**VOLUME 2**

**SECTION 3**

**SPECIAL CONDITIONS**

**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. Other special conditions should be indicated afterwards.

Article 2 Language of the contract

2.1 The language used shall be English.

**Article 4 Communication**

4.1 The contact persons and addresses of the Parties and other contact details are as follows:

**For the Contracting Authority:**

|  |  |
| --- | --- |
| Name: | Municipality of Berat |
| Contact Person: | Luciano Bojaxhiu |
| Address: | Bashkia Berat .Blvd. Republika |
| Telephone: | 0692947707 |
| Fax: |  |
| E-mail: | [info@bashkiaberat.gov.al](mailto:info@bashkiaberat.gov.al) |

**For the Contractor:**

|  |  |
| --- | --- |
| Name: |  |
| Contact Person: |  |
| Address: |  |
| Telephone: |  |
| Fax: |  |
| E-mail: |  |

**For the Supervisor:**

|  |  |
| --- | --- |
| Name: |  |
| Contact Person: |  |
| Address: |  |
| Telephone: |  |
| Fax: |  |
| E-mail: |  |

**For the Beneficiaries:**

|  |  |
| --- | --- |
| Name: |  |
| Contact Person: |  |
| Address: |  |
| Telephone: |  |
| Fax: |  |
| E-mail: |  |

The name and contact details of the Supervisor and his representative(s) shall be given to the Contractor after the award of the Contract

The name and contact details of the Contractor's representative shall be included before this Contract is signed.

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 33 of the general conditions to the contract, 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 5 Supervisor and supervisor’s representative**

5.2 Under this contract, the supervisor does not delegate his duties and authority to a supervisor's representative

5.4 Copies of the administrative orders shall be delivered to the Beneficiary and the Contracting Authority.

The Supervisor requires the approval of the Contracting Authority before exercising the following duties:

1. Approval of replacement of Contractor's Representative and Site Manager
2. approve any extension of the period of implementation
3. order a modification under article
4. order a suspension of the works and termination of the contract
5. proceed with partial acceptance
6. issue a certificate of provisional acceptance
7. issue a certificate of final acceptance

**[Article 7 Subcontracting**

7.9 Subcontracting is allowed up to 30 % of the total value of this Contract excluding contingencies.

**Article 9 Access to the site**

9.1 The contractor is reminded that there is a head of delegation of the European Commission 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.

All correspondence between the contractor and the contracting authority or project supervisor must be copied, for information, to the head of delegation of the European Commission at the following official address:

ABA Business Center – k. 17, Rr. Gjon Pali II, Tirana.

**Article 12 General obligations**

12.9 The Contractor shall acquaint himself at his costs with the position of all existing services such as drains, telephone, electricity lines and poles, water pipes, gas pipes and the like, before any excavation or other work likely to affect the existing services are commenced.

The Contractor will be liable for all damage to roads, drainage ditches, pipes cables or services of any kind caused by him or his subcontractors in the execution of the Works, and must make good any such damage at his own expense and to the complete satisfaction of the Supervisor as soon as possible, and in any event within the construction period and prior to the commencement of the Defect Liability period.

The Contractor is required to make at his costs all necessary arrangements with the relevant local authorities and owners for the removal and reinstatement of all services as agreed with or instructed by the Supervisor.

The Contractor shall give prompt notice to the Supervisor (with copy to the Contracting Authority) about any omission, fault or other defect in the design and/or specifications of the works that he discovers when reviewing the Contract or executing the works. However this situation shall not relieve the Contractor of any of his obligation under the Contract.

The Activities of the Contractor must comply with the rules lay down in the Communication and Visibility Manual for EU External Actions published by the European Commission.

**Article 15 Performance guarantee**

15.1 By derogation to Article 15 of the general conditions, no performance guarantee is required under this 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 < Exceptionally adverse weather conditions not allowing the continuation of the works on site ( floods, earthquakes, etc.)

**Article 34 Period of implementation of tasks**

34.1 6 ( Six ) calendric months from contract signature.

**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 work register shall be kept on the site and signed by the Supervisor, it shall include in it at least the following information

a) the weather conditions, interruptions of work owing to inclement weather, hours of work, number and type of workmen employed on the site, materials supplied, equipment in use, equipment not in working order, tests carried out in situ, samples dispatched, unforeseen circumstances, as well as orders given to the Contractor;

b) detailed statements of all the quantitative and qualitative elements of the work done and the supplies delivered and used, capable of being checked on the site and relevant in calculating payments to be made to the Contractor.

39.2 The Contractor shall deliver to the Supervisor, on a weekly basis and in the format agreed with the Supervisor (e.g. a daily log-book), at least the following statements:

(i) a schedule identifying each item of plant and equipment on Site. The schedule shall provide a daily record of each item of plant and equipment and include the name of the manufacturer, the model, plant number and/or any other information relevant to its identification. The list should also identify whether the plant is working, broken down, being maintained/repaired or the like;

(ii) a schedule of numbers and categories of staff and labour on the Site. The schedule shall provide a daily record and identify whether the staff and labour are directly employed or sub-contracted and shall include the person's name, position and trade;

(iii) a record of the major quantities or works carried out during the previous month.

(iv) measurement sheet corresponding to the works carried out during the month including works sketches, dimensions and quantity calculation per each working item;

(v) listing of the major materials delivered to site and approximate quantities;

(vi) current programme and progress charts showing in graphic form the progress achieved against the programme;

(vii) a listing of works completed during the previous month and the works programmed to be undertaken during the subsequent month;

(viii) an updated cashflow forecast showing payments received and a projection of monthly expenditure through to completion;

(ix) a record of all quality control procedures and tests carried out by the Contractor ;

(x) a safety report detailing any inspections/audits that have taken place, accidents, near misses or injuries that have been sustained;

(xi) an environment report detailing any incidents or special requirements that have been put in place.

The statements shall form an integral part of the work register.

In addition, the Contractor shall submit to the Supervisor on a monthly basis an account giving particulars (as complete and detailed as possible) of all payments, including the authorised receipts for such payments made in the preceding months with regard to local and other income taxes arising from the Contract. The Contractor shall as well provide information regarding customs and other import and export duties, rates (including all handling and freight charges, warfare and harbour dues, shipping and other rates and charges) and taxes of whatever nature resulting from the contract and required to be paid in order to comply in all respects with the laws, bi-laws and regulations of the Republic of Albania.

**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 INTERREG IPA CBC, Greece - Albania, 2014–2020, EUD programme. However, the goods to be purchased may originate from any country, whenever the total price of the estimated quantity of those goods, as reflected in a separate item of the breakdown of the lump-sum price (Volume 4.2.3) is below EUR 100 000. A category of similar goods to be purchased shall not be broken down over more than 1 item of the breakdown of the lump-sum price (Volume 4.2.3)]

## 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.

## Goods originating in the EU include goods originating in the Overseas Countries and Territories.

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 Design Specifications.

**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 EURO.

44.2 If invoices are submitted to the contracting authority, the contractor shall inform the European Commission thereof by sending a copy to ABA Business Center – k. 17, Rr. Gjon Pali II, Tirana.

44.3 Direct management:

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 60 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 60 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 60 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.

**Article 47 Retention monies**

47.1 The sum retained to guarantee implementation of the contractor’s obligations during the defects liability period is 10 % of the contract price. By derogation to Article 47.1 of the general conditions, that money is not retained from interim payments. The tranches laid down in Article 49.1 of these special conditions are determined so that the retention sum amounts to 10% of the contract price at the moment of the certificate of provisional acceptance.

47.2 By derogation to Article 47.2 of the general conditions, the retention sums cannot be substituted by a retention guarantee.

**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. | 20% | Lump-sum advance of Article 46.1(a) | After conclusion of the contract |
| 2. | …% | Interim payment of Article 50 | for example: After completion of <to be determined phase in construction> **or**  for example: After completion of <to be determined percentage> of the firm quantities for which the contractor submitted its all-in price.  [When determining the % of the interim payment, take account that 1) the 20% pre-financing is not repaid through each interim payment and 2) the 10% retention sum is neither deducted from each interim payment: the interim payment tranches should hence be determined in such a way as to implicitly recuperate the 20% pre-financings, while keeping 10% unpaid after provisional acceptance]. |
| 4. | …% | Interim payment of Article 50 | [as above] |
| … | …% | Interim payment of Article 50 | After issuing of the certificate of provisional acceptance |
| <last> | 10% | Retention money of Article 47 | Within 45 days of the issuing of the signed final statement of account |

**Article 50 Interim payments**

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

**Article 53 Delayed payments**

53.1 By derogation from Article 53.1 of the general conditions, once the time-limit referred Article 44.3 has expired, the contractor shall be entitled to late-payment interest at the rate and for the period mentioned in the general conditions.

However, when the interest calculated in accordance with the first subparagraph is lower than or equal to EUR 200, it shall be paid to the creditor only upon a demand submitted within two months of receiving late payment]

**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.

**Article 68 Dispute settlement**

68.4 Direct management:

Any dispute arising out of or relating to this contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction ofthe courts of Brussels, Belgium.]

\* \* \*