

## TES USER PROTOCOL<sup>1</sup>

This Protocol contains the terms of use of a computer system supporting electronic bid transmission (TES) and the rights and obligations of the users. When they access TES Internet site, users, in their own name and on behalf of the firm committed to the BSDQ, accept said terms of use as well as any changes subsequently made thereto. They also agree to refer thereto on a regular basis.

### ACCESS TO TES AND ELECTRONIC SIGNATURE

The BSDQ shall provide all legal and natural persons having signed either commitment C-1 or commitment C-2 of the Tendering Code and who require same, with a master-user's code and a temporary password. The BSDQ shall provide only one master-user's code per person committed to the BSDQ, and said master-user's code shall be provided to the natural person appointed or designated by the person committed to the BSDQ. The master-user's code shall allow that person to access TES, to establish his password which constitutes his electronic signature and to identify other users allowed to access TES depending upon what supervision and guidance and what limits were selected and determined by the master-user.

The BSDQ shall also provide, where required to do so, a master-user's code and a temporary password to any natural person appointed or designated by any surety company mentioned in Schedule II of the Tendering Code. Furthermore, the BSDQ shall provide, where required to do so, a master-user's code and a temporary password to any natural person appointed or designated by a legal or a natural person, to whom tenders may be sent in his capacity as «addressee of copies », in accordance with section E-2 of the Tendering Code.

The BSDQ can also provide a master-user's code and temporary password to any natural person appointed by the awarding authority who has requested tenders be filled and addressed directly to them electronically in order to take possession of the tenders through the TES exclusively. The awarding authority and the BSDQ will determine the procedures for the filling and receiving of the tenders.

The temporary password provided by the BSDQ shall be changed by the holder of the master-user's code when he first accesses TES site. The new password so indicated, along with any subsequent changes thereto, and any passwords belonging to those users previously granted certain rights of access, shall become the electronic signature of the person committed to the BSDQ. This signature shall have the same legal effect as an original handwritten signature. The same shall apply to any password indicated for the representative of any surety company, the representative of the «addressee of copies » or the representative of the awarding authority who has agreed to use the TES.

Expressly appointed or designated BSDQ employees shall also dispose of a master-user's code allowing them to access TES so as to ensure that it operates properly and in order to allow the BSDQ to assume its role.

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<sup>1</sup> *It should be noted that, for interpretation purposes, the French text shall prevail over the English, the latter being a translation of the French original and that acronyms are reproduced as in the French version.*

## **CONFIDENTIALITY AND SECURITY**

In order to allow the BSDQ to safeguard and protect the integrity of the information and the data in the TES and for TES to be accessible in due course and as required by any authorized person and in order that only authorized persons have access to information and data flowing through TES, the BSDQ shall make sure to confirm the identity of the natural person appointed or designated as aforesaid and provided with a master-user's code, and to have the latter sign this Protocol.

A master-user shall be responsible for the use he makes of his user's code and of any password he chose and he shall keep said password secret. A master-user shall also be responsible for any access, whether limited or unlimited, he may grant within his own firm.

The BSDQ shall retain, in a historical record, any information related to transactions executed through TES by the users. Retention of the aforesaid elements shall be required in order to make it possible for the BSDQ to suitably play its part and ensure the integrity and soundness of bid E-filings and their possession.

Neither the BSDQ nor any of its agents or employees shall be allowed to access tenders less than one hour after the closing hour of the general contractor's tender at the awarding authority as per article H-1 of the Tendering Code.

E-Mails received at the BSDQ shall be dealt with using the same confidentiality measures as those used where mail is concerned.

The BSDQ takes any steps required in order to avoid intrusions.

## **USER LIABILITY**

When it obtains a master-user's code, the natural person appointed or designated undertakes, thereby binding himself and any other users it gives limited or unlimited access, to use TES in compliance with the provisions of the Tendering Code and of this Protocol, and solely for authorized purposes. BSDQ shall hereby be authorized to limit or to prohibit access by any user making excessive use of, or abusing, TES.

Users shall immediately report to BSDQ any faulty operation of the system they may be aware of.

## **NON PAYMENT OF YEARLY DUES OR ANY AMOUNTS DUE TO THE BSDQ**

The BSDQ can limit or deny access to the TES to all users designated or identified by the signing officer of the commitment C-1 or C-2 of the Tendering Code if the person owes any money to the BSDQ including the yearly dues.

## **MAINTENANCE AND TECHNICAL SUPPORT**

TES shall always be accessible, save only during required maintenance periods. Where required, said maintenance work shall be carried out between 12 AM and 6 AM.

Technical support shall be provided between 8 AM and 5 PM weekdays, on BSDQ working days.

## REQUIRED EQUIPMENT AND TOOLS

In order to access TES, users shall have the required equipment and (software) tools, namely a personal computer and its components, Internet access (high-speed recommended) and the Explorer Web browser, version 8.0 or a later version.

Users shall also have « Acrobat Reader » software to be able to view and print « .pdf » files.

## RULES AND TERMS OF USE

Pursuant to the Tendering Code and provided its conditions of application are met, tenderers shall transmit any tenders sent to recipient contractors only through the BSDQ and only electronically. TES makes it possible for tenderers and recipient contractors to comply with Tendering Code rules by providing an electronic channel through which tenders can be made and received.

These main adjustments are dealt with below. Users shall refer to the Operating Guides provided by the BSDQ and avail themselves of the training given to become acquainted with additional information that can prove useful when using TES.

## MAIN TERMS OF USE

**Deadline for Project opening request (article E-1.1 of the Tendering Code):** Owing to the introduction of controls, tenders and bid bonds cannot be e-filed unless the BSDQ posts the project in the TES. The project opening request should be submitted at least four hours prior to the probable time of closing at the BSDQ to allow the project to be posted in time to permit the deposit of tenders. The deadline of four hours is established considering the opening hours of the BSDQ. The BSDQ reserves the right to refuse the posting of a project if the request is not submitted in time to obtain all necessary information and allow the posting of the project.

**Fees relating to the electronic filing of a tender:** The cost of each filing shall be set by the BSDQ. The fees for electronic filings must be paid in advance by VISA or MASTER CARD.

**Project description:** Project description mentioned in the tender form is the description of the project posted by the BSDQ as per article E-1.1. Projects are submitted on dropdown lists allowing users to choose from those lists projects that are of interest to them.

**Specialty identification:** The identification, on the tender form, of the specialty or grouping of specialties liable to be called upon to perform the work being tendered for is determined by the selection made by tenderers from lists of specialties identified by the BSDQ with regard to each project.

**Recipient contractors identification:** Recipient contractors having signed a commitment to the BSDQ shall be indexed in a directory from which tenderers must make a selection. Nevertheless, unindexed recipient contractors are free to request to be indexed in the directory on a temporary basis by communicating with the BSDQ at the appropriate time. To be authorized to take possession of tenders intended for them, said recipient contractors shall first sign a commitment to the BSDQ as per article C-2 of the Tendering Code and meet any requirements set in order to use TES.

**Bid bonds and letters of intent:** Bid bonds and letters of intent shall first be e-filed by the legal person issuing same.

**Electronic transfer:** When the security is supplied via the electronic transfer through a financial institution as per article D-10 and following, the required amount shall be deposited in the BSDQ's trust account immediately following the filing of the secured tender, prior to the closing time set at the BSDQ with respect to tenderers. The existence and validity of the aforesaid tender security shall be confirmed by the BSDQ the day after it is filed. Recipient contractors shall be responsible for securing said confirmation in compliance with article D-10.1 of the Tendering Code.

The amount deposited by way of tender security in the BSDQ's trust account shall be returned to the tenderers in accordance with the terms and conditions provided for in the Tendering Code. Any interest earned as a result of said deposit shall be assigned to the BSDQ.

**Required fields:** Certain mandatory controls or checks are implemented by means of TES, requiring tenderers to fill in fields indicated by an asterisk. Should they fail to do so, it shall be impossible for them to file their tender and they shall be notified thereof. More particularly, tenders without a security where required by the Code, tenders not digitally signed, tenders whereon the contractor's license number does not appear, and tenders with empty « price », « plan numbers », « specifications sections » or « addenda » fields cannot be filed.

**Taking possession:** Recipient contractors take possession of tenders addressed to them by accessing TES on and after a set time. Recipient contractors consulting a list of tenderers having sent them a tender regarding a given project shall, whether they refuse or whether they accept tenders addressed to them through electronic channels, confirm said refusal or acceptance through their electronic signature. Tenders shall be deemed refused until accepted by recipient contractor.

Nevertheless, where recipient contractors fail to take cognizance of the list of tenderers having sent them tenders, said tenders shall be deemed unread.

**Addressees of copies:** Addressees of copies such as awarding authorities, architects or engineers shall use electronic channels to receive copies of tenders sent to them through electronic channels as per the procedure established by the BSDQ.

## TRAINING AND OPERATING GUIDES

The BSDQ offers to the appointed or designated natural persons provided with a master-user's code the TES user guides prepared by the BSDQ. Furthermore, to make it easier for users to utilize the TES, the BSDQ provides training to those wishing to avail themselves.

The BSDQ reserves the right to limit access to its technical helpdesk to any users who chooses not to follow the training.

## **LIMITATION OF LIABILITY**

The parties to the Agreement (the ACQ, the CMEQ and the CMMTQ) and the BSDQ shall not be liable for any damage or injury resulting either from any misuse of TES or for that caused by use of obsolescent equipment or tools.

The parties to the Agreement and the BSDQ shall act as agents for the users and for any firms committed to the BSDQ having appointed them. They shall carefully and diligently assume their duties in that capacity.

The parties to the Agreement and the BSDQ hereby undertake to take the required steps in order to avoid any mistake, error, failure, malfunction or discrepancy and in order to ensure the confidentiality and security of TES. Nevertheless, the parties to the Agreement and the BSDQ shall not be liable for any damage or injury resulting from any user's failure to obtain appropriate information, to access TES, completely or partly, or to finalize or complete the filing or receipt of any tender due to any mistake, error, failure, malfunction or discrepancy. Nor shall the parties to the Agreement and the BSDQ be liable for any damage or injury possibly resulting from any third party fault or from any superior force or fortuitous event.

## **COPYRIGHTS**

The BSDQ and the parties to the Agreement (the ACQ, the CMEQ and the CMMTQ) own the TES system and their copyrights are protected.

## TES USER PROTOCOL

### Signature form for general contractors and/or trade contractors

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Name of committed firm  
*(please print)* \_\_\_\_\_

BSDQ commitment number \_\_\_\_\_

Name of appointed or designated master-user  
*(please print)* \_\_\_\_\_

Master-user's title or office \_\_\_\_\_

Master-user's E-Mail address \_\_\_\_\_

Master-user's business address  
*(City, Street and Postal Code)* \_\_\_\_\_  
\_\_\_\_\_

Master-user's signature \_\_\_\_\_

Resolution for a business (legal person)

**RESOLUTION RESPECTING THE TES USER PROTOCOL**

WHEREAS

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*(Name and address of the business)*

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requires a master-user's code enabling it to use the BDSQ computer system supporting electronic bid transmission (TES) ;

BE IT RESOLVED

THAT Mr. or Mrs. \_\_\_\_\_ be appointed or designated « master-user », and that he/she be authorized to sign, on its behalf, the TES user protocol;

THAT the BDSQ be authorized to provide said appointed or designated master-user with a master-user's code and password allowing him/her to access TES.

CERTIFICATION

I, the undersigned, certify that the foregoing resolution was duly passed by the directors of the aforementioned legal person and that said resolution is still in force and effect, without amendment.

And I have signed at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Signature: \_\_\_\_\_  
*(President or Secretary)*

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Signatory's Name *(please print)*

Title

Resolution for a partnership

**RESOLUTION RESPECTING THE TES USER PROTOCOL**

WHEREAS

\_\_\_\_\_  
*(Name and address of the partnership)*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

requires a master-user's code enabling it to use the BDSQ computer system supporting electronic bid transmission (TES) ;

BE IT RESOLVED

THAT Mr. or Mrs. \_\_\_\_\_ be appointed or designated « master-user », and that he/she be authorized to sign, on its behalf, the TES user protocol;

THAT the BSDQ be authorized to provide said appointed or designated master-user with a master-user's code and password allowing him/her to access TES.

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Name and signature of Partners (please print)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_