# *SPECIAL CONDITIONS*

**CONTENTS**

These conditions amplify and supplement, if necessary, the general conditions governing the contract. Unless the special conditions provide otherwise, those general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the articles of the general conditions. In exceptional cases, and with the authorisation of the appropriate Commission departments, other clauses may be added to cover specific situations.

**Article 2 Language of the contract**

2.1 The language used shall be English.

**Article 4 Communications**

4.1 Any written communication relating to this Contract between the Contracting Authority and/or the Project Manager, on the one hand, and the Contractor on the other must state the Contract title and identification number, and must be sent by post, fax, e-mail or by hand.

**For the Contracting Authority:**

|  |  |
| --- | --- |
| **Name:** |  |
| **Address:** |  |
| **Telephone:** |  |
| **Fax:** |  |
| **e-mail:** |  |

**For the Contractor:**

|  |  |
| --- | --- |
| **Name:** |  |
| **Address:** |  |
| **Telephone:** |  |
| **Fax:** |  |
| **e-mail:** |  |

4.2 An electronic system will be used by the contracting authority and the contractor for all stages of implementation including, inter alia, management of the contract (amendments and administrative orders), reporting (including reporting on results) and payments. The contractor will be required to register in and use the appropriate electronic exchange system to allow for the e-management of the contract.

The electronic management of the contract through the aforementioned system may commence on the date on which implementation of the contract starts, as described in Article 18 below, or at a later date. In the latter case, the contracting authority will inform the contractor in writing that he will be required to use the electronic system for all communications within a maximum period of 3 months.

**Article 7 Supply of documents**

The Contractor is obliged to ensure the original brochures with suitable technical specifications of goods, which is required by tender documentation and all other official documents in line with the Law of the Republic of Serbia. The Commercial guarantee certificate, issued according to the relevant Serbian law covering the warranty period described in Article 32 - has to be submitted by the time of delivery as the latest.

**Article 8 Assistance with local regulations**

The Contractor shall, in performing the Contract, comply with all applicable national laws.

Whilst the Contracting Authority agrees to use its contacts with the authorities where appropriate to assist the Contractor in obtaining the required permits or import licences, the prime and ultimate responsibility for the obtaining of these and licences shall lie with the Contractor who shall keep the Project Manager informed.

**Article 9 General obligations**

9.9 The Contractor shall take the necessary measures to ensure the visibility of the European Union financing or co-financing. These measures must comply with the rules in the Communication and Visibility Manual for EU External Actions published by the European Commission: <https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en> .

**Article 10 Origin**

## 10.1 All supplies under this contract may originate from any country.

**Article 11 Performance guarantee**

11.1 The amount of the performance guarantee shall be 10% of the total contract price, including any amounts stipulated in addenda to the contract.

**Article 12 Liabilities and insurance**

12.1(a) There is no derogation from Article 12a) of the General Conditions.

12.1(b) The Contractor shall insure the goods for their replacement value (110%) during delivery and commissioning. The insurance policy shall cover: the risks during shipping and handling, storage, local transport, installation, covering losses due to traffic accidents, transport damage, theft, improper handling, fire, water, lightning, and professional malpractice, from the time of shipment (factory/warehouse) until the issuance of the Provisional Acceptance Certificate.

12.2(b), paragraph 2

***DDP - Delivered Duty Paid****:* Incoterm which imposes on the seller maximum obligations vis-à-vis transportation and loss risks and damage associated with the goods:

*‘the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.’[[1]](#footnote-1)* The transfer of risks and costs occurs at the place of unloading of the goods at the agreed place of destination.

**Article 13 Programme of implementation of tasks**

13.2 The Project Manager shall make comments and/or objections concerning the Programme supplied by the Contractor within 5 calendar days of their submission. It shall be considered that all these comments and/or objections are accepted by the Contractor, if he should not contradict them in writing, either by registered letter, or fax sent on the Project Manager, within 3 calendar days of their receipt. The absence of any comments and or objections from the Project Manager within the 5 calendar days above shall be deemed to be approval.

Installation and testing for equipment will have to be performed by Contractor within contract implementation period.

**Article 14 Contractor’s drawings**

14.1 All equipment must be supplied with the technical documentation requested in the Technical Specifications.

Any fittings and fittings or ancillaries or information that is required by the Beneficiary to prepare for proper acceptance, installation and commissioning of the equipment, position and capacity of utility supplies, any other preconditions for installation and operation, must be made available to the Project Manager and Beneficiary within 21 days after contract signature.

The Contracting Authority and the Beneficiary and their representatives or agents are hereby granted a worldwide, royalty-free, perpetual, irrevocable, freely assignable licence for them to use all proposals, specifications, drawings, plans, diagrams, manuals or similar deliverables drawn up and/or provided as part of this Contract. In particular and without limitation they may use the same for future repairs, maintenance, extension and they may publish the same in future tenders.

**Article 15 Sufficiency of tender prices**

15.1 Without prejudice to Article 15 of the General conditions, the goods to be supplied, as itemized and the overall prices, calculated on the basis of DDP include the full cost of delivery of the goods to the place of destination, packing, insurance, transportation, the full cost of clearance formalities, storage, unloading, unpacking, installation, putting into operation, testing and inspection including all cost of consumables to make them ready for acceptance, any copy rights, or patent rights or license, warranty and training and training materials, if any, and manuals, fees, allowances, all kind of social charges, etc. of the staff and/or expert hired and assigned to service to be provided under this contract and any expenditure that such staff and/or expert will incur for execution of their activities during the operation, and excluding taxes and customs duties. The Contractor shall, at no additional charge, carry out any work that is the subject of any item in its tender for which it indicates neither a unit price nor a lump sum.

**Article 16 Tax and customs arrangements**

16.1 The European Commission and Republic of Serbia and Croatia have agreed in the Interreg IPA CBC Croatia Serbia programme to allow full VAT exemption, except where it is non-recoverable under national VAT legislation.

**Article 17 Patents and licences**

17.1 There is no derogation from Article 17 of the General Conditions.

**Article 18 Commencement order**

18.1The implementation of the tasks shall start on the date of contract signature by both parties.

**Article 19 Period of implementation of the tasks**

19.1The period of implementation of the tasks of the contractor shall be **90 calendar days** from the commencement date.

**Article 24 Quality of supplies**

24.2 No preliminary technical acceptance is required.

**Article 25 Inspection and testing**

25.2 The Contractor shall deliver and commission all equipment in order that the supplies are left in place fully operational and ready for use. The cost of consumables used during commissioning and for running time, before provisional acceptance, shall be borne totally by the Contractor.

Inspection and testing prior to the provisional acceptance will take place at the locations where the equipment is delivered, installed and put into service. The inspection and testing of all equipment will be started and completed within a maximum 15 calendar days after delivery, installation and putting into service.

**Article 26 General principles for payments**

26.1 Payments shall be made in RSD (for Serbian candidates) in accordance with Articles 20.6 and 29.4 of the General Conditions into the bank account notified by the Contractor to the Contracting Authority. The payment will be made in full, following full delivery and provisional acceptance of the supplies by the Contracting Authority and submission of relevant documents.

Payments shall be authorised and made by **City of Novi Sad, City Administration for Property and Property-Rights Affairs Narodnog Fronta 53, 21000 Novi Sad, Republic of Serbia**, authorised by Contracting Authority legal representative.

26.3 By derogation, the final payment to the Contractor of the amounts due shall be made within 90 days after receipt by the Contracting Authority of an invoice and of the application for the certificate of provisional acceptance.

26.5 In order to obtain payments, the Contractor must forward to the authority referred to in paragraph 26.1 above:

**In case that the Contractor will request the pre-financing**:

a)40% of the total contract price after the signing of the contract, against provision of the pre-financing guarantee for the full amount of the pre-financing payment. The pre-financing guarantee must remain valid until it is released 45 days at the latest after the provisional acceptance of the goods.

b)60% of the total contract price, as payment of the balance, after receipt by the Contracting Authority of an invoice(s) in triplicate together with the request for provisional acceptance of the supplies.

**In case that Contractor will not request pre-financing**:

For the 100% balance, the invoice(s) in triplicate together with the request for provisional acceptance of the supplies. Payments shall be made in full after supply, delivery and unloading of all goods.

26.9Not applicable.

**Article 28 Delayed payments**

28.2By derogation from Article 28.2 of the General Conditions, once the deadline laid down in Article 26.3 has expired, the Contractor shall, upon demand, be entitled to late-payment interest at the rate and for the period mentioned in the General Conditions. The demand must be submitted within two months of receiving late payment.

**Article 29 Delivery**

29.3The Contractor shall bear all risks relating to the goods until provisional acceptance at destination. The supplies shall be packaged so as to prevent their damage or deterioration in transit to their destination.

The packaging shall remain the property of the Contractor subject to environmental considerations.

29.5/6/7 Each delivery shall be accompanied by the following documents:

a) User Manuals

b) Packing list

c) Warranty Certificate

d) Copy of the Invoice (commercial)

**Article 31 Provisional acceptance**

The Certificate of Provisional Acceptance must be issued using the template in Annex C11. The supplies shall be taken over by the Contracting Authority when they have been delivered in accordance with the contract, have satisfactorily passed the required tests, or have been commissioned as the case may be, and a certificate of provisional acceptance has been issued or is deemed to have been issued. The Contracting Authority may appoint its representative to perform provisional acceptance /inspection on its behalf.

With provisional acceptance, the Beneficiary Institution/s acquires full title and ownership to the goods supplied and the right to make full and unimpaired use of the supplies delivered.

**Article 32 Warranty obligations**

32.6 Where commercial warranty (issued by the manufacturer of particular item/product) is longer than the below mentioned warranty of one year after provisional acceptance, the Contractor is obliged to provide complete support to the Beneficiary in contacting the manufacturer.

32.7 The warranty must remain valid for one after provisional acceptance.

**Article 33 After-sales service**

33.1 Not applicable.

**Article 40 Settlement of disputes**

40.4 Any disputes arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of the Republic of Serbia, Commercial Court in Novi Sad in accordance with the national legislation of the state of the Contracting Authority.

**Article 44 Data protection**

1. Processing of personal data related to the implementation of the contract by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

2. To the extent that the contract covers an action financed by the European Union, the Contracting Authority may share communications related to the implementation of the contract, with the European Commission. These exchanges shall be made to the Commission, solely for the purpose of allowing the latter to exercise its rights and obligations under the applicable legislative framework and under the financing agreement with the Partner country – contracting authority. The exchanges may involve transfers of personal data (such as names, contact details, signatures and CVs) of natural persons involved in the implementation of the contract (such as contractors, staff, experts, trainees, subcontractors, insurers, guarantors, auditors and legal counsel). In cases where the contractor is processing personal data in the context of the implementation of the contract, he/she shall accordingly inform the data subjects of the possible transmission of their data to the Commission. When personal data is transmitted to the Commission, the latter processes them in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC[[2]](#footnote-2) and as detailed in the specific privacy statement published at ePRAG.

1. See <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/>. [↑](#footnote-ref-1)
2. OJ L 205 of 21.11.2018, p. 39 [↑](#footnote-ref-2)