.1.2.2 "Employer" means the person named as Employer in the Appendix to Tender and the legal successors in title to this person.
- 1.1.2.3 "Contractor" means the person(s) named as Contractor in the Letter of Tender accepted by the Employer and the legal successors in title to this person(s).
- 1.1.2.4 "Engineer" means the person appointed by the Employer to act as the Engineer for the purposes of the Contract and named in the Appendix to Tender, or other person appointed from time to time by the Employer and notified to the Contractor under Sub-Clause 3.4 [Replacement of the Engineer].
- 1.1.2.5 "Contractor's Representative" means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under Sub-Clause 4.3 [Contractor's Representative], who acts on behalf of the Contractor.
- 1.1.2.6 "Employer's Personnel" means the Engineer, the assistants referred to in Sub-Clause 3.2 [Delegation by the Engineer] and all other staff, labour and other employees of the Engineer and of the Employer; and any other personnel notified to the Contractor, by the Employer or the Engineer, as Employer's Personnel.
- 1.1.2.7 "Contractor's Personnel" means the Contractor's Representative and all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.
- 1.1.2.8 "Subcontractor" means any person named in the Contract as a Subcontractor, or any person appointed as a Subcontractor, for a part of





the Works; and the legal successors in title to each of these persons.

1.1.2.9 "**DAB**" means the person or three persons so named in the Contract, or other person(s) appointed under Sub-Clause 20.2 [Appointment of the Dispute Adjudication Board] or Sub-Clause 20.3 [Failure to Agree Dispute Adjudication Board].

1.1.2.10 "**FIDIC**" means the Fédération Internationale des Ingénieurs-Conseils, the international federation of consulting engineers.

### **1.1.3 Dates, Tests, Periods and Completion**

1.1.3.1 "**Base Date**" means the date 28 days prior to the latest date for submission of the Tender.

1.1.3.2 "**Commencement Date**" means the date notified under Sub-Clause 8.1 [Commencement of Works].

1.1.3.3 "**Time for Completion**" means the time for completing the Works or a Section (as the case may be) under Sub-Clause 8.2 [Time for Completion], as stated in the Appendix to Tender (with any extension under Sub-Clause 8.4 [Extension of Time for Completion]), calculated from the Commencement Date.

1.1.3.4 "**Tests on Completion**" means the tests which are specified in the Contract or agreed by both Parties or instructed as a Variation, and which are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case may be) are taken over by the Employer.

1.1.3.5 "**Taking-Over Certificate**" means a certificate issued under Clause 10 [Employer's Taking Over].

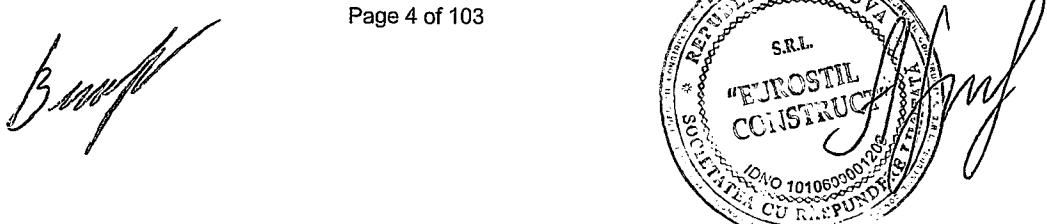
1.1.3.6 "**Tests after Completion**" means the tests (if any) which are specified in the Contract and which are carried out under Clause 12 [Tests after Completion] after the Works or a Section (as the case may be) are taken over by the Employer.

1.1.3.7 "**Defects Notification Period**" means the period for notifying defects in the Works or a Section (as the case may be) under Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects], as stated in the Appendix to Tender (with any extension under Sub-Clause 11.3 [Extension of Defects Notification Period]), calculated from the date on which the Works or Section is completed as certified under Sub-Clause 10.1 [Taking Over of the Works and Sections].

1.1.3.8 "**Performance Certificate**" means the certificate issued under Sub-Clause 11.9 [Performance Certificate].

1.1.3.9 "**day**" means a calendar day and "**year**" means 365 days.

### **1.1.4 Money and Payments**



- 1.1.4.1 **"Accepted Contract Amount"** means the amount accepted in the Letter of Acceptance for the design, execution and completion of the Works and the remedying of any defects.
- 1.1.4.2 **"Contract Price"** means the price defined in Sub-Clause 14.1 [The Contract Price], and includes adjustments in accordance with the Contract.
- 1.1.4.3 **"Cost"** means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.
- 1.1.4.4 **"Final Payment Certificate"** means the payment certificate issued under Sub-Clause 14.13 [Issue of Final Payment Certificate].
- 1.1.4.5 **"Final Statement"** means the Statement defined in Sub-Clause 14.11 [Application for Final Payment Certificate].
- 1.1.4.6 **"Foreign Currency"** means a currency in which part (or all) of the Contract Price is payable, but not the Local Currency.
- 1.1.4.7 **"Interim Payment Certificate"** means a payment certificate issued under Clause 14 [Contract Price and Payment], other than the Final Payment Certificate.
- 1.1.4.8 **"Local Currency"** means the currency of the Country.
- 1.1.4.9 **"Payment Certificate"** means a payment certificate issued under Clause 14 [Contract Price and Payment].
- 1.1.4.10 **"Provisional Sum"** means a sum (if any) which is specified in the Contract as a Provisional Sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 [Provisional Sums].
- 1.1.4.11 **"Retention Money"** means the accumulated Retention Moneys which the Employer retains under Sub-Clause 14.3 [Application for Interim Payment Certificates] and pays under Sub-Clause 14.9 [Payment of Retention Money].
- 1.1.4.12 **"Statement"** means a Statement submitted by the Contractor as part of an application, under Clause 14 [Contract Price and Payment], for a payment certificate.

### 1.1.5 Works and Goods

1.1.5.1 "**Contractor's Equipment**" means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes Temporary Works, Employers Equipment (if any), Plant, Materials and any



other things intended to form or forming part of the Permanent Works.

1.1.5.2 "Goods" means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.

1.1.5.3 "Materials" means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only Materials (if any) to be supplied by the Contractor under the Contract.

1.1.5.4 "Permanent Works" means the Permanent Works to be designed and executed by the Contractor under the Contract.

1.1.5.5 "Plant" means the apparatus, machinery and vehicles intended to form or forming part of the Permanent Works.

1.1.5.6 "**Section**" means a part of the Works specified in the Appendix to Tender as a Section (if any).

1.1.5.7 "**Temporary Works**" means all Temporary Works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

1.1.5.8 "Works" mean the Permanent Works and the Temporary Works, or either of them as appropriate.

### 1.1.6 Other Definitions

1.1.6.1 "**Contractor's Documents**" means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature supplied by the Contractor under the Contract; as described in Sub-Clause 5.2 [Contractor's Documents].

1.1.6.2 "Country" means the Country in which the Site (or most of it) is located, where the Permanent Works are to be executed.

1.1.6.3 "**Employer's Equipment**" means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the Contractor in the execution of the Works, as stated in the Employer's Requirements; but does not include Plant which has not been taken over by the Employer.

1.1.6.4 "Force Majeure" is defined in Clause 19 [Force Majeure].

1.1.6.5 "Laws" means all national (or state) legislation, statutes, ordinances and other Laws, and regulations and by-Laws of any legally constituted public authority.

1.1.6.6 "Performance Security" means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security].

1.1.6.7 "Site" means the places where the Permanent Works are to be executed and to which Plant and Materials are to be delivered, and any other places





as may be specified in the Contract as forming part of the Site.

1.1.6.8 "**Unforeseeable**" means not reasonably foreseeable by an experienced Contractor by the date for submission of the Tender.

1.1.6.9 "**Variation**" means any change to the Employer's Requirements or the Works, which is instructed or approved as a Variation under Clause 13 [*Variations and Adjustments*].

### **1.2 Interpretation**

In the Contract, except where the context requires otherwise:

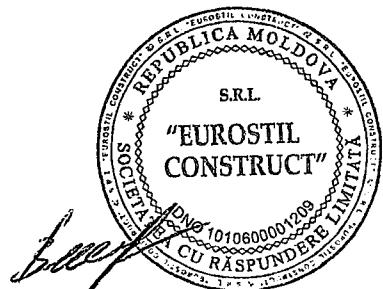
- (a) words indicating one gender include all genders;
- (b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- (c) provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded in writing, and
- (d) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resulting in a permanent record.

The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

### **1.3 Communications**

Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices and requests, these communications shall be:

- (a) in writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Appendix to Tender; and
- (b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Appendix to Tender. However:





(i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and

(ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Engineer, a copy shall be sent to the Engineer or the other Party, as the case may be.

#### **1.4 Law and Language**

The Contract shall be governed by the law of the Country (or other jurisdiction) stated in the Appendix to Tender.

If there are versions of any part of the Contract which are written in more than one language, the version which is in the ruling language stated in the Appendix to Tender shall prevail.

The language for communications shall be that stated in the Appendix to Tender. If no language is stated there, the language for communications shall be the language in which the Contract (or most of it) is written.

#### **1.5 Priority of Documents**

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- (a) the Contract Agreement (if any),
- (b) the Letter of Acceptance,
- (c) the Letter of Tender,
- (d) the Particular Conditions,
- (e) these General Conditions,
- (f) the Employer's Requirements,
- (g) the Schedules, and
- (h) the Contractor's Proposal and any other documents forming part of the Contract.





If an ambiguity or discrepancy is found in the documents, the Engineer shall issue any necessary clarification or instruction.

### **1.6 Contract Agreement**

The Parties shall enter into a Contract Agreement within 28 days after the Contractor receives the Letter of Acceptance, unless they agree otherwise. The Contract Agreement shall be based upon the form annexed to the Particular Conditions. The Costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Employer.

### **1.7 Assignment**

Neither Party shall assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, either Party:

- (a) may assign the whole or any part with the prior agreement of the other Party, at the sole discretion of such other Party, and
- (b) may, as security in favour of a bank or financial institution, assign its right to any moneys due, or to become due, under the Contract.

### **1.8 Care and Supply of Documents**

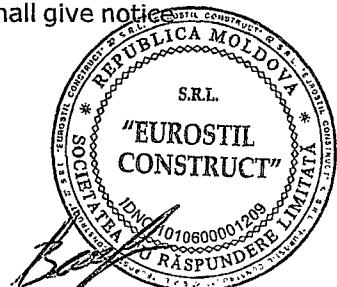
Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the Engineer six copies of each of the Contractor's Documents.

The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Employer's Requirements, the Contractor's Documents, and Variations and other communications given under the Contract. The Employer's Personnel shall have the right of access to all these documents at all reasonable times.

If a Party becomes aware of an error or defect of a technical nature in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

### **1.9 Errors in the Employer's Requirements**

If the Contractor suffers delay and/or incurs Cost as a result of an error in the Employer's Requirements, and an experienced Contractor exercising due care would not have discovered the error when scrutinising the Employer's Requirements under Sub-Clause 5.1 [General Design Obligations], the Contractor shall give notice





to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent the error could not reasonably have been so discovered, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.

#### **1.10 Employer's Use of Contractor's Documents**

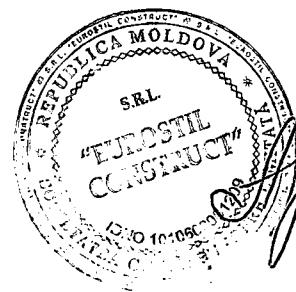
As between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:

- (a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- (b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- (c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third Party by (or on behalf of) the Employer for purposes other than those permitted under this Sub-Clause.

#### **1.11 Contractor's Use of Employer's Documents**





As between the Parties, the Employer shall retain the copyright and other intellectual property rights in the Employer's Requirements and other documents made by (or on behalf of) the Employer. The Contractor may, at his Cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used or communicated to a third Party by the Contractor, except as necessary for the purposes of the Contract.

#### **1.12 Confidential Details**

The Contractor shall disclose all such confidential and other information as the Engineer may reasonably require in order to verify the Contractor's compliance with the Contract.

#### **1.13 Compliance with Laws**

The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Particular Conditions:

- (a) the Employer shall have obtained (or shall obtain) the planning, zoning or similar permission for the Permanent Works, and any other permissions described in the Employer's Requirements as having been (or being) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and
- (b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licences and approvals, as required by the Laws in relation to the design, execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.

#### **1.14 Joint and Several Liability**

If the Contractor constitutes (under applicable Laws) a joint venture, consortium or other unincorporated grouping of two or more persons:

- (a) these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract;
- (b) these persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons; and
- (c) the Contractor shall not alter its composition or legal status without the prior consent of the Employer.





## 2 The Employer

### 2.1 Right of Access to the Site

The Employer shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) stated in the Appendix to Tender. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Employer is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Employer shall do so in the time and manner stated in the Employer's Requirements. However, the Employer may withhold any such right or possession until the Performance Security has been received.

If no such time is stated in the Appendix to Tender, the Employer shall give the Contractor right of access to, and possession of, the Site within such times as may be required to enable the Contractor to proceed in accordance with the programme submitted under Sub-Clause 8.3 [Programme].

If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

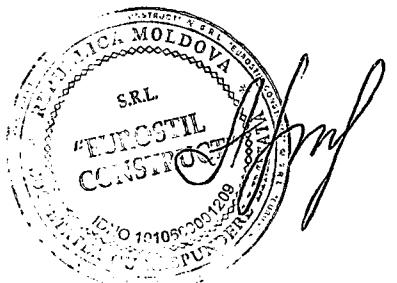
- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

### 2.2 Permits, Licences or Approvals

The Employer shall (where he is in a position to do so) provide reasonable assistance to the Contractor at the request of the Contractor:





(a) by obtaining copies of the Laws of the Country which are relevant to the Contract but are not readily available, and

(b) for the Contractor's applications for any permits, licences or approvals required by the Laws of the Country:

(i) which the Contractor is required to obtain under Sub-Clause 1.13 [Compliance with Laws],

(ii) for the delivery of Goods, including clearance through customs, and

(iii) for the export of Contractor's Equipment when it is removed from the Site.

### **2.3 Employer's Personnel**

The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other contractors on the Site:

(a) co-operate with the Contractor's efforts under Sub-Clause 4.6 [Co-operation], and

(b) take actions similar to those which the Contractor is required to take under sub-paragraphs (a), (b) and (c) of Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.18 [Protection of the Environment].

### **2.4 Employer's Financial Arrangements**

The Employer shall submit, within 28 days after receiving any request from the Contractor, reasonable evidence that financial arrangements have been made and are being maintained which will enable the Employer to pay the Contract Price (as estimated at that time) in accordance with Clause 14 [Contract Price and Payment]. If the Employer intends to make any material change to his financial arrangements, the Employer shall give notice to the Contractor with detailed particulars.

### **2.5 Employer's Claims**

If the Employer considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Notification Period, the Employer or the Engineer shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20 [Employer's Equipment and Free-Issue Material], or for other services requested by the Contractor.

The notice shall be given as soon as practicable after the Employer became aware of the event or circumstances giving rise to the claim. A notice relating to any





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extension of the Defects Notification Period shall be given before the expiry of such period.

The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. The Engineer shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Employer is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Notification Period in accordance with Sub-Clause 11.3 [Extension of Defects Notification Period].

This amount may be included as a deduction in the Contract Price and Payment Certificates. The Employer shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this Sub-Clause.





## 3 The Engineer

### 3.1 Engineer's Duties and Authority

The Employer shall appoint the Engineer who shall carry out the duties assigned to him in the Contract. The Engineer's staff shall include suitably qualified engineers and other professionals who are competent to carry out these duties.

The Engineer shall have no authority to amend the Contract.

The Engineer may exercise the authority attributable to the Engineer as specified in or necessarily to be implied from the Contract. If the Engineer is required to obtain the approval of the Employer before exercising a specified authority, the requirements shall be as stated in the Particular Conditions. The Employer undertakes not to impose further constraints on the Engineer's authority, except as agreed with the Contractor.

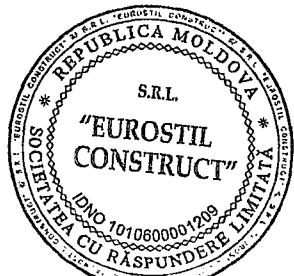
However, whenever the Engineer exercises a specified authority for which the Employer's approval is required, then (for the purposes of the Contract) the Employer shall be deemed to have given approval.

Except as otherwise stated in these Conditions:

- (a) whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Engineer shall be deemed to act for the Employer;
- (b) the Engineer has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract; and
- (c) any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Engineer (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances.

### 3.2 Delegation by the Engineer

The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident engineer, and/or independent inspectors appointed to





inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties. However, unless otherwise agreed by both Parties, the Engineer shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations].

Assistants shall be suitably qualified persons, who are competent to carry out these duties and exercise this authority, and who are fluent in the language for communications defined in Sub-Clause 1.1 [Law and Language].

Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorised to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer. However:

- (a) any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Engineer to reject the work, Plant or Materials;
- (b) if the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Engineer, who shall promptly confirm, reverse or vary the determination or instruction.

### **3.3 Instructions of the Engineer**

The Engineer may issue to the Contractor (at any time) instructions which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

The Contractor shall comply with the instructions given by the Engineer or delegated assistant, on any matter related to the Contract. These instructions shall be given in writing.

### **3.4 Replacement of the Engineer**

If the Employer intends to replace the Engineer, the Employer shall, not less than 42 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the intended replacement Engineer. The



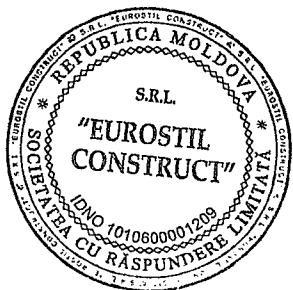


Employer shall not replace the Engineer with a person against whom the Contractor raises reasonable objection by notice to the Employer, with supporting particulars.

### **3.5 Determinations**

Whenever these Conditions provide that the Engineer shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter, the Engineer shall consult with each Party in an endeavour to reach agreement. If agreement is not achieved, the Engineer shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.

The Engineer shall give notice to both Parties of each agreement or determination, with supporting particulars. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims, Disputes and Arbitration].





## 4 The Contractor

### **4.1 Contractor's General Obligations**

The Contractor shall design, execute and complete the Works in accordance with the Contract, and shall remedy any defects in the Works. When completed, the Works shall be fit for the purposes for which the Works are intended as defined in the Contract.

The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.

The Works shall include any work which is necessary to satisfy the Employer's Requirements, Contractor's Proposal and Schedules, or is implied by the Contract, and all works which (although not mentioned in the Contract) are necessary for stability or for the completion, or safe and proper operation, of the Works.

The Contractor shall be responsible for the adequacy, stability and safety of all Site operations, of all methods of construction and of all the Works.

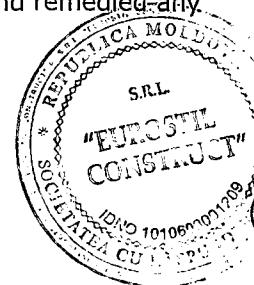
The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Engineer.

### **4.2 Performance Security**

The Contractor shall obtain (at his cost) a Performance Security for proper performance, in the amount and currencies stated in the Appendix to Tender. If an amount is not stated in the Appendix to Tender, this Sub-Clause shall not apply.

The Contractor shall deliver the Performance Security to the Employer within 28 days after receiving the Letter of Acceptance, and shall send a copy to the Engineer. The Performance Security shall be issued by an entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the Particular Conditions or in another form approved by the Employer.

The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any





defects. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.

The Employer shall not make a claim under the Performance Security, except for amounts to which the Employer is entitled under the Contract in the event of:

- (a) failure by the Contractor to extend the validity of the Performance Security as described in the preceding paragraph, in which event the Employer may claim the full amount of the Performance Security,
- (b) failure by the Contractor to pay the Employer an amount due, as either agreed by the Contractor or determined under Sub-Clause 2.5 [Employer's Claims] or Clause 20 [Claims, Disputes and Arbitration], within 42 days after this agreement or determination,
- (c) failure by the Contractor to remedy a default within 42 days after receiving the Employer's notice requiring the default to be remedied, or
- (d) circumstances which entitle the Employer to termination under Sub-Clause 15.2 [Termination by Employer], irrespective of whether notice of termination has been given.

The Employer shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Employer was not entitled to make the claim.

The Employer shall return the Performance Security to the Contractor within 21 days after receiving a copy of the Performance Certificate.

#### **4.3 Contractor's Representative**

The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.

Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Engineer for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked, or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.

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The Contractor shall not, without the prior consent of the Engineer, revoke the appointment of the Contractor's Representative or appoint a replacement.

The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Engineer's prior consent, and the Engineer shall be notified accordingly.

The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [Instructions of the Engineer].

The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Engineer has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.

The Contractor's Representative and all these persons shall be fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language].

#### **4.4 Subcontractors**

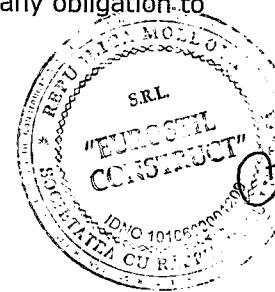
The Contractor shall not subcontract the whole of the Works.

The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise stated in the Particular Conditions:

- (a) the Contractor shall not be required to obtain consent to suppliers of Materials, or to a subcontract for which the Subcontractor is named in the Contract;
- (b) the prior consent of the Engineer shall be obtained to other proposed Subcontractors; and
- (c) the Contractor shall give the Engineer not less than 28 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site.

#### **4.5 Nominated Subcontractors**

In this Sub-Clause, "nominated Subcontractor" means a Subcontractor whom the Engineer, under Clause 13 [Variations and Adjustments], instructs the Contractor to employ as a Subcontractor. The Contractor shall not be under any obligation to





employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Engineer as soon as practicable, with supporting particulars.

## 4.6 Co-operation

The Contractor shall, as specified in the Contract or as instructed by the Engineer, allow appropriate opportunities for carrying out work to:

- (a) the Employer's Personnel,
- (b) any other contractors employed by the Employer, and
- (c) the personnel of any legally constituted public authorities,

who may be employed in the execution on or near the Site of any work not included in the Contract.

Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.

The Contractor shall be responsible for his construction activities on the Site, and shall co-ordinate his own activities with those of other contractors to the extent (if any) specified in the Employer's Requirements.

If, under the Contract, the Employer is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Engineer in the time and manner stated in the Employer's Requirements.

## 4.7 Setting Out

The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract or notified by the Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.

The Employer shall be responsible for any errors in these specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used.





If the Contractor suffers delay and/or incurs Cost from executing work which was necessitated by an error in these items of reference, and an experienced contractor could not reasonably have discovered such error and avoided this delay and/or Cost, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent the error could not reasonably have been discovered, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.

#### **4.8 Safety Procedures**

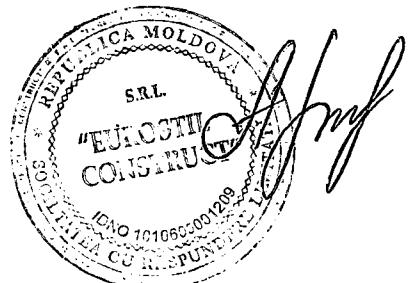
The Contractor shall:

- (a) comply with all applicable safety regulations,
- (b) take care for the safety of all persons entitled to be on the Site,
- (c) use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons,
- (d) provide fencing, lighting, guarding and watching of the Works until completion and taking over under Clause 10 [Employer's Taking Over], and
- (e) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

#### **4.9 Quality Assurance**

The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Engineer shall be entitled to audit any aspect of the system.

Details of all procedures and compliance documents shall be submitted to the Engineer for information before each design and execution stage is commenced.





When any document of a technical nature is issued to the Engineer, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

#### **4.10 Site Data**

The Employer shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Employer's possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Employer shall similarly make available to the Contractor all such data which come into the Employer's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.

To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Tender as to all relevant matters, including (without limitation):

- (a) the form and nature of the Site, including sub-surface conditions,
- (b) the hydrological and climatic conditions,
- (c) the extent and nature of the work and Goods necessary for the execution and completion of the Works and the remedying of any defects,
- (d) the Laws, procedures and labour practices of the Country, and
- (e) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

#### **4.11 Sufficiency of the Accepted Contract Amount**

The Contractor shall be deemed to:

- (a) have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and
- (b) have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant





matters referred to in Sub-Clause 4.10 [Site Data] and any further data relevant to the Contractor's design.

Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper design, execution and completion of the Works and the remedying of any defects.

#### 4.12 Unforeseeable Physical Conditions

In this Sub-Clause, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.

If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the Contractor shall give notice to the Engineer as soon as practicable.

This notice shall describe the physical conditions, so that they can be inspected by the Engineer, and shall set out the reasons why the Contractor considers them to be Unforscscable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Engineer may give. If an instruction constitutes a Variation, Clause 13 [*Variations and Adjustments*] shall apply.

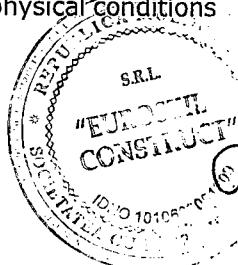
If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/or incurs Cost due to these conditions, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price.

After receiving such notice and inspecting and/or investigating these physical conditions, the Engineer shall proceed in accordance with Sub-Clause 3.5 [*Determinations*] to agree or determine (i) whether and (if so) to what extent these physical conditions were Unforeseeable, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.

However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Engineer may also review whether other physical conditions





in similar parts of the Works (if any) were more favourable than could reasonably have been foreseen when the Contractor submitted the Tender. If and to the extent that these more favourable conditions were encountered, the Engineer may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.

The Engineer may take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which may be made available by the Contractor, but shall not be bound by any such evidence.

#### **4.13 Rights of Way and Facilities**

The Contractor shall bear all costs and charges for special and/or temporary rights-of-way which he may require, including those for access to the Site. The Contractor shall also obtain, at his risk and cost, any additional facilities outside the Site which he may require for the purposes of the Works.

#### **4.14 Avoidance of Interference**

The Contractor shall not interfere unnecessarily or improperly with:

- (a) the convenience of the public, or
- (b) the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Employer or of others.

The Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

#### **4.15 Access Route**

The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

Except as otherwise stated in these Conditions:

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- (a) the Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;
- (b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;
- (c) the Employer shall not be responsible for any claims which may arise from the use or otherwise of any access route,
- (d) the Employer does not guarantee the suitability or availability of particular access routes, and
- (e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

#### **4.16 Transport of Goods**

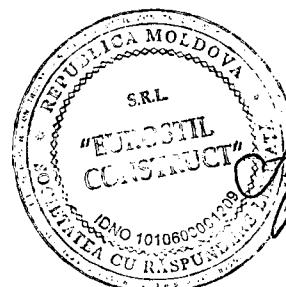
Unless otherwise stated in the Particular Conditions:

- (a) the Contractor shall give the Engineer not less than 21 days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;
- (b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works; and
- (c) the Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, and shall negotiate and pay all claims arising from their transport.

#### **4.17 Contractor's Equipment**

The Contractor shall be responsible for all Contractor's Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Engineer. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.

#### **4.18 Protection of the Environment**





The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values indicated in the Employer's Requirements, and shall not exceed the values prescribed by applicable Laws.

#### **4.19 Electricity, Water and Gas**

The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require.

The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Employer's Requirements. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.

The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Engineer in accordance with Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Employer.

#### **4.20 Employer's Equipment and Free-Issue Material**

The Employer shall make the Employer's Equipment (if any) available for the use of the Contractor in the execution of the Works in accordance with the details, arrangements and prices stated in the Employer's Requirements. Unless otherwise stated in the Employer's Requirements:

- (a) the Employer shall be responsible for the Employer's Equipment, except that
- (b) the Contractor shall be responsible for each item of Employer's Equipment whilst any of the Contractor's Personnel is operating it, driving it, directing it or in possession or control of it.

The appropriate quantities and the amounts due (at such stated prices) for the use of Employer's Equipment shall be agreed or determined by the Engineer in accordance with Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Employer.

The Employer shall supply, free of charge, the "free-issue materials" (if any) in accordance with the details stated in the Employer's Requirements. The Employer shall,





at his risk and cost, provide these materials at the time and place specified in the Contract. The Contractor shall then visually inspect them, and shall promptly give notice to the Engineer of any shortage, defect or default in these materials. Unless otherwise agreed by both Parties, the Employer shall immediately rectify the notified shortage, defect or default.

After this visual inspection, the free-issue materials shall come under the care, custody and control of the Contractor. The Contractor's obligations of inspection, care, custody and control shall not relieve the Employer of liability for any shortage, defect or default not apparent from a visual inspection.

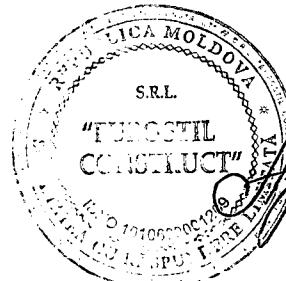
#### **4.21 Progress Reports**

Unless otherwise stated in the Particular Conditions, monthly progress reports shall be prepared by the Contractor and submitted to the Engineer in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.

Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

Each report shall include:

- (a) charts and detailed descriptions of progress, including each stage of design, Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection, testing, commissioning and trial operation;
- (b) photographs showing the status of manufacture and of progress on the Site;
- (c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
  - (i) commencement of manufacture,
  - (ii) Contractor's inspections,
  - (iii) tests, and
  - (iv) shipment and arrival at the Site;





(d) the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];

(e) copies of quality assurance documents, test results and certificates of Materials;

(f) list of Variations, notices given under Sub-Clause 2.5 [Employer's Claims] and notices given under Sub-Clause 20.1 [Contractor's Claims];

(g) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and

(h) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardise the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

#### **4.22 Security of the Site**

Unless otherwise stated in the Particular Conditions:

(a) the Contractor shall be responsible for keeping unauthorised persons off the Site, and

(b) authorised persons shall be limited to the Contractor's Personnel and the Employer's Personnel; and to any other personnel notified to the Contractor, by the Employer or the Engineer, as authorised personnel of the Employer's other contractors on the Site.

#### **4.23 Contractor's Operations on Site**

The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Engineer as working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a





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clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfil obligations under the Contract.

A handwritten signature in black ink, appearing to read "Bogdan" or a similar name.





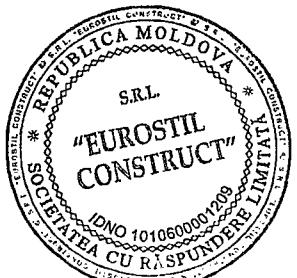
#### **4.24 Fossils**

All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Employer. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

The Contractor shall, upon discovery of any such finding, promptly give notice to the Engineer, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.





## 5 Design

### 5.1 General Design Obligations

The Contractor shall carry out, and be responsible for, the design of the Works. Design shall be prepared by qualified designers who are engineers or other professionals who comply with the criteria (if any) stated in the Employer's Requirements. Unless otherwise stated in the Contract, the Contractor shall submit to the Engineer for consent the name and particulars of each proposed designer and design Subcontractor.

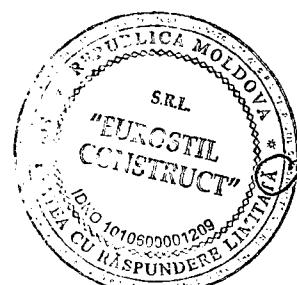
The Contractor warrants that he, his designers and design Subcontractors have the experience and capability necessary for the design. The Contractor undertakes that the designers shall be available to attend discussions with the Engineer at all reasonable times, until the expiry date of the relevant Defects Notification Period.

Upon receiving notice under Sub-Clause 8.1 [Commencement of Works], the Contractor shall scrutinise the Employer's Requirements (including design criteria and calculations, if any) and the items of reference mentioned in Sub-Clause 4.7 [Setting Out]. Within the period stated in the Appendix to Tender, calculated from the Commencement Date, the Contractor shall give notice to the Engineer of any error, fault or other defect found in the Employer's Requirements or these items of reference.

After receiving this notice, the Engineer shall determine whether Clause 13 [Variations and Adjustments] shall be applied, and shall give notice to the Contractor accordingly. If and to the extent that (taking account of cost and time) an experienced contractor exercising due care would have discovered the error, fault or other defect when examining the Site and the Employer's Requirements before submitting the Tender, the Time for Completion shall not be extended and the Contract Price shall not be adjusted.

### 5.2 Contractor's Documents

The Contractor's Documents shall comprise the technical documents specified in the Employer's Requirements, documents required to satisfy all regulatory approvals, and the documents described in Sub-Clause 5.6 [As-Built Documents] and Sub-Clause 5.7 [Operation and Maintenance Manuals]. Unless otherwise stated in the Employer's Requirements, the Contractor's Documents shall be written in the language for communications defined in Sub-Clause 1.4 [Law and Language].





**FIDIC Conditions of Contract for  
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The Contractor shall prepare all Contractor's Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel. The Employer's Personnel shall have the right to inspect the preparation of all these documents, wherever they are being prepared.

If the Employer's Requirements describe the Contractor's Documents which are to be submitted to the Engineer for review and/or for approval, they shall be submitted accordingly, together with a notice as described below. In the following provisions of this Sub-Clause, (i) "review period" means the period required by the Engineer for review and (if so specified) for approval, and (ii) "Contractor's Documents" exclude any documents which are not specified as being required to be submitted for review and/or for approval.

Unless otherwise stated in the Employer's Requirements, each review period shall not exceed 21 days, calculated from the date on which the Engineer receives a Contractor's Document and the Contractor's notice. This notice shall state that the Contractor's Document is considered ready, both for review (and approval, if so specified) in accordance with this Sub-Clause and for use. The notice shall also state that the Contractor's Document complies with the Contract, or the extent to which it does not comply.

The Engineer may, within the review period, give notice to the Contractor that a Contractor's Document fails (to the extent stated) to comply with the Contract. If a Contractor's Document so fails to comply, it shall be rectified, resubmitted and reviewed (and, if specified, approved) in accordance with this Sub-Clause, at the Contractor's cost.

For each part of the Works, and except to the extent that the prior approval or consent of the Engineer shall have been obtained:

(a) in the case of a Contractor's Document which has (as specified) been submitted for the Engineer's approval:

- (i) the Engineer shall give notice to the Contractor that the Contractor's Document is approved, with or without comments, or that it fails (to the extent stated) to comply with the Contract;
- (ii) execution of such part of the Works shall not commence until the Engineer has approved the Contractor's Document; and
- (iii) the Engineer shall be deemed to have approved the Contractor's Document upon the expiry of the review periods for all the Contractor's Documents which are relevant to the design and execution of such part, unless the Engineer has previously notified otherwise in accordance with sub-paragraph (i);





- (b) execution of such part of the Works shall not commence prior to the expiry of the review periods for all the Contractor's Documents which are relevant to its design and execution;
- (c) execution of such part of the Works shall be in accordance with these reviewed (and, if specified, approved) Contractor's Documents; and
- (d) if the Contractor wishes to modify any design or document which has previously been submitted for review (and, if specified, approval), the Contractor shall immediately give notice to the Engineer. Thereafter, the Contractor shall submit revised documents to the Engineer in accordance with the above procedure.

If the Engineer instructs that further Contractor's Documents are required, the Contractor shall prepare them promptly.

Any such approval or consent, or any review (under this Sub-Clause or otherwise), shall not relieve the Contractor from any obligation or responsibility.

### **5.3 Contractor's Undertaking**

The Contractor undertakes that the design, the Contractor's Documents, the execution and the completed Works will be in accordance with:

- (a) the Laws in the Country, and
- (b) the documents forming the Contract, as altered or modified by Variations.

### **5.4 Technical Standards and Regulations**

The design, the Contractor's Documents, the execution and the completed Works shall comply with the Country's technical standards, building, construction and environmental Laws, Laws applicable to the product being produced from the Works, and other standards specified in the Employer's Requirements, applicable to the Works, or defined by the applicable Laws.

All these Laws shall, in respect of the Works and each Section, be those prevailing when the Works or Section are taken over by the Employer under Clause 10 [Employer's Taking Over]. References in the Contract to published standards shall be understood to be references to the edition applicable on the Base Date, unless stated otherwise.





If changed or new applicable standards come into force in the Country after the Base Date, the Contractor shall give notice to the Engineer and (if appropriate) submit proposals for compliance. In the event that:

- (a) the Engineer determines that compliance is required, and
- (b) the proposals for compliance constitute a variation,

then the Engineer shall initiate a Variation in accordance with Clause 13 [Variations and Adjustments].

### **5.5 Training**

The Contractor shall carry out the training of Employer's Personnel in the operation and maintenance of the Works to the extent specified in the Employer's Requirements. If the Contract specifies training which is to be carried out before taking-over, the Works shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until this training has been completed.

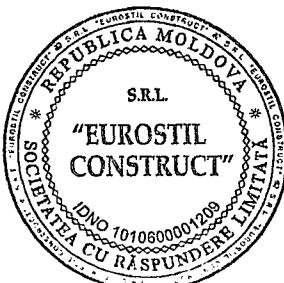
### **5.6 As-Built Documents**

The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact as-built locations, sizes and details of the work as executed. These records shall be kept on the Site and shall be used exclusively for the purposes of this Sub-Clause. Two copies shall be supplied to the Engineer prior to the commencement of the Tests on Completion.

In addition, the Contractor shall supply to the Engineer as-built drawings of the Works, showing all Works as executed, and submit them to the Engineer for review under Sub-Clause 5.2 [Contractor's Documents]. The Contractor shall obtain the consent of the Engineer as to their size, the referencing system, and other relevant details.

Prior to the issue of any Taking-Over Certificate, the Contractor shall supply to the Engineer the specified numbers and types of copies of the relevant as-built drawings, in accordance with the Employer's Requirements. The Works shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until the Engineer has received these documents.

### **5.7 Operation and Maintenance Manuals**





Prior to commencement of the Tests on Completion, the Contractor shall supply to the Engineer provisional operation and maintenance manuals in sufficient detail for the Employer to operate, maintain, dismantle, reassemble, adjust and repair the Plant.

The Works shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until the Engineer has received final operation and maintenance manuals in such detail, and any other manuals specified in the Employer's Requirements for these purposes.

#### **5.8 Design Error**

If errors, omissions, ambiguities, inconsistencies, inadequacies or other defects are found in the Contractor's Documents, they and the Works shall be corrected at the Contractor's cost, notwithstanding any consent or approval under this Clause.





## 6 Staff and Labour

### 6.1 Engagement of Staff and Labour

Except as otherwise stated in the Employer's Requirements, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport.

### 6.2 Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by employers whose trade or industry is similar to that of the Contractor.

### 6.3 Persons in the Service of Employer

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Employer's Personnel.

### 6.4 Labour Laws

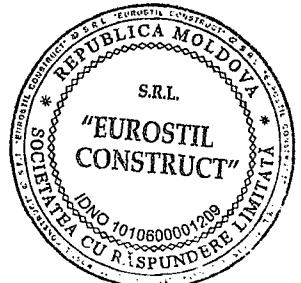
The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

### 6.5 Working Hours

No work shall be carried out on the Sile on locally recognised days of rest, or outside the normal working hours stated in the Appendix to Tender, unless:

- (a) otherwise stated in the Contract,
- (b) the Engineer gives consent, or





(c) the work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer.

#### **6.6 Facilities for Staff and Labour**

Except as otherwise stated in the Employer's Requirements, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. The Contractor shall also provide facilities for the Employer's Personnel as stated in the Employer's Requirements.

The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

#### **6.7 Health and Safety**

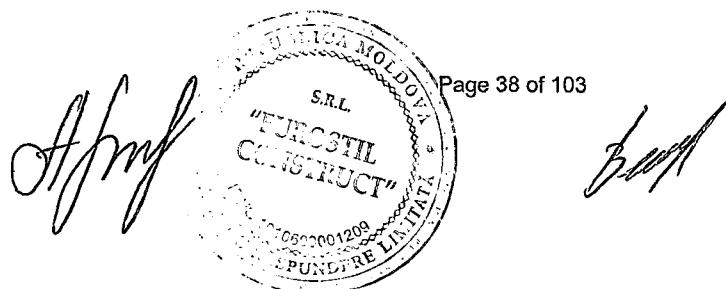
The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Employer's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Engineer may reasonably require.

#### **6.8 Contractor's Superintendence**

Throughout the design and execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.





Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

#### **6.9 Contractor's Personnel**

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- (a) persists in any misconduct or lack of care,
- (b) carries out duties incompetently or negligently,
- (c) fails to conform with any provisions of the Contract, or
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

#### **6.10 Records of Contractor's Personnel and Equipment**

The Contractor shall submit, to the Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Engineer, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

#### **6.11 Disorderly Conduct**

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.





## 7 Plant, Materials and Workmanship

### 7.1 Manner of Execution

The Contractor shall carry out the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:

- (a) in the manner (if any) specified in the Contract,
- (b) in a proper workmanlike and careful manner, in accordance with recognised good practice, and
- (c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.

### 7.2 Samples

The Contractor shall submit the following samples of Materials, and relevant information, to the Engineer for review in accordance with the procedures for Contractor's Documents described in Sub-Clause 5.2 [Contractor's Documents]:

- (a) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and
- (b) additional samples instructed by the Engineer as a Variation.

Each sample shall be labelled as to origin and intended use in the Works.

### 7.3 Inspection

The Employer's Personnel shall at all reasonable times:

- (a) have full access to all parts of the Site and to all places from which natural Materials are being obtained, and
- (b) during production, manufacture and construction (at the Site and elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.



The Contractor shall give the Employer's Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

The Contractor shall give notice to the Engineer whenever any work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Engineer shall then either carry out the examination, inspection, measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Engineer does not require to do so. If the Contractor fails to give the notice, he shall, if and when required by the Engineer, uncover the work and thereafter reinstate and make good, all at the Contractor's cost.

#### **7.4 Testing**

This Sub-Clause shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).

The Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labour, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Engineer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

The Engineer may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

The Engineer shall give the Contractor not less than 24 hours' notice of the Engineer's intention to attend the tests. If the Engineer does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Engineer, and the tests shall then be deemed to have been made in the Engineer's presence.

If the Contractor suffers delay and/or incurs Cost from complying with these instructions or as a result of a delay for which the Employer is responsible, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and





(b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

The Contractor shall promptly forward to the Engineer duly certified reports of the tests. When the specified tests have been passed, the Engineer shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Engineer has not attended the tests, he shall be deemed to have accepted the readings as accurate.

### **7.5 Rejection**

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials, design or workmanship is found to be defective or otherwise not in accordance with the Contract, the Engineer may reject the Plant, Materials, design or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

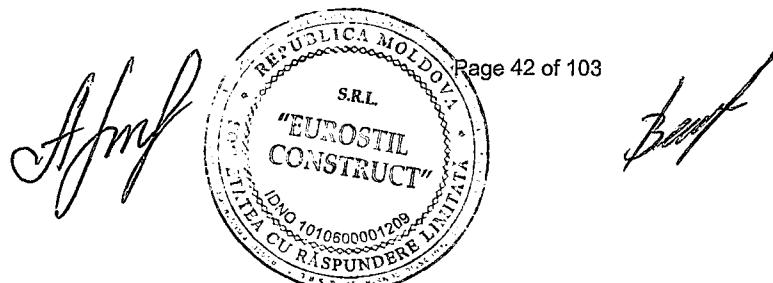
If the Engineer requires this Plant, Materials, design or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer.

### **7.6 Remedial Work**

Notwithstanding any previous test or certification, the Engineer may instruct the Contractor to:

- (a) remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
- (b) remove and re-execute any other work which is not in accordance with the Contract, and
- (c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.

The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).





If the Contractor fails to comply with the instruction, the Employer shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay to the Employer all costs arising from this failure.

#### **7.7 Ownership of Plant and Materials**

Each item of Plant and Materials shall, to the extent consistent with the Laws of the Country, become the property of the Employer at whichever is the earlier of the following times, free from liens and other encumbrances:

- (a) when it is delivered to the Site;
- (b) when the Contractor is entitled to payment of the value of the Plant and Materials under Sub-Clause 8.10 [Payment for Plant and Materials in Event of Suspension].

#### **7.8 Royalties**

Unless otherwise stated in the Employer's Requirements, the Contractor shall pay all royalties, rents and other payments for:

- (a) natural Materials obtained from outside the Site, and
- (b) the disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.





## 8 Commencement, Delays and Suspension

### **8.1 Commencement of Works**

The Engineer shall give the Contractor not less than 7 days' notice of the Commencement Date. Unless otherwise stated in the Particular Conditions, the Commencement Date shall be within 42 days after the Contractor receives the Letter of Acceptance.

The Contractor shall commence the design and execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.

### **8.2 Time for Completion**

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:

- (a) achieving the passing of the Tests on Completion, and
- (b) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

### **8.3 Programme**

The Contractor shall submit a detailed time programme to the Engineer within 28 days after receiving the notice under Sub-Clause 8.1 [Commencement of Works]. The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Each programme shall include:

- (a) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design, Contractor's Documents, procurement, manufacture, inspection, delivery to Site, construction, erection, testing, commissioning and trial operation,
- (b) the periods for reviews under Sub-Clause 5.2 [Contractor's Documents] and for any other submissions, approvals and consents specified in the Employer's Requirements,





(c) the sequence and timing of inspections and tests specified in the Contract, and

(d) a supporting report which includes:

(i) a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and

(ii) details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's Equipment, required on the Site for each major stage.

Unless the Engineer, within 21 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Employer's Personnel shall be entitled to rely upon the programme when planning their activities.

The Contractor shall promptly give notice to the Engineer of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or delay the execution of the Works. The Engineer may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under Sub-Clause 13.3 [Variation Procedure].

If, at any time, the Engineer gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Engineer in accordance with this Sub-Clause.

#### **8.4 Extension of Time for Completion**

The Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:

(a) a Variation (unless an adjustment to the Time for Completion has been agreed under Sub-Clause 13.3 [Variation Procedure]),

(b) a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,

(c) exceptionally adverse climatic conditions,





(d) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or

(e) any delay, impediment or prevention caused by or attributable to the Employer, the Employer's Personnel, or the Employer's other contractors on the Site.

If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Engineer in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 20.1, the Engineer shall review previous determinations and may increase, but shall not decrease, the total extension of time.

### **8.5 Delays Caused by Authorities**

If the following conditions apply, namely:

(a) the Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in the Country,

(b) these authorities delay or disrupt the Contractor's work, and

(c) the delay or disruption was Unforeseeable,

then this delay or disruption will be considered as a cause of delay under sub-paragraph (b) of Sub-Clause 8.4 [Extension of Time for Completion].

### **8.6 Rate of Progress**

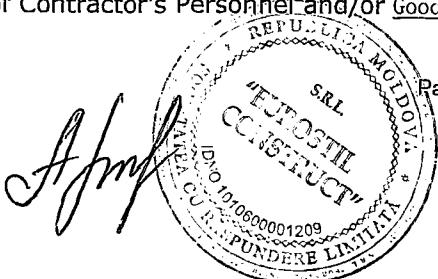
If, at any time:

(a) actual progress is too slow to complete within the Time for Completion, and/or

(b) progress has fallen (or will fall) behind the current programme under Sub-Clause 8.3 [Programme],

other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Engineer may instruct the Contractor to submit, under Sub-Clause 8.3 [Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.

Unless the Engineer notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If





these revised methods cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer, in addition to delay damages (if any) under Sub-Clause 8.7 below.

### **8.7 Delay Damages**

If the Contractor fails to comply with Sub-Clause 8.2 [Time for Completion], the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay delay damages to the Employer for this default. These delay damages shall be the sum stated in the Appendix to Tender, which shall be paid for every day which shall elapse between the relevant Time for Completion and the date stated in the Taking-Over Certificate. However, the total amount due under this Sub-Clause shall not exceed the maximum amount of delay damages (if any) stated in the Appendix to Tender.

These delay damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Employer] prior to completion of the Works. These damages shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.

### **8.8 Suspension of Work**

The Engineer may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

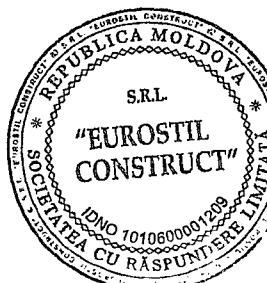
The Engineer may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9, 8.10 and 8.11 shall not apply.

### **8.9 Consequences of Suspension**

If the Contractor suffers delay and/or incurs Cost from complying with the Engineer's instructions under Sub-Clause 8.8 [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.





The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub-Clause 8.8 [Suspension of Work].

#### **8.10 Payment for Plant and Materials in Event of Suspension**

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/or Materials which have not been delivered to Site, if:

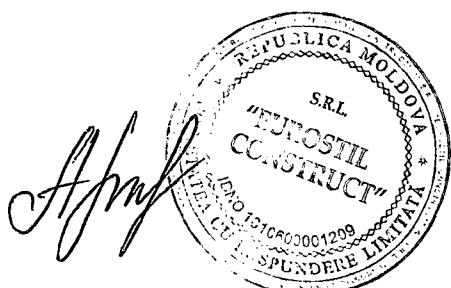
- (a) the work on Plant or delivery of Plant and/or Materials has been suspended for more than 28 days, and
- (b) the Contractor has marked the Plant and/or Materials as the Employer's property in accordance with the Engineer's instructions.

#### **8.11 Prolonged Suspension**

If the suspension under Sub-Clause 8.8 [Suspension of Work] has continued for more than 84 days, the Contractor may request the Engineer's permission to proceed. If the Engineer does not give permission within 28 days after being requested to do so, the Contractor may, by giving notice to the Engineer, treat the suspension as an omission under Clause 13 [Variations and Adjustments] of the affected part of the Works. If the suspension affects the whole of the Works, the Contractor may give notice of termination under Sub-Clause 16.2 [Termination by Contractor].

#### **8.12 Resumption of Work**

After the permission or instruction to proceed is given, the Contractor and the Engineer shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension.





## 9 Tests on Completion

### 9.1 Contractor's Obligations

The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4 [Testing], after providing the documents in accordance with Sub-Clause 5.6 [As-Built Documents] and Sub-Clause 5.7 [Operation and Maintenance Manuals].

The Contractor shall give to the Engineer not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Engineer shall instruct.

Unless otherwise stated in the Particular Conditions, the Tests on Completion shall be carried out in the following sequence:

- (a) pre-commissioning tests, which shall include the appropriate inspections and ("dry" or "cold") functional tests to demonstrate that each item of Plant can safely undertake the next stage, (b);
- (b) commissioning tests, which shall include the specified operational tests to demonstrate that the Works or Section can be operated safely and as specified, under all available operating conditions; and
- (c) trial operation, which shall demonstrate that the Works or Section perform reliably and in accordance with the Contract.

During trial operation, when the Works are operating under stable conditions, the Contractor shall give notice to the Engineer that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Works conform with criteria specified in the Employer's Requirements and with the Schedule of Guarantees.

Trial operation shall not constitute a taking-over under Clause 10 [Employer's Taking Over]. Unless otherwise stated in the Particular Conditions, any product produced by the Works during trial operation shall be the property of the Employer.

In considering the results of the Tests on Completion, the Engineer shall make allowances for the effect of any use of the Works by the Employer on the





performance or other characteristics of the Works. As soon as the Works, or a Section, have passed each of the Tests on Completion described in sub-paragraph (a), (b) or (c), the Contractor shall submit a certified report of the results of these Tests to the Engineer.

### **9.2 Delayed Tests**

If the Tests on Completion are being unduly delayed by the Employer, Sub-Clause 7.4 [Testing] (fifth paragraph) and/or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable.

If the Tests on Completion are being unduly delayed by the Contractor, the Engineer may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Engineer.

If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

### **9.3 Retesting**

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Engineer or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.

### **9.4 Failure to Pass Tests on Completion**

If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [Retesting], the Engineer shall be entitled to:

- (a) order further repetition of Tests on Completion under Sub-Clause 9.3;
- (b) if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 11.4 [Failure to Remedy Defects]; or
- (c) issue a Taking-Over Certificate, if the Employer so requests.





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In the event of sub-paragraph (c), the Contractor shall then proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure. Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Employer may require the reduction to be (i) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or (ii) determined and paid under Sub-Clause 2.5 [Employer's Claims] and Sub-Clause 3.5 [Determinations].





## 10 Employer's Taking Over

### **10.1 Taking Over of the Works and Sections**

Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Employer when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.

The Contractor may apply by notice to the Engineer for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.

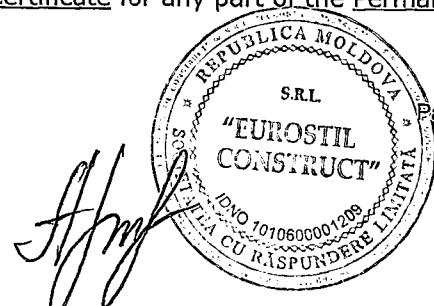
The Engineer shall, within 28 days after receiving the Contractor's application:

- (a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
- (b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.

If the Engineer fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

### **10.2 Taking Over of Parts of the Works**

The Engineer may, at the sole discretion of the Employer, issue a Taking-Over Certificate for any part of the Permanent Works.





The Employer shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Engineer has issued a Taking-Over Certificate for this part. However, if the Employer does use any part of the Works before the Taking-Over Certificate is issued:

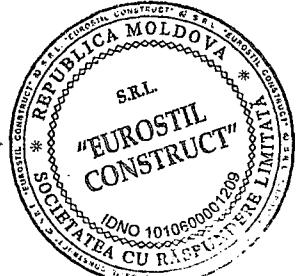
- (a) the part which is used shall be deemed to have been taken over as from the date on which it is used,
- (b) the Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Employer, and
- (c) if requested by the Contractor, the Engineer shall issue a Taking-Over Certificate for this part.

After the Engineer has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period.

If the Contractor incurs Cost as a result of the Employer taking over and/or using a part of the Works, other than such use as is specified in the Contract or agreed by the Contractor, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price. After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages], and shall not affect the maximum amount of these damages.

### **10.3 Interference with Tests on Completion**





If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer is responsible, the Employer shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed.

The Engineer shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable, before the expiry date of the Defects Notification Period. The Engineer shall require the Tests on Completion to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.

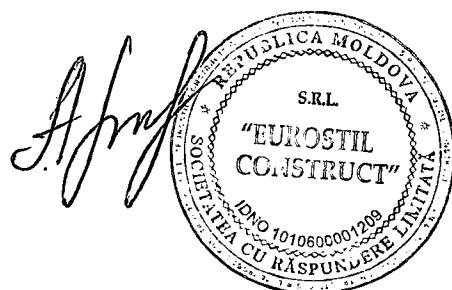
If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

#### **10.4 Surfaces Requiring Reinstatement**

Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.





## 11 Defects Liability

### **11.1 Completion of Outstanding Work and Remedyng Defects**

In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:

- (a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Engineer, and
- (b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Employer on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).

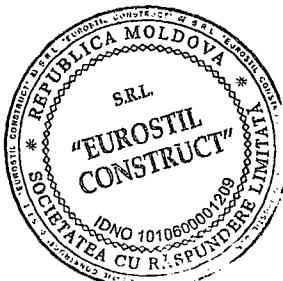
If a defect appears or damage occurs, the Contractor shall be notified accordingly, by (or on behalf of) the Employer.

### **11.2 Cost of Remedyng Defects**

All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedyng Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:

- (a) the design of the Works, other than a part of the design for which the Employer is responsible (if any),
- (b) Plant, Materials or workmanship not being in accordance with the Contract,
- (c) improper operation or maintenance which was attributable to matters for which the Contractor is responsible (under Sub-Clauses 5.5 to 5.7 or otherwise), or
- (d) failure by the Contractor to comply with any other obligation.

If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Employer, and Sub-Clause 13.3 [Variation Procedure] shall apply.





### **11.3 Extension of Defects Notification Period**

The Employer shall be entitled subject to Sub-Clause 2.5 [Employer's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or damage. However, a Defects Notification Period shall not be extended by more than two years.

If delivery and/or erection of Plant and/or Materials was suspended under Sub-Clause 8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Notification Period for the Plant and/or Materials would otherwise have expired.

### **11.4 Failure to Remedy Defects**

If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of) the Employer, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.

If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remediying Defects], the Employer may (at his option):

- (a) carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay to the Employer the costs reasonably incurred by the Employer in remedying the defect or damage;
- (b) require the Engineer to agree or determine a reasonable reduction in the Contract Price in accordance with Sub-Clause 3.5 [Determinations]; or
- (c) if the defect or damage deprives the Employer of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contract or otherwise, the Employer shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.



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### **11.5 Removal of Defective Work**

If the defect or damage cannot be remedied expeditiously on the Site and the Employer gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items, or to provide other appropriate security.

### **11.6 Further Tests**

If the work of remedying of any defect or damage may affect the performance of the Works, the Engineer may require the repetition of any of the tests described in the Contract, including Tests on Completion and/or Tests after Completion. The requirement shall be made by notice within 28 days after the defect or damage is remedied.

These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause 11.2 [Cost of Remediying Defects], for the cost of the remedial work.

### **11.7 Right of Access**

Until the Performance Certificate has been issued, the Contractor shall have the right of access to all parts of the Works and to records of the operation and performance of the Works, except as may be inconsistent with the Employer's reasonable security restrictions.

### **11.8 Contractor to Search**

The Contractor shall, if required by the Engineer, search for the cause of any defect, under the direction of the Engineer. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remediying Defects], the Cost of the search plus reasonable profit shall be agreed or determined by the Engineer in accordance with Sub-Clause 3.5 [Determinations] and shall be included in the Contract Price.

### **11.9 Performance Certificate**

Performance of the Contractor's obligations shall not be considered to have been completed until the Engineer has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.





The Engineer shall issue the Performance Certificate within 28 days after the latest of the expiry dates of the Defects Notification Periods, or as soon thereafter as the Contractor has supplied all the Contractor's Documents and completed and tested all the Works, including remedying any defects. A copy of the Performance Certificate shall be issued to the Employer.

Only the Performance Certificate shall be deemed to constitute acceptance of the Works.

#### **11.10 Unfulfilled Obligations**

After the Performance Certificate has been issued, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

#### **11.11 Clearance of Site**

Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

If all these items have not been removed within 28 days after the Employer receives a copy of the Performance Certificate, the Employer may sell or otherwise dispose of any remaining items. The Employer shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Employer's costs, the Contractor shall pay the outstanding balance to the Employer.





## 12 Tests after Completion

### **12.1 Procedure for Tests after Completion**

If Tests after Completion are specified in the Contract, this Clause shall apply. Unless otherwise stated in the Particular Conditions, the Employer shall:

- (a) provide all electricity, equipment, fuel, instruments, labour, materials, and suitably qualified and experienced staff, as are necessary to carry out the Tests after Completion efficiently, and
- (b) carry out the Tests after Completion in accordance with the manuals supplied by the Contractor under Sub-Clause 5.7 [Operation and Maintenance Manuals] and such guidance as the Contractor may be required to give during the course of these Tests; and in the presence of such Contractor's Personnel as either Party may reasonably request.

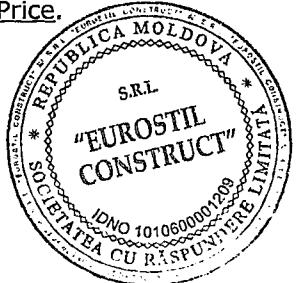
The Tests after Completion shall be carried out as soon as is reasonably practicable after the Works or Section have been taken over by the Employer. The Employer shall give to the Contractor 21 days' notice of the date after which the Tests after Completion will be carried out. Unless otherwise agreed, these Tests shall be carried out within 14 days after this date, on the day or days determined by the Employer.

If the Contractor does not attend at the time and place agreed, the Employer may proceed with the Tests after Completion, which shall be deemed to have been made in the Contractor's presence, and the Contractor shall accept the readings as accurate.

The results of the Tests after Completion shall be compiled and evaluated by both Parties. Appropriate account shall be taken of the effect of the Employer's prior use of the Works.

### **12.2 Delayed Tests**

If the Contractor incurs Cost as a result of any unreasonable delay by the Employer to the Tests after Completion, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.





After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.

If, for reasons not attributable to the Contractor, a Tests after Completion on the Works or any Section cannot be completed during the Defects Notification Period (or any other period agreed upon by both Parties), then the Works or Section shall be deemed to have passed this Tests after Completion.

### **12.3 Retesting**

If the Works, or a Section, fail to pass the Tests after Completion:

- (a) sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remediying Defects] shall apply, and
- (b) either Party may then require the failed Tests, and the Tests after Completion on any related work, to be repeated under the same terms and conditions.

If and to the extent that this failure and retesting are attributable to any of the matters listed in sub-paragraphs (a) to (d) of Sub-Clause 11.2 [Cost of Remedyng Defects] and cause the Employer to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Employer's Claims] pay these costs to the Employer.

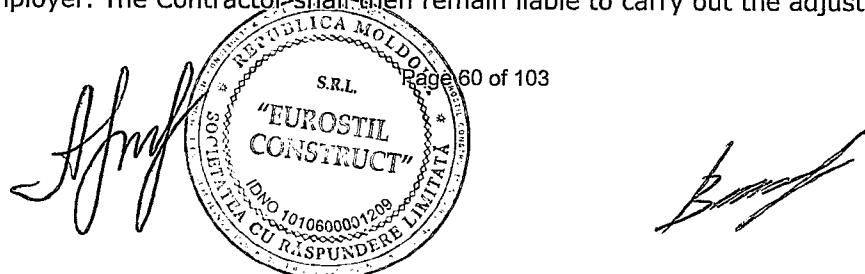
### **12.4 Failure to Pass Tests after Completion**

If the following conditions apply, namely:

- (a) the Works, or a Section, fail to pass any or all of the Tests after Completion,
- (b) the relevant sum payable as non-performance damages for this failure is stated (or its method of calculation is defined) in the Contract, and
- (c) the Contractor pays this relevant sum to the Employer during the Defects Notification Period,

then the Works or Section shall be deemed to have passed these Tests after Completion.

If the Works, or a Section, fail to pass a Test after Completion and the Contractor proposes to make adjustments or modifications to the Works or such Section, the Contractor may be instructed by (or on behalf of) the Employer that right of access to the Works or Section cannot be given until a time that is convenient to the Employer. The Contractor shall then remain liable to carry out the adjustments or



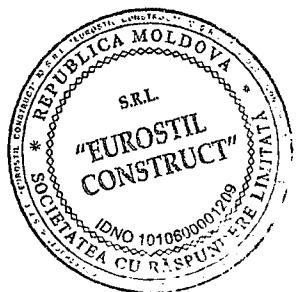


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modifications and to satisfy this Test, within a reasonable period of receiving notice by (or on behalf of) the Employer of the time that is convenient to the Employer. However, if the Contractor does not receive this notice during the relevant Defects Notification Period, the Contractor shall be relieved of this obligation and the Works or Section (as the case may be) shall be deemed to have passed this Tests after Completion.

If the Contractor incurs additional Cost as a result of any unreasonable delay by the Employer in permitting access to the Works or Plant by the Contractor, either to investigate the causes of a failure to pass a Tests after Completion or to carry out any adjustments or modifications, the Contractor shall (i) give notice to the Engineer and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this Cost and profit.





## 13 Variations and Adjustments

### 13.1 Right to Vary

Variations may be initiated by the Engineer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal. A Variation shall not comprise the omission of any work which is to be carried out by others.

The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Engineer stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, (ii) it will reduce the safety or suitability of the Works, or (iii) it will have an adverse impact on the achievement of the Schedule of Guarantees. Upon receiving this notice, the Engineer shall cancel, confirm or vary the instruction.

### 13.2 Value Engineering

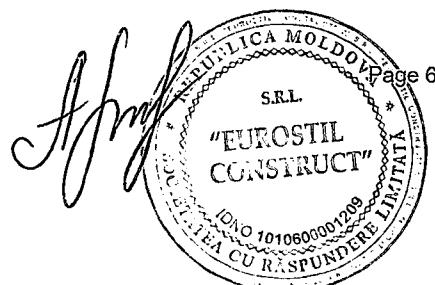
The Contractor may, at any time, submit to the Engineer a written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Employer of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Employer of the completed Works, or (iv) otherwise be of benefit to the Employer.

The proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause 13.3 [Variation Procedure].

### 13.3 Variation Procedure

If the Engineer requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:

- (a) a description of the proposed design and/or work to be performed and a programme for its execution,
- (b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [Programme] and to the Time for Completion, and





(c) the Contractor's proposal for adjustment to the Contract Price.

The Engineer shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [Value Engineering] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.

Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Engineer to the Contractor, who shall acknowledge receipt.

Upon instructing or approving a Variation, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine adjustments to the Contract Price and the Schedule of Payments. These adjustments shall include reasonable profit, and shall take account of the Contractor's submissions under Sub-Clause 13.2 [Value Engineering] if applicable.

#### **13.4 Payment in Applicable Currencies**

If the Contract provides for payment of the Contract Price in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Price.

#### **13.5 Provisional Sums**

Each Provisional Sum shall only be used, in whole or in part, in accordance with the Engineer's instructions, and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Engineer shall have instructed. For each Provisional Sum, the Engineer may instruct:

- (a) work to be executed (including Plant, Materials or services to be supplied) by the Contractor and valued under Sub-Clause 13.3 [Variation Procedure]; and/or
- (b) Plant, Materials or services to be purchased by the Contractor, for which there shall be included in the Contract Price:





- (i) the actual amounts paid (or due to be paid) by the Contractor, and
- (ii) a sum for overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate (if any) stated in the appropriate Schedule. If there is no such rate, the percentage rate stated in the Appendix to Tender shall be applied.

The Contractor shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in substantiation.

### **13.6 Daywork**

For work of a minor or incidental nature, the Engineer may instruct that a Variation shall be executed on a daywork basis. The work shall then be valued in accordance with the daywork schedule included in the Contract, and the following procedure shall apply. If a daywork schedule is not included in the Contract, this Sub-Clause shall not apply.

Before ordering Goods for the work, the Contractor shall submit quotations to the Engineer. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.

Except for any items for which the daywork schedule specifies that payment is not due, the Contractor shall deliver each day to the Engineer accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work:

- (a) the names, occupations and time of Contractor's Personnel,
- (b) the identification, type and time of Contractor's Equipment and Temporary Works, and
- (c) the quantities and types of Plant and Materials used.

One copy of each statement will, if correct, or when agreed, be signed by the Engineer and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Engineer, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for Interim Payment Certificates].

### **13.7 Adjustments for Changes in Legislation**

The Contract Price shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of the Country (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or





official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.

If the Contractor suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Base Date, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

### **13.8 Adjustments for Changes in Cost**

In this Sub-Clause, "table of adjustment data" means the completed table of adjustment data included in the Appendix to Tender. If there is no such table of adjustment data, this Sub-Clause shall not apply.

If this Sub-Clause applies, the amounts payable to the Contractor shall be adjusted for rises or falls in the cost of labour, Goods and other inputs to the Works, by the addition or deduction of the amounts determined by the formulae prescribed in this Sub-Clause. To the extent that full compensation for any rise or fall in Costs is not covered by the provisions of this or other Clauses, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in costs.

The adjustment to be applied to the amount otherwise payable to the Contractor, as valued in accordance with the appropriate Schedule and certified in Payment Certificates, shall be determined from formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be of the following general type:

$$P_n = a + b L_n + c E_n + d M_n + \dots$$

Lo      Eo      Mo

where:





" $P_n$ " is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period "n", this period being a month unless otherwise stated in the Appendix to Tender;

"a" is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

"b", "c", "d", ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works, as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

" $L_n$ ", " $E_n$ ", " $M_n$ ", ... are the current cost indices or reference prices for period "n", expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

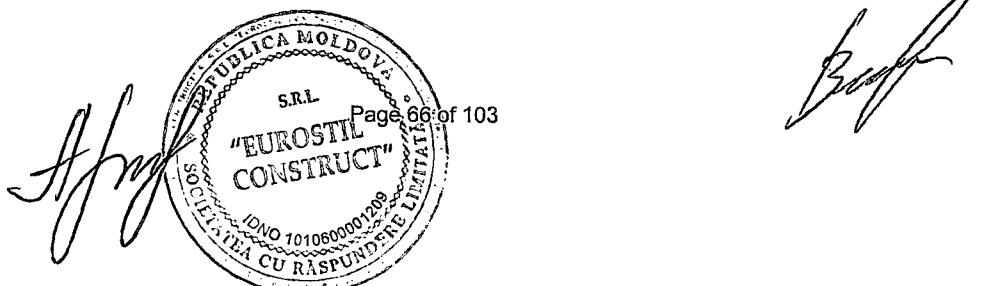
" $L_0$ ", " $E_0$ ", " $M_0$ ", ... are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Engineer. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table) for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.

In cases where the "currency of index" (stated in the table) is not the relevant currency of payment, each index shall be converted into the relevant currency of payment at the selling rate, established by the central bank of the Country, of this relevant currency on the above date for which the index is required to be applicable.

Until such time as each current cost index is available, the Engineer shall determine a provisional index for the issue of Interim Payment Certificates. When a current cost index is available, the adjustment shall be recalculated accordingly.

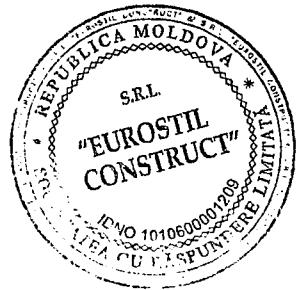
If the Contractor fails to complete the Works within the Time for Completion, adjustment of prices thereafter shall be made using either (i) each index or price applicable on the date 49 days prior to the expiry of the Time for Completion of the Works, or (ii) the current index or price: whichever is more favourable to the Employer.





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The weightings (coefficients) for each of the factors of cost stated in the table(s) of adjustment data shall only be adjusted if they have been rendered unreasonable, unbalanced or inapplicable, as a result of Variations.





## 14 Contract Price and Payment

### 14.1 The Contract Price

Unless otherwise stated in the Particular Conditions:

- (a) the Contract Price shall be the lump sum Accepted Contract Amount and be subject to adjustments in accordance with the Contract;
- (b) the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs, except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation];
- (c) any quantities which may be set out in a Schedule are estimated quantities and are not to be taken as the actual and correct quantities of the Works which the Contractor is required to execute; and
- (d) any quantities or price data which may be set out in a Schedule shall be used for the purposes stated in the Schedule and may be inapplicable for other purposes.

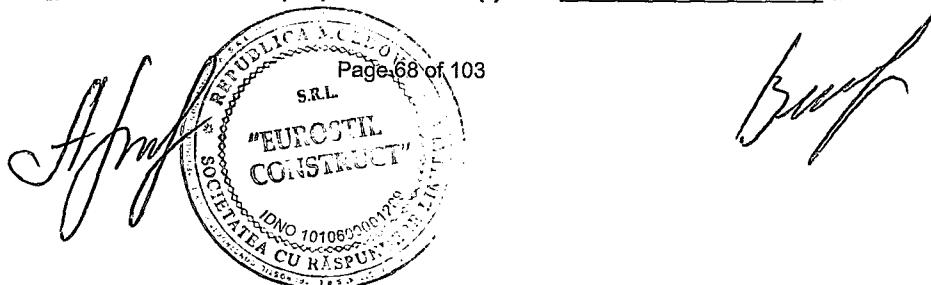
However, if any part of the Works is to be paid according to quantity supplied or work done, the provisions for measurement and evaluation shall be as stated in the Particular Conditions. The Contract Price shall be determined accordingly, subject to adjustments in accordance with the Contract.

### 14.2 Advance Payment

The Employer shall make an advance payment, as an interest-free loan for mobilisation and design, when the Contractor submits a guarantee in accordance with this Sub-Clause. The total advance payment, the number and timing of instalments (if more than one), and the applicable currencies and proportions, shall be as stated in the Appendix to Tender.

Unless and until the Employer receives this guarantee, or if the total advance payment is not stated in the Appendix to Tender, this Sub-Clause shall not apply.

The Engineer shall issue an Interim Payment Certificate for the first instalment after receiving a Statement (under Sub-Clause 14.3 [Application for Interim Payment Certificates]) and after the Employer receives (i) the Performance Security in





accordance with Sub-Clause 4.2 [Performance Security] and (ii) a guarantee in amounts and currencies equal to the advance payment. This guarantee shall be issued by an entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the Particular Conditions or in another form approved by the Employer.

The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount may be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

The advance payment shall be repaid through percentage deductions in Payment Certificates. Unless other percentages are stated in the Appendix to Tender:

- (a) deductions shall commence in the Payment Certificate in which the total of all certified interim payments (excluding the advance payment and deductions and repayments of retention) exceeds ten per cent (10%) of the Accepted Contract Amount less Provisional Sums; and
- (b) deductions shall be made at the amortisation rate of one quarter (25%) of the amount of each Payment Certificate (excluding the advance payment and deductions and repayments of retention) in the currencies and proportions of the advance payment, until such time as the advance payment has been repaid.

If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by Employer], Clause 16 [Suspension and Termination by Contractor] or Clause 19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and payable by the Contractor to the Employer.

#### **14.3 Application for Interim Payment Certificates**

The Contractor shall submit a Statement in six copies to the Engineer after the end of the period of payment stated in the Contract (if not stated, after the end of each month), in a form approved by the Engineer, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the relevant report on progress in accordance with Sub-Clause 4.21

[Progress Reports].





The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:

- (a) the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g) below);
- (b) any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];
- (c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in the Appendix to Tender to the total of the above amounts, until the amount so retained by the Employer reaches the limit of Retention Money (if any) stated in the Appendix to Tender;
- (d) any amounts to be added and deducted for the advance payment and repayments in accordance with Sub-Clause 14.2 [Advance Payment];
- (e) any amounts to be added and deducted for Plant and Materials in accordance with Sub-Clause 14.5 [Plant and Materials intended for the Works];
- (f) any other additions or deductions which may have become due under the Contract or otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and
- (g) the deduction of amounts certified in all previous Payment Certificates.

#### **14.4 Schedule of Payments**

If the Contract includes a Schedule of Payments specifying the instalments in which the Contract Price will be paid, then, unless otherwise stated in this Schedule:

- (a) the instalments quoted in the Schedule of Payments shall be the estimated contract values for the purposes of sub-paragraph (a) of Sub-Sub-Clause 14.3 [Application for Interim Payment Certificates];
- (b) Sub-Clause 14.4 [Plant and Materials intended for the Works] shall not apply; and
- (c) if these instalments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less than that on which the Schedule of Payments was based, then the Engineer may proceed in





accordance with Sub-Clause 3.5 [Determinations] to agree or determine revised instalments, which shall take account of the extent to which progress is less than that on which the instalments were previously based.

If the Contract does not include a Schedule of Payments, the Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.

#### **14.5 Plant and Materials intended for the Works**

If this Sub-Clause applies, Interim Payment Certificates shall include, under sub-paragraph (e) of Sub-Clause 14.3, (i) an amount for Plant and Materials which have been sent to the Site for incorporation in the Permanent Works, and (ii) a reduction when the contract value of such Plant and Materials is included as part of the Permanent Works under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates].

If the lists referred to in sub-paragraphs (b)(i) or (c)(i) below are not included in the Appendix to Tender, this Sub-Clause shall not apply.

The Engineer shall determine and certify each addition if the following conditions are satisfied:

(a) the Contractor has:

- (i) kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials) which are available for inspection, and
- (ii) submitted a Statement of the Cost of acquiring and delivering the Plant and Materials to the Site, supported by satisfactory evidence;

and either:

(b) the relevant Plant and Materials:





- (i) are those listed in the Appendix to Tender for payment when shipped,
- (ii) have been shipped to the Country, en route to the Site, in accordance with the Contract; and
- (iii) are described in a clean shipped bill of lading or other evidence of shipment, which has been submitted to the Engineer together with evidence of payment of freight and insurance, any other documents reasonably required, and a bank guarantee in a form and issued by an entity approved by the Employer in amounts and currencies equal to the amount due under this Sub-Clause: this guarantee may be in a similar form to the form referred to in Sub-Clause 14.2 [Advance Payment] and shall be valid until the Plant and Materials are properly stored on Site and protected against loss, damage or deterioration;  
or

(c) the relevant Plant and Materials:

- (i) are those listed in the Appendix to Tender for payment when delivered to the Site, and
- (ii) have been delivered to and are properly stored on the Site, are protected against loss, damage or deterioration, and appear to be in accordance with the Contract.

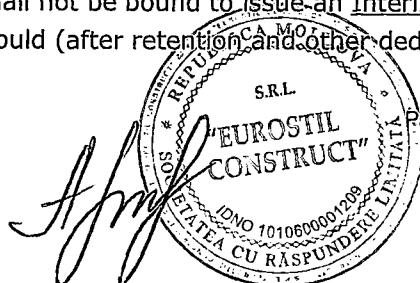
The additional amount to be certified shall be the equivalent of eighty percent of the Engineer's determination of the cost of the Plant and Materials (including delivery to Site), taking account of the documents mentioned in this Sub-Clause and of the contract value of the Plant and Materials.

The currencies for this additional amount shall be the same as those in which payment will become due when the contract value is included under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates]. At that time, the Payment Certificate shall include the applicable reduction which shall be equivalent to, and in the same currencies and proportions as, this additional amount for the relevant Plant and Materials.

#### **14.6 Issue of Interim Payment Certificates**

No amount will be certified or paid until the Employer has received and approved the Performance Security. Thereafter, the Engineer shall, within 28 days after receiving a Statement and supporting documents, issue to the Employer an Interim Payment Certificate which shall state the amount which the Engineer fairly determines to be due, with supporting particulars.

However, prior to issuing the Taking-Over Certificate for the Works, the Engineer shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of





Interim Payment Certificates (if any) stated in the Appendix to Tender. In this event, the Engineer shall give notice to the Contractor accordingly.

An Interim Payment Certificate shall not be withheld for any other reason, although:

- (a) if any thing supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or
- (b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Engineer, the value of this work or obligation may be withheld until the work or obligation has been performed.

The Engineer may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Engineer's acceptance, approval, consent or satisfaction.

#### **14.7 Payment**

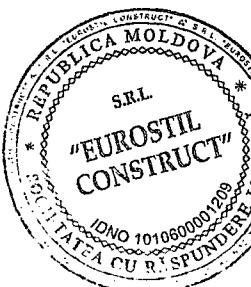
The Employer shall pay to the Contractor:

- (a) the first instalment of the advance payment within 42 days after issuing the Letter of Acceptance or within 21 days after receiving the documents in accordance with Sub-Clause 4.2 [Performance Security] and Sub-Clause 14.2 [Advance Payment], whichever is later;
- (b) the amount certified in each Interim Payment Certificate within 56 days after the Engineer receives the Statement and supporting documents; and
- (c) the amount certified in the Final Payment Certificate within 56 days after the Employer receives this Payment Certificate.

Payment of the amount due in each currency shall be made into the bank account, nominated by the Contractor, in the payment country (for this currency) specified in the Contract.

#### **14.8 Delayed Payment**

If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7.





[Payment], irrespective (in the case of its sub-paragraph (b)) of the date on which any Interim Payment Certificate is issued.

Unless otherwise stated in the Particular Conditions, these financing charges shall be calculated at the annual rate of three percentage points above the discount rate of the central bank in the country of the currency of payment, and shall be paid in such currency.

The Contractor shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

#### **14.9 Payment of Retention Money**

When the Taking-Over Certificate has been issued for the Works, and the Works have passed all specified tests (including the Tests after Completion, if any), the first half of the Retention Money shall be certified by the Engineer for payment to the Contractor. If a Taking-Over Certificate is issued for a Section, the relevant percentage of the first half of the Retention Money shall be certified and paid when the Section passes all tests.

Promptly after the latest of the expiry dates of the Defects Notification Periods, the outstanding balance of the Retention Money shall be certified by the Engineer for payment to the Contractor. If a Taking-Over Certificate was issued for a Section, the relevant percentage of the second half of the Retention Money shall be certified and paid promptly after the expiry date of the Defects Notification Period for the Section.

However, if any work remains to be executed under Clause 11 [Defects Liability] or Clause 12 [Tests after Completion], the Engineer shall be entitled to withhold certification of the estimated cost of this work until it has been executed.

The relevant percentage for each Section shall be the percentage value of the Section as stated in the Appendix to Tender. If the percentage value of a Section is not stated in the Appendix to Tender, no percentage of either half of the Retention Money shall be released under this Sub-Clause in respect of such Section.

#### **14.10 Statement at Completion**

Within 84 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Engineer six copies of a Statement at completion with supporting documents, in accordance with Sub-Clause 14.3 [Application for Interim Payment Certificates], showing:

- (a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,





(b) any further sums which the Contractor considers to be due, and

(c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

The Engineer shall then certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates].

#### **14.11 Application for Final Payment Certificate**

Within 56 days after receiving the Performance Certificate, the Contractor shall submit, to the Engineer, six copies of a draft final statement with supporting documents showing in detail in a form approved by the Engineer:

(a) the value of all work done in accordance with the Contract, and

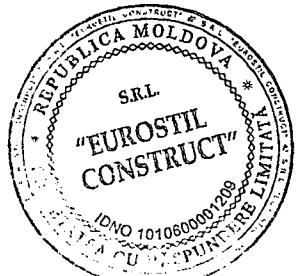
(b) any further sums which the Contractor considers to be due to him under the Contract or otherwise.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonably require and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Engineer the final statement as agreed. This agreed statement is referred to in these Conditions as the "Final Statement".

However if, following discussions between the Engineer and the Contractor and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Engineer shall deliver to the Employer (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement. Thereafter, if the dispute is finally resolved under Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision] or Sub-Clause 20.5 [Amicable Settlement], the Contractor shall then prepare and submit to the Employer (with a copy to the Engineer) a Final Statement.

#### **14.12 Discharge**

When submitting the Final Statement, the Contractor shall submit a written discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.





#### **14.13 Issue of Final Payment Certificate**

Within 28 days after receiving the Final Statement and written discharge in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Engineer shall issue, to the Employer, the Final Payment Certificate which shall state:

- (a) the amount which is finally due, and
- (b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled, the balance (if any) due from the Employer to the Contractor or from the Contractor to the Employer, as the case may be.

If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Engineer shall request the Contractor to do so. If the Contractor fails to submit an application within a period of 28 days, the Engineer shall issue the Final Payment Certificate for such amount as he fairly determines to be due.

#### **14.14 Cessation of Employer's Liability**

The Employer shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:

- (a) in the Final Statement and also
- (b) (except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause 14.10 [Statement at Completion].

However, this Sub-Clause shall not limit the Employer's liability under his indemnification obligations, or the Employer's liability in any case of fraud, deliberate default or reckless misconduct by the Employer.

#### **14.15 Currencies of Payment**

The Contract Price shall be paid in the currency or currencies named in the Appendix to Tender. Unless otherwise stated in the Particular Conditions, if more than one currency is so named, payments shall be made as follows:





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(a) if the Accepted Contract Amount was expressed in Local Currency only:

- (i) the proportions or amounts of the Local and Foreign Currencies, and the fixed rates of exchange to be used for calculating the payments, shall be as stated in the Appendix to Tender, except as otherwise agreed by both Parties;
- (ii) payments and deductions under Sub-Clause 13.5 [Provisional Sums] and Sub-Clause 13.7 [Adjustments for Changes in Legislation] shall be made in the applicable currencies and proportions; and
- (iii) other payments and deductions under sub-paragraphs (a) to (d) of Sub-Clause 14.3 [Application for Interim Payment Certificates] shall be made in the currencies and proportions specified in sub-paragraph (a)(i) above;

(b) payment of the damages specified in the Appendix to Tender shall be made in

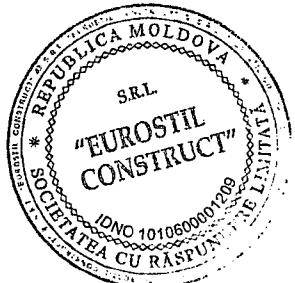
- (i) the proportions or amounts of the Local and Foreign Currencies, and the fixed rates of exchange to be used for calculating the payments, shall be as stated in the Appendix to Tender, except as otherwise agreed by both Parties;
- (ii) payments and deductions under Sub-Clause 13.5 [Provisional Sums] and Sub-Clause 13.7 [Adjustments for Changes in Legislation] shall be made in the applicable currencies and proportions; and
- (iii) other payments and deductions under sub-paragraphs (a) to (d) of Sub-Clause 14.3 [Application for Interim Payment Certificates] shall be made in the currencies and proportions specified in sub-paragraph (a)(i) above;

the currencies and proportions specified in the Appendix to Tender;

(c) other payments to the Employer by the Contractor shall be made in the currency in which the sum was expended by the Employer, or in such currency as may be agreed by both Parties;

(d) if any amount payable by the Contractor to the Employer in a particular currency exceeds the sum payable by the Employer to the Contractor in that currency, the Employer may recover the balance of this amount from the sums otherwise payable to the Contractor in other currencies; and

(e) if no rates of exchange are stated in the Appendix to Tender, they shall be those prevailing on the Base Date and determined by the central bank of the Country.





## 15 Termination by Employer

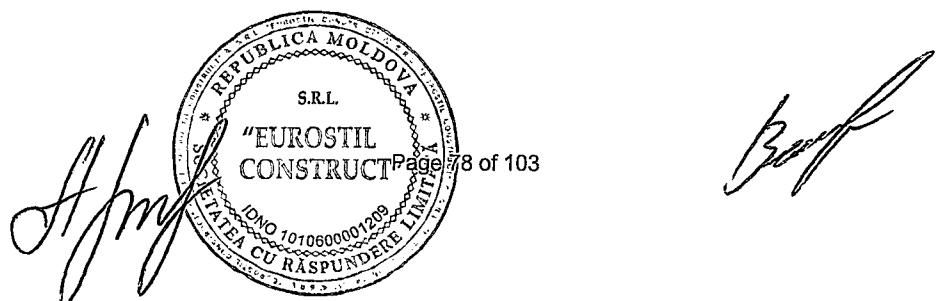
### 15.1 Notice to Correct

If the Contractor fails to carry out any obligation under the Contract, the Engineer may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.

### 15.2 Termination by Employer

The Employer shall be entitled to terminate the Contract if the Contractor:

- (a) fails to comply with Sub-Clause 4.2 [Performance Security] or with a notice under Sub-Clause 15.1 [Notice to Correct],
- (b) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,
- (c) without reasonable excuse fails:
  - (i) to proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension], or
  - (ii) to comply with a notice issued under Sub-Clause 7.5 [Rejection] or Sub-Clause 7.6 [Remedial Work], within 28 days after receiving it,
- (d) subcontracts the whole of the Works or assigns the Contract without the required agreement,
- (e) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or
- (f) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:





(i) for doing or forbearing to do any action in relation to the Contract, or  
(ii) for showing or forbearing to show favour or disfavour to any person in relation to the Contract,  
or if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination.

In any of these events or circumstances, the Employer may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (e) or (f), the Employer may by notice terminate the Contract immediately.

The Employer's election to terminate the Contract shall not prejudice any other rights of the Employer, under the Contract or otherwise.

The Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Engineer. However, the Contractor shall use his best efforts to comply immediately with any reasonable instructions included in the notice (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.

After termination, the Employer may complete the Works and/or arrange for any other entities to do so. The Employer and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.

The Employer shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Employer, these items may be sold by the Employer in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

### **15.3 Valuation at Date of Termination**

As soon as practicable after a notice of termination under Sub-Clause 15.2 [Termination by Employer] has taken effect, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.





#### **15.4 Payment after Termination**

After a notice of termination under Sub-Clause 15.2 [Termination by Employer] has taken effect, the Employer may:

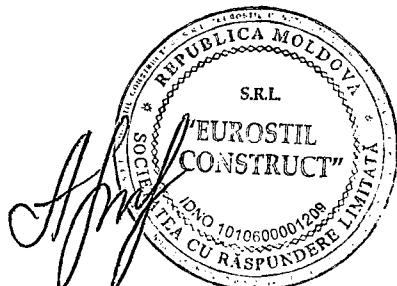
- (a) proceed in accordance with Sub-Clause 2.5 [Employer's Claims],
- (b) withhold further payments to the Contractor until the costs of design, execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Employer, have been established, and/or
- (c) recover from the Contractor any losses and damages incurred by the Employer and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 15.3 [Valuation at Date of Termination].

After recovering any such losses, damages and extra costs, the Employer shall pay any balance to the Contractor.

#### **15.5 Employer's Entitlement to Termination**

The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Employer returns the Performance Security. The Employer shall not terminate the Contract under this Sub-Clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor.

After this termination, the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 19.6 [Optional Termination, Payment and Release].





## 16 Suspension and Termination by Contractor

### **16.1 Contractor's Entitlement to Suspend Work**

If the Engineer fails to certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates] or the Employer fails to comply with Sub-Clause 2.4 [Employer's Financial Arrangements] or Sub-Clause 14.7 [Payment], the Contractor may, after giving not less than 21 days' notice to the Employer, suspend work (or reduce the rate of work) unless and until the Contractor has received the Payment Certificate, reasonable evidence or payment, as the case may be and as described in the notice.

The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 14.8 [Delayed Payment] and to termination under Sub-Clause 16.2 [Termination by Contractor].

If the Contractor subsequently receives such Payment Certificate, evidence or payment (as described in the relevant Sub-Clause and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.

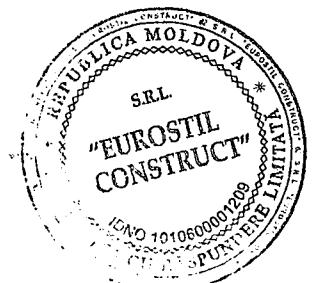
If the Contractor suffers delay and/or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this Sub-Clause, the Contractor shall give notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

### **16.2 Termination by Contractor**

The Contractor shall be entitled to terminate the Contract if:





- (a) the Contractor does not receive the reasonable evidence within 42 days after giving notice under Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work] in respect of a failure to comply with Sub-Clause 2.4 [Employer's Financial Arrangements],
- (b) the Engineer fails, within 56 days after receiving a Statement and supporting documents, to issue the relevant Payment Certificate,
- (c) the Contractor does not receive the amount due under an Interim Interim Payment Certificate within 42 days after the expiry of the time stated in Sub-Clause 14.7 [Payment] within which payment is to be made (except for deductions in accordance with Sub-Clause 2.5 [Employer's Claims]),
- (d) the Employer substantially fails to perform his obligations under the Contract,
- (e) the Employer fails to comply with Sub-Clause 1.6 [Contract Agreement] or Sub-Clause 1.7 [Assignment],
- (f) a prolonged suspension affects the whole of the Works as described in Sub-Clause 8.11 [Prolonged Suspension], or
- (g) the Employer becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.

In any of these events or circumstances, the Contractor may, upon giving 14 days' notice to the Employer, terminate the Contract. However, in the case of sub-paragraph (f) or (g), the Contractor may by notice terminate the Contract immediately.

The Contractor's election to terminate the Contract shall not prejudice any other rights of the Contractor, under the Contract or otherwise.

### **16.3 Cessation of Work and Removal of Contractor's Equipment**

After a notice of termination under Sub-Clause 15.5 [Employer's Entitlement to Termination], Sub-Clause 16.2 [Termination by Contractor] or Sub-Clause 19.6 [Optional Termination, Payment and Release] has taken effect, the Contractor shall promptly:

- (a) cease all further work, except for such work as may have been instructed by the Engineer for the protection of life or property or for the safety of the Works,





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- (b) hand over Contractor's Documents, Plant, Materials and other work, for which the Contractor has received payment, and
- (c) remove all other Goods from the Site, except as necessary for safety, and leave the Site.

#### **16.4 Payment on Termination**

After a notice of termination under Sub-Clause 16.2 [Termination by Contractor] has taken effect, the Employer shall promptly:

- (a) return the Performance Security to the Contractor,
- (b) pay the Contractor in accordance with Sub-Clause 19.6 [Optional Termination, Payment and Release], and
- (c) pay to the Contractor the amount of any loss of profit or other loss or damage sustained by the Contractor as a result of this termination.





## 17 Risk and Responsibility

### 17.1 Indemnities

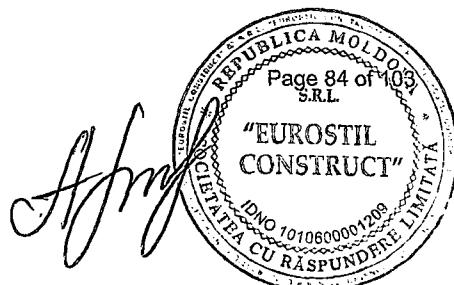
The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- (a) bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the design, execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and
- (b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss:
  - (i) arises out of or in the course of or by reason of the design, execution and completion of the Works and the remedying of any defects, and
  - (ii) is attributable to any negligence, wilful act or breach of the Contract by the Contractor, the Contractor's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.

The Employer shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in sub-paragraphs (d)(i), (ii) and (iii) of Sub-Clause 18.3 [Insurance Against Injury to Persons and Damage to Property].

### 17.2 Contractor's Care of the Works

The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 10.1 [Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Employer. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section





or part of the Works, responsibility for the care of the Section or part shall then pass to the Employer.

After responsibility has accordingly passed to the Employer, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Employer's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

### **17.3 Employer's Risks**

The risks referred to in Sub-Clause 17.4 below are:

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war, within the Country,
- (c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors,
- (d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,
- (e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,
- (f) use or occupation by the Employer of any part of the Permanent Works, except as may be specified in the Contract,





(g) design of any part of the Works by the Employer's Personnel or by others for whom the Employer is responsible, if any, and

(h) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventative precautions.

#### **17.4 Consequences of Employer's Risks**

If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Engineer and shall rectify this loss or damage to the extent required by the Engineer.

If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Engineer and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

(b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (f) and (g) of Sub-Clause 17.3 [Employer's Risks], reasonable profit on the Cost shall also be included.

After receiving this further notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

#### **17.5 Intellectual and Industrial Property Rights**

In this Sub-Clause, "infringement" means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" means a claim (or proceedings pursuing a claim) alleging an infringement.

Whenever a Party does not give notice to the other Party of any claim within 28 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:

(a) an unavoidable result of the Contractor's compliance with the Employer's Requirements of





- (i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
- (ii) in conjunction with any thing not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.

(b) a result of any Works being used by the Employer:

The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the Contractor's design, manufacture, construction or execution of the Works, (ii) the use of Contractor's Equipment, or (iii) the proper use of the Works.

If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.

#### **17.6 Limitation of Liability**

Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than under Sub-Clause 16.4 [Payment on Termination] and Sub-Clause 17.1 [Indemnities].

The total liability of the Contractor to the Employer, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Employers Equipment and Free-Issue Material], Sub-Clause 17.1 [Indemnities] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum stated in the Particular Conditions or (if a sum is not so stated) the Accepted Contract Amount.

This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.





## 18 Insurance

### 18.1 General Requirements for Insurances

In this Clause, "insuring Party" means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.

Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in terms consistent with the details annexed to the Particular Conditions.

If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Employer shall act for Employer's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.

Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.

The relevant insuring Party shall, within the respective periods stated in the Appendix to Tender (calculated from the Commencement Date), submit to the other Party:

- (a) evidence that the insurances described in this Clause have been effected, and
- (b) copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage to Property].





When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Engineer.

Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.

Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.

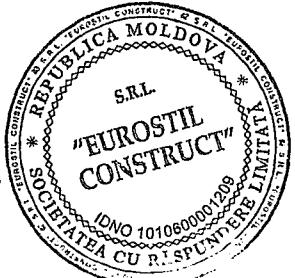
If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.

Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.

Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Employer's Claims] or Sub-Clause 20.1 [Contractor's Claims], as applicable.

### **18.2 Insurance for Works and Contractor's Equipment**

The insuring Party shall insure the Works, Plant, Materials and Contractor's Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.





The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under Clause 11 [Defects Liability] and Clause 12 [Tests after Completion]).

The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.

Unless otherwise stated in the Particular Conditions, insurances under this Sub-Clause:

- (a) shall be effected and maintained by the Contractor as insuring Party,
- (b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated between the Parties for the sole purpose of rectifying the loss or damage,
- (c) shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Employer's Risks],
- (d) shall also cover loss or damage to a part of the Works which is attributable to the use or occupation by the Employer of another part of the Works, and loss or damage from the risks listed in sub-paragraphs (c), (g) and (h) of Sub-Clause 17.3 [Employer's Risks], excluding (in each case) risks which are not insurable at commercially reasonable terms, with deductibles per occurrence of not more than the amount stated in the Appendix to Tender (if an amount is not so stated, this sub-paragraph (d) shall not apply), and
- (e) may however exclude loss of, damage to, and reinstatement of:





- (i) a part of the Works which is in a defective condition due to a defect in its design, Materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below),
- (ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, Materials or workmanship
- (iii) a part of the Works which has been taken over by the Employer, except to the extent that the Contractor is liable for the loss or damage, and
- (iv) Goods while they are not in the Country, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].

If, more than one year after the Base Date, the cover described in sub-paragraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Employer, with supporting particulars. The Employer shall then (i) be entitled subject to Sub-Clause 2.5 [Employer's Claims] to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].

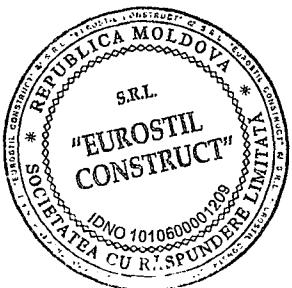
### **18.3 Insurance against Injury to Persons and Damage to Property**

The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment]) or to any person (except persons insured under Sub-Clause 18.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.

This insurance shall be for a limit per occurrence of not less than the amount stated in the Appendix to Tender, with no limit on the number of occurrences. If an amount is not stated in the Appendix to Tender, this Sub-Clause shall not apply.

Unless otherwise stated in the Particular Conditions, the insurances specified in this Sub-Clause:

- (a) shall be effected and maintained by the Contractor as insuring Party,
- (b) shall be in the joint names of the Parties,





(c) shall be extended to cover liability for all loss and damage to the Employer's property (except things insured under Sub-Clause 18.2) arising out of the Contractor's performance of the Contract, and

(d) may however exclude liability to the extent that it arises from:

(i) the Employer's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,

(ii) damage which is an unavoidable result of the Contractor's obligations to execute the Works and remedy any defects, and

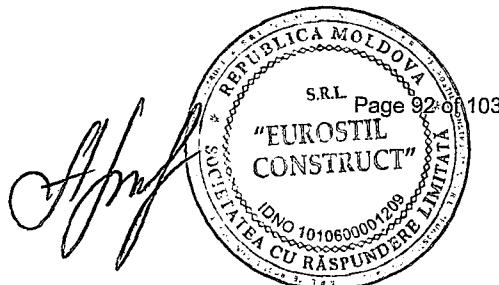
(iii) a cause listed in Sub-Clause 17.3 [Employer's Risks], except to the extent that cover is available at commercially reasonable terms.

#### **18.4 Insurance for Contractor's Personnel**

The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.

The Employer and the Engineer shall also be indemnified under the policy of insurance, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Employer or of the Employer's Personnel.

The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.





## 19 Force Majeure

### **19.1 Definition of Force Majeure**

In this Clause, "Force Majeure" means an exceptional event or circumstance:

- (a) which is beyond a Party's control,
- (b) which such Party could not reasonably have provided against before entering into the Contract,
- (c) which, having arisen, such Party could not reasonably have avoided or overcome, and
- (d) which is not substantially attributable to the other Party.

Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:

- (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (ii) rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war,
- (iii) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel and other employees of the Contractor and Subcontractors,
- (iv) munitions of war, explosive Materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
- (v) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.





### **19.2 Notice of Force Majeure**

If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.

The Party shall, having given notice, be excused performance of such obligations for so long as such Force Majeure prevents it from performing them.

Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

### **19.3 Duty to Minimise Delay**

Each Party shall at all times use all reasonable endeavours to minimise any delay in the performance of the Contract as a result of Force Majeure.

A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

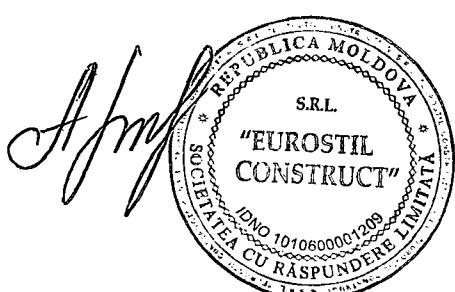
### **19.4 Consequences of Force Majeure**

If the Contractor is prevented from performing any of his obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 19.1 [Definition of Force Majeure] and, in the case of sub-paragraphs (ii) to (iv), occurs in the Country, payment of any such Cost.

After receiving this notice, the Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

### **19.5 Force Majeure Affecting Subcontractor**





If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

#### **19.6 Optional Termination, Payment and Release**

If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].

Upon such termination, the Engineer shall determine the value of the work done and issue a Payment Certificate which shall include:

- (a) the amounts payable for any work carried out for which a price is stated in the Contract;
- (b) the Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Employer when paid for by the Employer, and the Contractor shall place the same at the Employer's disposal;
- (c) any other Cost or liability which in the circumstances was reasonably incurred by the Contractor in the expectation of completing the Works;
- (d) the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's works in his country (or to any other destination at no greater cost); and
- (e) the Cost of repatriation of the Contractor's staff and labour employed wholly in connection with the Works at the date of termination.

#### **19.7 Release from Performance under the Law**

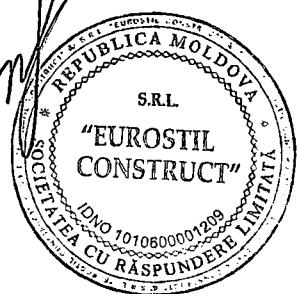
Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their





contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- (a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- (b) the sum payable by the Employer to the Contractor shall be the same as would have been payable under Sub-Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Sub-Clause 19.6.





## 20 Claims, Disputes and Arbitration

### 20.1 Contractor's Claims

If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer's liability, the Engineer may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Engineer to inspect all these records, and shall (if instructed) submit copies to the Engineer.

Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

(a) this fully detailed claim shall be considered as interim;





(b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and

(c) the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer.

Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Engineer and approved by the Contractor, the Engineer shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within such time.

Each Payment Certificate shall include such amounts for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

The Engineer shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

## **20.2 Appointment of the Dispute Adjudication Board**

Disputes shall be adjudicated by a DAB in accordance with Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision]. The Parties shall jointly appoint a DAB by the date 28 days after a Party gives notice to the other Party of its intention to refer a dispute to a DAB in accordance with Sub-Clause 20.4.

The DAB shall comprise, as stated in the Appendix to Tender, either one or three suitably qualified persons ("the members"). If the number is not so stated and the Parties do not agree otherwise, the DAB shall comprise three persons.





If the DAB is to comprise three persons, each Party shall nominate one member for the approval of the other Party. The Parties shall consult both these members and shall agree upon the third member, who shall be appointed to act as chairman.

However, if a list of potential members is included in the Contract, the members shall be selected from those on the list, other than anyone who is unable or unwilling to accept appointment to the DAB.

The agreement between the Parties and either the sole member ("adjudicator") or each of the three members shall incorporate by reference the General Conditions of Dispute Adjudication Agreement contained in the Appendix to these General Conditions, with such amendments as are agreed between them.

The terms of the remuneration of either the sole member or each of the three members shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

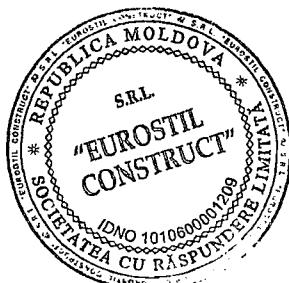
If at any time the Parties so agree, they may appoint a suitably qualified person or persons to replace any one or more members of the DAB. Unless the Parties agree otherwise, the appointment will come into effect if a member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment. The replacement shall be appointed in the same manner as the replaced person was required to have been nominated or agreed upon, as described in this Sub-Clause.

The appointment of any member may be terminated by mutual agreement of both Parties, but not by the Employer or the Contractor acting alone. Unless otherwise agreed by both Parties, the appointment of the DAB (including each member) shall expire when the DAB has given its decision on the dispute referred to it under Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision], unless other disputes have been referred to the DAB by that time under Sub-Clause 20.4, in which event the relevant date shall be when the DAB has also given decisions on those disputes.

### **20.3 Failure to Agree Dispute Adjudication Board**

If any of the following conditions apply, namely:

- (a) the Parties fail to agree upon the appointment of the sole member of the DAB by the date stated in the first paragraph of Sub-Clause 20.2 [Appointment of the Dispute Adjudication Board],





- (b) either Party fails to nominate a member (for approval by the other Party) of a DAB of three persons by such date,
- (c) the Parties fail to agree upon the appointment of the third member (to act as chairman) of the DAB by such date, or
- (d) the Parties fail to agree upon the appointment of a replacement person within 42 days after the date on which the sole member or one of the three members declines to act or is unable to act as a result of death, disability, resignation or termination of appointment,

then the appointing entity or official named in the Appendix to Tender shall, upon the request of either or both of the Parties and after due consultation with both Parties, appoint this member of the DAB. This appointment shall be final and conclusive. Each Party shall be responsible for paying one-half of the remuneration of the appointing entity or official.

## 20.4 Obtaining Dispute Adjudication Board's Decision

If a dispute (of any kind whatsoever) arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works, including any dispute as to any certificate, determination, instruction, opinion or valuation of the Engineer, then after a DAB has been appointed pursuant to Sub-Clause 20.2 [Appointment of the Dispute Adjudication Board] and 20.3 [Failure to Agree Dispute Adjudication Board], either Party may refer the dispute in writing to the DAB for its decision, with a copy to the other Party. Such reference shall state that it is given under this Sub-Clause.

For a DAB of three persons, the DAB shall be deemed to have received such reference on the date when it is received by the chairman of the DAB.

Both Parties shall promptly make available to the DAB all information, access to the Site, and appropriate facilities, as the DAB may require for the purposes of making a decision on such dispute. The DAB shall be deemed to be not acting as arbitrator(s).

Within 84 days after receiving such reference or the advance payment referred to in Clause 6 of Appendix – General Conditions of Dispute Adjudication Agreement, whichever date is later, or within such other period as may be proposed by the DAB and approved by both Parties, the DAB shall give its decision, which shall be reasoned and shall state that it is given under this Sub-Clause. However, if neither of the Parties has paid in full the invoices submitted by each Member pursuant to Clause 6 of the Appendix – General Conditions of Dispute Adjudication Agreement, the DAB shall not be obliged to give its decision until such invoices have been paid





in full. The decision shall be binding on both Parties, who shall promptly give effect to it unless and until it shall be revised in an amicable settlement or an arbitral award as described below. Unless the Contract has already been abandoned, repudiated or terminated, the Contractor shall continue to proceed with the Works in accordance with the Contract.

If either Party is dissatisfied with the DAB's decision, then either Party may, within 28 days after receiving the decision, give notice to the other Party of its dissatisfaction. If the DAB fails to give its decision within the period of 84 days (or as otherwise approved) after receiving such reference or such payment, then either Party may, within 28 days after this period has expired, give notice to the other Party of its dissatisfaction.

In either event, this notice of dissatisfaction shall state that it is given under this Sub-Clause, and shall set out the matter in dispute and the reason(s) for dissatisfaction. Except as stated in Sub-Clause 20.7 [Failure to Comply with Dispute Adjudication Board's Decision] and Sub-Clause 20.8 [Expiry of Dispute Adjudication Board's Appointment], neither Party shall be entitled to commence arbitration of a dispute unless a notice of dissatisfaction has been given in accordance with this Sub-Clause.

If the DAB has given its decision as to a matter in dispute to both Parties, and no notice of dissatisfaction has been given by either Party within 28 days after it received the DAB's decision, then the decision shall become final and binding upon both Parties.

#### **20.5 Amicable Settlement**

Where notice of dissatisfaction has been given under Sub-Clause 20.4 above, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, arbitration may be commenced on or after the fifty-sixth day after the day on which notice of dissatisfaction was given, even if no attempt at amicable settlement has been made.

#### **20.6 Arbitration**

Unless settled amicably, any dispute in respect of which the DAB's decision (if any) has not become final and binding shall be finally settled by international arbitration. Unless otherwise agreed by both Parties:

- (a) the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce,





(b) the dispute shall be settled by three arbitrators appointed in accordance with these Rules, and

(c) the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 [Law and Language].

The arbitrator(s) shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, and any decision of the DAB, relevant to the dispute. Nothing shall disqualify the Engineer from being called as a witness and giving evidence before the arbitrator(s) on any matter whatsoever relevant to the dispute.

Neither Party shall be limited in the proceedings before the arbitrator(s) to the evidence or arguments previously put before the DAB to obtain its decision or to the reasons for dissatisfaction given in its notice of dissatisfaction. Any decision of the DAB shall be admissible in evidence in the arbitration.

Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, the Engineer and the DAB shall not be altered by reason of any arbitration being conducted during the progress of the Works.

#### **20.7 Failure to Comply with Dispute Adjudication Board's Decision**

In the event that:

(a) neither Party has given notice of dissatisfaction within the period stated in Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision],

(b) the DAB's related decision (if any) has become final and binding, and

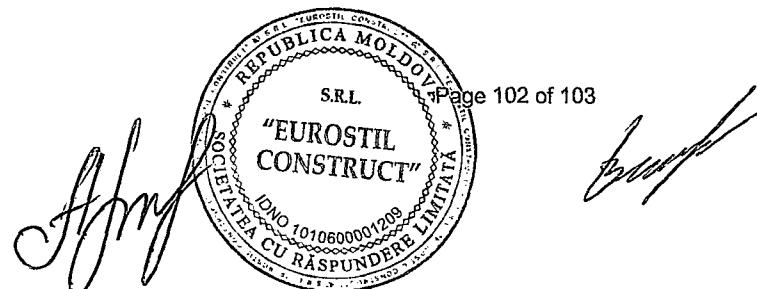
(c) a Party fails to comply with this decision,

then the other Party may, without prejudice to any other rights it may have, refer the failure itself to arbitration under Sub-Clause 20.6 [Arbitration].

Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision] and Sub-Clause 20.5 [Amicable Settlement] shall not apply to this reference.

#### **20.8 Expiry of Dispute Adjudication Board's Appointment**

If a dispute arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works and there is no DAB in place, whether by reason of the expiry of the DAB's appointment or otherwise:





***FIDIC Conditions of Contract for  
Plant And Design-Build Contract  
First Edition, 1999***

(a) Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision] and  
Sub-Clause 20.5 [Amicable Settlement] shall not apply, and

(b) the dispute may be referred directly to arbitration under Sub-Clause 20.6  
[Arbitration].





*Stefan*

*Barbu*

# Letter of Acceptance

Date: 24 day of February, 2021

To: Eurostil Construct SRL, Moldova

Subject: Notification of Award Contract No. 47899/W/02/2 ENERGY EFFICIENCY REHABILITATION OF 17 PUBLIC BUILDINGS Lot 2 Energy Efficiency Measures in 6 lyceums

This is to notify you that your Tender dated 5<sup>th</sup> December 2020 for execution of the Contract no. 47899/W/02/2 Lot 2 Energy Efficiency Measures in 6 lyceums for the amount of €6,910,757.00 (six million nine hundred ten thousand seven hundred fifty-seven Euro only), as corrected and modified in accordance with the Instructions to Participants is hereby accepted by us.

1. In accordance with Instructions to Participants of the Tender Document, within seven (7) calendar days of receipt of this notification of award, the Contractor is required to acknowledge receipt of the notification of award and to furnish the Employer with details of the bank account(s) that the Contractor proposes to use for the purpose of receiving payments due under the Contract, in the following format:

Payee's Account Name: .....

Payee's Account No. (IBAN): .....

Payee's Bank Name: .....

Payee's Bank Address: .....

SWIFT CODE: .....

In the event that payments are to be made in a currency which is not the currency of the country of the Contractor, the correspondent bank details shall be furnished in the following format:

Payee's Bank's Correspondent details: .....

Correspondent Bank Name: .....

Address: .....

Account Name (IBAN): .....

Account Number: .....

SWIFT CODE: .....

2. In accordance with ITP 46.2, upon receipt of the Contractor's acknowledgement of the notification of award and bank account details, the Employer shall sign and send to the Contractor the Contract Agreement. In accordance with ITP 47.2, within fourteen (14) calendar days of Contractor's receipt of the Contract Agreement, the Contractor shall sign, date and return the Contract Agreement to the Employer.

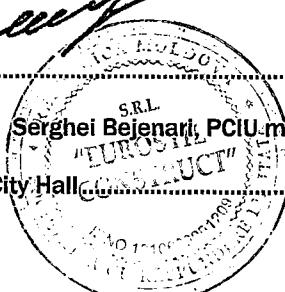
3. Within the period specified in the Contract the Contractor shall furnish the Employer with a Performance Security in the amount of €691,075.70 (six hundred ninety-one thousand seventy-five Euro and 70 eurocents) in accordance with the Conditions of Contract, using for that purpose the Performance Security Form included in Section VII, Contract Terms and Conditions.

4. In addition you are requested to provide a cash flow forecast estimating the payments under the contract which you expect to come due during each month starting from the Contract signing date.

Authorised Signature: .....

Name and Title of Signatory: Serghei Bejenari, PCIU manager .....

Name of Agency: Chisinau City Hall .....



*S. Bejenari*

*B. Bejenari*



**EUROSTIL CONSTRUCT SRL**



Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md

## Letter of Tender

Date: *December 05, 2020*

Tendering No: *47899/W/02/2*

Contract: *47899/W/02/2 Lot 2 Energy Efficiency Measures in 6 lyceums: Sports Theoretical High School "Gloria", str. Teilor 7, Lyceum "George Meniuc, Lyceum "Petru Rares, Gimnaziul internat #3, Casu st., 10, Theoretical Lyceum Nicolae Gogol, str. Sculusev, 90, Lyceum "Onisifor Ghibu"*

To: *City of Chisinau*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the above referenced Tender Document, including Addenda issued in accordance with Instructions to Participants (ITP);
- (b) We offer to execute the works in conformity with the above referenced Tender Document for: *47899/W/02/2 Lot 2 Energy Efficiency Measures in 6 lyceums: Sports Theoretical High School "Gloria", str. Teilor 7, Lyceum "George Meniuc, Lyceum "Petru Rares, Gimnaziul internat #3, Casu st., 10, Theoretical Lyceum Nicolae Gogol, str. Sculusev, 90, Lyceum "Onisifor Ghibu"*;
- (c) The total price of our Tender, excluding any discounts offered in item (d) below, *exclusive* of VAT, is: **6 910 695.00 EURO** (six millions nine hundred ten thousand six hundred ninety five Euro 00 Euro-centi)

and the total price of our Tender, excluding any discounts offered in item (d) below, *inclusive* of VAT, is: **8 292 834.00 EURO** (eight millions two hundred ninety- two thousand eight hundred thirty four Euro 00 Euro-centi);

- (d) The discounts offered and the methodology for their application are: **N/A**;
- (e) Our Tender shall be valid for a period of **one hundred twenty (120)** days from the tender opening, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) We acknowledge that the Appendix to Tender and Attachment 1 to the Letter of Tender – Covenant of Integrity, form part of this Letter of Tender.
- (g) If our Tender is accepted, we commit to obtain a performance security in accordance with the Contract;
- (h) We, any subcontractors or suppliers and sub-suppliers for any part of the Contract, are eligible for award of the Bank's financed contracts and receiving the payments from the Bank's finance;
- (i) We, including any subcontractors or suppliers and sub-suppliers for any part of the contract do not have any conflict of interest in accordance with ITP;
- (j) We, including any of our subcontractors or suppliers and sub-suppliers for any part of the Contract, have not been declared ineligible by the Bank, due to conviction of an intentional crime (and any such criminal conviction is final in the relevant national jurisdiction, with no more than ten years having lapsed between the date on which the criminal conviction became final and the date of submission of tender); under relevant national law from entering into commercial relations with the Client, provided the prohibition relates to a



*Alin*

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Prohibited Practice, which had been determined through judicial or administrative proceedings with adequate due process; or by an act of compliance with a decision of the United Nations Security Council.

(k) We are not participating as a Participant or as a partner in a JVCA in more than one Tender in this Tendering process;

(l) We are *not* a government owned entity;

(m) We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract:

Name of Recipient	Address	Amount
		N/A

(n) We understand that this Tender, together with your written acceptance thereof included in your notification of award, shall constitute a binding Contract between us, until a formal Contract is prepared and executed;

(o) We understand that you are not bound to accept the most economically advantageous tender or any other Tender that you may receive; and

(p) If awarded the Contract, the person named below shall act as Contractor's Representative:

Name:

Scerbina Angelin

In the capacity of:

Director

Signed:

Duly authorized to sign the Tender for and on behalf of:

SRL EUROSTIL CONSTRUCT



*Smf*

*Boz*

## COVENANT OF INTEGRITY

Date: January 22, 2021

Tendering No:47899/W/02/2

Invitation for Tender No.: \_\_\_\_\_

To: **SRL "EUROSTIL CONSTRUCT", IDNO 1010600001209**

We acknowledge that the contract(s) subject to this tender process are intended to be jointly co-financed by the European Investment Bank ("EIB") and the European Bank for Reconstruction and Development ("EBRD", EBRD and EIB jointly hereafter the "Banks"). The Banks and the **SRL "EUROSTIL CONSTRUCT"** have agreed that this tender process is governed by the European Bank for Reconstruction and Development's Procurement Policies and Rules.

We declare and covenant that neither we nor anyone, including any of our subsidiaries and affiliates, and all of our directors, employees, agents or joint venture partners, as well as any sub-contractors, suppliers, sub-suppliers, concessionaires, consultants or sub-consultants, where these exist, acting on our behalf with due authority or with our knowledge or consent, or facilitated by us, has engaged, or will engage, in any Prohibited Conduct (as defined below) in connection with the tendering process or in the execution or supply of any works, goods or services for LOT 2 Energy Efficiency Measures in 6 lyceums (the "Contract") and covenant to so inform you if any instance of any such Prohibited Conduct shall come to the attention of any person in our organisation having responsibility for ensuring compliance with this Covenant.

We declare that we have paid, or will pay, the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract:<sup>1</sup> none

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____

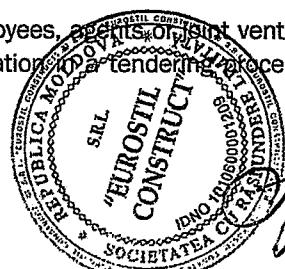
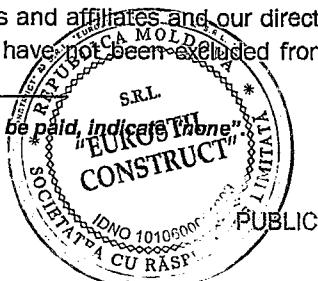
We declare that no affiliate of the Client/ Promoter is participating in our tender in any capacity whatsoever.

We shall, for the duration of the tender process and, if we are successful in our tender, for the duration of the Contract, appoint and maintain in office an officer, who shall be a person reasonably satisfactory to you and to whom you shall have full and immediate access, having the duty, and the necessary powers, to ensure compliance with this Covenant.

We declare and covenant that, except for the matters disclosed in this Covenant of Integrity:

- (i) we, our subsidiaries and affiliates, and all of our directors, employees, agents or joint venture partners, where these exist, have not been convicted in any court or sanctioned by any authority of any offence involving a Prohibited Conduct in connection with any tendering process or provision of works, goods or services during the ten years immediately preceding the date of this Covenant;
- (ii) none of our directors, employees, agents or a representatives of a joint venture partner, where these exist, has been dismissed or has resigned from any employment on the grounds of being implicated in any Prohibited Conduct;
- (iii) we, our subsidiaries and affiliates and our directors, employees, agents or joint venture partners, where these exist, have not been excluded from participation in a tendering procedure or from

<sup>1</sup> If none has been paid or is to be paid, indicate "none".



contract award, or otherwise have not been subject to any other enforcement action or sanction by the EU institutions or any major Multi-lateral Development Bank (including World Bank Group, African Development Bank, Asian Development Bank, EBRD, EIB or Inter-American Development Bank) on the grounds of Prohibited Conduct;

- (iv) neither we nor anyone, including any of our directors, employees, agents, joint venture partners, or subsidiaries and affiliates, as well as any sub-contractors, or suppliers or affiliates of the subcontractor or supplier, where these exist, acting on our behalf with due authority or with our knowledge or consent, or facilitated by us, (i) is listed or otherwise subject to EU Sanctions<sup>2</sup> and/or UN Sanctions<sup>3</sup> and (ii) in connection with the tendering process, or in the execution or supply of any works, goods or services for the Contract, has acted or will act in contravention of EU or UN Sanctions; and
- (v) we covenant to immediately inform the Client and EBRD if any instances described under Articles (i) – (iv) come to our attention after signing this Covenant of Integrity or occur at a later stage.

If applicable, provide full disclosure of any convictions, dismissal, resignations, exclusions or other information relevant to Articles (i) (ii) (iii) or (iv) in the box below.

Name of Entity Required to be Disclosed	Reason Disclosure is Required <sup>4</sup>

We acknowledge that if we are subject to an exclusion decision by EIB or we are subject to EU or UN sanctions, we will not be eligible to be awarded a contract to be financed by the EIB.

We furthermore acknowledge that we will be ineligible to be awarded an EBRD-financed contract or for EBRD funding if we are included on EBRD's lists of persons or entities ineligible to become an EBRD counterparty (as such lists may be found on EBRD's website) or we are subject to UN Sanctions.

At any time following the submission of our tender, we shall grant, and shall cause our joint venture partners and consortium members, as well as our subcontractors, consultants, subconsultants, employees, agents, service providers, and any other third parties engaged or involved for any part of the Contract to permit the EIB and EBRD as well as any persons appointed by either of them and/or any authority or European Union institution or body having competence under European Union law, the right to inspect and copy, our books and records and other documents (on any media or in any format) relating to the procurement process and execution of the Contract and to have them audited by the EIB, EBRD, the competent EU institutions or bodies, and auditors appointed by any of them. We agree to preserve all books and records and documents (on any media or in any format) related to the procurement process and execution of the Contract generally in accordance with applicable law but in any case for at least six years from the date of tender submission and, in the event we are awarded the Contract, at least six years from the date of substantial performance of the Contract.

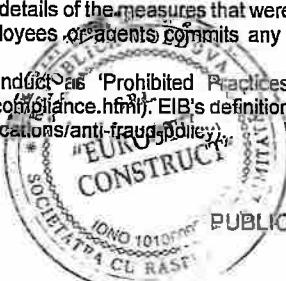
For the purpose of this Covenant, Prohibited Conduct includes one or more of the following:<sup>5</sup>

<sup>2</sup> Pursuant to Chapter 2 of Title V of the TEU and the objectives of the Common Foreign and Security Policy set out in Article 21 of the TEU and Article 215 of the TFEU.

<sup>3</sup> Pursuant to Article 41 Chapter VII of the United Nations Charter.

<sup>4</sup> For each matter disclosed, provide details of the measures that were taken, or shall be taken, to ensure that neither the disclosed entity nor any of its directors, employees or agents commits any Prohibited Conduct in connection with the Tender for the Contract.

<sup>5</sup> EBRD refers to Prohibited Conduct as 'Prohibited Practices' as defined in EBRD's Enforcement Policy and Rules (<http://www.ebrd.com/integrity-and-compliance.html>), EIB's definitions of 'Prohibited Conduct' are contained within its 'Anti-Fraud Policy' (<https://www.eib.org/en/publications/anti-fraud-policy>).




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- **Corrupt Practice** which means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- **Fraudulent Practice** which means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- **Coercive Practice** which means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party to influence improperly the actions of a party;
- **Collusive Practice** which means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- **Obstructive Practice** which means (a) destroying, falsifying, altering or concealing of evidence material to the investigation, or making false statements to investigators, with the intent to impede the investigation; (b) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (c) acts intended to impede the exercise of the Banks' contractual rights of audit or inspection or access to information.
- **Theft** which means the misappropriation of property belonging to another party;
- **Misuse of EBRD resources or EBRD assets** which means improper use of EBRD's resources or EBRD's assets, committed either knowingly or recklessly;
- **Money Laundering<sup>6</sup>**;
- **Terrorist Financing<sup>7</sup>**.

Name: SCERBINA ANGELA

In the Capacity of: Director

Signed: 



Duly authorised to sign the Tender for  
and on behalf of: SRL "EUROSTIL CONSTRUCT"

Date: January 22, 2021

Notes: The original of this Covenant must be kept by the Client and made available upon request from either the EIB or EBRD.

**A second original of this Covenant must be submitted to the EIB at the following address**  
**European Investment Bank Projects Directorate / Mobility Department 98-100 boulevard**  
**Konrad Adenauer, L-2950 Luxembourg**

<sup>6</sup> Money Laundering is defined in the EIB's Anti-Fraud Policy: <http://www.eib.org/infocentre/publications/all/anti-fraud-policy.htm>

<sup>7</sup> Terrorist Financing is defined in the EIB's Anti-Fraud Policy: <http://www.eib.org/infocentre/publications/all/anti-fraud-policy.htm>



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## Appendix to Tender – ECEPP version

With the exception of those requirements for which the Employer's requirements have been inserted, the following information must be completed before the tender is submitted.

All reference Clauses and Sub-clauses provided in the Appendix to Letter of Tender shall be construed as reference Clauses and Sub-clauses in Section VII, General Conditions of Contract.

<b>Conditions</b>	<b>GCC Sub- Clause</b>	<b>Data</b>
<b>Employer's name and address</b>	<b>1.1.2.2 &amp; 1.3</b>	<i>Municipal Enterprise General Department of Housing and public works</i>  <i>33, M. Eminescu str., Chisinau</i> <i>Republic of Moldova</i> <i>Tel: +373 22 225461</i> <i>e-mail: locuinte@dglca.md</i>
<b>Contractor's name and address</b>	<b>1.1.2.3 &amp; 1.3</b>	<i>SRL EUROSTIL CONSTRUCT; 1, str. Mt. Gurie Grosu, of. 28 mun. Chișinău, RM</i>
<b>Engineer</b>	<b>1.1.2.4 &amp; 1.3</b>	<i>Engineer is being competitively selected and the Contractor will be informed once the selection is completed</i>
<b>Bank's name</b>	<b>1.1.2.11</b>	<i>European Bank for Reconstruction and Development</i>
<b>Borrower's name</b>	<b>1.1.2.12</b>	<i>Citi Hall Chisinau</i>
<b>Time for Completion</b>	<b>1.1.3.3</b>	<i>12 month for Lot 2</i>
<b>Defects Notification Period</b>	<b>1.1.3.7</b>	<i>365 days.</i>
<b>Sections</b>	<b>1.1.5.6</b>	<i>Not applicable</i>
<b>Electronic transmission systems</b>	<b>1.3</b>	<i>Not allowed</i>
<b>Governing Law</b>	<b>1.4</b>	<i>Republic of Moldova</i>
<b>Ruling language</b>	<b>1.4</b>	<i>English</i>
<b>Language for communications</b>	<b>1.4</b>	<i>English (in case if the Contractor is legal entity registered outside of Republic of Moldova and Romania) or Romanian (in case if the Contractor is legal entity registered in the Republic of Moldova or Romania)</i>



Conditions	GCC Sub- Clause	Data
Time for access to the Site	2.1	Commencement Date
Performance Security	4.2	The performance security will be in the form of a demand guarantee, in the amount(s) of <i>ten per cent (10)</i> percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.
General Design Obligations	5.1	60 days for lot 2
Normal working hours	6.5	0-00 to 24-00 except as will be instructed by Engineer in accordance with the requirements of final beneficiaries.
Delay damages for the Works	8.7 & 14.15(b)	0.1 % of the Contract Price per day.
Maximum amount of delay damages	8.7	10% of the final Contract Price.
Total advance payment	14.2	20% Percentage of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable
Number and timing of instalments	14.2	<u>Sole instalment</u>
Currencies and proportions	14.2	The advance payment shall be paid in the currency or currencies and proportions in which the Accepted Contract Amount is payable to the Contractor according to Sub-clause 14.15.
Start repayment of Advance payment	14.2 (a)	<u>Not applicable</u>
Repayment amortization rate of advance payment	14.2(b)	<u>Not applicable</u>
Percentage of Retention	14.3	5% of each Payment certificate
Limit of Retention Money	14.3	5% of the Accepted Contract Amount
Minimum Amount of Interim Payment Certificates	14.6	300,000 Euro
Currency/Currencies of Payment	14.15	Euro
Periods for submission of insurance:	18.1	
a. evidence of insurance		14 days
b. relevant policies		28 days



Conditions	GCC Sub- Clause	Data
Maximum amount of deductibles for insurance of the Employer's risks	18.2(d)	<i>Five thousand Euro</i>
Minimum amount of third party insurance	18.3	<i>One hundred thousand Euro</i>
The DAB shall be comprised of	20.2	One sole Member
Appointment (if not agreed) to be made by	20.3	<i>FIDIC</i>
Rules of arbitration	20.6(a)	<i>Rules of International Court of Commercial Arbitration within the Chamber of Commerce of the Republic of Moldova and the place of arbitration is: Chisinau</i>

Name:

Scerbina Angela

In the capacity of:

Director

Signed:

Duly authorized to sign the Tender for and on behalf of: SRL EUROSTIL CONSTRUCT



*Scerbina*

# Particular Conditions of Contract (PCC)

The following Particular Conditions of Contract (PCC) shall supplement the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

## GCC 1 General Provisions

### GCC 1.1 Definitions

#### GCC 1.1.2 Parties and Persons

- 1.1.2.11 "Bank" means the financing institution (if any) named in the Appendix To Tender
- 1.1.2.12 "Borrower" means the person (if any) named as the borrower in the Appendix To Tender
- GCC 1.1.6 1.1.6.10 "Notice of Dissatisfaction" means the notice given by either Party to the other under Sub-Clause 20.4 [Obtaining Dispute Adjudication Board's Decision] indicating its dissatisfaction and intention to commence arbitration.
- 1.1.6.11 "Enforcement Policy and Procedures" means the EBRD's Enforcement Policy and Procedures, as amended from time to time, and any policy or procedures adopted by EBRD, as a successor to or replacement of such policy and procedures".
- 1.1.6.12 "Prohibited Practices" has the meaning as defined in the Enforcement Policy and Procedures October 2017.
- 1.1.6.13 "Enforcement Actions" means such action as defined in the Bank's Enforcement Policy and Procedures.
- 1.1.6.14 "Disclosure Actions" means such action as defined in the Bank's Enforcement Policy and Procedures.
- 1.1.6.15 "Third Party Finding" means a final judgment of a judicial process in a member country of the Bank or a finding by the enforcement (or similar) mechanism of an international organisation, which is not a Mutual Enforcement Institution, that an individual or entity has engaged in a Prohibited Practice or equivalent act of that member country or international organisation.
- 1.1.6.16 "Project Complaint Mechanism" means the accountability mechanism of the Bank as set forth under the Project Complaint Mechanism (PCM) Rules of Procedure dated May 2014, as such rules may be amended, supplemented or replaced from time to time.
- 1.1.6.17 "Mutual Enforcement Institution" means an international organisation that has entered into an agreement with the Bank, pursuant to which such institution and the Bank agree to the mutual enforcement of debarment decisions made by each other, provided that such other institution has given notice to the Bank that it has fulfilled all requirements for the implementation of such agreement and has not subsequently withdrawn from such agreement.

### GCC 1.2 Interpretation

In these Conditions, provisions including the expression "Cost plus profit" require this profit to be one-twentieth (5%) of this Cost.

### GCC 1.12



\* The Contractor's and the Employer's Personnel shall disclose all such confidential and other information "as may be reasonably required in order to verify the Contractor's compliance

with the Contract and allow its proper implementation.

Each of them shall treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.

#### **GCC 1.4**

##### **Law and Language**

- a) The Laws of the Republic of Moldova governs the Contract
- b) The ruling language of the Contract will be English
- c) The language for communications will be English (in case if the Contractor is legal entity registered outside of Republic of Moldova and Romania) or Romanian (in case if the Contractor is legal entity registered in the Republic of Moldova or Romania)

#### **GCC 1.15**

##### **Inspections and Audit by the Bank**

The Contractor shall permit the Bank and/or persons appointed by the Bank to inspect the Site and/or the Contractor's assets, books, accounts and records relating to the performance of the Contract and to have such assets, books, accounts and records audited by auditors appointed by the Bank if required by the Bank.

The Contractor shall require its officers, directors, employees or agents with knowledge of the Contract to respond to questions from the Bank and to provide to the Bank any information or documents necessary for (i) the investigation of allegations of Prohibited Practices, or (ii) the Bank's monitoring and evaluation of the Contract and to enable the Bank to examine and address any project-related complaints made under the Bank's Project Complaint Mechanism.

The Contractor shall maintain all books, documents and records related to the Contract in accordance with applicable law but in any case for at least six years from the date of substantial performance of the Contract.

The Contractor shall ensure that in any agreements with suppliers, sub-suppliers, sub-contractors, concessionaires, consultants, or sub-consultants concerning the execution of the Contract provisions to the effect of this Sub-clause are included.

#### **GCC 1.16**

##### **Electronic Formats**

All notices and documents required to be submitted by the Contractor shall also be submitted electronically in formats that can be read by:

- Microsoft Word for text
- AutoCAD version for drawings
- Microsoft Project for planning
- Microsoft Excel for numerical information
- Adobe Reader for pdf-file formats

All above listed software shall be in their latest version or in the version currently operated by the Employer, all the above in the English language.

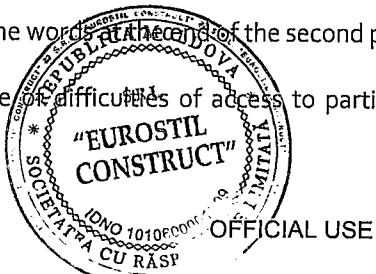
#### **GCC 2 The Employer**

#### **GCC 2.1**

##### **Right of Access to the Site**

Add the words "REPUBLICA MOLDOVA" of the second paragraph:

in case of difficulties of access to particular sections of the site outside of the Contractor's



control, the Contractor shall immediately inform the Engineer. The Engineer and the Employer will timely take all the necessary measures to remove the obstacles preventing access.

**GCC 2.2 Permits, licenses and approvals**  
(b)

Add the words at the end of Sub-Clause:

Delays in obtaining such permits, licences or approvals, as required by this Sub-Clause 2.2 (b), shall not be considered as justified reason for an extension of time for completion or an increase of the Contract cost. The Contractor shall comply with the requirements of obtained permits and licences and shall give the issuing Authority full opportunity to inspect and examine the Works to verify compliance, when required.

**GCC 2.4 Employer's Financial Arrangements**

In addition, if the Bank has notified to the Borrower that the Bank has suspended disbursements under its loan, which finances in whole or in part the execution of the Works, the Employer shall give notice of such suspension to the Contractor with detailed particulars, including the date of such notification, with a copy to the Engineer, within 7 days of the Borrower having received the suspension notification from the Bank. If alternative funds will be available in appropriate currencies to the Employer to continue making payments to the Contractor beyond a date 60 days after the date of Bank notification of the suspension, the Employer shall provide reasonable evidence in his notice of the extent to which such funds will be available

**GCC 3 The Engineer**

**GCC 3.1 Engineer's Duties and Authority**

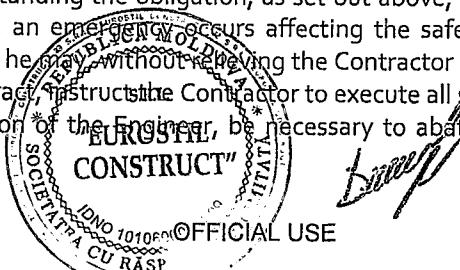
any act by the Engineer in response to a Contractor's request except as otherwise expressly specified shall be notified in writing to the Contractor within 28 days of receipt

The following provisions shall apply:

The Engineer shall obtain the specific approval of the Employer before taking action under the following Sub-Clauses of these Conditions:

- (a) Sub-Clause 4.12: Agreeing or determining an extension of time and/or additional cost.
- (b) Sub-Clause 13.1: Instructing a Variation, except;
  - (i) in an emergency situation as determined by the Engineer, or
  - (ii) if such a Variation would increase the Accepted Contract Amount by not more than any percentage specified in the Appendix To Tender.
- (c) Sub-Clause 13.3: Approving a proposal for Variation submitted by the Contractor in accordance with Sub Clause 13.1 or 13.2.
- (d) Sub-Clause 13.4: Specifying the amount payable in each of the applicable currencies.

Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without releasing the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall



forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Employer.

## **GCC 3.6 Management Meetings**

Management meetings will be held on a weekly base and attended by the Engineer's, Contractor's and the Employer's representatives. The Engineer shall keep records of management meetings and supply a copy to all participants.

The Engineer or the Contractor's Representative may require the other to attend a management meeting in order to review the arrangements for future work. Such meetings shall take place on a monthly basis. The Engineer shall record the business of management meetings and supply copies of the record to those attending the meeting and to the Employer, within two working days from the meeting. In the record, responsibilities for any actions to be taken shall be in accordance with the Contract.

The agenda for such meetings shall cover a review of progress attained, a review of schedules and plants for future activities, the status of staffing, engineering, safety, equipment, material supply, payments, current and anticipated difficulties, interface with other Contractors, claims for extras, and other pertinent topics. Time and place of these meetings shall be mutually agreed taking into consideration the subject to be discussed.

GCC 4 The Contractor

GCC 4.2 Performance Security

GCC 4.2 Performance Security is hereby substituted entirely and should be read as follows:

The Performance Security shall be issued by a reputable bank selected by the Contractor, and be acceptable to the Employer, and shall be in the form annexed to the Particular Conditions, as stipulated by the Employer in the Appendix to Tender, or in another form approved by the Employer.

The Contractor shall provide for Engineer's prior review and approval the draft performance security. The Engineer will seek Employer's prior approval on the bank issuing the performance security.

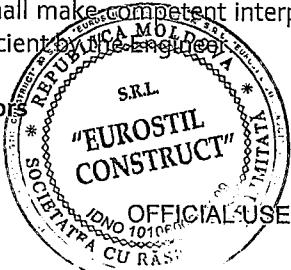
The Employer reserve the right during the implementation of the contract from time to time assess the investment position of the bank issuing the performance security. If, in opinion of the Employer, the bank issuing the Performance Security is losing its investment position, the Employer shall promptly notify the Contractor and the Contractor shall renew, at its own cost, the Performance Security with another bank satisfactory to the Employer.

Without limitation to the provisions of the rest of this Sub-Clause, whenever the Engineer determines an addition or a reduction to the Contract Price as a result of a change in cost and/or legislation or as a result of a Variation, amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Engineer's request promptly increase, or may decrease, as the case may be, the value of the Performance Security in that currency by an equal percentage.

### **GCC 4.3 Contractor's Representative**

If the Contractor's Representative's delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.

GCC 4.4 & Subcontractors



The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidential Details] apply equally to each Subcontractor.

Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from the Country to be appointed as Subcontractors.

Replace paragraph (b) with the following text:

Prior consent of the Engineer shall be obtained to other proposed subcontractors, provided that the value of the subcontract is more than 0.1 percent (0,1%) of the Contract Price, as well as for the replacement of the Subcontractors named in the Contract.

Add the words:

Should the Contractor requested the replacement of a named specialist subcontractor, this must be done with one having equivalent or better experience, financial position and capabilities. Such evidence shall be submitted to the Engineer for review and approval along with the request for replacement.

GCC 4.9 Quality Assurance

After the second paragraph the following new paragraph shall be added:

To ensure the Contractor will be able to comply with his quality assurance obligations under the Contract, the Contractor shall translate into the language(s) used by local personnel, all documents, as deemed necessary, and provide training to ensure local Contractor's Personnel understand the requirements for executing the Works in accordance with the Contract. If so requested, the Contractor shall submit copies of the translated documents to the Engineer for his information and records.

GCC 4.18 Protection of the Environment

Add the words at the end of Sub-Clause:

The Contractor will keep the site clean from construction or domestic waste and restore all damages to the environment around the site caused by his activities.

GCC 4.21 Progress Reports

Add a new paragraph (i) as follows:

(i) The Engineer's representative and Contractor shall meet at times scheduled by the Engineer's representative on a monthly basis to discuss the status of Contractor's performance of this Contract. This monthly Progress Meeting shall be attended by the Contractor's representative and other Contractor's relevant personnel. The agenda for such meetings shall cover a review of progress attained, disbursement forecast for the upcoming six months, a review of schedules and plans for future activities, the status of staffing, engineering, safety, equipment, material supply, payments, current and anticipated difficulties, interface with other Contractors, claims for extras, and other pertinent topics. The minutes of the meetings shall be prepared by the Engineer, and shall be issued to the Contractor within 48 hours after the meeting for previous clarifications.

Before the mobilisation of the Site the regular progress meetings shall be held on a monthly basis at the Contractor's office, the Engineer's office, and/or on the Site. Further irregular meetings will be held if needed. Time and place of these meetings shall be mutually agreed taking into consideration time subject to be discussed.

The Engineer or the Contractors Representative may require the other to attend a management meeting in order to review the arrangements for future work. The Engineer shall record the business of management meetings and supply copies of the record to those

attending the meeting and to the Employer. In the record, responsibilities for any actions to be taken shall be in accordance with the Contract

Three copies of Monthly Progress reports shall be provided by the Contractor in both English and Employer's official languages.

#### **GCC 4.25 Work diary**

The Contractor shall draw up a works diary for contemporary records, in a format agreed by the Engineer. The works diary shall be held on Site and the Contractor's Representative shall daily record the following information (as a minimum):

1. Atmospheric conditions, the work breaks due to adverse meteorological conditions, the working hours, the number and the qualification of the personnel working on Site, the supplied materials, the materials incorporated into the works, the equipment out of order, the tests completed, the sent samples, the unforeseen events, as well as verbal orders given to the Contractor.

2. Attachments with detailed data on all elements which are checked on Site and used for the calculation of the payments to the Contractor, such as completed Works, actual quantities, supplies accepted for incorporation into the Works. These attachments are part of the works diaries, but can be signed, if need be, as separate documents.

3. List of any obstructions and other difficulties encountered by the Contractor in the execution of the Works, during the reported period.

At the Engineer's request, the Contractor has to provide all necessary information for the daily completion of the works diary and attachments.

The information provided is noted in the works diary and attachments, signed by the Contractor's Representative and countersigned by the Engineer or his representative. The Contractor shall be responsible to ensure that adequate back-up of this information is provided.

In case of disagreement on a subject noted in the works diary or attachments, the Contractor has to inform in writing the Engineer about his remarks within 14 days from the date when the notice has been recorded in the works diary or attachments.

#### **GCC 4.25 Prevention of Prohibited Practices**

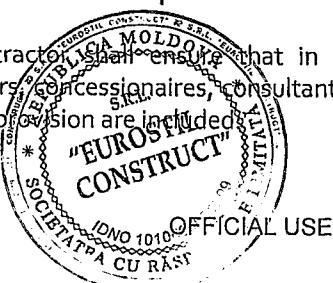
The Contractor shall not, and shall not authorise or permit any of its officers, directors, authorised employees, affiliates, agents or representatives to, engage in Prohibited Practices with respect to the procurement, award, or execution of the Contract.

The Bank may declare the Contract to be ineligible for financing, and the Bank may take any of the Enforcement Actions and Disclosure Actions set out in the Enforcement Policy and Procedures, if in accordance with the Enforcement Policy and Procedures the Bank determines that:

- (a) the Contractor, including its suppliers, sub-suppliers, sub-contractors, concessionaires, consultants, or sub-consultants have engaged in Prohibited Practices with respect to the procurement, award, or execution of the Contract.
- (b) a Third Party Finding has sufficient relevance and seriousness for the Bank to warrant Enforcement Actions and Disclosure Actions against entities or individuals;

#### **GCC 4.25 Agreements with third parties**

The Contractor shall ensure that in any agreements with suppliers, sub-suppliers, sub-contractors, concessionaires, consultants, or sub-consultants concerning the execution of the Contract provision are included



*[Handwritten signature]*

*[Handwritten signature]*

- (a) stating that the suppliers, sub-suppliers, sub-contractors, concessionaires, consultants, or sub-consultants, shall not, and shall not authorise or permit any of their officers, directors, authorised employees, affiliates, agents or representatives to, engage in Prohibited Practices with respect to such agreements and the execution of the Contract; and
- (b) notifying the suppliers, sub-suppliers, sub-contractors, concessionaires, consultants, or sub-consultants, that the Bank has the right to invoke the Enforcement Policy and Procedures, including any Enforcement Action and Disclosure Action set out therein, in respect of allegations of Prohibited Practices with respect to the procurement, award, or execution of the Contract.

## **GCC 6 Staff and Labour**

### **GCC 6.1 Engagement of Staff and Labour**

The Contractor shall establish Human Resource policies in accordance with the governing Law. The Contractor shall document and communicate to all workers their working conditions and terms of employment, including their entitlement to wages, hours of work, overtime arrangements and overtime compensation, and any benefits (such as leave for illness, maternity/paternity or holiday).

The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within the Borrower's Country.

### **GCC 6.2 Rates of Wages and Conditions of Labour**

Where the Contractor is party to a collective agreement or is otherwise bound by it, the Contractor shall comply with its terms and conditions.

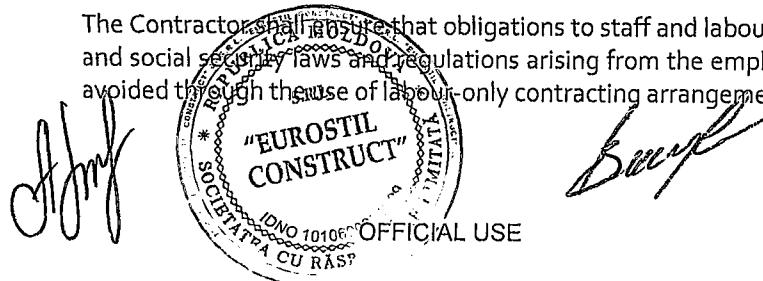
Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. Deductions must never lead to an employee receiving less than the applicable minimum wage.

All workers shall be provided with clearly understandable verbal and written information about the conditions in respect of wages before they enter employment and of the particulars of their wages for the pay period concerned each time that they are paid. Wages shall be paid in legal tender in full, on time and directly to the workers concerned. The Contractor shall maintain records of all payments and deductions made.

The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of the Country for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.

### **GCC 6.4 Labour Laws**

The Contractor shall ensure that obligations to staff and labour under labour, health and safety and social security laws and regulations arising from the employment relationship shall not be avoided through the use of labour-only contracting arrangements.



## GCC 6.5 Working Hours

Hours of work shall comply with applicable laws, collective agreements, and industry standards. Overtime shall be voluntary wherever possible, shall not be demanded on a regular basis and shall always be compensated at a premium rate.

GCC 6.6 Facilities for Staff and Labour

Where the Contractor provides living accommodation for workers, the accommodation shall be appropriate for its location and be clean, safe and, at a minimum, meet the basic needs of workers. The accommodation shall comply with national legislation and, where possible, follow international good practice as set out in the IFC/The Bank's Public Guidance

The Contractor shall ensure that workers' freedom of movement to and from the accommodation is not unduly restricted.

GCC 6.7 H

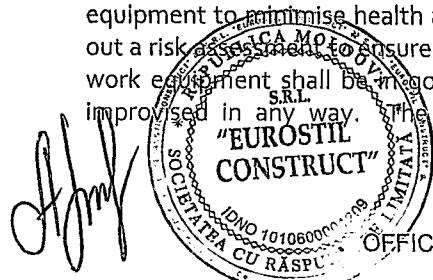
The Contractor shall provide the Employer with a written Health and Safety Policy and a project-specific Health and Safety Plan (the Plan) before the commencement of work. The Plan shall identify all risks specific and relevant to the project and shall provide information explaining how the identified risks will be managed by the Contractor. The Plan shall include details of the Contractor's OHS management system, including the Contractor's plans to manage and monitor the health and safety risks associated with all construction work under its control. The Plan shall be made available to the Bank(s) prior to the start of Construction.

Every Contractor shall plan, manage and monitor construction work carried out by him or under his control in a way which ensures that, so far as is reasonably practicable, it is carried out without risks to health and safety. In instances where the Contractor is a joint venture, consortium or a similar entity, the Contractor shall coordinate its planning, management and monitoring activities in a manner that will ensure that any overlap does not create any potential risks to third parties.

All work-related tasks shall be risk assessed before any work is undertaken. All significant hazards shall be identified and control measures introduced to reduce foreseeable risks of injury and ill health, so far as is reasonable practicable. High regard shall be given in particular to assess and control the following specific activities and these shall be documented in the Health and Safety Plan:

- Working at Heights;
- Lifting Operations;
- Movement of vehicles and mobile work equipment;
- Ground disturbance and excavations; and,
- Working with and around live electrical conductors.

The Contractor shall ensure that a safe and healthy working environment is provided and that good international occupational health and safety practice is promoted. The Contractor shall take steps to prevent accidents, injury and disease arising in the course of work by identifying and controlling risks to workers, third parties and affected communities, so as far as is reasonably practicable. The Contractor shall ensure that all staff, labourers and persons entitled to be on site receive the necessary supervision, information, instruction and training to do their jobs in a manner that does not place themselves or third parties at risk. With regard to any unauthorised site visitors, the Contractor shall familiarise itself with, and comply with, any relevant provisions of the Applicable Law. Where appropriate, the Contractor shall provide equipment to minimise health and safety risks and enforce its use. The Contractor shall carry out a risk assessment to ensure the correct selection of equipment is made for every task. The work equipment shall be in good working condition, designed for the specific task and not improvised in any way. The Contractor shall put in place arrangements for emergency



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prevention, preparedness and response.

#### **GCC 6.7.1 Personal Protective Equipment**

The Contractor shall provide, at no cost to its workers, Personal Protective Equipment (PPE) to control residual risks. The PPE shall be suitable for the relevant hazards workers are exposed to and replaced at no cost to the worker, when it becomes damaged or worn. As a minimum, PPE shall be protective toe cap safety footwear, head protection and an item of high visibility clothing.

#### **GCC 6.7.2 Workers Welfare Accommodation**

The Contractor shall provide a suitable seating area for workers to use during breaks. This area shall be clean, located where food will not become contaminated and provide reasonable thermal comfort during high and low temperatures. The Contractor shall also provide adequate access to toilets and wash basins for their workers.

#### **GCC 6.7.3 Contractor's Personnel**

The Contractor shall ensure that all personnel employed to carry out work are competent and fit to carry out the work they are employed to do. All Contractor personnel shall receive a site safety induction before they start work which should identify the hazards, the risk to their health and safety and the control measures that shall be implemented. Any worker who fails to cooperate with the Contractor or fails to take reasonable care of themselves or others and placing them at risk of injury or ill health, shall be removed from the Site.

#### **GCC 6.7.4 First Aid**

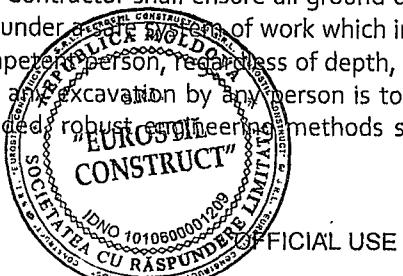
Prior to the start of work the Contractor shall carry out a first aid needs assessment to determine the provisions necessary to preserve life and provide immediate first aid to a casualty. The assessment shall consider the degree of hazards, potential risks and the number of employees at the Site. In addition consideration shall be made to risks created in the course of work in particular hot works causing burns and hazardous liquids splashing into the face. The Contractor shall ensure competent first aid trained personnel are available in convenient locations on site to ensure prompt response to administer immediate first aid.

#### **GCC 6.7.5 Working at Heights**

The Contractor shall introduce a procedure that requires all working at heights to be avoided where possible. Where working at heights cannot be avoided, the Contractor shall assess all working at heights to satisfy themselves that suitable fall prevention measures are in place before any work activity commences. Where the risk of a fall may still exist, the Contractor shall introduce measures to mitigate a fall, in the event of one occurring. The Contractor shall undertake periodical monitoring of the working platforms and fall prevention measures to ensure they remain adequate and in a good working order.

#### **GCC 6.7.6 Ground Disturbance and Excavations**

The Contractor shall ensure all ground disturbance and excavation activities are to be carried out under a system of work which includes a comprehensive assessment of the risks by a competent person, regardless of depth, to ensure it is safe and adequately supported. Entry into any excavation by any person is to be avoided where possible. Where entry cannot be avoided robust engineering methods shall be used to support excavations to prevent any



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worker being trapped or suffering injury or ill health. At no point shall any worker enter an unsupported excavation.

### **GCC 6.7.7 Live Electrical Services**

The Contractor is to familiarise themselves with all electrical services within the designated Site, this shall include all above and below ground services. All live conductors are to be securely covered and be inaccessible to unauthorised personnel. Where there is a risk of contact, either by a worker or any operated equipment, the Contractor shall arrange for the service to be temporary isolated or rerouted prior to the start of work. At any time no worker or third party shall be exposed to any live conductors unless they are authorised and competent to work on or around these services.

### **GCC 6.7.8 Movement of Vehicles and Mobile Work Equipment**

The Contractor shall minimise the movement of traffic and mobile work equipment and continually assess the on and off site effects. Where possible, one way systems shall be introduced to avoid vehicles coming into contact with each other. Reversing of vehicles and mobile work equipment shall be avoided on site, where this is not possible an effective system must be in place to control reversing so there is no risk of injury or damage to property. All moving vehicles and mobile work equipment on the Site shall have a fitted flashing amber warning beacon which must be in use while in operation. The Contractor shall ensure any vehicles or mobile work equipment entering the Site shall be checked and confirmed suitable for site conditions with specialist consideration to lights, brakes, steering, mirrors and restraints/seatbelts. Fitted restraints/seatbelts shall be worn at all time when the vehicles or mobile plant is in operation.

### **GCC 6.7.9 Confined Space Working**

The Contractor shall identify all areas which are, or could become a confined space, and prevent entry into these areas. If no method of working is possible without entry, the Contractor shall carry out a risk assessment and introduce a system of work to eliminate or control hazards and foreseeable risks and prevent a risk of injury or ill health to workers. At all times the Contractor shall ensure that the worker entering the confined space is provided with, as a minimum, uncontaminated breathable air, a method to detect unhealthy and flammable atmospheres, clear access to and egress from the confined space and emergency arrangements to remove the worker if self-rescue is not possible.

### **GCC 6.7.10 Preventative Measures**

The Contractor shall develop and maintain throughout the execution of the Contract preventative measures relating to worker health concerns, including providing inoculations or other preventative treatments for disease that are either global in nature or endemic in the project area. The Contractor shall undertake appropriate measures to reduce the risk of transfer of STDs and HIV/AIDS among the Contractor's Personnel and the local community including providing condoms and information for raising awareness among employees of sexually transmitted disease and HIV/AIDS.

### **GCC 6.8 Contractor's Superintendence**

The Contractor shall ensure that a grievance mechanism is available to all workers and their organisations to use without fear of intimidation or retaliation. The Contractor will ensure that employees are informed about the grievance mechanism and that this is part of the training for new employees and information is posted in relevant areas on Site.



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The Contractor shall ensure that the grievance mechanism involves an appropriate level of management and addresses concerns promptly, using an understandable and transparent process that provides feedback to those concerned without any retribution.

**GCC 6.9**

**Contractor's Personnel**

The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- (a) persists in any misconduct or lack of care,
- (b) carries out duties incompetently or negligently,
- (c) fails to conform with any provisions of the Contract,
- (d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment, or
- (e) based on reasonable evidence, has engaged in a Prohibited Practice during the execution of the works.

If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

**GCC 6.12**

**Foreign Personnel**

The Contractor may bring in to the Country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use his best endeavours in a timely and expeditious manner to assist the Contractor in obtaining any local, state, and national or government permission required for bringing in the Contractor's personnel.

The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.

Where the Contractor requires repayment of travel costs of foreign personnel initially borne by the Contractor, the terms of repayment shall be reasonable, made clear to the worker, and documented, prior to the worker leaving their country of origin. The worker shall signify agreement with the terms of the loan and its repayment, and shall be entitled to resign under the terms of national labour legislation and elect to repay the outstanding debt.

**GCC 6.13**

**Supply of Foodstuffs**

The Contractor shall arrange for the provision of a sufficient supply of suitable, culturally appropriate food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

**GCC 6.14**

**Supply of Water**

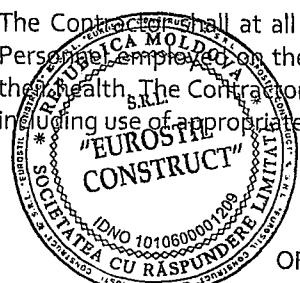
The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of potable drinking and other water for the use of the Contractor's Personnel. The Contractor shall not levy, or permit to be levied on any of their personnel, a charge for the access to potable drinking water.

**GCC 6.15**

**Measures against Insect and Pest Nuisance**

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

*[Signature]*



*[Signature]*

## **GCC 6.16 Alcoholic Liquor or Drugs**

The Contractor shall not, otherwise than in accordance with the Laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereof by Contractor's Personnel. The Contractor shall make all reasonable efforts to ensure no worker on the site under his control brings or consumes any alcohol or illicit drugs onto the site. The Contractor shall also immediately remove any Contractor's Personnel that it suspects or has confirmed is under any influence of alcohol or illicit drugs, from site.

## **GCC 6.17 Arms and Ammunition**

The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

GCC 6.18 Festivals and Religious Customs

The Contractor shall respect the Country's recognized festivals, days of rest and religious or other customs.

## **GCC 6.19 Funeral Arrangements**

The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of his local employees who may die while engaged upon the Works.

GCC 6.20 Forced Labour

The Contractor shall not employ forced labour, which consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labour, such as involuntary prison labour, indentured labour, bonded labour or similar labour contracting arrangements.

GCC 6.21 Child Labour

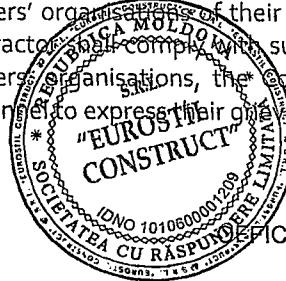
The Contractor shall not employ children in a manner that is economically exploitative, or is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Where the relevant labour laws of the Country have provisions for employment of minors, the Contractor shall follow those laws applicable to the Contractor. The Contractor shall put in place a procedure to verify the ages of young workers. Children below the age of 18 years shall not be employed in dangerous work.

## **GCC 6.22 Employment Records of Workers**

The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Engineer, and these records shall be available for inspection by the Bank's auditors during normal working hours. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment].

## GCC 6.23 Workers' Organisations

In countries where the relevant labour laws recognize workers' rights to form and to join workers' organisations of their choosing without interference and to bargain collectively, the Contractor shall comply with such laws. Where the relevant labour laws substantially restrict workers' organisations, the contractor shall enable alternative means for the Contractor's Personnel to express their grievances and protect their rights regarding working conditions and



terms of employment. In either case described above, and where the relevant labour laws are silent, the Contractor shall not discourage the Contractor's Personnel from forming or joining workers' organisations of their choosing or from bargaining collectively, and shall not discriminate or retaliate against the Contractor's Personnel who participate, or seek to participate, in such organisations and bargain collectively. The Contractor shall engage with such workers' representatives. Workers' organisations are expected to fairly represent the workers in the workforce. The Contractor shall ensure that workers' representatives have access to all workplaces necessary to enable them to carry out their representative functions.

#### **GCC 6.24 Non-Discrimination and Equal Opportunity**

The Contractor shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment relationship on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. The Contractor shall ensure equal remuneration for men and women for work of equal value. In countries where the relevant labour laws provide for non-discrimination in employment, the Contractor shall comply with such laws. When the relevant labour laws are silent on non-discrimination in employment, the Contractor shall meet this Sub-Clause's requirements. Special measures of protection or assistance to remedy past discrimination or promote local employment opportunities or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination.

#### **GCC 6.25 Social Security**

The Contractor shall ensure that obligations to staff and labour under labour or social security laws and regulations arising from the employment relationship shall be respected, and that such obligations shall not be avoided through the use of labour-only contracting arrangements.

### **GCC 8 Commencement, Delays and Suspension**

#### **GCC 8.1 Commencement of Works**

Clause 8.1 Commencement of Works is hereby modified and should be read as follows: The Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Engineer's notification recording the agreement of both Parties on such fulfilment and instructing to commence the Works is received by the Contractor:

- (a) signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities in the Country;
- (b) delivery to the Contractor of reasonable evidence of the Employer's Financial arrangements (under Sub-Clause 2.4 [Employer's Financial Arrangements]);
- (c) possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.13 [Compliance with Laws] as required for the commencement of the Works.

If the above said Engineer's instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 [Termination by Contractor]. The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.

#### **GCC 8.3**

##### **Programme**

At the end of paragraph (ii) add the words:



(ii) a cash flow estimate for the project, consistent with the submitted programme. The

Contractor shall subsequently supply revised cash flow estimates at quarterly intervals if required to do so by Engineer.

(iv) Details of the revised Traffic Management Plan consistent with the submitted programme.

(v) Details of the updated Environmental Management Plan

Add the words after the bullet (d) of Sub Clause:

e) In the preparation of the working programme the Contractor shall take into account the specific legislation in the Employer's country that restricts the works in adverse weather conditions, especially during winter season. Any restriction imposed by the Employer during this period will not form bases of any claim for an extension of time for the completion of the Works.

f) The revised programme and detailed cash flow estimate shall be submitted within 14 days. If the Contractor fails to submit the revised programme and supporting information within 14 days, twenty percent (20%) of the Contractor's next interim payment certificate will be withheld and will continue to be withheld from interim payments until the Contractor has submitted the required documents, at which time the withheld amount will be reimbursed.

GCC  
8.7

### Delay Damages

For every day which shall elapse between the relevant Time for Completion and the date stated in the Taking-Over Certificate, Contractor shall pay to the Employer delay damages in the amount equivalent 0.1% (one tenth per cent) of Contract Price per day, but not exceeding 10% of the Contract Price.

GCC  
12

### Tests after Completion

GCC 12.1

#### Procedure for Tests after Completion

The first sentence is replaced with the following 'Test after Completion shall apply and be performed during the first heating season after Take-Over of the respective Section of Works. Test after Completion shall demonstrate how the declared by the Contractor level of Energy Performance to be achieved. The Contractor is responsible for items (a) and (b) below. Tests after Completion should be done as per Requirements annexed thereto".

GCC 12.4

#### Failure to Pass Tests after Completion

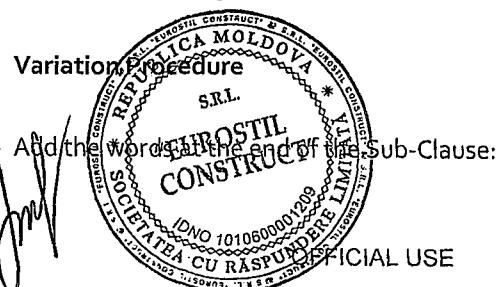
Notwithstanding the provisions of General Conditions of Contract GCC 12.4, non-performance damages are defined as 0.5% per cent of the Contract Price per each per cent of the performance below the requirements set out in the Employer's Requirements (Chapter II, Energy Performance Requirements) or as stated in Contractor's Tender (if higher than the Employer's Requirements). Any non-performance below 80 per cent of the requirements set out in the Employer's Requirements or as stated in Contractor's Tender (if higher than the Employer's Requirements) should be remedied by the Contractor, and the Delay Damages will still apply as per GCC 8.7 above.

GCC  
13

### Variations and Adjustments

GCC 13.3

#### Variation Procedure



Add the words at the end of the Sub-Clause:

Any modifications to the commercial conditions of contract (such: modification of the GCC or PCC, change in the structure of the JVCA, assignment of the contract, etc) or any major modification in scope or duration of the contract shall only be introduced through the means of an Addendum/Amendment to the contract to be signed by the parties.

Any modification of the contract (including variations, claims or addenda/amendments) shall be sent, via ECEPP, to the Bank for no objection. Before starting the works, an explanation with indicative value of the works for the modification occurred shall be submitted to the Bank for agreement in principle. The Employer is obliged to subsequently submit variations, claims and addenda/amendments to the Bank for no objection.

#### **GCC 13.7    Adjustments for Changes in Legislation**

Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the table of adjustment data in accordance with the provisions of Sub-Clause 13.8 [Adjustments for Changes in Cost].

#### **GCC    Contract Price and Payment**

**14**

#### **GCC 14.2    Advance Payment**

GCC 14.2 Advance Payment is hereby substituted entirely and should be read as follows:

The advance payment guarantee shall be issued by a reputable bank selected by the Contractor, and be acceptable to the Employer, and shall be in the form annexed to the Particular Conditions or in another form approved by the Employer.

Add the words at the end of the paragraph:

The Contractor shall provide for Engineer's prior review and approval the draft advance payment security. The Engineer will seek Employer's prior approval on the bank issuing the advance payment security.

The Employer reserve the right during the implementation of the contract from time to time assess the investment position of the bank issuing the advance payment security. If, in opinion of the Employer, the bank issuing the advance payment security is losing its investment position, the Employer shall promptly notify the Contractor and the Contractor shall renew, at its own cost, the advance payment security with another bank satisfactory to the Employer.

#### **GCC 14.4    Schedule of Payments**

The Schedule of payments is as specified below:

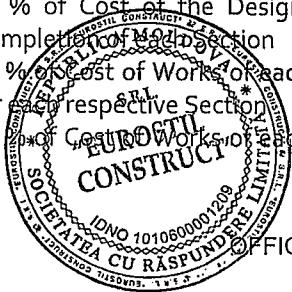
40 % of Cost of the Design of each Section is paid upon Engineer's preliminary acceptance of the Design

30 % of Cost of the Design of each Section is paid upon Engineer's and relevant state bodies' final acceptance of the Design

10 % of Cost of the Design of each Section is paid upon successful pass of Tests on Completion of each Section

20 % of Cost of Works of each Section is paid upon achievement of rate of progress of 30% for each respective Section

20 % of Cost of Works of each Section is paid upon achievement of rate of progress of 50%



for each respective Section

20 % of Cost of Works of each Section is paid upon achievement of rate of progress of 70% for each respective Section

10 % of Cost of Works of each Section is paid upon successful pass of Tests on Completion of each Section of Works

10% of Cost of Works of each Section is paid upon successful pass of Tests after Completion of each Section of Works

#### GCC 14.7 Payment

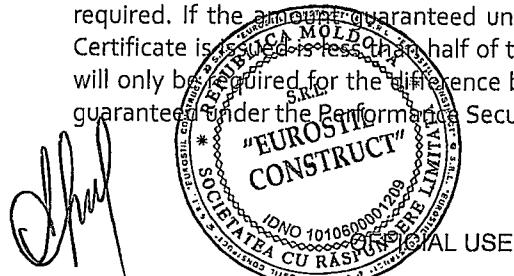
- (b) the amount certified in each Interim Payment Certificate within 56 days after the Engineer receives the Statement and supporting documents or, at a time when the Bank's loan or credit (from which part of the payments to the Contractor is being made) is suspended, the amount shown on any statement submitted by the Contractor within 14 days after such statement is submitted, any discrepancy being rectified in the next payment to the Contractor; and
- (c) the amount certified in the Final Payment Certificate within 56 days after the Employer receives this Payment Certificate or, at a time when the Bank's loan or credit (from which part of the payments to the Contractor is being made) is suspended, the undisputed amount shown in the Final Statement within 56 days after the date of notification of the suspension in accordance with Sub-Clause 16.2.

The Contractor shall notify to the Employer, prior to any payment under the Contract, details of the bank account(s) nominated by the Contractor for payments for the currency or currencies specified in the Contract. All payments of the amounts due to the Contractor may only be made to the Contractor's bank account(s) explicitly detailed in the Contract Agreement.

#### GCC 14.9 Payment of Retention Money

When the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a guarantee, in the form annexed to these Particular Conditions or in another form approved by the Employer and provided by an entity approved by the Employer and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security in Sub-Clause 4.2. On receipt by the Employer of the required guarantee, the Engineer shall certify and the Employer shall pay the second half of the Retention Money. The release of the second half of the Retention Money against a guarantee shall then be in lieu of the release under the second paragraph of this Sub-Clause. The Employer shall return the guarantee to the Contractor within 21 days after receiving a copy of the Performance Certificate.

If the Performance Security required under Sub-Clause 4.2 is in the form of a demand guarantee, and the amount guaranteed under it when the Taking-Over Certificate is issued is more than half of the Retention Money, then the Retention Money guarantee will not be required. If the amount guaranteed under the Performance Security when the Taking-Over Certificate is issued is less than half of the Retention Money, the Retention Money guarantee will only be required for the difference between half of the Retention Money and the amount guaranteed under the Performance Security.



*See附录*

**GCC Currencies of Payment**  
**14.15**

**GCC** Sub-clause 14.15 is inapplicable. The Contract Price shall be paid in **Euro**  
**14.15**

**GCC Termination by Employer**  
**15**

**Termination in case of Prohibited Practices**

If the Employer determines, based on reasonable evidence, that the Contractor has engaged in Prohibited Practices, in competing for or in executing the Contract, then the Employer may, after giving 14 days notice to the Contractor, terminate the Contract and expel him from the Site, and the provisions of Clause 15 shall apply as if such termination had been made under Sub-Clause 15.2.

**GCC Suspension and Termination by Contractor**  
**16**

**Termination by Contractor**

- (h) In the event the Bank suspends the loan or credit from which part or whole of the payments to the Contractor are being made, if the Contractor has not received the sums due to him upon expiration of the 14 days referred to in Sub-Clause 14.7 [Payment] for payments under Interim Payment certificates, the Contractor may, without prejudice to the Contractor's entitlement to financing charges under Sub-Clause 14.8 [Delayed Payment], take one of the following actions, namely (i) suspend work or reduce the rate of work under Sub-Clause 16.1 above, or (ii) terminate under the Contract by giving notice to the Employer, with a copy to the Engineer, such termination to take effect 14 days after the giving of the notice, or
- (i) the Contractor does not receive the Engineer's instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under Sub-Clause 8.1 [Commencement of Works].

**GCC Risk and Responsibility**  
**17**

**GCC 17.7 Use of Employer's Accommodation/Facilities**

The Contractor shall take full responsibility for the care of the Employer provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).

If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Engineer.

**GCC 20.5 Amicable Settlement**

Where a Notice of Dissatisfaction has been given under Sub-Clause 20.4 above, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration.



However, unless both Parties agree otherwise, the Party giving a Notice of Dissatisfaction in accordance with Sub-Clause 20.4 above should move to commence arbitration after the fifty-sixth day from the day on which a Notice of Dissatisfaction was given, even if no attempt at an amicable settlement has been made.

#### **GCC 20.6 Arbitration**

Any dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 20.5 above and in respect of which the Dispute Adjudication Board (DAB)'s decision (if any) has not become final and binding shall be finally settled by arbitration. Arbitration shall be conducted as follows:

- (a) if the Contract is with foreign contractors, international arbitration(i)with proceedings administered by the arbitration institution designated in the Appendix to Tender, and conducted under the rules of arbitration of such institution; or, if so specified in the Appendix to Tender, (ii) international arbitration in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or (iii) if neither an arbitration institution nor UNCITRAL arbitration rules be specified in the Appendix to Tender, with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules.
- (b) The place of arbitration shall be the neutral location specified in the Appendix to Tender, and the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 [Law and Language]
- (c) if the Contract is with domestic contractors, arbitration with proceedings conducted in accordance with the laws of the Employer's country.

The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, and any decision of the DAB, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Engineer from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

Neither Party shall be limited in the proceedings before the arbitrators to the evidence or arguments previously put before the DAB to obtain its decision, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction. Any decision of the DAB shall be admissible in evidence in the arbitration.

Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, the Engineer and the DAB shall not be altered by reason of any arbitration being conducted during the progress of the Works.





# EUROSTIL CONSTRUCT SRL



Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md

## Price Schedules

Participant' Legal Name: SRL EUROSTIL CONSTRUCT, IDNO 1010600001209

Date: December 05, 2020

Tender No.: 47899/W/02/2

SECTION 1, Sports Theoretical High School "Gloria"

Item	Description	M.U	Qty.	UNIT PRICE	TOTAL PRICE
				Euro 1x2	Euro 1x2
			1	2	3
1.	Design	Lump-sum	1	87767.00	87767.00
2.	Thermal insulation of walls	M <sup>2</sup>	4,348	62.00	269576.00
3.	Thermal insulation of flat roof and arch	M <sup>2</sup>	4,262	68.00	289816.00
4.	Basement ceiling insulation	M <sup>2</sup>	802	34.00	27268.00
5.	Replacement of openings (windows and doors)	M <sup>2</sup>	1,164	138	160632.00
6.	Replacement of the heating system	Lump-sum	1	281275.00	281275.00
7.	Individual Heat Substation	Lump-sum	1	37284.00	37284.00
8.	Upgrade of the ventilation system	Lump-sum	1	144471.00	144471.00
9.	Installation of LED lamps	Lump-sum	1	55220.00	55220.00
10.	Installation new kitchen equipment	Lump-sum	1	8000.00	8000.00
11.	Installation of PV system	Lump-sum	1	29447.00	29447.00
12.	Energy management system (Smart metering)	Lump-sum	1	10010.00	10010.00
13.	Non-energy efficiency measures (including floor repair and repair ferric-concrete plates in basement ceiling)	Lump-sum	1	149780.00	149780.00
	<b>TOTAL (TO GRAND SUMMARY)</b>				<b>1550546.00</b>

Name:

In the capacity of:

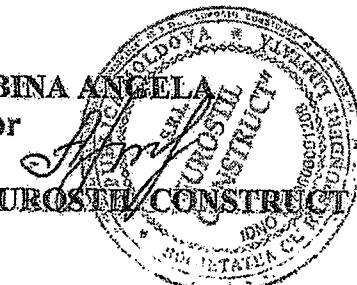
Signed:

Duly authorised to sign for and on behalf of:

SCERBINA ANGELA

Director

SRL EUROSTIL CONSTRUCT





Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md

**Price Schedules**

Participant' Legal Name: SRL EUROSTIL CONSTRUCT, IDNO 1010600001209

Date: December 05, 2020

Tender No.: 47899/W/02/2

SECTION 2, Lyceum "George Meniuc"

Item	Description	M.U	Qty.	UNIT PRICE	TOTAL PRICE
				Euro	Euro 1x2
			1	2	3
1.	Design	Lump-sum	1	51.599,00	51.599,00
2.	Thermal insulation of walls 120 mm	M <sup>2</sup>	3,894	62,00	241428,00
3.	Thermal insulation of aerial passages floor 250 mm	M <sup>2</sup>	260	62,00	16120,00
4.	Thermal insulation of roof	M <sup>2</sup>	4,266	74,00	315684,00
5.	Replacement of openings (windows and doors)	M <sup>2</sup>	1,027	138,00	141726,00
6.	Rehabilitation of ventilation system	Lump-sum	1	86735,00	86735,00
7.	Installation of an individual heating station and heat distribution system rehabilitation	Lump-sum	1	233152,00	233152,00
8.	Lighting system replacement with LED	Lump-sum	1	34140,00	34140,00
9.	Photovoltaic system	Lump-sum	1	30097,00	30097,00
10.	Energy management system (Smart metering)	Lump-sum	1	7070,00	7070,00
11.	Non-energy efficiency measures	Lump-sum	1	40500,00	40500,00
<b>TOTAL (TO GRAND SUMMARY)</b>					1 198 251,00

Name:

In the capacity of:

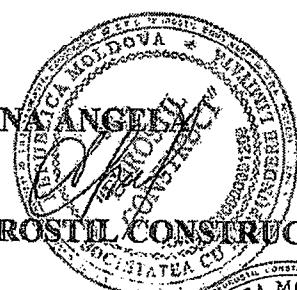
Signed:

Duly authorised to sign for and on behalf of:

SCERBINA ANGELA

Director

SRL EUROSTIL CONSTRUCT

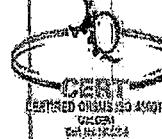


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**EUROSTIL CONSTRUCT SRL**



Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md

### Price Schedules

Participant' Legal Name: SRL EUROSTIL CONSTRUCT, IDNO 1010600001209

Date: December 05, 2020

Tender No.: 47899/VV/02/2

#### SECTION 3, Lyceum "Petru Rareș"

Item	Description	M.U	Qty.	UNIT PRICE		TOTAL PRICE
				Euro	Euro lx2	
			1	2	3	
1.	Design	Lump-sum	1	51658.00	51658.00	
2.	Thermal insulation of walls	M <sup>2</sup>	2,503	62.00	155186.00	
3.	Thermal insulation of roof	M <sup>2</sup>	2,292	74.00	169608.00	
4.	Floor in contact with ambient thermal insulation	M <sup>2</sup>	433	80.00	34640.00	
5.	Replacement of openings (windows and doors)	M <sup>2</sup>	1,279	138.00	176502.00	
6.	Heat distribution system thermal insulation	M	125	22.00	2750.00	
7.	Ventilation system rehabilitation	Lump-sum	1	57885.00	57885.00	
8.	Individual heating station and heat distribution systems rehabilitation	Lump-sum	1	167846.00	167846.00	
9.	Lighting system modernization	Lump-sum	1	27794.00	27794.00	
10.	PV system installation	Lump-sum	1	52462.00	52462.00	
11.	Energy management system (Smart metering)	Lump-sum	1	7069.00	7069.00	
12.	Non-energy efficiency measures	Lump-sum	1	9750.00	9750.00	
	<b>TOTAL (TO GRAND SUMMARY)</b>					<b>913 150.00</b>

Name:

In the capacity of:

Signed:

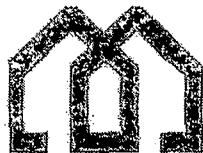
Duly authorised to sign for and on behalf of:

SCERBINA ANGELA  
Director

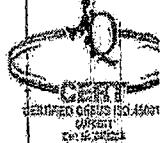
SRL EUROSTIL CONSTRUCT



*Scerbina*  
*Bogdan*



**EUROSTIL CONSTRUCT SRL**



Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md

### Price Schedules

Participant' Legal Name: SRL EUROSTIL CONSTRUCT, IDNO 1010600001209

Date: December 05, 2020

Tender No.: 47899/W/02/2

#### SECTION 4, Gimnaziul internat #3

Item	Description	M.U	Qty.	UNIT PRICE		TOTAL PRICE
				Currency*	Currency*	
				1	2	1x2
1.	Design	Lump-sum	1	38636.00	38636.00	38636.00
2.	Thermal insulation of walls	M <sup>2</sup>	2,582	62.00	160034.00	160034.00
3.	Thermal insulation of flat roof	M <sup>2</sup>	504	68.00	34272.00	34272.00
4.	Insulation of attic floors	M <sup>2</sup>	1,304	48.00	62592.00	62592.00
5.	Insulation of the socle	M <sup>2</sup>	180	52.00	9360.00	9360.00
6.	Replacement of openings (windows and doors)	M <sup>2</sup>	325	138.00	44850.00	44850.00
7.	Replacement of the heating system	Lump-sum	1	121946.00	121946.00	121946.00
8.	Upgrade of the ventilation system	Lump-sum	1	54318.00	54318.00	54318.00
9.	Modernization of the lighting system	Lump-sum	1	10753.00	10753.00	10753.00
10.	Installation of PV system	Lump-sum	1	29447.00	29447.00	29447.00
11.	Energy management system (Smart metering)	Lump-sum	1	8099.00	8099.00	8099.00
12.	Non-energy efficiency measures	Lump-sum	1	109671.00	109671.00	109671.00
<b>TOTAL (TO GRAND SUMMARY)</b>						<b>684 028.00</b>

Name:

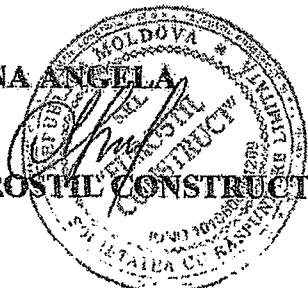
In the capacity of:

Signed:

Duly authorised to sign for and on behalf of:

SCERBINA ANGELA  
Director

SRL EUROSTIL CONSTRUCT





**EUROSTIL CONSTRUCT SRL**



Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md

### Price Schedules

Participant' Legal Name: SRL EUROSTIL CONSTRUCT, IDNO 1010600001209

Date: December 05, 2020

Tender No.: 47899/W/02/2

#### SECTION 5, Theoretical Lyceum Nicolae Gogol

Item	Description	M.U	Qty.	UNIT PRICE	TOTAL PRICE
				Currency*	Currency* 1x2
			1	2	3
1.	Design	Lump-sum	1	85260.00	85260.00
2.	Thermal insulation of walls	M <sup>2</sup>	5,178	62.00	321036.00
3.	Thermal insulation of flat roof, including arch and canopies	M <sup>2</sup>	4,962	68.00	337416.00
4.	Basement ceiling and socle insulation	M <sup>2</sup>	590	52.00	30680.00
5.	Replacement of openings (windows and doors)	M <sup>2</sup>	106	138	14628.00
6.	Replacement of heating system	Lump-sum	1	257195.00	257195.00
7.	Installation of individual heating substation	Lump-sum	1	27941.00	27941.00
8.	Upgrade of the ventilation system	Lump-sum	1	127743.00	127743.00
9.	Installation of LED lamps	Lump-sum	1	40742.00	40742.00
10.	Installation new kitchen equipment	Lump-sum	1	8000.00	8000.00
11.	Installation of PV system	Lump-sum	1	29447.00	29447.00
12.	Modernization of swimming pool	Lump-sum	1	74390.00	74390.00
13.	Energy Management System (Smart metering)	Lump-sum	1	9354.00	9354.00
14.	Non-energy efficiency measures (including repair ferric concrete plates in basement ceiling)	Lump-sum	1	142693.00	142693.00
<b>TOTAL (TO GRAND SUMMARY)</b>					<b>1 506 525.00</b>

Name:

In the capacity of:

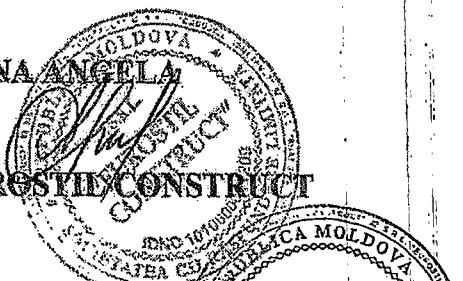
Signed:

Duly authorised to sign for and on behalf of:

SCERBINA ANGELA

Director

SRL EUROSTIL CONSTRUCT



"EUROSTIL  
CONSTRUCT"





**EUROSTIL CONSTRUCT SRL**



Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md  
Price Schedules

Participant' Legal Name: SRL EUROSTIL CONSTRUCT, IDNO 1010600001209

Date: December 05, 2020

Tender No.: 47899/W/02/2

**SECTION 6, Lyceum "Onisifor Ghibu"**

Item	Description	M.U	Qty.	UNIT PRICE	TOTAL PRICE
				Currency*	Currency*
			1	2	1x2
1.	Design	Lump-sum	1	59829,00	59829,00
2.	Thermal insulation of walls	M <sup>2</sup>	3,043	62,00	188604,00
3.	Thermal insulation of flat roof	M <sup>2</sup>	2,618	74,00	193732,00
4.	Floor in contact with ambient thermal insulation	M <sup>2</sup>	500	80,00	40000,00
5.	Replacement of openings (windows and doors)	M <sup>2</sup>	1,046	138,00	144348,00
6.	Heat distribution system thermal insulation	M	60	22,00	1320,00
7.	Ventilation system rehabilitation	Lump-sum	1	106016,00	106016,00
8.	Heat distribution systems rehabilitation	Lump-sum	1	216390,00	216390,00
9.	Lighting system modernization	Lump-sum	1	42633,00	42633,00
10.	Photovoltaic system installation	Lump-sum	1	46190,00	46190,00
11.	Energy management system (Smart metering)	Lump-sum	1	7133,00	7133,00
12.	Non-energy efficiency measures	Lump-sum	1	12000,00	12000,00
<b>TOTAL (TO GRAND SUMMARY)</b>					<b>1 058 195,00</b>

Name:

In the capacity of:

Signed:

Duly authorised to sign for and on behalf of:

SCERBINA ANGELA

Director

SRL EUROSTIL CONSTRUCT



*Off my*

*Bogdan*



**EUROSTIL CONSTRUCT SRL**



Republica Moldova, Chișinău, str.Mtr. Gurie Grosu 17 tel. /00373/269-400(411) eurostilconstruct.md

**Price Schedules**

Participant' Legal Name: SRL. EUROSTIL CONSTRUCT, IDNO 1010600001209

Date: December 05, 2020

Tender No.: 47899/W/02/2

**GRAND SUMMARY**

Item	Description	TOTAL PRICE	
		Euro	
	<b>TOTAL SECTION 1</b>	1 550 546,00	
	<b>TOTAL SECTION 2</b>	1 198 251,00	
	<b>TOTAL SECTION 3</b>	913 150,00	
	<b>TOTAL SECTION 4</b>	684 028,00	
	<b>TOTAL SECTION 5</b>	1 506 525,00	
	<b>TOTAL SECTION 6</b>	1 058 195,00	
	<b>GRAND TOTAL (TO LETTER OF TENDER)</b>	<b>6 910 695,00</b>	

Name:

In the capacity of:

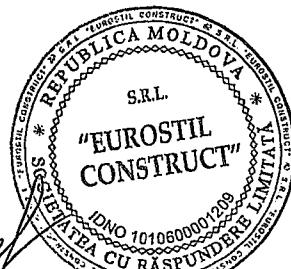
Signed:

Duly authorised to sign for and on behalf of:

SCERBINA ANGELA

Director

SRL. EUROSTIL CONSTRUCT



**Amendment no. 1 to Contract Agreement  
No. 47899/W/02/2 Lot 2**

THIS AMENDMENT to CONTRACT AGREEMENT is made on the 18 day of April, 2022.

BETWEEN

- (1) City Hall of Chisinau, Republic of Moldova, and having its principal place of business at 83 Stefan cel Mare blvd., Chisinau MD-2012, Republic of Moldova (hereinafter called "the Employer"), and
- (2) Eurostil Construct SRL, a corporation Incorporated under the laws of Republic of Moldova under reg. No. 1010600001209 and having its principal place of business at 1, Mitropolit Gurie Grosu str., of. 28, Chisinau MD-2028, Republic of Moldova. (hereinafter called "the Contractor").

The Employer and the Contractor agree as follows:

Taking into account that

- a) the Commencement Date of the Work under the contract No. 47899/W/02/2 Lot 2 dated 16 March, 2021 was 15 April 2022;
- b) the delivery of the several category of goods and materials cannot be done due to ongoing effects of the war in Ukraine;

The Employer and the Contractor agree as follows:

1. Appendix to Tender, sub-clause 1.1.3.3 Time for completion should be read as follows  
*16 months for Lot 2.*

2. All other terms and conditions of Contract remain unchanged.

Amendment to be executed in accordance with the laws of Republic of Moldova on the day, month and year indicated above.

Signed by: Ion Ceban  
General Mayor

For and on behalf of the Employer

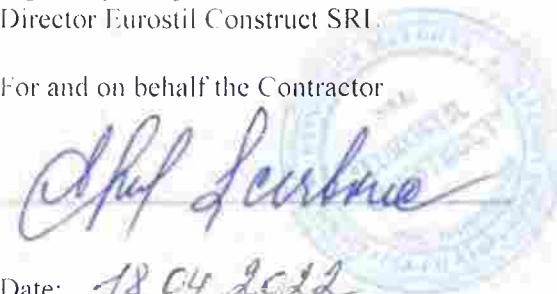
Date: 18.04.2022



Signed by: Angela Scerbina  
Director Eurostil Construct SRL

For and on behalf the Contractor

Date: 18.04.2022



**Amendment no. 3 to Contract Agreement**  
**No. 47899/W/02/2 Lot 2**

THIS AMENDMENT to CONTRACT AGREEMENT is made on the 04 day of August 2022.  
BETWEEN

- (1) City Hall of Chisinau, Republic of Moldova, and having its principal place of business at 83 Stefan cel Mare blvd., Chisinau MD-2012, Republic of Moldova (hereinafter called "the Employer"), and
- (2) Eurostil Construct SRL, a corporation Incorporated under the laws of Republic of Moldova under reg. No. 1010600001209 and having its principal place of business at 1, Mitropolit Gurie Grosu str., of. 28, Chisinau MD-2028, Republic of Moldova, (hereinafter called "the Contractor").

Following the Contractor's Proposal for Variation No. 1, submitted in accordance with GCC13.2, and the Engineer's acceptance, the Employer and the Contractor agree as follows:

- upgrade of the price schedule according to missed volume works;
- equipping individual heating stations with DHW for Gloria high school;
- extension of EMS to cover all meters of institutions.

1. The Technical Requirements for Supplementary DHW and quantity /volume of smart meters (EMS) are inserted as provided in **Annex 1** to this Amendment.
2. The initial prices, cost variations and prices after variations of Section 1, Section 2, Section 3, Section 4, Section 5, Section 6 are indicated in **Annex 2** to this Amendment.
3. Price Schedules GRAND SUMMARY is substituted entirely and should be read as provided in **Annex 3** to this Amendment.

All other parts of the Contract remain unchanged.

Amendment to be executed in accordance with the laws of Republic of Moldova on the day, month and year indicated above.

Signed by: Ion Ceban  
General Mayor

For and on behalf of the Employer

Date: 04.08.2022



Signed by: Angela Scerbina  
Director Eurostil Construct SRL

For and on behalf of the Contractor

Date: 04.08.2022



**Annex 1 to the Amendment no. 3 to Contract Agreement**  
**No. 47899/W/02/2 Lot 2**

**1.1. The Particular requirements Sports Theoretical High School Gloria, clause 2.6. Installation of an individual heating substation is added by the following:**

Equipping individual heating substation with District Hot Water (DHW) at Sports Theoretical High School "Gloria"

Item	Description	Designed heating capacity	Supplementary DHW Capacity according to Termoelectrica requests	Total Heating Capacity
		kW	kW	kW
1	2	3	4	5
2.6	Individual Heat Substation	638	470,5	1108,50

**1.2 The following missed quantity /volume of smart meters (EMS) at 4 lyceums, namely Gloria, G. Meniuc, Nicolae Gogol and O. Ghibu is added:**

GLORIA	Contract	Site necessity	Variation
ITEM	Q-ty	Q-ty	Q-ty
Heat meter	4	4	0
Electrical meter	6	3	-3
Cold water meter	1	2	1
<b>Total</b>	<b>11</b>	<b>9</b>	<b>-2</b>

G. MENIUC	Contract	Site necessity	Variation
ITEM	Q-ty	Q-ty	Q-ty
Heat meter	1	1	0
Electrical meter	1	4	3
Cold water meter	1	1	0
<b>Total</b>	<b>3</b>	<b>6</b>	<b>3</b>

Gogol	Contract	Site necessity	Variation
ITEM	Q-ty	Q-ty	Q-ty
Heat meter	1	1	0
Heat meter (DHW)	2	2	0
Electrical meter	4	3	-1
Cold water meter	2	2	0
<b>Total</b>	<b>9</b>	<b>8</b>	<b>-1</b>

O.Ghibu	Contract	Site necessity	Variation
ITEM	Q-ty	Q-ty	Q-ty
Heat meter	1	1	
Electrical meter	1	2	
Cold water meter	1	1	
<b>Totals</b>	<b>3</b>	<b>4</b>	



**Annex 2 Amendment no. 3 to Contract Agreement**  
**No. 47899/W/02/2 Lot 2**

**SECTION 1 – High School Gloria**

Item	Description	Contract price	Variation amount	MU	Q	Contract price after variation
1	SECTION 1 - Sports Theoretical High School "Gloria"	€1 550 546,00	€148 610,51	Lump-sum	1	€1 699 156,51

**SECTION 2 - - Lyceum "George Meniuc"**

Item	Description	Contract price	Variation amount	MU	Q	Contract price after variation
1	SECTION 2 – George Meniuc High School	€1 198 251,00	€206 501,23	Lump-sum	1	€1 404 752,23

**SECTION 3 – PETRU RARES High School**

Item	Description	Contract price	Variation amount	MU	Q	Contract price after variation
1	TOTAL SECTION 3 - Lyceum "Petru Rares"	€913 150,00	€197 449,32	Lump-sum	1	€1 110 599,32

**SECTION 4 – Gimnaziul Internat 3**

Item	Description	Contract price	Variation amount	MU	Q	Contract price after variation
4	TOTAL SECTION 4 - Gimnaziul internat #3	€684 028,00	€44 669,32	Lump-sum	1	€728 697,32

**SECTION 5 – N. Gogol High School**

Item	Description	Contract price	Variation amount	MU	Q	Contract price after variation
1	TOTAL SECTION 5 - Theoretical Lyceum Nicolae Gogol	€1 506 525,00	€146 710,54	Lump-sum	1	€1 653 235,54

**SECTION 6 – O. Ghibu High School**

Item	Description	Contract price	Variation amount	MU	Q	Contract price after variation
1	TOTAL SECTION 6 - Lyceum "Onisifor Ghibu"	€1 058 257,00	€13 038,02	Lump-sum	1	€1 071 295,02



**Annex 3 Amendment no. 3 to Contract Agreement**  
**No. 47899/W/02/2 Lot 2**

**GRAND SUMMARY**

<b>Nr.</b>	<b>Description</b>	<b>Initial Contract Price, Euro</b>	<b>Total Variation Price, Euro</b>	<b>TOTAL Contract Price, including the variations, Euro</b>
1	TOTAL SECTION 1 - Sports Theoretical High School "Gloria"	€1 550 546,00	€148 610,51	€1 699 156,51
2	TOTAL SECTION 2 - Lyceum "George Meniuc"	€1 198 251,00	€206 501,23	€1 404 752,23
3	TOTAL SECTION 3 - Lyceum "Petru Rares"	€913 150,00	€197 449,32	€1 110 599,32
4	TOTAL SECTION 4 - Gimnaziul internat #3	€684 028,00	€44 669,32	€728 697,32
5	TOTAL SECTION 5 - Theoretical Lyceum Nicolae Gogol	€1 506 525,00	€146 710,54	€1 653 235,54
6	TOTAL SECTION 6 - Lyceum "Onisifor Ghibu"	€1 058 257,00	€13 038,02	€1 071 295,02
	<b>Grand Summary, EURO</b>	<b>€6 910 757,00</b>	<b>€756 978,95</b>	<b>€7 667 735,95</b>



**GRCF CHISINAU BUILDINGS SUB-PROJECT**  
**Tranche I, Energy Efficiency Measures in 17 public buildings**  
**Works Contract for Lot 2 (47899/W/02/2 Lot 2) Energy Efficiency Measures in 6 lyceums**

**Antreprenor:** Eurostil Construct SRL

**Beneficiar:** Primaria Chișinău

**Inginer:** EPTISA

**PROCES-VERBAL**  
**DE RECEPȚIE LA TERMINAREA LUCRĂRILOR**  
Nr. 0161 din 07.07.2022

privind lucrarea de **reabilitare a clădirilor, cu scopul sporirii eficienței energetice și reducerii consumului de energie**, executată la obiectul cu nr. cadastral **0100417.514.01** (Instituția Publică „**Liceul Teoretic George Meniuc**“) în cadrul contractului nr. **47899/W/02/2 Lot 2** din **16.03.2021** încheiat între **Primăria Municipiului Chișinău și Eurostil Construct SRL** pentru lucrările de **reabilitare a imobilelor cu scopul sporirii eficienței energetice și reducerii consumului de energie**

1. Lucrările au fost executate în baza autorizației nr. **175-C/21** din **18.06.2021** cu valabilitate pînă la **18.06.2022**.

2. Comisia de recepție:

Președintele comisiei: Andrei PAVALOI, sef adjunct DGETS

Membrii: Daniel CERESCU, inginer DGETS

Valentina RAU, Sef interimar DETS Răscani

Cătălin Crețu reprezentant Eptisa

Rața Lucia - Directorul Școlii

Sergiu Ungureanu – Unitatea de Implementare a Proiectelor

(numele, prenumele)

3. Au mai participat la recepție:

Burcă Andrei

Reprezentantul Antreprenorului

(numele, prenumele)

(calitatea)

4. Constatările comisiei de recepție:

**Lucrările cuprinse în lista-anexă nr. 1 necesită remedieri;**

5. Comisia de recepție, în urma constatarilor făcute, propune:

**Lucrările executate și echipamentele instalate pot fi exploataate.**

6. Comisia de recepție motivează propunerea făcută prin:

**Lucrarile executate și echipamentele instalate sunt funcționale, neconformitățile depistate nu influențează asupra exploatarii acestora.**

7. Comisia de recepție recomandă următoarele:

**Antreprenorul Eurostil Construct SRL, urmează să remedieze obiectile menționate în anexa nr.1, în termenul stabilit de legislație și condițiile contractului.**

8. Prezentul proces-verbal conține 2(două) file și 1(una) anexă ce conține 2(două) file, a fost încheiat astăzi **07.07.2022** în 6(sase) exemplare.

**COMISIA DE RECEPȚIE**

Președinte:

Membri: Risto Luciu, dr.-inșiner TEPZ  
Severin Vlăduță, șef-șef de proiect  
Andrei Ungureanu, șef-șef de proiect  
Cătălin Ghețu - EPISA  
Andrei Pavelci  
Daniel Corescu

**INVITAȚI**

Emilie Andrei

John D.

9. Lucrările conform contractului 47899/W/02/2 Lot 2 sunt:

**TRANSMISE**

EXECUTANTUL: Eurostil Construct SRL



**PRIMITE**

BENEFICIARUL: Primăria Chișinău

" " 2022

L.S. (semnătura)



Prin prezenta se confirm realizarea și finalizarea lucrărilor indicate în tabel mai jos conform Contractul nr.47899/w/02/2 Lot2 din 16.03.2021 încheiat între Primăria mun. Chișinău și Eurostil Construct SRL  
Semnaturile comisiei de primire

LICEUL G MENIUC	Antreprenor	Eptisa	Liceul G Meniuc	PIU	DETS Rîșcani	DGETS
Proiectare						
Izolare termică a peretilor						
Izolare termică a podeelor pasajelor aeriene						
Izolare termică a acoperișului						
Înlocuirea deschiderilor (ferestre și uși)						
Reabilitarea sistemului de ventilație						
Instalarea unei stații individuale de încălzire și reabilitarea sistemului de distribuție a căldurii						
Înlocuirea sistemului de iluminat cu LED						
Sistem fotovoltaic						
Sistem de management al energiei (contorizare intelligentă)						
Măsuri de eficiență non-energetică						

Alte lucrări executate: (dacă sunt)



**GRCF CHISINAU BUILDINGS SUB-PROJECT**  
**Tranche I, Energy Efficiency Measures in 17 public buildings**  
**Works Contract for Lot 2 (47899/W/02/2 Lot 2) Energy Efficiency Measures in 6 lyceums**

Antreprenor: Eurostil Construct SRL

Beneficiar: Primăria Chișinău

Înginer: EPTISA

**PROCES-VERBAL**  
**DE RECEPȚIE LA TERMINAREA LUCRĂRILOR**  
**Nr. 06 - 6 din 11.07.2022**

privind lucrarea de reabilitare a clădirilor, cu scopul sporirii eficienței energetice și reducerii consumului de energie, executată la obiectul cu nr. cadastral 0100103.276.01 și 0100103276.02 (Instituția Publică Liceul teoretic cu profil sportiv "Gloria") în cadrul contractului nr. 47899/W/02/2 Lot 2 din 16.03.2021 încheiat între Primăria Municipiului Chișinău și Eurostil Construct SRL pentru lucrările de reabilitare a imobilelor cu scopul sporirii eficienței energetice și reducerii consumului de energie

1. Lucrările au fost executate în baza autorizației nr. 173-C/21 din 18.06.2021 cu valabilitate pînă la **18.06.2022**.

2. Comisia de recepție:

Președintele comisiei: Andrei PAVALOI, sef adjunct DGETS

Membrii: Daniel CERESCU, inginer DGETS

Ion MUSTEATA - Sef DETS Botanica

Catalin Cretu reprezentant Eptisa

Pădureț Nicolae - Directorul Scolii

Sergiu Ungureanu – Unitatea de Implementare a Proiectelor

(numele, prenumele)

3. Au mai participat la recepție:

Burcă Andrei

Reprezentantul Antreprenorului

(numele, prenumele)

(calitatea)

4. Constatările comisiei de recepție:

**Lucrările cuprinse în lista-anexă nr. 1 necesită remedieri;**

5. Comisia de recepție, în urma constatărilor facute, propune:

**Lucrările executate și echipamentele instalate pot fi exploatare.**

6. Comisia de recepție motivează propunerea făcută prin:

**Lucrarile executate și echipamentele instalate sunt funcționale, neconformitățile depistate nu influentează asupra exploatarii acestora.**

7. Comisia de recepție recomandă următoarele:

**Antreprenorul Eurostil Construct SRL, urmează să remedieze obiecțiile menționate în anexa nr.1, în termenul stabilit de legislație și condițiile contractului.**

8. Prezentul proces-verbal conține 3(trei) file și 1(una) anexă ce conține, a fost încheiat astăzi 20.07.2022 în 6(șase) exemplare.

**COMISIA DE RECEPȚIE**

Președinte: Andrei Pavel

Membri:

Catalin Belu - Iepura  
Lucia Chircova - VIP  
Andrei S.  
Mihai I.  
Daniel Cozorici

**INVITAȚI**

Emil Andrei

9. Lucrările conform contractului 47899/W/02/2 Lot 2 sunt:

**TRANSMISE**

EXECUTANTUL: Eurostil Construct SRL



**PRIMITE**

BENEFICIARUL: Primăria Chișinău/ DGETS

" " 2022

L.S. \_\_\_\_\_  
(semnătura)



Prin prezenta se confirm realizarea și finalizarea lucrărilor indicate în tabel mai jos conform Contractului nr.47899/w/02/2 Lot2 din 16.03.2021 încheiat între Primăria mun. Chișinău și Eurostil Construct SRL

Semnaturile comisiei de primire

GLORIA	Antreprenor	Eptisa	Directia Botanica	DGETS	PIU	Liceul Gloria
Proiectare						
Izolare termică a acoperisului plat și a arcului						
Izolare termică a peretilor						
Izolare de tavan la subsol						
Inlocuirea deschiderilor (ferestre și uși)						
Inlocuirea sistemului de încălzire						
Punct termic individual (PTI)						
Modernizarea sistemului de ventilatie						
Instalare lămpi LED						
Instalare echipamente noi de bucătărie						
Instalare sistem PV						
Sistem de management al energiei (contorizare inteligentă)						
Măsuri de eficiență non-energetică (inclusiv repararea podelelor și repararea plăcilor de beton feric în tavanul subsolului)						

Obiecții sugestii dacă sunt:



**Liceul teoretic cu profil sportiv Gloria**

**Rămîn în monitorizare următoarele:**

Cu asigurarea că toate acestea vor fi remediate în perioada de garanție

Infiltrările depistate în:

Sala de ceremonii, Bibliotecă, alte săli





**GRCF CHISINAU BUILDINGS SUB-PROJECT**  
**Tranche I, Energy Efficiency Measures in 17 public buildings**  
**Works Contract for Lot 2 (47899/W/02/2 Lot 2) Energy Efficiency Measures in 6 lyceums**

**Antreprenor:** Eurostil Construct SRL

**Beneficiar:** Primaria Chișinău

**Inginer:** EPTISA

**PROCES-VERBAL**  
**DE RECEPȚIE LA TERMINAREA LUCRĂRILOR**  
**Nr. 02/61 din 07.07.2022**

privind lucrarea de reabilitare a imobilului, cu scopul sporirii eficienței energetice și reducerii consumurilor de energie, executată la obiectul cu nr. cadastral 0100209.471.01/02 (Instituția Publică Gimnaziul Internat nr.3) în cadrul contractului nr. 47899/W/02/2 Lot 2 din 16.03.2021 încheiat între Primăria Municipiului Chișinău și Eurostil Construct SRL pentru lucrările de reabilitare a imobilelor cu scopul sporirii eficienței energetice și reducerii consumului de energie.

1. Lucrările au fost executate în baza autorizației nr. 174-C/21 din 18.06.2021 cu valabilitate pînă la 18.06.2022.

2. Comisia de recepție:

Președintele comisiei: Andrei PAVALOI, sef adjunct DGETS

Membrii: Daniel CERESCU, inginer DGETS

Natalia Străjescu, Sef DETS Centru

Cătălin Crețu reprezentant Eptisa

Sîrbu Ana - Directorul Scolii

Sergiu Ungureanu – Unitatea de Implementare a proiectelor

(numele, prenumele)

3. Au mai participat la recepție:

Burcă Andrei

(numele, prenumele)

Reprezentantul Antreprenorului

(calitatea)

4. Constatările comisiei de recepție:

**Lucrările cuprinse în lista-anexă nr. 1 necesită remedieri;**

5. Comisia de recepție, în urma constatărilor făcute, propune:

**Lucrările executate și echipamentele instalate pot fi exploatare.**

6. Comisia de recepție motivează propunerea făcută prin:

**Lucrarile executate și echipamentele instalate sunt funcționale, neconformitățile depistate nu influentează asupra exploatarii acestora.**

7. Comisia de recepție recomandă următoarele:

**Antreprenor Eurostil Construct SRL, urmează să remedieze obiecțiile mentionate în anexa nr.1, în termenul stabilit de legislație și condițiile contractului.**

8. Prezentul proces-verbal conține 2(două) file și 1(una) anexă ce conține 2(două) file, a fost încheiat astăzi **07.07.2022** în 6(șase) exemplare.

**COMISIA DE RECEPȚIE**

Președinte: \_\_\_\_\_

Membri: *Valerica Popescu* *Andrei Andrei* *Ion Popescu*

*Cătălin Crețu* *Andrei Andrei*

*Daniel Cărescu* *Andrei Andrei*

*Andrei Sîrbu* *Andrei Andrei*

*Valerica Chisacană* *Andrei Andrei*

*Andrei Pavel* *Andrei Andrei*

**INVITAȚI**

*Bozor Andrei* *Ion Popescu*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Lucrările conform contractului 47899/W/02/2 Lot 2 sunt:

**TRANSMISE**

**EXECUTANT** Eurostil Construct SRL



2022

L.S. *(semnătura)*

**PRIMITE**

**BENEFICIARUL:** Primăria Chișinău / DGETS

2022

L.S. *(semnătura)*



Prin prezenta se confirmă realizarea și finalizarea lucrărilor indicate în tabel mai jos conform Contractului nr.47899/w/02/2 Lot2 din 16.03.2021 încheiat între Primăria mun. Chișinău și Eurostil Construct SRL  
Semnaturile comisiei de primire

ȘCOALA INTERNAT NR. 3	Antreprenor	Eptisa	Scoala internat	PIU	DETS Centru	DGETS
Proiectare						
Izolarea termică a acoperisului plat		RT-2021				
Izolarea podelelor de mansardă						
Izolarea termică a peretilor						
Inlocuirea deschiderilor (ferestre și usi)						
Inlocuirea sistemului de căldură-						
Imbunătățirea sistemului de ventilație						
Modernizarea sistemului de iluminat						
Sistem de management al energiei (contorizare inteligentă)						
Măsuri de eficiență non-energetică						

Alte lucrări executate: (dacă sunt)



**GRCF CHISINAU BUILDINGS SUB-PROJECT**  
**Tranche I, Energy Efficiency Measures in 17 public buildings**  
**Works Contract for Lot 2 (47899/W/02/2 Lot 2) Energy Efficiency Measures in 6 lyceums**

Antreprenor: Eurostil Construct SRL

Beneficiar: Primaria Chișinău

Inginer: EPTISA

**PROCES-VERBAL**  
**DE RECEPȚIE LA TERMINAREA LUCRĂRILOR**  
**Nr. 03NG din 07.07.2022**

privind lucrarea de reabilitare a imobilului, cu scopul sporirii eficienței energetice și reducerii consumurilor de energie, executată la obiectul cu nr. cadastral 0100521.289.01 (Instituția Publică "Liceul Teoretic Nicolae Gogol") în cadrul contractului nr. 47899/W/02/2 Lot 2 din 16.03.2021 încheiat între Primăria Municipiului Chișinău și Eurostil Construct SRL pentru lucrările de reabilitare a imobilelor cu scopul sporirii eficienței energetice și reducerii consumului de energie.

1. Lucrările au fost executate în baza autorizației nr. 176-C/21 din 24.06.2021 cu valabilitate pînă la **24.06.2022**.

2. Comisia de recepție:

Președintele comisiei: Andrei PAVALOI, sef adjunct DGETS

Membrii: Daniel CERESCU, inginer DGETS

*Tatiana Oboroc, șef interinan DETS București*

Cătălin Crețu reprezentant Eptisa

Soltanovscaia Marina - Directorul Scolii

Sergiu Ungureanu – Unitatea de Implementare a Proiectelor

(numele, prenumele)

3. Au mai participat la recepție:

Burca Andrei

Reprezentantul Antreprenorului

(numele, prenumele)

(calitatea)

4. Constatările comisiei de recepție:

**Lucrările cuprinse în lista-anexă nr. 1 necesită remedieri;**

5. Comisia de recepție, în urma constatărilor făcute, propune:

**Lucrările execute și echipamentele instalate pot fi exploatare.**

6. Comisia de recepție motivează propunerea făcută prin:

**Lucrarile executate și echipamentele instalate sunt funcționale, neconformitățile depistate nu influențează asupra exploatarii acestora.**

#### 7. Comisia de recepție recomandă următoarele:

**Antreprenor Eurostil Construct SRL, urmează să remedieze obiectile menționate în anexa nr.1, în termenul stabilit de legislație și condițiile contractului.**

8. Prezentul proces-verbal conține 2(două) file și 1(una) anexă ce conține 2(două) file, a fost încheiat astăzi **07.07.2022** în 6(sase) exemplare.

## COMISIA DE RECEPȚIE

Președinte:

Membri: Saltanoviciu Marcel  
Tatiana Oboroc Tomu  
Argirel Angeliana CLIP Argirel  
Daniel Corescu Mihai  
Andrei Pavelci Mihai

## INVITATI

Bacon      Amber

9. Lucrările conform contractului 47899/W/02/2 Lot 2 sunt:

## TRANSMISE

EXECUTANTUL: Eurostil Construct SRL

A circular blue ink stamp with the text "SOCIETATEA CU RĂSPUNDERE LIMITATĂ" around the perimeter and "CONSTRUCT" in the center. Overlaid on the stamp is a signature in blue ink that appears to read "L.S. (semnatura SRL CONSTRUCT)". There is also a small number "2022" at the top right of the stamp.

## PRIMITIVE

BENEFICIARUL: Primaria Chisinau / DGETS

" " 2022  
L.S. \_\_\_\_\_  
(semp̄tura)



Prin prezenta se confirm realizarea și finalizarea lucrărilor indicate în tabel mai jos conform Contractul nr.47899/w/02/2 Lot2 din 16.03.2021 încheiat între Primăria mun. Chișinău și Eurostil Construct SRL  
 Semnaturile comisiei de primire

GOGOL	Antreprenor	Eptisa	Liceul N Gogol	PIU	DETS Centru	DGETS
Proiectare						
Izolare termică a peretilor						
Izolarea termică a acoperișului plat, inclusiv arc și Copertine						
Izolarea tavanului subsolului și a soclului						
Înlocuirea subsolului (ferestre și usi)-						
Înlocuirea sistemului de încălzire						
Instalarea statiei individuale de încălzire						
Imbunătățirea sistemului de ventilație-						
Instalarea lămpilor LED						
Instalare echipamente noi de bucătarie						
Instalarea sistemului PV						

Comentarii obiectii: (dacă sunt)



**Liceul teoretic Nicolae Gogol**

**Rămîn în monitorizare următoarele:**

Cu asigurarea că toate acestea vor fi remediate în perioada de garanție

Infiltrările depistate în grupurile sanitare la Bazin

Parametrii de funcționare normală a bazinei, temperatura internă, umiditatea, ventilarea

Buna funcționare a bazinei și calitatea execuției acestuia



**GRCF CHISINAU BUILDINGS SUB-PROJECT**  
**Tranche I, Energy Efficiency Measures in 17 public buildings**  
**Works Contract for Lot 2 (47899/W/02/2 Lot 2) Energy Efficiency Measures in 6 lyceums**

Antreprenor: Eurostil Construct SRL

Beneficiar: Primaria Chișinău

Inginer: EPTISA

**PROCES-VERBAL**  
**DE RECEPȚIE LA TERMINAREA LUCRĂRILOR**  
**Nr. 04-06 din 11.07.2022**

privind lucrarea de reabilitare a clădirilor, cu scopul sporirii eficienței energetice și reducerii consumului de energie, executată la obiectul cu nr. cadastral 0100509.196.01 (Institutia Publică „Liceul Teoretic Onisifor Ghibu”) în cadrul contractului nr. 47899/W/02/2 Lot 2 din 16.03.2021 încheiat între Primăria Municipiului Chișinău și Eurostil Construct SRL pentru lucrările de reabilitare a imobilelor cu scopul sporirii eficienței energetice și reducerii consumului de energie

1. Lucrările au fost executate în baza autorizației nr. 160-C/21 din 11.06.2021 cu valabilitate pînă la **11.06.2022**.

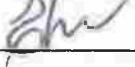
2. Comisia de recepție:

Președintele comisiei: Andrei PAVALOI, sef adjunct DGETS

Membrii: Daniel CERESCU, inginer DGETS

Tatiana OBOROC Sef interimar DETS Buiucani

Cătălin Cretu reprezentant Eptisa 

Cernei Elena - Directorul Școlii 

Sergiu Ungureanu – Unitatea de Implementare a Proiectelor

(numele, prenumele)

3. Au mai participat la recepție:

Burcă Andrei Reprezentantul Antreprenorului

(numele, prenumele)

(calitatea)

4. Constatările comisiei de recepție:

**Lucrările cuprinse în lista-anexă nr. 1 necesită remedieri;**

5. Comisia de recepție, în urma constatărilor facute, propune:

**Lucrările executate și echipamentele instalate pot fi exploataate.**

6. Comisia de recepție motivează propunerea făcută prin:

**Lucrarile executate și echipamentele instalate sunt funcționale, neconformitățile depistate nu influențează asupra exploatarii acestora.**

7. Comisia de recepție recomandă următoarele:

**Antreprenorul Eurostil Construct SRL, urmează să remedieze obiectile menționate în anexa nr.1, în termenul stabilit de legislație și condițiile contractului.**

8. Prezentul proces-verbal conține 2(două) file și 1(una) anexă ce conține 2(două) file, a fost încheiat astăzi **11.07.2022** în 6(șase) exemplare.

**COMISIA DE RECEPȚIE**

Președinte:

Membri:

*Elena Cernău* *B.I.*  
*George Ciurcăea* *B.I.*  
*Costin Gelu - Epica -* *B.I.*  
*Andrei Pavelci* *B.I.*  
*Daniel Corescu* *B.I.*

**INVITAȚI**

*B.I.* *B.I.* *B.I.*

9. Lucrările conform contractului 47899/W/02/2 Lot 2 sunt:

**TRANSMISE**

**EXECUTANTUL** Eurostil Construct SRL



2022

L.S.

(semnătura)

**PRIMITE**

**BENEFICIARUL:** Primăria Chișinău / DGETS

2022

L.S.

(semnătura)



Prin prezenta se confirm realizarea și finalizarea lucrărilor indicate în tabel mai jos conform Contractul nr.47899/w/02/2 Lot2 din 16.03.2021 încheiat între Primăria mun. Chișinău și Eurostil Construct SRL  
 Semnaturile comisiei de primire

LICEUL O GHIBU	Antreprenor	Eptisa	Liceul O. Ghibu	PIU	DETS Centru	DGETS
Proiectare						
Izolare termică a peretilor						
Izolare termică a acoperișului plat						
Podea în contact cu izolația termică ambientală						
Inlocuirea deschiderilor (ferestre și uși)						
Izolație termică a sistemului de distribuție a căldurii						
Reabilitarea sistemului de ventilație						
Reabilitarea sistemelor distribuție a căldurii						
Modernizarea sistemului de iluminat						
Instalarea sistemului Fotovoltaic						
Sistem de management al energiei (contorizare intelligentă)						
Măsuri de eficiență non-energetică						

Alte lucrări executate: (dacă sunt)



**GRCF CHISINAU BUILDINGS SUB-PROJECT**  
**Tranche I, Energy Efficiency Measures in 17 public buildings**  
**Works Contract for Lot 2 (47899/W/02/2 Lot 2) Energy Efficiency Measures in 6 lyceums**

**Antreprenor:** Eurostil Construct SRL

**Beneficiar:** Primăria Chișinău

**Inginer:** EPTISA

**PROCES-VERBAL**  
**DE RECEPȚIE LA TERMINAREA LUCRĂRILOR**  
**Nr. 05 PR din 11.07.2022**

privind lucrarea de **reabilitare a clădirilor, cu scopul sporirii eficienței energetice și reducerii consumului de energie**, executată la obiectul cu nr. cadastral **0100509.196.01** (Instituția Publică „Liceul Teoretic Petru Rareș”) în cadrul contractului nr. **47899/W/02/2 Lot 2** din **16.03.2021** încheiat între **Primăria Municipiului Chișinău și Eurostil Construct SRL** pentru lucrările de **reabilitare a imobilelor cu scopul sporirii eficienței energetice și reducerii consumului de energie**

1. Lucrările au fost executate în baza autorizației nr. **172-C/21** din **18.06.2021**.

2. Comisia de recepție:

Președintele comisiei: Andrei PAVALOI, sef adjunct DGETS

Membrii: Daniel CERESCU, inginer DGETS

Tatiana OBOROC Sef interimar DETS Buiucani

Cătălin Cretu reprezentant Eptisa

Ungureanu Lidia - Directorul Scolii

Sergiu Ungureanu – Unitatea de Implementare a Proiectelor

(numele, prenumele)

3. Au mai participat la recepție:

Burca Andrei

Reprezentantul Antreprenorului

(numele, prenumele)

(calitatea)

4. Constatările comisiei de recepție:

**Lucrările cuprinse în lista-anexă nr. 1 necesită remedieri;**

5. Comisia de recepție, în urma constatărilor facute, propune:

**Lucrările executate și echipamentele instalate pot fi exploataate.**

6. Comisia de recepție motivează propunerea făcută prin:

**Lucrările executate și echipamentele instalate sunt funcționale, neconformitățile depistate nu influențează asupra exploatarii acestora.**

1. Comisia de recepție recomandă următoarele:

**Antreprenorul Eurostil Construct SRL, urmează să remedieze obiectiile menționate în anexa nr.1, în termenul stabilit de legislație și condițiile contractului.**

8. Prezentul proces-verbal conține 2(două) file și 1(una) anexă ce conține 2(două) file, a fost încheiat astăzi **11.07.2022** în 6(șase) exemplare.

**COMISIA DE RECEPȚIE**

Președinte:

Membri: *Georgescu L. Gheorghe Georgescu DIP ORT*  
*Cretu Catalin - Episa*  
*Daniel Cretescu*  
*Andrei Pavelci*

**INVITAȚI**

*Curte Andrei*

*...*

9. Lucrările conform contractului 47899/W/02/2 Lot 2 sunt:

**TRANSMISE**

EXECUTANTUL: Eurostil Construct SRL



**PRIMITE**

BENEFICIARUL: Primăria Chisinau

" " 2022

L.S. (semnătura)



Prin prezenta se confirm realizarea și finalizarea lucrărilor indicate în tabel mai jos conform Contractul nr.47899/w/02/2 Lot2 din 16.03.2021 încheiat între Primăria mun. Chișinău și Eurostil Construct SRL  
Semnaturile comisiei de primire

RAREŞ	Antreprenor	Eptisa	Liceul P Rareş	PIU	DETS Buiucani	DGETS
Proiectare						
Izolare termică a peretilor						
Izolare termică a acoperișului						
Podea în contact cu izolația termică ambientală						
Înlocuirea deschiderilor (ferestre și usi)						
Izolatie termică a sistemului de distribuție a căldurii						
Reabilitarea sistemului de ventilație						
Stație de încălzire individuală și reabilitarea sistemelor de distribuție de căldură						
Modernizarea sistemului de iluminat						
Instalarea sistemului PV						
Sistem de management al energiei (contorizare inteligentă)						
Măsuri de eficiență non-energetică						

Alte lucrări executate: (dacă sunt)



DECEMBER 2022

To: WHOM IT MAY CONCERN

Pages: 2

**Subject: Recommendation letter Energy Efficiency Measures In 6 lyceums: Sports Theoretical High School "Gloria", Lyceum "George Meniuc, Lyceum "Petru Rares, Gimnaziul Internal #3, Theoretical Lyceum Nicolae Gogol, Lyceum "Onisifor Ghibu"**

**PROJECT ID 47899/W/02/2 LOT2/ City of Chisinau**

### **Recommendation letter**

I, the undersigned Catalin Cretu , as Engineer's Representative /Team Leader , on behalf of JV Eptisa Romania SRL - Eptisa Servicios de Ingenieria-Spain, . with regional office located in Romania Bucharest, Sos Dudesti-Pantelimon, 42, Sector 3, acting as Engineer according with FIDIC Yellow Book – First Edition – 1999 on behalf of the Chisinau City Hall , Contracting Authority for the Works Contract N47899/W/02/2 Energy Efficiency Measures in 6 Lyceums " " , hereby certify that :

- The construction company "Eurostil Construct" S.R.L. with headquarters in the Republic of Moldova, mun. Chisinau, st. acted as Contractor within the Project GRFC Chisinau Building subproject, Implementation of energy efficiency measures in 23 public buildings on the Contract 47899/W/02/2 Lot2, financed by the European Bank for Reconstruction and Development (EBRD), Bank European Investment Bank (EIB) ) and an E5P grant .
- The scope of the contract was: Design and build - Energy efficiency and thermal insulation of 6 Public Institutions located in the municipality of Chisinau, in order to increase energy efficiency and reduce energy consumption, namely:
  1. "Gloria" Theoretical High School with sports profile, Chisinau, 7 Teilor str
  2. High School no. 3, Chisinau, 10 G. Casu str
  3. Nicolae Gogol Theoretical High School, Chisinau, 90 A. Sciushev str
  4. G. Meniuc Theoretical High School, Chisinau, 84 Albisoara str
  5. O. Ghibu Theoretical High School, Chisinau, 63/A N. Costin str.
  6. Petru Rares Theoretical High School, Chisinau, 63 N. Costin str

Based on the provisions of the contract "Eurostil Construct" S.R.L. as a General Contractor, performed the following construction and engineering works at each of the 6 lyceums:

1. Design works based on the technical requirements of the energy audit for compartments: architectural solutions, resistance, heating, ventilation, thermal points, lighting, photovoltaic system and others;
2. Thermal insulation of external walls, passages and socle;
3. Thermal insulation and waterproofing of the roof;
4. Replacement of existing windows and doors with windows made of PVC profiles;
5. Replacement of the heating system;
6. Installation of individual thermal points;

7. Modernization of the ventilation system;
8. Installation of LED lamps;
9. Installation of the photovoltaic system;
10. Installation of the energy management system;
11. Installation of kitchen equipment in 2 lyceum;
12. Modernization of the swimming pool in 1 lyceum;
13. Non-energy works: rehabilitation of common spaces, rehabilitation of storm sewers, installation of the safety system and lightning rods, rehabilitation of stairs, entrances, etc.

During the construction works, no non-conformities were recorded that could have led to deviations from the project documentation or from the rules regarding quality in construction. The works were executed qualitatively, in accordance with the provisions of the contract and the execution documentation.

During the project implementation, the company "Eurostil Construct" S.R.L. as the General Contractor provided a high level of professionalism, with a competent team, consisting of professional specialists and experienced engineers, a material base equipped with all the necessary equipment, its own fleet of construction vehicles and machinery, its own warehouses and production lines for PVC, aluminum and metal constructions.

Moreover, the company provided technical and personal support and assistance throughout the project. Ethical approach of contractual issues was noticed from "Eurostil Construct" SRL side.

I, the undersigned Catalin Cretu, as Engineer's Representative /Team Leader, on behalf of JV Eptisa Romania SRL - Eptisa Servicios de Ingenieria-Spain, confidently recommend the company "Eurostil Construct" SRL, as a General Contractor for the execution of all construction and engineering works, as a professional and reliable partner in the realization of all types of projects in the field of civil energy efficiency projects.

Sincerely,

Catalin Cretu

Engineer's Representative





## PRIMĂRIA MUNICIPIULUI CHISINĂU

nr. 29/12 - PE din 06.12.2022

la nr. \_\_\_\_\_ din \_\_\_\_\_

**Pentru: "Eurostil Construct" S.R.L.**

**De la: Primăria mun. Chisinau**

### Scrisoare de recomandare

Primăria Municipiului Chișinău cu sediul în mun. Chișinău, str. Stefan cel Mare și Sfânt, 83 în calitate de Autoritate Contractantă, pe parcursul anilor 2021-2022, a colaborat cu compania de construcție "Eurostil Construct" S.R.L. cu sediul în Republica Moldova, mun. Chișinău, str. Mitropolit Iurie Grosu, 17 în calitate de Antreprenor General, în baza **Contractului Nr. 47899/W/02/2 Lot 2 din 16.03.2021** semnat în cadrul **Proiectului de Eficiență Energetică pentru implementarea măsurilor de termoizolare și eficiență energetică a 23 clădiri publice**, proiect finanțat de Banca Europeană de Reconstituție și Dezvoltare (BERD), Banca Europeană pentru Investiții (BEI) și a Grantului E5P.

Obiectul Contractului mentionat supra constă în: **Eficiența energetică și izolarea termică a 6 Instituțiilor Publice amplasate în mun. Chișinău, pentru sporirea eficienței energetice și reducerii consumurilor de energie**, după cum urmează:

1. Liceul Teoretic cu profil sportiv "Gloria", mun. Chisinau, str. Teilor, 7
2. Gimnaziul Internat nr. 3, mun. Chisinau, str. G. Casu, 10
3. Liceul Teoretic Nicolae Gogol, mun. Chisinau, str. A. Sciusev, 90
4. Liceul Teoretic G. Meniuc, mun. Chisinau, str. Albisoara, 84
5. Liceul Teoretic O. Ghibu, mun. Chisinau, str. N. Costin 63/A
6. Liceul Teoretic Petru Rareș, mun. Chisinau, str. N. Costin 63/A

În baza contractului "Eurostil Construct" S.R.L. în calitate de Antreprenor General a executat următoarele lucrări de construcție și ingineriești la fiecare din cele 6 instituții:

1. Lucrări de proiectare în baza sarcinii tehnice a auditului energetic (compartiment : Solutii arhitecturale, Rezistența, Încălzire, ventilare, puncta termice, iluminatul electric, sistemul fotovoltaic, etc;
2. Termoizolare a peretilor exteriori, pasajelor și soclului;
3. Termoizolarea și hidroizolarea acoperișului;
4. Înlocuirea ferestrelor și ușilor existente cu ferestre din profil PVC;
5. Înlocuirea sistemului de încălzire;
6. Instalarea Punctelor termice individuale ;
7. Modernizarea sistemului de ventilatie;
8. Instalatia lampilor LED;
9. Instalarea sistemului fotovoltaic;
10. Instalarea sistemului de management al energiei;
11. Instalarea echipamentelor de bucătărie la 2 instituții;
12. Modernizarea bazinului la 1 instituție;

13. Lucrări non-eficiență: de reamenajare a spațiilor comune, construcția pereului, reabilitarea canalizării pluviale, instalarea sistemului de siguranță și paratrăsnete, reabilitarea scărilor, intrărilor, și.a.

Antreprenorul a fost selectat în baza regulilor și procedurilor BERD. Pentru care a demonstrat și totodată pe parcursul implementării a îmbunătățit experiența, capacitatea și abilitățile de a implementa proiecte de construcții conform standardelor riguroase specifice contractelor de construcții internaționale de tip Fidic.

Trebuie de menționat că Antreprenorul pe parcursul lucrarilor nu a înregistrat neconformități care ar fi putut duce la devieri de la documentația de proiect sau de la normele privind calitatea în construcții. Lucrările au fost executate calitativ, în conformitate cu prevederile contractului, și documentația de execuție.

Pe parcursul realizării proiectului, compania „Eurostil Construct” S.R.L. în calitate de Antreprenor General a dat dovadă de o pregătire profesională de nivel înalt, cu o echipă competentă, formată din specialiști profesioniști și ingineri cu experiență, o bază materială dotată cu toate echipamentele necesare precum și propria flota de vehicule și utilaje de construcții, propriile depozite și linii de producere a construcțiilor din PVC, aluminiu și metal.

Mai mult ca atât, Antreprenorul a manifestat deschidere în colaborare, flexibilitate și acordat suport, asistență tehnică, și personală pe tot parcursul realizării proiectului.

Experiența de conlucrare, menționată mai sus, servește temei de a recomanda cu încredere compania „Eurostil Construct” SRL, în calitate de Antreprenor pentru executarea de lucrări de construcții și inginerie, ca un partener profesionist și sigur întru realizarea tuturor tipurilor de proiecte în domeniul construcțiilor civile, industriale, rezidențiale și proiectelor de EFICIENTĂ ENERGETICĂ.

Cu stima,  
Natalia Chelaru  
Manager Proiect, UIP  
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**АКТ СВЕРКИ**  
 взаимных расчетов по состоянию на 22.05.2023  
 между Eurostil Construct SRL  
 и Directia Generala Locativ Comunala si Amenagare

16.06.2023

Мы, нижеподписавшиеся, Eurostil Construct SRL, с одной стороны, и Directia Generala Locativ Comunala si Amenagare, с другой стороны, составили настоящий акт сверки в том, что состояние взаимных расчетов по данным учета следующее:

По данным Eurostil Construct SRL, леев				По данным Directia Generala Locativ Comunala si Amenagare, леев			
№ п/п	Наименование операции, документы	Дебет	Кредит	№ п/п	Наименование операции, документы	Дебет	Кредит
1	Сальдо на 01.01.2020						
2	Оплата (Выписка № 170 от 25 Iunie 2021) (551860.56 EURO)		11880762-29				
3	Оплата (Выписка № 172 от 28 Iunie 2021) (276430.28 EURO)		5947366.83				
4	Оплата (Выписка № 258 от 08 Septembrie 2021)		11568109-64				
5	Продажа (Оказание услуг № IM3053425 от 18 Octombrie 2021)	18016320-70					
6	Продажа (Оказание услуг № IM3053426 от 19 Octombrie 2021)	780490-74					
7	Продажа (Оказание услуг № IM3053427 от 19 Octombrie 2021)	756045.82					
8	Продажа (Оказание услуг № IM3053428 от 19 Octombrie 2021)	7225030-30					
9	Продажа (Оказание услуг № IM3053429 от 19 Octombrie 2021)	17190521-83					
10	Продажа (Оказание услуг № IM3053430 от 19 Octombrie 2021)	875633-31					
11	Оплата (Выписка № 301 от 20 Octombrie 2021)		12756095-58				
12	Оплата (Выписка № 364 от 10 Decembrie 2021) (636157.6 EURO)		12708156-53				
13	Продажа (Оказание услуг № IM3305405 от 14 Decembrie 2021)	8624511.60					
14	Продажа (Оказание услуг № IM3305407 от 14 Decembrie 2021)	2860313-05					
15	Продажа (Оказание услуг № IM3305408 от 14 Decembrie 2021)	6754000-74					
16	Продажа (Оказание услуг № IM3305409 от 14 Decembrie 2021)	7844573-47					
17	Продажа (Оказание услуг № IM3305410 от 14 Decembrie 2021)	6132155-52					
18	Продажа (Оказание услуг № IM3305411 от 14 Decembrie 2021)	16155438-85					
19	Оплата (Выписка № 368 от 15 Decembrie 2021)		14716912.36				
20	Оплата (Выписка № 371 от 22 Decembrie 2021) (318078.8 EURO)		6386163-49				
21	Оплата (Выписка № 44 от 17 Februarie 2022) (1104751.65 EURO)		22551516-38				
22	Продажа (Оказание услуг № IM3305484 от 23 Martie 2022)	3510342-67					
23	Продажа (Оказание услуг № IM3305485 от 23 Martie 2022)	6278440-72					
24	Оплата (Выписка № 85 от 24 Martie 2022)		4405775-33				
25	Оплата (Выписка № 101 от 08 Aprilie 2022) (108617.22 EURO)		2173408-85				
26	Оплата (Выписка № 103 от 11 Aprilie 2022) (217234.42 EURO)		4350467-44				
27	Продажа (Оказание услуг № AAP3457197 от 21 Noiembrie 2022)	51978207-89					
28	Оплата (Выписка № 340 от 23 Noiembrie 2022)		12417408-72				
29	Оплата (Выписка № 343 от 25 Noiembrie 2022) (632621.28 EURO)		12702782-25				
30	Оплата (Выписка № 346 от 28 Noiembrie 2022) (316310.64 EURO)		6369231.05				
31	Обороты за период	155002426-61	140936047-74				
32	Сальдо на 22.05.2023	14066378-87					

По данным Eurostil Construct SRL  
 на 22.05.2023 задолженность в пользу Eurostil Construct SRL  
 14,066,378-87 леев.

От Eurostil Construct SRL

От Directia Generala Locativ Comunala si Amenagare

