

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:	Ministry of Finance, Department for Contracting and Financing of EU Funded Programmes (CFCU) 3-5 Sremska Str., VII floor, office 701 11000 Belgrade, Republic of Serbia.
Telephone:	
Fax:	
e-mail:	

For the Contractor:

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

For the Beneficiary:

Name:	
Address:	Ministry of Construction, Transport and Infrastructure Group for Implementation and Monitoring of Implementation of EU funded projects 22-26 Nemanjina Street, 11000 Belgrade, Republic of Serbia
Telephone:	
Fax:	
e-mail:	

Article 7 Supply of documents

Any specific documents, other than those described in Article 11 of the Instruction to Tenderers, for submission by the Contractor to the Contracting Authority, are referred to in the Technical Specifications.

In order to facilitate the processing of the documents handed to the Contracting Authority and Beneficiary, the Contractor shall also submit a digital version of the documents. The electronic version shall be identical to the original (printed) version, however in case of any discrepancies between the electronic version and the original (printed version), the latter will prevail.

The digital versions of the documents can be submitted on a CD or sent to the e-mail address specified under Article 4.1. The name of the Contractor as well as the contract number and title should be clearly indicated in the e-mail subject or on the CD.

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.

If the Contractor is late in applying for or fails to apply for such permits or licences then it may not claim for extensions in the Period of Execution or additional costs as a result.

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 goods purchased must originate in a Member State of the European Union or a country covered by the IPA programme. 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 to the relevant international agreement applicable.

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 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 The Incoterm applicable shall be DDP including custom procedure with no VAT and other import/custom duties and taxes to be paid:

- **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 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

13.1 The Contractor shall submit to the Project Manager for approval, copied to the Beneficiary, within 14 days from the date of signature of the Contract by both parties an accurate and detail programme of performance as stipulated in Article 13.1 of the General Conditions. The programme should show, inter alia, latest dates for: shipping, custom clearance (if applicable), arrival in country, arrival at place of acceptance, unloading, completion of installation, training, commissioning and provisional acceptance at the required location, by which the Contractor proposes to carry out the Supply Contract within the time allowed for implementation of the task.

No separate payment shall be made for the preparation/monthly updating as requested of such a programme and the Contractor shall allow for the associated costs elsewhere in his tender.

13.2 The Project Manager shall make comments and/or objections concerning the Programme supplied by the Contractor within 14 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 7 calendar days of their receipt. The absence of any comments and or objections from the Project Manager within the 14 calendar days above shall be deemed to be approval.

¹ See <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/>.

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, unpacking, 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.

No price adjustment, which might occur as the result of a change in the price of labour, or any material components shall be applied, i.e. unit prices are fixed.

Article 16 Tax and customs arrangements

- 16.1 The European Commission and the Republic of Serbia have agreed in the Framework Agreement signed on 29/11/2007 to fully exonerate the following taxes: customs duties, import duties, taxes or fiscal charges in connection with import, value added tax, documentary stamp or registration duties or fiscal charges having an equivalent effect.

Article 17 Patents and licences

- 17.1 The Contracting Authority and the Beneficiary and their representatives or agents are hereby granted a worldwide, royalty-free, perpetual, irrevocable, freely assignable licence for allowing 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 this licence for future repairs, maintenance, extension and they may publish the same in future tenders. Any moral intellectual property rights of the Contractor relating to rights for credit are hereby waived.

Article 18 Commencement order

- 18.1 The Contracting Authority shall inform the Contractor by administrative order of the date on which implementation of the tasks shall begin.

Article 19 Period of implementation of the tasks

- 19.1 Period of implementation of the tasks shall be 240 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.

During the inspection and testing operations, the quantities, the technical performances, the technical specifications, and technical documentation will be verified. At least 2 (two) weeks before the end of the installation, the supplier shall inform the Contracting Authority and the Beneficiary about the possible/proposed schedule for inspection and testing procedures.

Article 26 General principles for payments

- 26.1 Payments shall be made in euros.

Payments shall be authorised and made by Department for Contracting and Financing of EU-Funded Programmes (CFCU), 3-5 Sremska str., 11000 Belgrade, Republic of Serbia.

In the case of indirect management ex ante procedures and where invoices are presented to the authorities of the country of the Contracting Authority, the Contractor must inform the European Commission at EU Delegation to the Republic of Serbia, Vladimira Popovica 40/V (Avenue 19a GTC Building), 11070 New Belgrade, Republic of Serbia, thereof by sending a copy of the correspondence.

- 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:

- a) For the 40% pre-financing, the pre-financing guarantee:

When (i) the pre-financing requested is equal or below EUR 300 000 **and** (ii) the Contracting Authority does not require a financial guarantee following a risk assessment, by derogation from article 26.5 of the General Conditions no pre-financing guarantee is required.

- b) For the 60% balance, the invoice(s) in triplicate together with the request for provisional acceptance of the supplies.

- 26.9 The Contract doesn't include a price revision clause.

Article 28 Delayed payments

- 28.2 By 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

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

In addition, all packages should be marked as follows:



Financed by the European Union

EUROPEAN UNION

Contract title: “Supply and installation of equipment for navigation monitoring system on the Danube River”
EuropeAid/138044/IH/SUP/RS

Contract No:

Plastic stickers dim. 50x50 mm or 200x200 mm (as applicable) of the EU logo (pattern to be agreed after contract signature with Contracting Authority) must be fixed on each item supplied.

- 29.5/6/7 Each delivery shall be accompanied by the following documents:
- a) User, Installation and Maintenance Manuals, if applicable
 - b) Packing list
 - c) Warranty Certificate
 - d) Copy of the Certificate of Origin
 - e) 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 the commercial warranty issued/offered by the manufacturer of a particular item/product is longer than the below mentioned warranty of one year

after the provisional acceptance, the Contractor will deliver the related certificates/documents to the Beneficiary and will provide complete support to the Beneficiary in contacting the manufacturer.

32.7 The warranty must remain valid for one year 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 in accordance with the national legislation of the state of the Contracting Authority.

Article 44 Data Protection

Not applicable.

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