**VOLUME 2**

**SECTION 3**

**SPECIAL CONDITIONS** **FOR EUROPEAN UNION EXTERNAL ACTIONS**

**CONTENTS**

These conditions amplify and supplement the general conditions governing the contract. Unless the special conditions provide otherwise, the general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the general conditions. Exceptionally, and with the approval of the competent European Commission departments, other clauses can be indicated to cover particular situations.

**Contract value**

The contracting authority hereby agrees to pay to the contractor, in consideration of the execution and completion of the works and remedying of defects therein, the amount of the contract value mentioned in article 2 of the Main Conditions or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the contract. VAT will be paid in compliance with the binding regulations, national law and international agreements concerning the execution of the project.

The amount of the contract value mentioned in article 2 of the Main Conditions shall be composed of:

* Contract price (excluding VAT/other taxes) RSD <amount>

- VAT and other taxes RSD <amoun

**Order of precedence of contract documents**

The following documents shall be deemed to form and be read and construed as part of this contract, in the following order of precedence:

1. the contract,
2. the special conditions,
3. the general conditions,
4. the technical and/or performance specifications,
5. the design documentation (drawings),
6. the breakdown of lump-sum price,
7. the tender,
8. any other documents forming part of the contract.

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending.

**Other conditions applying to the contract**

The parties agree to the set of rights and obligations described in the attached contractual documents, with the following main characteristics, further detailed in the attachments:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | | Contract-article: |
| 1 | Price | Lump sum contract | 49 |
|  |  | Prices cannot be revised | 48 |
| 2 | Duration | 90/ninety/days implementation of works | 34 |
|  |  | Provisional acceptance, after completion of works | 60 |
|  |  | Defects liability period of 365 days, after provisional acceptance | 61 |
|  |  | Final acceptance, after expiry of defects liability period | 62 |
| 3 | Delay | 0.1% of the contract price for every day of delay | 36 |
| 4 | Supervisor | Supervisor will be appointed by Contracting Authority in compliance with Law on planning and construction | 5 |
| 5 | Bank guarantees | performance, prefinancing, retention guarantees and defects liability guarantee | 15, 46, 47, 61 |
| 6 | Insurances | For damage to 3rd parties, unlimited for bodily injury | 16 |
|  |  | Contractor all risk insurance | 16 |
|  |  | Insurance against accidents at work | 16 |
|  |  | Insurance for soundness of works | 16 |
| 7 | Payments | lump sum advance for 20% of the original contract price, after conclusion of the contract | 46 |
|  |  | Interim payment for 70% of the contract price, after completion of 90% quantities | 49, 50 |
|  |  | Final payment for min 10% of contract | 49,50 |

Article 2 Language of the contract

2.1 The language used shall be English.

**Article 4 Communication**

4.1 Communication details

4.5 & 4.6 Mail or email communication

For the purpose of this contract, mail or email communications must be sent to the following addresses:

Contracting Authority:

Municipality of Knjazevac

Milosa Obilica 1, 19350 Knjazevac

[E-mail: [aljosa.simic@knjazevac.rs](mailto:aljosa.simic@knjazevac.rs)

Contractor (or leader in the case of a joint tender):

[*Full name*]

[*Function*]

[*Company name*]

[*Full official address*]

Email: [*complete*]

**Article 5 Supervisor and supervisor’s representative**

5.2 The power of the Supervisor and its representative is in compliance with Serbian legislation. The Supervisor shall be appointed under Appointment decision. Supervisor will be appointed by Contracting Authority in compliance with Law on planning and construction.

5.3 Any approval, inspection, certificate, examination, instruction, proposal, request, test or other similar action of the Supervisor shall not relieve the Contractor of any of his duties and responsibilities under this Contract, including responsibilities for any of his mistakes, faults or discrepancies. The Contractor must ensure that the Supervisor has free access to the facility and all the documentation relevant to the implementation of the current contract and the works herein. The Supervisor shall have access to all materials or items to be installed on the sites before they are actually fixed in place.

5.4 Instructions and/or orders issued in writing by the Supervisor shall be made in the compliance with Serbian Law on planning and construction and Rule book on manner and content of supervision of works. Orders, directions, observations of Supervisor related to perform any work under this contract shall be entered in the construction log book and stamped. All orders entered into the building log book Supervisor must deliver to the Contracting Authority in in writing and with filing number. All orders, of any kind, that Supervisor instructs the Contractor must be in writing. Verbal orders must, also, within three days be submitted in writing. All administrative order by the Supervisor shall be issued in three copies, one for the Supervisor, one for the Contracting Authority and one for the Contractor.

**Written approval of Contracting Authority will be required whenever the Supervisor has to decide on quantity and/or quality of works, on any type of additional payment, and any extension of time or any other type of variation.**

**Article 9 Access to the site**

9.1 The contractor is reminded that there is a head of delegation of the European Union in the state of the contracting authority. The contractor is obliged to give the head of delegation free access to its sites, factories, workshops, etc., and generally assist the head of delegation, like the project supervisor, in the performance of his duties. The same provisions also apply to the appointed representatives of the head of delegation.

**Article 12 General obligations**

12.9 The visibility measures must comply with rules laid down in the Communication and Visibility Manual for EU External Actions published by the European Commission - http://ec.europa.eu/europeaid/work/visibility/index\_en.htm\_en. The contractor is obliged to place a temporary information board during the construction process and a permanent information board at the end of the construction process at the site of the construction. The two boards should comply with its minimum obligation toward visibility laid down in the Visibility Guidelines of the Interreg-IPA CBC Bulgaria-Serbia Programme, which are published on <https://ipa-bgrs.mrrb.bg/>

12.11.The Contractor shall be responsible for the safekeeping of any formal documents relating to the works, according to Serbian Law of Planning and Construction.

Article 12c Design and building contracts

After sub article 12c1 add sub article 12c2

Contractor shall deliver to Supervisor and Contracting authority the following documents: Construction diary and Construction book. A declaration on the responsible Contractor (“odgovorni izvodjac radova”) under the Serbian Law on Planning and Construction.

**Article 15 Performance guarantee**

15.1 The amount of the performance guarantee will be 10 % of the amount of the contract and any addenda thereto

The performance guarantee shоuld be provided in the form of a bank guarantee in favour of the Contracting authority, with authorization in the amount of 10% of the contracted value, with the clause unconditional and payable on the first call in the name of good performance of work.

**The performance guarantee shall be delivered within 7 days of the conclusion of the Contract**

**Article 16 Liabilities and insurance**

16.1 a) By way of derogation from Article 16.1, a) paragraph 2, of the general conditions, compensation for damage to the works resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to the contract value.

16.1 b) By way of derogation from Article 16.1, b), paragraph 2, of the general conditions, compensation for damage resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to the contract value.

**Article 17 Programme of implementation of tasks**

17.1 The contractor shall provide the supervisor with a simplified programme of implementation of the tasks. This programme shall include at least the order and time limits in which the contractor proposes to carry out the works, and shall be based on the tranches foreseen in Article 49.1 of the special conditions.

17.2. The supervisor shall return this document to the contractor with any relevant remarks within 10 days of receipt, save where the supervisor, within those 10 days, notifies the contractor of its wish for a meeting in order to discuss the documents submitted.

**Article 21 Exceptional risks**

21.4 No derogation from General conditions

**Article 33 Commencement order**

33.1 The commencement date of the construction works is the date of giving access to the Site (according to Art. 148 of the Serbian Law on planning and construction i.e. the introduction of contractors in the works contract which is evidenced in Construction Log by supervisor).

**Article 34 Period of implementation of tasks**

34.1 The time for completion of the construction works is 90/ninety/days from signing the contract

**Article 36 Delays in the implementation of tasks**

36.1 The rate of liquidated damages for delays in the completion of works shall be 0.1% of the contract price for every day or part thereof which elapses between the end of the period of implementation of tasks and the actual date of completion, up to a maximum amount of 10 % of the contract price or, if the contract is subdivided into phases, 10 % of the price of the phase concerned.

**Article 39 Work register**

39.1 A work register shall, be kept on the site by the Contractor. Work register at least will contain the following:

a) Construction Log (“Građevinski dnevnik”), according to the Serbian Law of Planning and Construction;

b) Construction Book (“Građevinska knjiga”), according to the Serbian Law of Planning and Construction;

c) Inspection Book (“Knjiga inspekcije”), according to the Serbian Law of Planning and Construction.

39.2 Technical rules for drawing up statements should be in accordance with Serbian Law on Planning and Construction.

**Article 40 Origin and quality of works and materials**

40.1 All goods purchased under the contract must originate in any eligible source country as defined in the INSC Regulation 2021/948 of 27 May 2021

## For these purposes, ‘origin’ means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the EU Customs Code or the applicable international agreement.

When importing goods, any change in the specified origin must be pointed out to the project supervisor and approved by him.

40.2 The works and the objects, appliances, equipment or materials used in their construction must comply with:

(\*) the following specifications works and objects, equipment or materials used in their construction must comply as a minimum with the Technical Specifications, volume 3, part of the Contract.

(\*) the requirements of the requirements of Serbian standards and codes according to Serbian Law of Planning and Construction.

40.3 Preliminary technical acceptance is not necessary.

**Article 43 Ownership of plant and materials**

43.2 The equipment, temporary structures, plant and materials on the site shall for the duration of the execution of the works, be vested in the contracting authority.

**Article 44: General principles for payments**

44.1 Payments shall be made in RSD

44.3 By derogation, pre-financing payment to the contractor for the lump-sum advance shall be made within 30 days. Other pre-financing payments to the contractor shall be made within 90 days. Interim payments to the contractor of the amounts due under each of the interim payment certificates approved by the supervisor shall be made within 90 days, and the final payment to the contractor of the amounts due after the final statement of account issued by the supervisor shall be made within 90 days.

**Article 46 Pre-financing**

46.1 The only pre-financing granted to the contractor, is the lump sum advance referred to in Article 46.1(a).

46.2 By derogation to Article 46.2 of the general conditions, the lump sum advance referred to in Article 46.1(a) shall be 20% of the original contract price.

46.3(c) No pre-financing shall be granted until provision a financial **bank guarantee** **for the full amount of the pre-financing** which shall remain effective until the pre-financing has been completely repaid by the contractor out of interim payments under the contract.

The pre-financing guarantee shоuld be provided in the form of a bank guarantee, on **the full amount of the pre-financing**, with the clause unconditional and payable on the first call, before pre-financing payment

46.8 The advance payment must be justified with the last temporary situation (“*Dati avans mora biti opravdan sa poslednjom privremenom situacijom”)*

**Article 47 Retention monies**

N/A

**Article 48 Price revision**

48.1 Prices are fixed and shall not be revised.

**Article 49 Measurement**

49.1 This is a lump‑sum contract.

Under the conditions imposed by the special conditions and general conditions, the amounts due shall be calculated through the following tranches, expressed as percentage of the contract price:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Percentage** | **Nature** | **Timing** |
| 1. | Max 20% | Lump-sum advance of Article 46.1(a) | After conclusion of the contract and provision of pre-financing guarantee in the amount of the advance payment. |
| 2. | Max 70 % | Interim payment of Article 50 | After submission of all necessary documents regarding the First temporary situation (“prva privremena situacija”) upon the 45days of the contract implementation, with the approval of Supervisor, as a proof of the performed works, with up to 90% of the contract value and in accordance with the executed works. |
| Final | Min 10% | Final payment | After finalization of works, the positive technical acceptance of works, the supervisor approval and the issuance of the final acceptance, balance payment will be made in accordance with the executed works. |

**Article 50 Interim payments**

50.7 The interim payments will be paid as determined in Article 49.1 of these special conditions.

**Final statement of account**

51.1 The Contractor shall, submit to the Supervisor a draft final statement of account when it applies for the acceptance certificate. In order to enable the Supervisor to prepare the final statement of account, the draft final statement of account is submitted with supporting documents showing in detail the value of the work done in accordance with the contract.

51.2 Within 30 days from issuing the certificate of final acceptance referred to in article 62, the Supervisor shall prepare and sign the final statement of account.

**Article 57 General principles**

Provisional acceptance of works shall be considered as final acceptance of works. Acceptance of Works shall be in accordance to the Serbian Law on planning and construction in force. The final acceptance of works shall be after all works has been completed by the opinion of the Contractor. The Contractor shall, in written, inform the Supervisor and the Contracting Authority about that all the works by the contract have been finished. The Contracting Authority shall organize the acceptance of works (“Tehnički prijem objekta”) within 30 days from the Contractor’s application that all the Works has been finished and issue a Certificate on acceptance of Works (“Zapisnik o tehničkom prijemu”), if all the works are truly completed and in accordance with requirements in the Building Permit and the Final Design and this contract.

**Article 61 Defects liability**

61.1 The defects liability period is defined as the period commencing on the date of provisional acceptance, during which the contractor is required to make good any effect in, or damage to, any part of the work which may appear or occur during this period as notify by the supervisor or the contracting authority. The rights and obligations of the parties with regard to this defects liability period are laid down in Article 61 of the general conditions.

61.6 The defects liability work necessitated by normal wear and tear is not obliged to be carried out by the Contractor.

61.7 Duration of the defect’s liability period is 2 years, in accordance to Serbian Rules and Regulations (“Uzanse o građenju”). The Contractor must provide a **Defects Liability bank guarantee or a duly signed and registered blank own promissory note, in favor of the Contracting authority, with authorization in the amount of 5% of the contracted value**, with the clause unconditional and payable on the first call in the name of the elimination of defects in the warranty period to Contracting Authority, in the amount of 5% of the performed works, and with a validity period of 15 days longer than the warranty period.

**Article 68 Dispute settlement**

68.4 Any dispute arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of Commercial Court Zajecar (“Privredni Sud u Zaječaru”) applying the national legislation of the Contracting Authority.

**Article 72 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[[1]](#footnote-1) and as detailed in the specific privacy statement published at ePRAG.

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1. OJ L 205 of 21.11.2018, p. 39 [↑](#footnote-ref-1)