



## Tender Specifications ENABEL

**PUBLIC WORKS CONTRACT FOR THE SUPPLY AND INSTALLATION  
OF ROOF-TOP SOLAR PHOTOVOLTAIC SYSTEMS IN EAST  
JERUSALEM AND WEST BANK**

LOT 1: CONSULATE GENERAL OF BELGIUM IN JERUSALEM

LOT 2: SHEIKH SAAD BOYS' AND GIRLS' SCHOOLS IN SHEIKH SAAD  
VILLAGE

Country: Palestine

Navision code: PZA170421T-10040

Tenderer:

TEN

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# 1 Administrative and contractual provisions

## 1.1 General remarks

### 1.1.1 Derogations from the Royal Decree of 14 January 2013

- §1 The chapter 'Specific contractual and administrative conditions' of these Tender Specifications (CSC/Cahier Spécial des Charges) holds the specific administrative and contractual provisions that apply to this public contract by way of derogation from the Royal Decree of 14 January 2013 or as a complement or an elaboration thereof.
- §2 These Tender Specifications derogate Articles 25. §2 and 26 of the General Implementing Rules – GIR (Royal Decree of 14 January 2013).

### 1.1.2 Contracting authority

- §3 The contracting authority of this public contract is Enabel, the Belgian development agency, public-law company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels in Belgium (enterprise number 0264.814.354, RPM/RPR Brussels). Enabel has the exclusive competence for the execution, in Belgium and abroad, of public service tasks of direct bilateral cooperation with partner countries. Moreover, it may also perform other development cooperation tasks at the request of public interest organisations, and it can develop its own activities to contribute towards realisation of its objectives.
- §4 For this public contract Enabel is represented by Ms. Christelle Jocquet, Resident Representative of Enabel in Palestine, who is mandated under the mandate structure to award the public contract (and hence to sign the 'reasoned decision' on the basis of an evaluation report and to sign the notification letters).

### 1.1.3 Institutional framework of Enabel

- §5 The general framework of reference in which ENABEL operates is:
- The Belgian Law on Development Cooperation of 19 March 2013<sup>1</sup>;
  - The Belgian Law of 21 December 1998 establishing the Belgian Technical Cooperation as a public-law company<sup>2</sup>;
  - The Belgian Law of 23 November 2017 changing the name of the Belgian Technical Cooperation and defining the missions and functioning of Enabel, the Belgian development agency, published in the Belgian Official Gazette on 11 December 2017.
- §6 The following initiatives are also guiding Enabel in its operations and are given as main examples:
- In the field of international cooperation: the United Nations Sustainable Development Goals and the Paris Declaration on the harmonisation and alignment of aid;
  - In the field of the fight against corruption: the Law of 8 May 2007 approving the United Nations Convention against Corruption, adopted in New York on 31 October 2003<sup>3</sup>, as well as the Law of 10 February 1999 on the Suppression of Corruption transposing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;

<sup>1</sup> Belgian Official Gazette of 30 December 1998, of 17 November 2001, of 6 July 2012, of 15 January 2013 and of 26 March 2013.

<sup>2</sup> Belgian Official Gazette of 1 July 1999.

<sup>3</sup> Belgian Official Gazette of 18 November 2008.

- In the field of Human Rights: the United Nations' Universal Declaration of Human Rights (1948) as well as the 8 basic conventions of the International Labour Organization<sup>4</sup> on Freedom of Association (C. n°87), on the Right to Organise and Collective Bargaining (C. n°98), on Forced Labour (C. n°29 and 105), on Equal Remuneration and on Discrimination in Respect of Employment (C. n°100 and 111), on Minimum Age for Admission to Employment (C. n°138), on the Prohibition of the Worst Forms of Child Labour (C. n°182);
- In the field of environmental protection: The Climate Change Framework Convention of Paris, of 12 December 2015;
- The first Management Contract contracting Enabel and the Belgian federal State (approved by the Royal Decree of 17 December 2017, Belgian Official Gazette of 22 December 2017) that sets out the rules and the special conditions for the execution of public service tasks by Enabel on behalf of the Belgian State;
- Enabel's Code of Conduct of January 2019, Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management of June 2019.

#### 1.1.4 Rules governing the public contract

§7 The following, among other things, apply to this public contract:

- The Law of 17 June 2016 on public procurement<sup>5</sup>;
- The Law of 17 June 2013 on justifications, notification and legal remedies for public contracts and certain contracts for works, supplies and services<sup>6</sup>;
- The Royal Decree of 18 April 2017 on the awarding of public contracts in the classic sectors<sup>5</sup>;
- The Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement<sup>5</sup>;
- Circulars of the Prime Minister with regards to public procurement<sup>5</sup>.
- Enabel's Policy regarding sexual exploitation and abuse – June 2019;
- Enabel's Policy regarding fraud and corruption risk management – June 2019
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, hereinafter referred to as 'the GDPR'), and repealing Directive 95/46/EC;
- Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data;
- All Belgian regulations on public contracts can be consulted on [www.publicprocurement.be](http://www.publicprocurement.be); Enabel's Code of Conduct and the policies mentioned above can be consulted on Enabel's website via <https://www.enabel.be/content/integrity-desk>.

#### 1.1.5 Definitions

§8 The following definitions apply to this contract:

- The tenderer: The natural person (m/f) or legal entity that submits a tender;

<sup>4</sup> <https://www.ilo.org/global/standards/lang--en/index.htm>

<sup>5</sup> A consolidated version of this document can be consulted on [www.publicprocurement.be](http://www.publicprocurement.be).

<sup>6</sup> Belgian Official Gazette of 21 June 2013.

- The contractor / building contractor: The tenderer to whom the public contract is awarded;
- The contracting authority: Enabel, represented by the Resident Representative of Enabel in Palestine,
- The tender: The commitment of the tenderer to perform the public contract under the conditions that he has submitted; Days: In the absence of any indication in this regard in the Tender Specifications and the applicable regulations, all days should be interpreted as calendar days;
- Procurement documents: Contract notice and Tender Specifications including the annexes and the documents they refer to;
- Technical specifications: A specification in a document defining the characteristics of a product or a service, such as the quality levels, the environmental and climate performance levels, the design for all needs, including accessibility for people with disabilities, and the evaluation of conformity, of product performance, of the use of the product, safety or dimensions, as well as requirements applicable to the product as regards the name by which it is sold, terminology, symbols, testing and test methods, packaging, marking or labelling, instructions for use, the production processes and methods at every stage in the life cycle of the supply or service, as well as the evaluation and conformity procedures;
- Variant: An alternative method for the design or the performance that is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;
- Option: A minor and not strictly necessary element for the performance of the contract, which is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;
- Summary bill of quantities: The procurement document, in a public works contract, which splits up the performance in different items and specifies the quantity or the method to determine the price for each of them;
- General Implementing Rules (GIR): Rules laid down in the Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement and for concessions for public works;
- The Tender Specifications (Cahier spécial des charges/CSC): This document and its annexes and the documents it refers to;
- Corrupt practices: The offer of a bribe, gift, gratuity or commission to a person as an inducement or reward for performing or refraining from an act relating to the award of a contract or performance of a contract already concluded with the contracting authority;
- Litigation: Court action;
- Subcontractor in the meaning of public procurement regulations: The economic operator proposed by a tenderer or contractor to perform part of the public contract;
- Controller in the meaning of the GDPR: the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data;



- Processor (subcontractor) in the meaning of the GDPR: a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;
- Recipient in the meaning of the GDPR: a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not;
- Personal data: any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

### **1.1.6 Confidentiality**

#### **1.1.6.1 Processing of personal data**

§9 The contracting authority undertakes to process the personal data that are communicated to it under the framework of this procedure with the greatest care, in accordance with legislation on the protection of personal data (General Data Protection Regulation, GDPR). Where the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data contains stricter provisions, the contracting authority will act in accordance with said law.

#### **1.1.6.2 Confidentiality**

§10 The tenderer or contractor and Enabel are bound to secrecy vis-à-vis third parties with regards to any confidential information obtained within the framework of this public contract and will only divulge such information to third parties after receiving the prior written consent of the other party. They will disclose this confidential information only among appointed parties involved in the assignment. They guarantee that said appointed parties will be adequately informed of their obligations in respect of the confidential nature of the information and that they shall comply therewith.

§11 **PRIVACY NOTICE OF ENABEL:** Enabel takes your privacy serious. We undertake to protect and process your personal data with due care, transparently and in strict compliance with privacy protection legislation.

§12 See also: <https://www.enabel.be/content/privacy-notice-enabel>

### **1.1.7 Deontological obligations**

§13 Any failure to comply with one or more of the deontological clauses may lead to the exclusion of the candidate, tenderer or contractor from other public contracts for Enabel.

§14 For the duration of the contract, the contractor and his staff respect human rights and undertake not to go against political, cultural or religious customs of the beneficiary country. The tenderer or contractor is bound to respect fundamental labour standards, which are internationally agreed upon by the International Labour Organization (ILO), namely the conventions on union freedom and collective bargaining, on the elimination of forced and obligatory labour, on the elimination of employment and professional discrimination and on the abolition of child labour.

§15 In accordance with Enabel's Policy regarding sexual exploitation and abuse, the contractor and his staff have the duty to behave in an irreproachable manner towards the beneficiaries of the projects and towards the local population in general. They must

abstain from any acts that could be considered a form of sexual exploitation or abuse and they must abide by the basic principles and guidelines laid down in this policy.

- §16 Any attempt of a candidate or a tenderer to obtain confidential information, to proceed to illicit arrangements with competitors or to influence the evaluation committee or the contracting authority during the investigation, clarification, evaluation and comparison of tenders and candidates procedure will lead to the rejection of the application or the tender.
- §17 Moreover, in order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to appointees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.
- §18 The public contractor commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any desk review or on-the-spot check which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure. Depending on the gravity of the facts observed, the contractor having paid unusual commercial expenditure is liable to have his contract cancelled or to be permanently excluded.
- §19 In accordance with Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management complaints relating to issues of integrity (fraud, corruption, etc.) must be sent to the Integrity desk through the <https://www.enabelintegrity.be> website.

#### **1.1.8 Applicable law and competent courts**

- §20 The contract must be performed and interpreted according to Belgian law.
- §21 The parties commit to sincerely perform their engagements to ensure the good performance of the public contract.
- §22 In case of litigation or divergence of opinion between the contracting authority and the contractor, the parties will consult each other to find a solution.
- §23 If agreement is lacking, the Brussels courts are the only courts competent to resolve the matter.
- §24 See also point 4.14 'Claims and requests' (Article 73 of the Royal Decree of 14 January 2013).

## **1.2 Subject-matter and scope of the public contract**

### **1.2.1 Type of contract**

- §25 This contract is a public works contract, having as its subject-matter:
- §26 the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority which exercises decisive influence on its nature or design.

### **1.2.2 Subject-matter of procurement**

- §27 This public contract consists in the supply and installation of roof-top solar photovoltaic systems on Consulate General of Belgium in Jerusalem and Sheikh Saad Boys' and Girls' Schools in Sheikh Saad Village, in conformity with the conditions of these Tender Specifications.

### **1.2.3 Lots**

- §28 The public contract has two (2) lots, each of which is indivisible. The tenderer may submit a tender for one or all the lots. A tender for part of a lot is inadmissible.
- §29 The description of each lot is included in Part 2 Terms of Reference of these Tender Specifications.

### **1.2.4 Items**

- §30 The items of the contract are described in Annex 1 – Bill of Quantities.
- §31 These items are pooled and form one single contract. It is not possible to tender for one or several items and the tenderer must submit price quotations for all items of the same lot.

### **1.2.5 Duration of the public contract**

- §32 The contract starts with the awarding letter and ends by final acceptance.
- §33 The contract is fixed and not renewable.
- §34 Please note: the duration of the contract is not to be confused with the period of performance. The maximum duration of the implementation of the works is defined in 1.6.10 Performance period (Art. 76), p.29.

### **1.2.6 Variants**

- §35 Variants are not permitted.

### **1.2.7 Options**

- §36 Options are not permitted.

### **1.2.8 Quantities**

- §37 Quantities will be determined in Purchase Orders. The presumed quantities specified in Annex 1 – Bill of Quantities, are given for information purposes only. Payments will be made according to the real quantities implemented.

## 1.3 Procedure

### 1.3.1 Award procedure

§38 Negotiated Procedure without Prior Publication in application of Article 42 of the Law of 17 June 2016.

### 1.3.2 Publication

#### 1.3.1.1 Enabel publication

§39 These Tender Specifications are posted on the website of Enabel ([www.enabel.be](http://www.enabel.be)). Such publication constitutes an invitation to tender.

§40 And on local website, [www.jobs.ps](http://www.jobs.ps).

### 1.3.2 Information

§41 The awarding of this contract is coordinated by **Ms. Karmel Al Salqan** (Expert in Contracting and Administration). Throughout this procedure all contacts between the contracting authority and the (prospective) tenderers about this contract will exclusively pass through this service / this person. (Prospective) tenderers are prohibited to contact the contracting authority in any other way with regards to this contract, unless otherwise stipulated in these Tender Specifications.

§42 Until **February 17<sup>th</sup>, 2024**, prospective tenderers may ask questions about the Tender Specifications and the contract in accordance with Article 44 of the Royal Decree of 1 July 2011. Questions will be in writing to Ms Karmel Al Salqan ([karmel.alsalqan@enabel.be](mailto:karmel.alsalqan@enabel.be)) and they will be answered in the order received. The complete overview of questions asked will be available at the address mentioned above as **February 19<sup>th</sup>, 2024**.

§43 Until the notification of the award decision no information will be given about the evolution of the procedure.

§44 The procurement documents can be consulted free of charge at the following internet address: [www.enabel.be](http://www.enabel.be)

§45 The tenderer is to submit his tender after reading and taking into account any corrections made to the Tender Specifications that are published on the Enabel website or that are sent to him by e-mail. To do so, when the tenderer has downloaded the Tender Specifications, it is strongly advised that he gives his coordinates to the public procurement administrator mentioned above and requests information on any modifications or additional information.

§46 The tenderer is required to report immediately any gap, error or omission in the procurement documents that precludes him from establishing his price or compare tenders, within ten days at the latest before the deadline for receipt of tenders.

### **1.3.3 Tender**

#### **1.3.3.1 Data to be included in the tender**

- §47 The tenderer must use the tender form in annex. In case he does not use this form, he is fully responsible for the perfect concordance between the documents he has used and the form.
- §48 The tender and the annexes to the tender form are drawn up in English.
- §49 By submitting a tender, the tenderer automatically renounces to his own general or specific sales conditions, even if these are mentioned in any of the annexes to his tender.
- §50 The tenderer clearly designates in his tender which information is confidential and/or relates to technical or business secrets and may therefore not be divulged by the contracting authority.

#### **1.3.3.2 Period the tender is valid**

- §51 The tenderers remain bound by their tender for a period of 90 calendar days from the tender reception deadline date.
- §52 The validity of the tender will be negotiated, if the deadline stated above is overrun.

#### **1.3.3.3 Determination, components and price adjustments**

- §53 All prices given in the tender form must obligatorily be quoted in euro.
- §54 This public contract is a price-schedule contract, i.e. a contract in which only the unit prices are lump-sum prices. The price to be paid will be obtained by applying the unit prices given in the inventory to the quantities actually performed.
- §55 In accordance with Article 37 of the Royal Decree of 18 April 2017, the contracting authority may for the purpose of verifying the prices carry out an audit of any and all accounting documents and perform on-the-spot checks with a view of verifying the correctness of the indications supplied.

#### **1.3.3.4 Elements included in the price**

- §56 The tenderer is to include in the unit and global prices of the works contract all costs, measures and charges generally inherent to the performance of the contract, with the exception of the value-added tax.
- §57 In the unit and global prices for the contract for works any costs, measures and charges applied to the performance of the contract, namely:
- 1° Where applicable, the measures imposed by occupational safety and worker health legislation;
  - 2° All the works and supplies, such as bracing, sheet piling and drainage, necessary to prevent landslips and other damage and to remedy these if necessary;
  - 3° The perfect preservation, possible shift and redeployment of cables and pipes which might be encountered during excavation, earthworks and dredging, provided that these achievements are not the legal responsibility of the owners of such cables and pipes;
  - 4° Removal, within the confines of the excavations, earthworks and dredging which may be necessary for construction of the structure, of:
    - earth, mud and gravel, stones, rubble, riprap of any kind, masonry remains, turf, plants, bushes, stumps, roots, coppices, debris and waste materials;
    - any rock regardless of size where the procurement documents state that the earthworks, excavation and dredging are to be carried out in land known to be

rocky, and in the absence of this statement, any rock and any blocks of masonry or concrete the individual volume of which does not exceed half a cubic metre;

- 5° The transportation and removal of excavated material, either away from the property of the contracting authority, or to locations within the sites for re-use, or to designated dumping sites, in accordance with the requirements of the procurement documents;
- 6° All overheads, incidental expenses and maintenance costs during contractual performance and the warranty period;
- 7° Customs and excise duties;
- 8° Acceptance costs.

§58 All the works which, by their nature, depend on or are associated with those described in the procurement documents are also included in the contract price.

#### **1.3.4 How to submit tenders?**

§59 Without prejudice to any variants, the tenderer may only submit one tender per public contract.

§60 The tenderer submits his tender as follows:

§61 One original copy of the completed tender will be submitted on paper, or be scanned and submitted electronically. Moreover, the tenderer shall attach the copies requested by the tender guidelines to the tender (see 3.9 Documents to be submitted – exhaustive list, p.50). These copies may be submitted in one or more PDF files on a USB stick.

§62 It is submitted in a properly sealed envelope bearing the following information:

- Tenderer name
- Reference: PZA170421T-10040
- Public Procurement Contract for the supply and installation of roof-top solar photovoltaic systems in East Jerusalem and West Bank.

##### **1.3.4.1 Deadline for submission**

§63 The tender must be received before **February 27<sup>th</sup>, 2024 COB** at the following address:

- Enabel - Belgian Development Agency offices:
  - Jerusalem Office: Consulate General of Belgium, Baibars street 5, Sheikh Jarrah, Jerusalem.
  - Ramallah Office: Royal Centre, 7th floor, Al Balou, Mecca Street, Al Bireh.
- In this case, the sealed envelope is put in a second closed envelope addressed to the above-mentioned address.
- Delivered by hand with acknowledgement of receipt at the above-mentioned address.

§64 Due to the current situation and the restriction of movement , tenders may be also submitted by e-mail to the following email:

▶ [karmel.alsalqan@enabel.be](mailto:karmel.alsalqan@enabel.be)

§65 The service can be reached on working days during office hours: from 9 am to 4 pm.

§66 Requests for participation or tenders that arrive late will not be accepted.

#### **1.3.4.2 Change or withdrawal of a tender that has already been submitted**

- §67 When a tenderer wants to change or withdraw a tender already sent or submitted this must be done in accordance with the provisions of Articles 43 and 85 of the Royal Decree of 18 April 2017.
- §68 To change or withdraw a tender already sent or submitted a written statement is required, which will be correctly signed by the tenderer or his representative. The subject-matter and the scope of the changes must be given in detail. Any withdrawal must be unconditional.
- §69 The withdrawal may also be communicated by fax or electronic means, provided that it is confirmed by registered letter deposited at the post office or against acknowledgement of receipt at the latest the day before the tender acceptance deadline.
- §70 When the tender is submitted via e-tendering, the tender is modified or withdrawn in accordance with Article 43, §2 of the Royal Decree of 18 April 2017.
- §71 Thus, modifying or withdrawing a tender after the submission report has been signed requires a new submission report to be signed in accordance with paragraph 1.
- §72 The subject-matter and the scope of the changes must be indicated in detail.
- §73 The withdrawal must be pure and simple.
- §74 Where the submission report issued following modification or withdrawal as referred to is not signed as referred to in paragraph 1, the modification or withdrawal is automatically void. This nullity applies only to the modifications or withdrawal, not to the tender itself.

#### **1.3.5 Selection of tenderers**

##### **1.3.5.1 Exclusion grounds**

- §75 The obligatory and facultative grounds for exclusion are given in attachment to these Tender Specifications.
- §76 By submitting this tender, the tenderer certifies that he is not in any of the cases of exclusion listed in the Articles 67 to 69 of the Law of 17 June 2016 and the Articles 61 to 64 of the Royal Decree of 18 April 2017.
- §77 The contracting authority will verify the accuracy of this Declaration on honour for the tenderer with the best tender.
- §78 For that purpose, the contracting authority will ask the tenderer concerned to provide information or documents allowing the contracting authority to verify the tenderer's personal situation by the fastest means and within the term set by the contracting authority.
- §79 The contracting authority will itself ask for information or documents that it can obtain free of charge by digital means from the instances that manage the information or documents.

##### **1.3.5.2 Selection criteria**

- §80 Moreover, by means of the documents requested in the 'Selection file', the tenderer must prove that he is sufficiently capable, from an economic and financial as well as from a technical viewpoint, to successfully perform this public contract.
- §81 **Selection Criterion 1 – Similar Experience:** In order to be selected for each of the lots of this contract, the tenderer must have relevant similar reference(s) carried



out to the highest standard and to the client's full satisfaction, for the following minimum requirements (amount in Euro):

For participating in:	Date	Minimum Number of contracts	Each with a minimum amount of (€) incl. VAT:	Minimum combined value of contracts (€) incl. VAT:
Lot 1	Within last five years (from 2019)	At least <b>three</b> contracts	10,000.00	30,000.00
Lot 2			30,000.00	90,000.00

- §82 Regardless of the number of lots a tenderer is responding to, both the minimum required number of contracts and the minimum accepted amount for each contract will remain constant. However, in the event of responding to multiple lots, the required minimum combined value of accepted contracts will be aggregated. As a result, the tenderer must present experiences with a value equal to the total of the aforementioned amounts corresponding to each of the lots they could potentially be awarded.
- §83 The tenderer must fill his experience in the form and submit copies of completion certificates signed by the contracting authority and mentioning date of completion and amount.
- §84 Works shall be successfully and substantially completed and that are similar to the proposed works.
- §85 Contracts which have been entirely (100%) subcontracted by the tenderer to another entity will not be considered as experience and shall not be listed.
- §86 For contracts implemented in consortium with other entities, only the amount of works really implemented by the tenderer shall be mentioned and considered as experience.
- §87 Please see also: Form 3.7: List of similar supply deliveries- accompanied with certificates of completion, p.50.
- §88 **Selection Criterion 2 - Personnel:** the tenderer shall provide at least one Project Manager for each lot with a B.Sc in Electrical Engineering and 10 years of post-graduate professional experience.
- §89 In the case of submitting for both lots; only one (1) Project Manager will be required with same experience as stipulated above.
- §90 The tenderer shall include in his tender an up-to-date CV of staff that will be used for the performance of the contract showing experience until present. The tenderer shall list the staff members' degrees (education) as well as their professional experience (number of years of post-graduate work experience in the construction sector).
- §91 For Lot 1 of this tender, all staff will need to have access to Jerusalem (I.D. or permit).
- §92 The Contracting Authority reserves its right to request, during the works implementation, proofs of legal employment from relevant authorities of the different staff proposed in the tender.
- §93 Please see also: Form 3.8: Personnel, p.50.



### 1.3.5.3 Overview of the procedure

- §94 In a first phase, the tenders submitted by the selected tenderers will be evaluated as to formal and material regularity.
- §95 The contracting authority reserves the right to have the irregularities in the tenderers' tender regularised during the negotiations.
- §96 In a second phase, the formally and materially regular tenders will be evaluated as to content by an evaluation commission. The contracting authority will restrict the number of tenders to be negotiated by applying the award criterion stated in the procurement documents. This evaluation will be conducted on the basis of the award criterion 'price/cost' given in these Tender Specifications and aims to setting a shortlist of tenderers with whom negotiations will be conducted. Maximum 5 tenderers may be included in the shortlist.
- §97 Then, the negotiation phase follows. With a view of improving the contents of the tenders, the contracting authority may negotiate with tenderers the initial tenders and all subsequent tenders that they have submitted, except final tenders. The minimum requirements and the award criteria are not negotiable. However, the contracting authority may also decide not to negotiate. In this case, the initial tender is the final tender.
- §98 When the contracting authority intends to conclude the negotiations, it will so advise the remaining tenderers and will set a common deadline for the submission of any BAFOs. Once negotiations are closed, the BAFO will be compared with the exclusion, selection and 'price/cost' award criteria. The tenderer whose regular BAFO is the best value for money will be appointed the contractor for this contract.
- §99 The BAFOs of the tenderers with whom negotiations have been conducted will be evaluated as to their regularity. Irregular BAFOs will be excluded.
- §100 Only the regular BAFOs will be considered and assessed against the award criteria.
- §101 The contracting authority reserves the right to review the procedure set out above in line with the principle of processing equality and transparency.

### 1.3.6 Award criteria

- §102 The contracting authority will choose the regular BAFO that it finds to be most advantageous, taking account of the following criteria: **price(100%)**

$$\bullet \text{ Points tender } A = \frac{(\text{Amount of lowest Tender} \times 100)}{\text{Amount of Tender } A}$$

### 1.3.7 Final score

- §103 The scores for the award criteria will be added up. The contract will be awarded to the tenderer with the highest final score, after the contracting authority has verified the accuracy of the Declaration on honour of this tenderer and provided the check shows that the Declaration on honour corresponds with reality.

### 1.3.8 Awarding the public contract

- §104 The contract will be awarded to the tenderer who have submitted the lowest/most interesting tender for the contract.
- §105 Notice though that, in accordance with Art. 85 of the Law of 17 June 2016, there is no obligation for the contracting authority to award the contract.

§106 The contracting authority may either decide not to award the contract; either redo the procedure, if necessary through another award procedure.

### **1.3.9 Concluding the public contract**

§107 In accordance with Art. 88 of the Royal Decree of 18 April 2017, the contract occurs through the notification to the selected tenderer of the approval of his tender.

§108 Notification is via digital platforms, e-mail or fax and, on the same day, by registered post. .

§109 So, the full contract consists of a contract awarded by Enabel to the chosen tenderer in accordance with:

- These Tender Specifications and its annexes;
- The approved BAFO of the contractor and all of its annexes;
- The registered letter of notification of the award decision;
- Any later documents that are accepted and signed by both parties, as appropriate.

§110 In view of transparency, Enabel undertakes to annually publish the list of contractors of its public contracts. By submitting tender, the contractor of the public contract declares agreeing with the publication of the contract title, the nature and subject-matter of the contract, his name and location as well as the value of the contract.

## 1.4 Specific contractual and administrative conditions

§111 This chapter of these Tender Specifications holds the specific provisions that apply to this public contract by way of derogation from the 'General Implementing Rules for public procurement and for concessions for public works' of the Royal Decree of 14 January 2013, hereinafter referred to as 'GIR' or as a complement or an elaboration thereof. The numbering of the articles below (between brackets) follows the numbering of the GIR articles. Unless indicated, the relevant provisions of the General Implementing Rules (GIR) apply in full.

§112 These Tender Specifications derogate Articles 25. §2 and 26 of the General Implementing Rules – GIR (Royal Decree of 14 January 2013).

### 1.4.1 Definitions (Art. 2)

§113 The following definitions apply to this contract:

- Managing official: The official or any other person who manages and controls the performance of the public contract;
- Performance bond: Financial collateral given by the contractor to ensure he will fulfil his obligations until final and good performance of the contract;
- Acceptance: Observation by the contracting authority that the performance by the contractor of all or part of the works, supplies or services is in compliance with good practice and with the terms and conditions of the contract;
- Progress payment: Payment of an instalment under the contract after acceptance of performance;
- Advance: Payment of part of the contract before acceptance of performance;
- Amendment: Agreement established between the contracting parties during contract performance in view of changing documents applicable to the contract;

### 1.4.2 Usage of digital means (Art. 10)

§114 The usage of digital means for the purpose of exchanging during the performance of the contract is allowed unless where indicated otherwise in these Tender Specifications.

§115 In the latter cases, notifications of the contracting authority are sent to the domicile or the registered office mentioned in the tender

### 1.4.3 Managing official (Art. 11)

§116 The management and control of contract performance are entrusted to **Mr. Alexis Doucet, Urban Planning and Infrastructure Expert / Intervention Manager – RiSE and School IV Project**.

§117 Once the contract is concluded the managing official is the main contact point for the building contractor. Any correspondence or any questions with regards to the performance of the contract will be addressed to him or her, unless explicitly mentioned otherwise in these Tender Specifications (see namely, 'Payments' below).

§118 The managing official is fully competent for the follow-up of the satisfactory performance of the contract, including issuing service orders, drawing up reports and states of affairs, approving the services, progress reports and reviews. He or she may order any modifications to the contract with regards to its subject-matter provided that they remain within its scope.

§119 However, the signing of amendments or any other decision or agreement implying derogation from the essential terms and conditions of the contract are not part of the

competence of the managing official. For such decisions the contracting authority is represented as stipulated under point The chapter 'Specific contractual and administrative conditions' of these Tender Specifications (CSC/Cahier Spécial des Charges) holds the specific administrative and contractual provisions that apply to this public contract by way of derogation from the Royal Decree of 14 January 2013 or as a complement or an elaboration thereof.

§120 These Tender Specifications derogate Articles 25. §2 and 26 of the General Implementing Rules – GIR (Royal Decree of 14 January 2013).

§121 Contracting authority.

§122 Under no circumstances is the managing official allowed to modify modalities (e.g. performance period) of the contract, even if the financial impact is nil or negative. Any commitment, change or agreement derogating the conditions in the Tender Specifications and that has not been notified by the contracting authority, will be considered null and void.

#### **1.4.4 Subcontractors (Art. 12 to 15)**

§123 The fact that the contractor entrusts all or part of his commitments to subcontractors does not relieve him of liability to the contracting authority. The latter does not recognise any contractual relation with third parties.

§124 The contractor remains, in any case, solely liable to the contracting authority.

§125 The building contractor undertakes to having the contract performed by the persons indicated in the tender, except for force majeure. The persons mentioned or their replacements are all deemed to effectively be involved in the performance of the contract. Any replacements must be approved by the contracting authority.

§126 When the contractor uses a subcontractor to carry out specific processing activities on behalf of the contracting authority, the same data protection obligations as those of the contractor are imposed on that subcontractor by contract or any other legal act.

§127 In the same way, the contractor will respect and enforce to his subcontractors, the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, GDPR). The contracting authority may conduct an audit of the processing carried out in order to validate compliance with this legislation.

### **1.5 Confidentiality (Art. 18)**

§128 Knowledge and information obtained by the contractor, including any persons responsible for the mission and any other person involved in this public contact, are strictly confidential.

§129 Under no circumstances can the information collected, regardless of its origin and nature, be transferred to third parties in any form.

§130 All parties directly or indirectly involved are therefore bound by the duty of discretion.

§131 In accordance with Article 18 of the Royal Decree of 14 January 2013 establishing the general rules for public procurement, the tenderer or contractor undertakes to consider and process in a strictly confidential manner any information, all facts, any documents and/or any data, whatever their nature and support, which have been communicated to him, in any form and by any means, or to which he has access, directly or indirectly,

in the context or on the occasion of this public contract. Confidential information covers, in particular, the very existence of this public contract, without this list being limited.

§132 Therefore, he undertakes to:

- Respect and enforce the strict confidentiality of these elements and to take all necessary precautions in order to preserve their secrecy (these precautions cannot in any case be inferior to those taken by the tenderer for the protection of his own confidential information);
- Consult, use and/or exploit, directly or indirectly, all of the above elements only to the extent strictly necessary to prepare and, where applicable, to carry out this public contract (particularly regarding the privacy legislation with respect to personal data processing);
- Not reproduce, distribute, disclose, transmit or otherwise make available to third parties the above elements, in whole or in part, and in any form, unless having obtained prior and written consent of the contracting authority;
- Return, at first request of the contracting authority, the above elements;
- In general, not disclose directly or indirectly to third parties, whether for advertising or any other reason, the content of this public contract, or the fact that the tenderer or contractor performs this public contract for the contracting authority, or, where applicable, the results obtained in this context, unless having obtained prior and written consent of the contracting authority.

## **1.6 Personal data protection**

### **1.6.1 Processing of personal data by the contracting authority**

§133 The contracting authority undertakes to process the personal data that are communicated to it in response to the Call for Tenders with the greatest care, in accordance with legislation on the protection of personal data (General Data Protection Regulation, GDPR). Where the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data contains stricter provisions, the contracting authority will act in accordance with said law.

### **1.6.2 Processing of personal data by the contractor**

§134 Where, during contract performance, the contractor may process personal data of the contracting authority exclusively in the name and on behalf of the contracting authority, for the sole purpose of performing the services in accordance with the provisions of the Tender Specifications or in execution of a legal obligation, the following provisions apply.

§135 For any processing of personal data carried out in connection with this public contract, the contractor is required to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR) and the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data.

§136 By simply participating in the contracting process, the tenderer certifies that he will strictly comply with the obligations of the GDPR for any processing of personal data conducted in connection with that public contract.

- §137 The personal data that will be processed are confidential. The contractor will therefore limit access to data to the strictly necessary personnel for the performance, management and monitoring of the public contract.
- §138 For the performance of the public contract, the contracting authority will determine the purposes and means of processing personal data. In this case, the contracting authority will be responsible for the processing and the contractor will be its processor, within the meaning of Article 28 of the GDPR.
- §139 Processing carried out on behalf of a controller must be governed by a contract or other legal act that is binding on the processor with regard to the personal data controller and that sets out that the subcontractor acts only on the instruction of the person in charge of the processing and that the confidentiality and security obligations regarding the processing of personal data are also the responsibility of the subcontractor (Article 28 §3 of the GDPR).
- §140 To this end, the tenderer must fill out, sign and submit to the contracting authority the subcontracting agreement given in Annex [X]. Filling out and signing this annex is therefore a condition of regularity of the tender.

### **1.6.3 Intellectual property (Art. 19 to 23)**

- §141 The contracting authority does not acquire the intellectual property rights created, developed or used during performance of the public contract.
- §142 Without prejudice to clause 1 and unless otherwise stipulated in the procurement documents, when the subject-matter of the public contract consists of the creation, manufacture or the development of designs or of logos, the contracting authority acquires the intellectual property thereof, as well as the right to trademark them, to have them registered and to have them protected.
- §143 For domain names created under the contract, the contracting authority also acquires the right to register and protect them, unless otherwise stipulated in the procurement documents.
- §144 Where the contracting authority does not acquire the intellectual property rights, it obtains a patent licence of the results protected by intellectual property law for the exploitation modes that are mentioned in the procurement documents.
- §145 The contracting authority lists the exploitation modes for which it intends to obtain a licence in the procurement documents.

### **1.6.4 Insurance (Art. 24)**

- §146 The contractor takes out insurance policies covering his liability for occupational accidents and his third party liability for the performance of the contract.
- §147 The contractor also takes out any other insurance policy imposed by the procurement documents.
- §148 Within thirty days from contract conclusion the contractor provides evidence that he has taken out these insurance policies through a certificate stating the extent of the liability covered required by the procurement documents.
- §149 At any time during contract performance, the contractor provides such certificate within fifteen days following the reception of such a request from the contracting authority.

### **1.6.5 Performance bond (Art. 25 to 33)**

- §150 By derogation of article 25. §2 of the General Implementing Rules (Royal Decree of 14 January 2013), the performance bond is set at 5% of the total value, excluding VAT, of procurement. The value thus obtained is rounded up to the nearest 10 euros.
- §151 In accordance with the legal and regulatory provisions, the performance bond may be constituted either of cash or of public funds or may take the form of a joint performance bond.
- §152 The performance bond may also take the form of a surety bond issued by a credit institution meeting the requirements of the law on the statute and control of credit institutions, or by an insurance company meeting the requirements of the law on control of insurance companies and approved for branch 15 (bonds).
- §153 The contractor must, within 30 calendar days from the day of contract conclusion, furnish proof that he or a third party has posted the bond in one of the ways set out below:
- 1° in the case of cash, by transfer of the amount to the bpost bank account number of the Deposit and Consignment Office. Complete the following form as well as possible: [https://finances.belgium.be/sites/default/files/01\\_marche\\_public.pdf](https://finances.belgium.be/sites/default/files/01_marche_public.pdf) (PDF, 1.34 Mo), and forward it by e-mail to [info.cdcdck@minfin.fed.be](mailto:info.cdcdck@minfin.fed.be)
  - 2° in the case of public funds, by depositing such funds, for the account of the Deposit and Consignment Office, with the State Cashier at the head office of the National Bank in Brussels or at one of its provincial agencies or with a public institution with an equivalent function
  - 3° in the case of a joint surety, by deposit via an institution that lawfully carries out this activity of a deed of joint surety with the Deposit and Consignment Office or with a public institution with an equivalent function
  - 4° in the case of a guaranty, by the deed of undertaking of the credit institution or the insurance company.
- §154 Proof is provided, as appropriate, by submission to the contracting authority of:
- 1° the deposit receipt of the Deposit and Consignment Office or of a public institution with an equivalent function or
  - 2° a debit notice issued by the credit institution or the insurance company or
  - 3° the deposit certificate issued by the State Cashier or public institution with an equivalent function or
  - 4° the original copy of the deed of joint surety stamped by the Depot and Consignment Office or by a public institution with an equivalent function or
  - 5° the original copy of the deed of undertaking issued by the credit institution or the insurance company granting a guaranty.
- §155 These documents, signed by the depositor, must state why the performance bond was posted and its precise usage, consisting of a concise indication of the subject-matter of the contract and a reference to the procurement documents, as well as the name, first names and full address of the contractor and, where relevant, that of the third party that made the deposit on the contractor's account, bearing the statement "lender" or "mandatary" as appropriate.
- §156 The period of 30 calendar days specified above is suspended during the period of closure of the contractor's business for paid annual holidays and the days off in lieu stipulated by regulation or by a collective binding labour agreement.



§157 Proof that the required performance bond has been posted must be sent to the address that will be mentioned in the contract conclusion notification.

§158 Request by the contractor for the acceptance procedure to be carried out:

1° For provisional acceptance: This is equal to a request to release the first half of the performance bond

2° For final acceptance: This is equal to a request to release the second half of the performance bond, or, in case no provisional acceptance applied, to release the whole of the performance bond.

#### **1.6.6 Conformity of performance (Art. 34)**

§159 The works must comply in all respects with the procurement documents. Even in the absence of technical specifications in the procurement documents, the works must comply in all aspects with good practice.

#### **1.6.7 Plans, documents and objects prepared by the contracting authority (Art. 35)**

§160 At the request of the contractor, the contractor receives free of charge and where possible in digital form a complete set of plans that has served as the basis for awarding the contract. The contracting authority is liable for the conformity of these copies with the original plans.

§161 The contractor preserves all the documents and correspondence relating to the award and performance of the contract and keeps these available to the contracting authority until final acceptance.

##### **1.6.7.1 Detailed plans and work plans prepared by the contractor (Art. 36)**

§162 The contractor prepares at its own expense all the detailed plans and work plans he requires for successful performance of the contract

§163 The procurement documents specify which plans require approval by the contracting authority, which has 30 days to approve or reject the plans starting from the date on which they are submitted to it.

§164 Any corrected documents are resubmitted for approval to the contracting authority, which has 15 days to approve them, provided that the corrections requested are not the result of new demands made by the contracting authority.

##### **1.6.7.2 Construction planning**

§165 How the planning is submitted is to be discussed with the managing official.

§166 The first planning is to be introduced within 15 calendar days following tender award notification and it is to be updated every month during construction.

§167 This draft construction planning provides, in addition to deadlines for the 'on-site' works as such, the timing for the different preliminary achievements such as the establishment of documents prescribed by the technical provisions, implementation plans and detailed plans, calculation notes, selection of equipment and materials, including the approval of related documents, the supplies, workshop or factory work, preliminary tests and conformity tests, etc.

§168 After it has been studied and remarks have been made and following approval of the contracting authority, the planning becomes contractually binding.



### **1.6.7.3 Master plan**

§169 The building contractor undertakes to deliver a master plan to be approved by the contracting authority and its advisors within 15 calendar days following notification of contract conclusion.

§170 This plan must sufficiently anticipate situations to allow the contracting authority to take decisions or provide answers or supply the documents that are incumbent upon it.

§171 The master plan will be updated at least every month and must be consistent with the construction planning. It will be aligned with the construction planning and will be based on the same document.

§172 The contractor will be sole manager of the planning of all activities required to perform this contract.

§173 In particular he plans:

- Set dates for delivering implementation plans that he needs,
- The placing of orders to his suppliers and subcontractors,
- The presentation in due time of samples and technical forms of products submitted for preliminary technical acceptance,
- Measuring the works and the workshop manufacture period,
- Indication of deadlines dates for decisions to be taken by the contracting authority,
- Indication of deadline dates for the conclusion of modifications to orders being elaborated,
- Indication of deadline dates for the achievement of works performed by other enterprises,
- Registration, in due time, of the measurements of the works,
- etc.

### **1.6.7.4 Performance documents**

§174 These plans take into account the Tender Specifications and technical provisions, the design drawings of the project developer and general plans, and details annexed to these Tender Specifications.

§175 All implementation plans and detail plans are to be submitted for approval to the contracting authority along with calculation notes, technical approvals and technical forms and in particular those related to the works and the equipment listed below (non-exhaustive list):

- Material submittals,
- Roof layout plan,
- Mounting structure plans and details,
- Working documents required as part of the application submission to electricity company.

§176 The managing official may refuse technical forms which are partial, incomplete or too commercial and do not provide the technical information required for assessment and approval.

§177 Samples of steel sections, cables, trays, etc. will be submitted for approval to the managing official who will, for that purpose, refer to the project developer's advice and

the approved model will remain on the construction site until the placement of the last piece of its kind.

#### **1.6.7.5 Establishment of "As Built" plans**

§178 During performance, the building contractor shall revise and update the plans to the last detail in order to accurately reproduce the works and installations and their specifics as built.

§179 When the works are completed and in view of provisional acceptance of the works, the building contractor is to submit the complete plans and diagrams of the works and installations as built.

§180 When the works are completed and in view of provisional acceptance, the contractor is to submit 4 technical files including:

- technical specifications with brands names, types, origin of the equipment installed,
- user's manuals, explaining the functioning of all equipment,
- maintenance manuals, explaining everything that needs to be done for the maintenance and care of the equipment (regular control and maintenance, list and codes of spare parts, etc.).
- and test reports, tuning and adjustment reports.

#### **1.6.8 Changes to the public contract (Art. 37 to 38/19 and 80)**

##### **1.6.8.1 Replacement of the contractor (Art. 38/3)**

§181 Provided that he meets the selection and exclusion criteria set out in this document, a new contractor may replace the contractor with whom the initial contract was agreed in cases other than those provided for in Art. 38/3 of the General Implementing Rules (GIR).

§182 The contractor submits his request as quickly as possible by registered post, stating the reasons for this replacement and providing a detailed inventory of the state of the supplies already delivered, the new contractor's contact details and the documents and certificates which the contracting authority cannot access free of charge.

§183 The replacement will be recorded in an amendment dated and signed by all three parties. The initial contractor remains liable to the contracting authority for the performance of the remainder of the contract.

##### **1.6.8.2 Revision of prices (Art. 38/7)**

§184 For this contract, price revisions are not permitted.

##### **1.6.8.3 Indemnities following the suspensions ordered by the contracting authority during performance (Art. 38/12)**

§185 The contracting authority reserves the right to suspend the performance of the contract for a given period, mainly when it considers that the contract cannot be performed without inconvenience at that time.

§186 The performance period is extended by the period of delay caused by this suspension, provided that the contractual performance period has not expired. If it has expired, the return of fines for late performance will be agreed.

§187 When activities are suspended, based on this clause, the contractor is required to take all necessary precautions, at his expense, to protect the services already performed and

the materials from potential damage caused by unfavourable weather conditions, theft or other malicious acts.

§188 **The contractor** has a right to damages for suspensions ordered by the contracting authority when:

- The suspension lasts in total longer than one twentieth of the performance period and at least ten working days or two calendar weeks, depending on whether the performance period is expressed in working days or calendar days;
- The suspension is not owing to unfavourable weather conditions;
- The suspension occurred during the contract performance period.

§189 Within thirty days of their occurrence or the date on which the contractor or the contracting authority would normally have become aware of them, the contractor reports the facts or circumstances succinctly to the contracting authority and describes precisely their impact on the progress and cost of the contract.

§190 As a reminder, in accordance with Article 80 of the Royal Decree of 14 January 2013, the building contractor is required to continue the works without interruption, notwithstanding any disputes which might result from the determination of the new prices.

§191 Any order amending the contract during performance of the contract is issued in writing. However, minor amendments need only be entered in the works logbook.

§192 The orders or entries shall specify the changes to be made to the initial terms of the contract and to the plans.

#### **1.6.8.4 Setting unit or global prices – Calculation of the price**

§193 The unit or global prices of changed works, which the building contractor is bound to carry out, are determined in the following order of priority:

- 1° In accordance with the unit or global prices of the approved tender;
- 2° By default, in accordance with the unit or global prices inferred from the approved tender;
- 3° By default, in accordance with the unit or global prices from another contract of Enabel;
- 4° By default, in accordance with the unit or global prices to be agreed upon on the occasion.

§194 In the latter case, the building contractor shall justify the new unit price by detailing the supplies, person-hours, equipment hours and general costs as well as profits.

#### **1.6.8.5 Setting unit or global prices – Procedure to follow**

§195 The building contractor submits his proposal for the execution of the complementary achievements or his new prices within 10 calendar days from the request of the managing official (unless the latter has specified a shorter deadline) and before executing the works considered. This proposal is submitted on the basis of a standard form that will be provided by the managing official and will come with all necessary annexes and justifications.

§196 This form for agreed prices is established on the basis of a format from Enabel. The building contractor will attach at least the following annexes and documents to it:

- The amending order from the contracting authority and more in general the justification of the modification of the works;
- The calculation of new unit or global prices;

- The quantities to be implemented for the existing items and for any new items;
- If appropriate, the tenders of subcontractors or suppliers consulted;
- Any other documents he or she deems pertinent.

§197 After executing the works and at the latest upon establishment of the final settlement of account, the building contractor shall transfer the invoices that have been sent to him by subcontractors and suppliers to the managing official. He shall certify on these invoices not having received any credit note or compensation from the supplier or subcontractor for the invoice.

§198 When the building contractor defaults on providing an acceptable new price proposal or when the contracting authority deems the proposal made unacceptable, the contracting authority will set the new unit or global price as of right, all rights of the building contractor being preserved.

#### **1.6.8.6 Unforeseeable circumstances**

§199 As a rule, the contractor is not entitled to any modification of the contractual terms due to circumstances of which the contracting authority was unaware.

§200 A decision of the Belgian State to suspend cooperation with a partner country is deemed to be unforeseeable circumstances within the meaning of this article. Should the Belgian State break off or cease activities which implies therefore the financing of this public contract, Enabel will do everything reasonable to agree a maximum compensation figure.

### **1.6.9 Control and supervision of the public contract**

#### **1.6.9.1 Scope of the control and supervision (Art. 39)**

§201 The contracting authority may have the preparation and the performance of the delivery supervised or controlled at any location by all appropriate means.

§202 The contractor is required to provide the representatives of the contracting authority with all the information and facilities needed for carrying out their task.

§203 The fact that such supervision or control has been carried out by the contracting authority does not release the contractor of its liability should delivery eventually be rejected due to defects of any kind.

#### **1.6.9.2 Technical acceptance procedures (Art. 41)**

§204 Concerning technical acceptance, it is necessary to distinguish between:

1° Preliminary technical acceptance within the meaning of Article 42;

2° Ex post technical acceptance within the meaning of Article 43.

§205 The contracting authority may waive all or part of the technical acceptance procedures where the contractor can prove that the products have been controlled by an independent body during their production, in accordance with the specifications of the procurement documents. In this respect, any other certification procedure in force in a Member State of the European Union is regarded as comparable to the Belgian conformity certification procedure and deemed equivalent.

#### **1.6.9.3 Preliminary technical acceptance (Art. 42)**

§206 As a general rule, products may not be used if they have not been accepted by the managing official or his or her representative.

- §207 All equipment proposed must be approved by the contracting authority. This approval is obtained on the basis of the preliminary technical forms that have been elaborated by the building contractor and are submitted to the managing official.
- §208 The technical forms give a general overview of the equipment and give specifications and choices made for the project.
- §209 The contracting authority refuses technical forms which are partial or incomplete and which do not provide the technical information required for examination and approval.
- §210 Once the comments made are in the possession of the building contractor, he will take them into account and will complete the technical form in order to have it approved.
- §211 Technical acceptance may be carried out at various stages of production.
- §212 Products that at a given stage do not satisfy the technical acceptance tests imposed will be declared unfit for technical acceptance.
- §213 The request of the contractor will be considered not having been made. A new request is made when the product is fit for acceptance.
- §214 The contractor is responsible for storing and conserving his products in view of any risks run by his company and this until provisional acceptance of the works.
- §215 Except for approved products, the costs pertaining to the preliminary technical acceptance are borne by the building contractor.
- §216 In any case, the costs include:
- Costs pertaining to tasks of the acceptance experts, including travel and accommodation costs of acceptance experts.
  - Costs pertaining to collecting, packaging, and transporting samples, regardless where or where to,
  - Costs pertaining to tests (preparation, manufacture of testing tools, the tests as such (in this respect, the circular letters pertaining to setting rates for tests apply)),
  - Costs pertaining to the replacement of products that are faulty or damaged.

#### **1.6.9.4 Ex post technical acceptance (Art. 43)**

- §217 Ex post technical acceptance will obligatorily be carried out for any defects to works or equipment components that would have remained hidden after completion of the works.

#### **1.6.10 Performance period (Art. 76)**

- §218 The building contractor is to complete the works within a period of **90 calendar days** as of the date set in the written service order to commence the works.
- §219 The above-mentioned deadlines are mandatorily applicable.

#### **1.6.11 Provision of land (Art. 77)**

- §220 The building contractor shall bear all costs pertaining to land that is needed for the installation of his construction sites, storing supplies, preparing and handling materials as well as land needed for storing soil, excavated soil that is known to be unsuitable for reuse as landfill, material from demolition, general waste of any kind and excess earth.
- §221 He is liable, vis-à-vis adjoining landowners, for any damage to private property while achieving the works or storing the materials.

§222 The enclosing hoardings may not be used for advertising.

§223 No advertising is allowed on the sites used, except for 'Construction site information'.

#### **1.6.12 Labour conditions (Art. 78)**

§224 All the legal, regulatory and contractual provisions relating to the general conditions of work and health and safety in the workplace will apply to all personnel on the contractor's site.

§225 The building contractor, all persons acting as a subcontractor at any stage and all persons providing personnel, shall be required to pay their respective personnel salaries, bonuses and allowances at the rates established by law, by collective agreements concluded by company agreements.

§226 The building contractor shall keep available to the contracting authority at all times, at a location designated by the latter, a list, updated on a daily basis, of all the personnel it employs on the site.

§227 This list contains at least the following personal information:

§228 the name; the first name; actual occupation per day on the construction site; the date of birth; the job title; qualifications;

§229 The contact person appointed by the building contractor for the performance of this contract with the contracting authority will have to master the following languages: English.

#### **1.6.13 Organisation of the construction site (Art. 79)**

§230 The building contractor shall comply with the local legal and regulatory provisions governing building works, road works, health and safety in the workplace as well as the provisions of collective, national, regional, local and company agreements.

§231 During the performance of the works, the building contractor shall be required to maintain the security of the site for the duration of the works and, in the interests of his appointees and the representatives of the contracting authority and third parties, to take all necessary measures to ensure their safety.

§232 The building contractor shall, under his sole responsibility and at his own expense, take all necessary measures to ensure the protection, preservation and integrity of existing buildings and works. He shall also take all the precautions required by best building practices and any special circumstances to protect neighbouring properties and to prevent any disturbance to them through his fault.

§233 The building contractor shall bear all costs of and implement all necessary measures to signal in daylight, at night as well as in fog, the construction sites and storage sites that are located where vehicles and pedestrians circulate. He is to completely enclose his sites along temporary or permanent sidewalks as well as along temporary or permanent traffic arteries. Such enclosing and hoarding will also ensure the protection of the construction site during the construction period against any outside intrusion.

§234 The building contractor shall supply a purpose-made notification billboard for this construction site with dimensions and following the model offered by the contracting authority prior to starting the works.

§235 This informative panel will be put in place when construction work starts along the public road in a place that is to be defined by the contracting authority.

#### **1.6.14 Means of control (Art. 82)**



§236 The building contractor shall notify the contracting authority of the precise location of works in progress on its site, in his workshops and factories and on the premises of his subcontractors and suppliers.

§237 Without prejudice to the technical acceptance operations to be carried out on site, the building contractor shall at all times grant to the managing official and other agents appointed by the contracting authority free access to the sites of production, for the purposes of monitoring strict application of the contract, in particular concerning the origin and quality of the products.

§238 If the building contractor uses products that have not been accepted or that do not meet the demands of the Tender Specifications, the managing official or his/her representative may forbid the further pursuit of the works concerned, until these refused products are replaced by others that meet the contract's conditions, without this decision generating an extension of the performance period or any entitlement to compensation. The building contractor is notified about the decision by means of a written report.

#### **1.6.15 Works logbook (Art. 83)**

§239 Upon contract conclusion notification, the building contractor makes the necessary Works logbooks available to Enabel.

§240 Once the works have started, the building contractor shall supply 2 copies with all necessary information for establishing the Works logbooks on a daily basis to the contracting authority's representatives. This concerns:

- Weather conditions;
- Interruptions to works caused by adverse weather conditions;
- Accidents at work;
- The number and capacity of workers employed on the site;
- Materials supplied;
- Equipment actually used and equipment out of service;
- Unforeseen events;
- Amending orders of minor impact;
- The attachments and quantities performed for each item and in each zone of the construction site. The attachments constituting the true and detailed representation of all works performed, in quantity, dimensions and weights.

§241 Delay in providing the above documents may result in the application of penalties.

§242 When the building contractor does not formulate any remarks in due form and within above-mentioned deadlines, he is deemed to be in agreement with the annotations made in the logbooks or detailed attachments.

§243 When these observations are not deemed justified, the building contractor will be notified accordingly by registered letter.

#### **1.6.16 Liability of the building contractor (Art. 84)**

§244 The building contractor shall be held liable in respect of all works performed by him or his subcontractors until final acceptance of all works. During the warranty period, the building contractor shall carry out on the work, as required, all the works and repairs necessary to restore it to a good state of operation, and maintain it in this state.

§245 Any repairs to shortcomings are performed in compliance with the instructions of the contracting authority.

### **1.6.17 Zero tolerance Sexual exploitation and abuse**

§246 In application of Enabel's Policy regarding sexual exploitation and abuse of June 2019 there will be zero tolerance towards any misconduct that could impact the professional credibility of the tenderer.

### **1.6.18 Means of action of the contracting authority (Art. 44-51 and 85-88)**

§247 The building contractor's default is not solely related to the works as such but also to the whole of the building contractor's obligations.

§248 In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to appointees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

§249 In case of violation, the contracting authority may impose a lump-sum fine to him for each violation, which can be to up to three times the amount obtained by adding up the (estimated) values of the advantage offered to the appointee and of the advantage that the contractor hoped to obtain by offering the advantage to the appointee. The contracting authority will decide independently about the application and the amount of this fine.

§250 Moreover, in case of suspicion of fraud or of bad workmanship during performance, the building contractor may be required to demolish the whole or part of the works executed and to rebuild them. The costs of demolition and reconstruction will be borne by the building contractor or the contracting authority, according to whether the suspicion is found to be justified or not.

§251 This clause is without prejudice to the possible application of other measures as of right provided in the GIR, namely the unilateral termination of the contract and/or the exclusion from procurement by the contracting authority for a determined duration.

#### **1.6.18.1 Failure of performance (Art. 44)**

§252 The contractor is considered to be in failure of performance under the public contract:

- 1° when performance is not carried out in accordance with the conditions specified in the procurement documents;
- 2° at any time, when performance has not progressed in such a way that it can be fully completed on the due dates;
- 3° when he does not observe written orders, which have been given in due form by the contracting authority.

§253 Any failure to comply with the provisions of the public contract, including the non-observance of orders of the contracting authority, is recorded in a report ('process verbal'), a copy of which will be sent immediately to the contractor by registered mail or equivalent.

§254 The contractor must repair the defects without any delay. He may assert his right of defence by registered letter or equivalent addressed to the contracting authority within fifteen days from the date of dispatch of the report (process verbal). Silence on his part after this period shall be deemed acknowledgement of the reported facts.

§255 Any defects detected that can be attributed to the contractor render him liable to one or more of the measures provided for in Articles 45 to 49, 86 and 87.



### 1.6.18.2 Penalties (Art. 45)

§256 Special penalties: because of the significance of the works, are burdened, without the need for notice and by the breach only, with a daily penalty of EUR 250 for every calendar day of non-performance:

- Absence from construction site meetings or coordination meetings: For every absence a penalty will be imposed to the building contractor who has not attended or has not been validly represented at meetings which he was supposed to attend.
- Delay in executing observations or administrative orders of the contracting authority's via the managing official: Where the lists of observations result from construction site visits, in particular for painting orders, or upon acceptance, have not been fulfilled by the time set by the managing official, the contractor will be penalised per calendar day of delay until performance is effectively carried out.
- Change of one of the key staff members without prior agreement of the contracting authority: A lump sum penalty is applied per day of default, ending when, either the managing official obtains the approval of the contracting authority for the new member's being put in place, or the replaced member is re-established in its duties, or both parties agree about a new person as a replacement that is jointly accepted. When the penalties are applied, these may in no case be recuperated retrospectively, even where agreement is found.

§257 If a shortcoming to one of the stipulations mentioned above is found in accordance with Article 44 §2 of the Royal Decree of 14 January 2013, the contracting authority may allow a period to the building contractor to repair the shortcoming and to inform it about this reparation by registered mail. In this case, the contractor is notified of the deadline along with the failure of performance report mentioned in Art. 44 §2 of the Royal Decree of 14 January 2013.

§258 If no term is indicated in the registered letter the contractor is to repair the shortcomings without any further delay.

### 1.6.18.3 Fines for delay (Art. 46 et seq. and 86)

§259 The fines for delay differ from the penalties referred to in Article 45. They are due, without the need for notice, by the mere lapse of the performance period without the issuing of a report and they are automatically applied for the total number of days of delay.

§260 Fines are calculated following the formula given in Article 86 §1.

§261 Regardless of the application of any fines for delay, the contractor indemnifies the contracting authority against damages for which it is liable towards third parties due to late performance of the contract.

§262 In case the works being the subject-matter of these Tender Specifications were not completed within the period set in point 1.4.18, the following fine will be applied as of right for every working day of delay without the need for notice, simply by the expiry of the period in question:

$$\blacktriangleright R = 0.45 \times \frac{(M \times n^2)}{N^2}$$

§263 Where:

- R = the sum of the fines to be applied for a delay of n working days;

- M = the initial value of procurement;
- N = the number of working days initially specified for performance of the contract;
- n = the number of working days of delay.

§264 However, if the factor M does not exceed EUR 75 000 and, at the same time, N does not exceed 150 working days, the denominator N<sub>2</sub> will be replaced by 150 × N.

§265 If the contract includes several parts or several stages, each of which has its own period N and value M, each of them will be deemed a distinct contract for the application of fines.

§266 If, without setting parts or stages, the Tender Specifications stipulate that partial periods apply, failure to observe these will be penalised by special fines provided for in the Tender Specifications, or, in the absence of such a provision, by fines calculated in accordance with the formula referred to in Art. 86§1 of the Royal Decree of 14 January 2013, in which the factors M and N refer to the total contract. However, the maximum of the fines relating to each partial period of P working days shall be:

$$\blacktriangleright R_{par} = \frac{M}{20} \times \frac{P}{N}$$

#### **1.6.18.4 Measures as of right (Art. 47 and 87)**

§267 When, upon expiry of the term given in Article 44, §2, the contractor has not taken action or has presented means deemed unjustified by the contracting authority, the contracting authority may apply the measures as of right described in paragraph 2.

§268 However, the contracting authority may apply measures as of right without waiting for the expiry of the term given in Article 44, §2, when the contractor has explicitly recognised the defects detected.

§269 The measures as of right are:

1° Unilateral termination of the contract. In this case the entire performance bond, or if no bond has been posted an equivalent amount, is acquired as of right by the contracting authority as lump sum damages. This measure excludes the application of any fine for delay in performance in respect of the terminated part;

2° Performance under regime of all or part of the non-performed contract;

3° Conclusion of one or more replacement contracts with one or more third parties for all or part of the contract remaining to be performed.

§270 The measures referred to in 1°, 2° and 3° will be taken at the expense and risk of the defaulting contractor. However, any fines or penalties imposed during the performance of a replacement contract will be borne by the new contractor.

#### **1.6.18.5 Other sanctions (Art. 48)**

§271 Without prejudice to the sanctions provided in these Tender Specifications, the contractor defaulting on performance may be excluded by the contracting authority from its public contracts for a three-year period. The contractor in question will be given the opportunity to present a defence and the reasoned decision will be notified to him.

### **1.6.19 Acceptance, guarantee and end of the public contract (Art. 64-65 and 91-92)**

#### **1.6.19.1 Acceptance of the works performed (Art. 64-65 and 91-92)**

- §272 The managing official will closely follow up the works during performance. The services will not be accepted until after fulfilling audit checks, technical acceptance and prescribed tests.
- §273 Provisional acceptance is provided upon the completion of performance of the works forming the subject-matter of the contract and, on expiry of a warranty period, a final acceptance marking full completion of the contract.
- §274 The total or partial taking of possession of the work by the contracting authority does not constitute provisional acceptance.
- §275 The contracting authority disposes of a verification term of thirty days starting on the final or partial end date of the works, set in conformity with the modalities in the procurement documents, to carry out the acceptance formalities and to notify the result to the building contractor.
- §276 When the work is completed on the date set for its completion, and provided that the results of the technical acceptance inspections and prescribed tests are known, a report confirming provisional acceptance or refusing acceptance will be drawn up.
- §277 When the work is terminated before or after this date, the building contractor notifies the managing official thereof, by registered letter or e-mail showing the exact date of dispatch, and requests, on that occasion, to proceed to provisional acceptance. Within 15 days after the date of receipt of the building contractor's request, and provided that the results of the technical acceptance inspections and prescribed tests are known, a report confirming provisional acceptance or refusing acceptance will be drawn up.

The warranty period commences on the date on which provisional acceptance is given and lasts for **one year**.

- §278 Within 15 days preceding the date of expiry of the warranty period, a report confirming final acceptance or refusing acceptance shall be drawn up.
- §279 The building contractor shall be held liable in respect of all works performed by him or his subcontractors until final acceptance of all works.
- §280 During the warranty period, the building contractor shall carry out on the work, as required, all the works and repairs necessary to restore it to a good state of operation, and maintain it in this state.
- §281 However, after provisional acceptance, the building contractor will not be liable for damage the causes of which are not attributable to him.
- §282 The contractor who, during the warranty period, does certain works or partial works, shall restore the adjacent parts (such as paint, wallpaper, parquet floor...) if these have been damaged because of the repairs undertaken.
- §283 In buildings or other property that are being occupied the contractor may not hinder or endanger said occupation in any way for the performance of his works. The contractor shall bear all costs for the measures needed for that purpose.
- §284 During the warranty period, which amounts to 2 years, the building contractor shall carry out on the work, as required, all the works and repairs necessary to restore it to a good state of operation, and maintain it in this state.
- §285 From the time of provisional acceptance and without prejudice to the provisions of paragraph 1 relating to its obligations during the warranty period, the building

contractor shall be responsible for the solidity of the work and the proper execution of the works in accordance with Articles 1792 and 2270 of the Civil Code.

§286 Any breach of the contractor's obligations during the warranty period will be reported ('procès-verbal') and lead to measures as of right, in accordance with Article 44 of the GIR.

#### 1.6.19.2 Price of the public contract in case of late performance (Art. 94)

§287 The price of the works performed during a period of delay attributable to the building contractor will be calculated in accordance with whichever of the following procedures proves the more advantageous to the contracting authority:

- by assigning to the constituent elements of the prices contractually specified for revision the values applicable during the period of delay in question; or
- by assigning to each of these elements an average value (E) established as follows:

$$\blacktriangleright E = \frac{e_1 \times t_1 + e_2 \times t_2 + \dots + e_n \times t_n}{t_1 + t_2 + \dots + t_n}$$

§288 where,

- e1, e2, ... en, represent the successive values of the element in question during the contractual period, which may be extended insofar as the delay is not attributable to the building contractor;
- t1, t2, ... tn, represent the corresponding periods for applying these values, expressed in months of 30 days, each fraction of a month being ignored and the periods of suspension of performance of the contract not being taken into consideration.
- The value of E is calculated to the second decimal place.

#### 1.6.20 Terms and Conditions of Payment of the works (Art. 66 et seq and 95)

§289 Payment will be made within 30 days after submission and approval of the invoice.

§290 The invoice shows the full details of the works that justify the payment. The invoice will be signed and dated, and will include the statement: 'Certified true and sincere for the amount of EUR .... (amount in words).' and the reference 2275PSE-10040 Public procurement works contract for the Supply and Installation of Roof-Top Solar Photovoltaic Systems on Consulate General of Belgium in Jerusalem, as well as the name of the managing official Mr. Alexis Doucet. The invoice that does not include these references cannot be paid.

§291 The invoice address is:

- Enabel - Belgian Development Agency, Baibars street 5, Sheikh Jarrah, Jerusalem
- T (+972) 2 581 5915

§292 A maximum of two (2) payments will be made at 50% completion and a final at 100% completion on the basis of the progress reports that are established by the contractor and the managing official after inspection and technical acceptance of the works completed on ground.

§293 It should be understood that no advance payments may be requested and payment will be made only after performance and acceptance.

§294 Payment will be by bank transfer only.

### 1.6.21 Litigation (Art. 73)

- §295 The competent courts of Brussels have exclusive jurisdiction over any dispute arising from the performance of this public contract. French or Dutch are the languages of proceedings.
- §296 The contracting authority will in no case be held liable for any damage caused to persons or property as a direct or indirect consequence of the activities required for the performance of this contract. The contractor indemnifies the contracting authority against any claims for compensation by third parties in this respect.
- §297 In case of 'litigation', i.e. court action, correspondence must (also) be sent to the following address:

► Enabel  
Legal unit of the Logistics and Acquisitions service (L&A)  
To the attention of Ms Inge Janssens  
rue Haute 147  
1000 Brussels  
Belgium

## 2 Terms of Reference

### 2.1 Introduction

#### 2.1.1 Lot 1: Consulate General of Belgium in Jerusalem

- §298 As part of greening of Enabel's offices, the Contractor will undertake the implementation of PV solar panels at rooftop of the General Consulate of Belgium office, located in Sheikh Jarrah neighborhood in East Jerusalem.
- §299 The available roof area is approximately 130 square meters with a designed capacity to be generated is around 20 kilowatts peak.

#### 2.1.2 Lot 2: Sheikh Saad Boys' and Girls' Schools in Sheikh Saad Village

- §300 The RiSE-project (Resilience in Schools of East Jerusalem) aims to strengthen the resilience of the Palestinian community in East Jerusalem by improving access to education, school infrastructure and public spaces. This project intends on installing two photovoltaic systems on two schools in Sheikh Saad Village that were previously rehabilitated. Thus improving the energy efficiency of these existing buildings and decreasing reliance on energy consumption.
- §301 The target of this project is to also work towards avoiding future Greenhouse Gas (GHG) emissions equivalent to minimum 31 [tonnes CO<sub>2</sub> equivalent per year].
- §302 The available roof area at each school is approximately 260 square meters with an estimated capacity to be generated is around 37 kilowatts for each school.

### 2.2 Scope of Work

- §303 The project's scope includes the complete installation, interconnection, commissioning, and operation of a grid-tied, three-phase photovoltaic (PV) systems on the rooftops of two schools in Sheikh Saad Village and the General Consulate of Belgium in Jerusalem. These PV systems will be seamlessly integrated with the local electrical grid, operating under a feed-in-tariff (for the two schools) and net-metering



framework (for the Consulate General of Belgium), with the electricity company serving as the sole electricity distributor.

§304 The project includes the following main components:

1. System installation and grid connection: Implementation of all works, submitting application form and all necessary documents to electrical company and Civil Defence, obtaining approvals, testing, and connecting to grid.
2. Training of staff: Training at least 2 individuals, to be nominated by Contracting Authority and Jerusalem Directorate of Education, on system use, reading of values, functioning modes, and safety procedures in case of an emergency.
3. Operation, Maintenance and Warranty: The Contractor will be required to follow up on maintenance for one calendar year, starting from issuance of provisional acceptance; this includes, resolving any issues at site, part replacement, cleaning services and regular preventive maintenance.

## 2.3 Location

### 2.3.1 Lot 1: Consulate General of Belgium in Jerusalem

§305 Below is an ariel Photo of the building with GPS Coordinates: 31.7943, 35.2309.



### 2.3.2 Lot 2: Sheikh Saad Boys' and Girls' Schools in Sheikh Saad Village

§306 Below is an ariel Photo of the schools' main building with their respective GPS Coordinates:

§307 Sheikh Saad Boys' School (31.7343, 35.2567)



§308 Sheikh Saad Girls' School (31.7395, 35.2567)



## 2.4 Annexes to the terms of reference

- 2.4.1 Annex 1: Bill of Quantities
- 2.4.2 Annex 2: Drawings and Details
- 2.4.3 Annex 3: Technical Specifications
- 2.4.4 Annex 4 - Electrical Company Initial Approval

§309 All annexes can be downloaded at the following address:

► <https://www.enabel.be/public-procurement/>



§310 Selecting the country “Palestine”.

## **2.5 Site visit and information meeting**

Service providers can take part in the site visit and information meeting:

- For Lot 1: February 13<sup>th</sup>, 2024 at 10:00 AM at the General Consulate of Belgium in Sheikh Jarrah, Jerusalem
- For Lot 2: February 14<sup>th</sup>, 2024 at 10:00 AM at Sheikh Saad Girls’ School in Sheikh Saad Village.
- For Further information contact Walid Aboudi, via Email Address: [valid.aboudi@enabel.be](mailto:valid.aboudi@enabel.be), or phone number: +970597357998/+972549828115.

## 3 Forms

### 3.1 Instructions for compiling the tender

- §311 The tenderer must use the tender form in annex. In case he does not use this form, he is fully responsible for the perfect concordance between the documents he has used and the form.
- §312 The tender and the annexes to the tender form are drawn up in English.
- §313 Please read [3.9 Documents to be submitted – exhaustive list, p.50](#) for the complete list of documents to be submitted.
- §314 If submitted by post or by hand, the tender forms must be submitted in one copy. Electronic submission will be accepted (see [1.3.4 How to submit tenders?, p.14](#)). The Annexes 2 and 3 do not need to be printed or signed.
- §315 The different parts and annexes of the tender must be numbered.
- §316 The prices are given in euros and rounded off to two figures after the decimal point. If necessary, they may be rounded off to four figures after the decimal point.
- §317 Erasures and alterations, additions or changes in the tender forms must be accompanied by a signature next to the erasure and alteration, addition or change concerned.
- §318 This also applies to erasures and alterations, additions or changes made by means of a correction ribbon or correcting fluid.
- §319 The tender must bear the original hand-written signature of the tenderer or of his representative.
- §320 If the tenderer is a company / association without legal body status, formed by separate natural or legal persons (temporary group or temporary partnership), the tender must be signed by each of these persons.

### 3.2 Identification form

Name of the company and legal form		TEN
Nationality of the tenderer and of staff (if different)		
Domicile / registered office <b>complete</b> address	Street name	
	House number	
	Zip code or neighbourhood	
	City or village	
	Country or territory	
Telephone number (with country code)		
National Social Security Office registration number or equivalent		
Enterprise number		
Represented by the undersigned	First and Last Name	FN LN
	Function	
Contact person	Full Name	
	Title / function	
	Phone	
	E-mail	
If different: Project manager	Full Name	
	Phone	
	E-mail	
Bank account for payments	IBAN	
	BIC/SWIFT	
	Financial institution	
	Account holder name	

First name:	FN	Place:	PL
Last name:	LN	Date:	DT
Duly authorised to sign this tender on behalf of:	TEN	Signature and stamp:	

### 3.3 Subcontractors

Name and legal form	Address / Registered office	Regards

### 3.4 Tender form - Prices

§321 By submitting this tender the tenderer commits to performing this public contract in conformity with the provisions of the Tender Specifications/ – and explicitly declares accepting all conditions listed in the Tender Specifications and renounces any derogatory provisions such as his own conditions.

§322 Before filling this form, the tenderer shall fill his unit prices in Appendix 1 – Bill of Quantities. The totals for each lot in Appendix 1 must be reported accurately here below.

§323 The unit prices and the global prices for each item in the inventory are established relative to the value of these items in relation to the total value of the tender. All general and financial costs as well as the profits are distributed between the various items in proportion to their weight.

§324 The tenderer commits to performing the public contract in accordance with the provisions of the Tender Specifications for the following prices, given in euros:

	Price offer (without V.A.T)									
Total for Lot 1 (EUR)	€					,				.
Total for Lot 2 (EUR)	€					,				.
		Thousands				Units				Cents

§325 Should this tender be approved, the performance bond will be constituted under the conditions and deadlines stipulated in the Tender Specifications.

§326 The confidential information and/or the information relating to technical or business secrets is indicated clearly in the tender.

§327 The tenderer declares on honour that the information given is accurate and correct and that it has been established while fully aware of the consequences of misrepresentation.

Certified true and sincere,

First name:	FN	Place:	PL
Last name:	LN	Date:	DT
Duly authorised to sign this tender on behalf of:	TEN	Signature and stamp:	

### 3.5 Declaration on honour – Exclusion grounds

§328 Hereby, I / we, acting as legal representative(s) of above-mentioned tenderer declare that the tenderer is not in any of the following cases of exclusion:

1. The tenderer nor any of its directors was found guilty following an **indefeasible judgement** for one of the following offences:
  - 1° Involvement in a criminal organisation;
  - 2° **corruption**;
  - 3° **fraud**;
  - 4° Terrorist offence, offence linked to terrorist activities or incitement to commit such offence, collusion or attempt to commit such an offence
  - 5° money laundering or financing of terrorism
  - 6° child labour and other trafficking in human beings
  - 7° employment of foreign citizens under illegal status
  - 8° establishment or creation of a shell company.The exclusions on the basis of this criterion apply for a 5-year term from the date of judgement.
2. The tenderer which fails to fulfil his obligations relating to the **payment of taxes or social security contributions** for an amount in excess of EUR 3 000, except if the tenderer can demonstrate that a contracting authority owes him one or more unquestionable and due debts which are free of all foreseeable liabilities. These debts are at least of an amount equal to the one for which he is late in paying outstanding tax or social charges;
3. When the tenderer is in a state of bankruptcy, liquidation, cessation of activities, judicial reorganisation, or has admitted bankruptcy, or is the subject of a liquidation procedure or judicial reorganisation, or in any similar situation resulting from a procedure of the same kind existing under other national regulations;
4. The tenderer or one of its directors has committed **serious professional misconduct which calls into question their integrity.**

The following are considered serious professional misconduct, among others:

- a. A breach of Enabel's Policy regarding sexual exploitation and abuse – June 2019.
- b. A breach of Enabel's Policy regarding fraud and corruption risk management – June 2019
- c. A breach of a regulatory provision in applicable local legislation regarding sexual harassment in the workplace
- d. The tenderer was seriously guilty of misrepresentation or false documents when providing the information required for verification of the absence of grounds for exclusion or the satisfaction of the selection criteria, or concealed this information
- e. Where Enabel has sufficient plausible evidence to conclude that the tenderer has committed acts, entered into agreements or entered into arrangements to distort competition.

The presence of this tenderer on one of Enabel's exclusion lists as a result of such an act/agreement/arrangement is considered to be sufficiently plausible an element.

5. When a conflict of interest cannot be remedied by other, less intrusive measures.
6. When **significant or persistent failures** by the tenderer were detected during the execution of an **essential obligation** incumbent on him in the framework of a previous public contract, a previous contract placed with a contracting authority, when these failures have given rise to measures as of right, damages or another comparable sanction. Failures to respect applicable obligations regarding environmental, social and labour rights under European Union law, national law, labour agreements or international provisions on environmental, social and labour rights are considered 'significant'. The presence of the tenderer on the exclusion list of Enabel because of such a failure serves as evidence.

7. Restrictive measures have been taken vis-à-vis the tenderer with a view of ending violations of international peace and security such as terrorism, human-rights violations, the destabilisation of sovereign states and de proliferation of weapons of mass destruction.

8. The tenderer or one of its directors are on the lists of persons, groups or entities subject to United Nations, European Union or Belgian financial sanctions:

For the United Nations, the lists can be consulted at the following address:  
<https://finances.belgium.be/fr/tresorerie/sanctions-financieres/sanctions-internationales-nations-unies>

For the European Union, the lists can be consulted at the following address: :  
<https://finances.belgium.be/fr/tresorerie/sanctions-financieres/sanctions-europ%C3%A9ennes-ue>

<https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions>

[https://eeas.europa.eu/sites/eeas/files/restrictive\\_measures-2017-01-17-clean.pdf](https://eeas.europa.eu/sites/eeas/files/restrictive_measures-2017-01-17-clean.pdf)

For Belgium:

[https://finances.belgium.be/fr/sur\\_le\\_spf/structure\\_et\\_services/administrations\\_generales/tr%C3%A9sorerie/contr%C3%B4le-des-instruments-1-2](https://finances.belgium.be/fr/sur_le_spf/structure_et_services/administrations_generales/tr%C3%A9sorerie/contr%C3%B4le-des-instruments-1-2)

9. <...> If Enabel executes a project for another funder or donor, other grounds for exclusion may be added.

The tenderer formally declares being able, when asked and without delay, to provide the relevant certificates and other kinds of supporting documents, except if:

a. Enabel can directly obtain the supporting documents concerned by consulting a national database in a Member State that is accessible for free, provided the tenderer has given the required information (website address, responsible authority for providing the information, specific reference of the documents) so Enabel can obtain these, with concomitant permission to access them;

b. Enabel already has said documents.

The tenderer formally agrees with Enabel accessing the supporting documents substantiating the information provided in this document.

First name:	FN	Place:	PL
Last name:	LN	Date:	DT
Duly authorised to sign this tender on behalf of:	TEN	Signature and stamp:	



### 3.6 Integrity Statement of the tenderer

§329 Hereby, I / we, acting as legal representative(s) of above-mentioned tenderer, declare the following:

- Neither members of administration or employees, or any person or legal person with whom the tenderer has concluded an agreement in view of performing the public contract, may obtain or accept from a third party, for themselves or for any other person or legal person, an advantage appreciable in cash (for instance, gifts, bonuses or any other kind of benefits), directly or indirectly related to the activities of the person concerned for the account of Enabel.
- The board members, staff members or their partners have no financial or other interests in the businesses, organisations, etc. that have a direct or indirect link with Enabel (which could, for instance, bring about a conflict of interests).
- I have / we have read and understood the articles about deontology of this public contract (see 1.7.) as well as Enabel's Policy regarding sexual exploitation and abuse and Enabel's Policy regarding fraud and corruption risk management and I / we declare fully endorsing and respecting these articles.

§330 If above-mentioned public contract is awarded to the tenderer, I / we declare, moreover, agreeing with the following provisions:

- In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the public contractor (i.e. members of the administration and workers) to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of Enabel who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.
- Any (public) contract will be terminated, once it appears that contract awarding or contract performance would have involved the obtaining or the offering of the above-mentioned advantages appreciable in cash.
- Any failure to comply with one or more of the deontological clauses will lead to the exclusion of the contractor from this and other public contracts for Enabel.

§331 Finally, the tenderer takes cognisance of the fact that Enabel reserves the right to lodge a complaint with the competent legal instances for all facts going against this statement and that all administrative and other costs resulting are borne by the tenderer.

§332 Signature preceded by 'read and approved', in writing, and indication of name and function of the person signing:

First name:	FN	Place:	PL
Last name:	LN	Date:	DT
Duly authorised to sign this tender on behalf of:	TEN	Signature and stamp:	

### 3.7 Selection Criterion 1: Similar Experience

§333 Each experience must be supported with an official and signed letter from the contracting authority, including the amount involved, capacity of system implemented and the date of completion of works, on behalf of which they were carried out, showing that the tenderer has carried out to the highest standard and to the client's full satisfaction the works requested of him.

§334 For details about the minimum requirements related to experience as part of selection criterion, please see: 1.3.5.2 Selection criteria, p.15

Description of the main works performed	Role (Contractor/ subcontractor)	Amount involved and currency	Completion date (provisional acceptance) in the last 5 years	Contracting Authority (Name of the public or private bodies)

First name:	FN	Place:	PL
Last name:	LN	Date:	DT
Duly authorised to sign this tender on behalf of:	TEN	Signature and stamp:	

### 3.8 Selection Criterion 2: Personnel

§335 The tenderer shall **attach a complete and up-to-date CV** showing experience until present.

§336 For details about the minimum requirements related to experience as part of selection criterion, please see: 1.3.5.2 Selection criteria, p.15

§337 Proposed person when applying for one lot:

Position	Lot (1 or 2)	Full name	Total work projects (years)	Educational degree
Project Manager				

§338 Proposed person when applying for both lots:

Position	Full name	Total work projects (years)	Educational degree
Project Manager			

First name:	FN	Place:	PL
Last name:	LN	Date:	DT
Duly authorised to sign this tender on behalf of:	TEN	Signature and stamp:	

### 3.9 Documents to be submitted – exhaustive list

§339 Overview of the documents to be submitted – to be completed exhaustively

§340 The following documents need to be provided as part of the tender:

	Document	
Tender document	<p>One original copy of the completed tender document (the present document) filled electronically (not by hand), then printed completely, signed, and stamped. For electronic submission, this original must be scanned after signature and stamping, and submitted by email.</p> <p>The following forms need to be completed:</p> <ol style="list-style-type: none"> <li>1. Form 3.2: Identification</li> <li>2. Form 3.3: Subcontractors</li> <li>3. Form 3.4: Prices</li> <li>4. Form 3.5: Declaration on honour – exclusion grounds</li> <li>5. Form 3.6: Integrity statement</li> <li>6. Form 3.7: List of similar supply deliveries- accompanied with certificates of completion</li> <li>7. Form 3.8: Personnel</li> </ol>	
	One electronic copy and one printed+signed+stamped original copy of the completed Annex 1: Bill of quantities. For electronic submission, this printed original must be scanned as well.	
	Incorporation certificate from the competent authority	
	CV of the proposed personnel, in English	
	Declaration from a competent authority of not being in a situation of bankruptcy or insolvency	
	Valid deduction at source Certificate	
	Power of attorney empowering the person signing the tender on behalf of the company, joint venture or consortium, signed by the person(s) mentioned in the incorporation certificate (only needed if the person signing the tender is different).	
	Non sentence certificate of the board	
	Active Bank account for the last 2 years	
	In case of a consortium or a temporary association, a copy of the joint venture agreement.	