**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 Any written communication relating to this Contract between the Contracting Authority and/or the Supervisor, on the one hand, and the Contractor, on the other, must state the Contract title and contract number, and must be sent by post, fax, e-mail or by hand to the following addresses:

For the Contracting Authority:

Opština Sokobanja, Svetog Save 23, 18230 Sokobanja

Contact person: Ljubinko Milenkovic  
 Municipality of Sokobanja

Svetog Save 23, 18230 Sokobanja

tel: 018/830-030

fax: 018/820-253

info@opstinasokobanja.com

For the Contractor:

Person........................................

Address.....................................

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 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 The power of the Supervisor and its representative is in compliance with Serbian legislation. The Supervisor shall be appointed under separate Service contract. The purpose of the service contract is the provision of Independent Construction Supervisor for the implementation of the construction works required by the project in compliance with Serbian legislation for Construction works (the provisions of the Law on planning and construction and all relevant Regulations). 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 7 Subcontracting**

7.3 Contract on sub-contracting shall be signed prior to signature of this Works Contract and presented to the Contracting Authority within 7 days from the delivery of notification letter to the Contractor about winning the Tender Procedure. The Contracting Authority shall within 7 days of receipt of the Sub-Contract, notify the Contractor of his decision on approving the Sub-Contract. The upper limit authorized for subcontracting is 30% of the Contract Price.

**Article 8 Documents to be provided**

8.1 Within 2 days of the signing of the contract, the Contracting Authority shall provide to the Contractor and the Supervisor, free of charge, a copy of the drawings, documents for approval of the investment design prepared for the implementation of tasks, specifications and other contract documents.

**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.

The Contracting Authority shall give access of the Contractor to the Site in compliance with the Serbian Law of planning and construction. The Contractor is obliged to give to representatives of the Contracting Authority, National Authority, Site supervisor, JS of the Interreg Bulgaria – Serbia CBC Programme 2014-2020, other EU, state, regional and local authorities, which are authorised by international agreements, Serbian law or other administrative act to inspect the site, free access to the site of construction, factories, workshops, etc. on the site, and generally assist them in the performance of their duties.

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:

Delegation of the European Commission

Avenija 19A, Vladimira Popovica 40/V

11070 Novi Beograd

Tel: +381.11.3083200

Fax: +381.11.3083201

E-mail: delegation-serbia@eeas.europa.eu

**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 <http://www.ipacbc-bgrs.eu/>.

**After sub article 12.10 add sub article 12.11**

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, or a duly signed and registered blank own promissory note, 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, as well as a card deposited signatures.

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

15.8 Within 60 days after the deliverance of the certificate of provisional acceptance according to Article 60.1 and the completion of any outstanding work or reservation, 100 % of the amount of the performance guarantee may be released.

**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 Contracting Authority and Supervisor with a simplified programme of implementation of the tasks with .Dynamics of the works, at least 7 days after Contract signing. 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 art. 49.1 of the special conditions.

17.2. The Supervisor shall return this document to the Contractor with any relevant remarks within 3 days of receipt, save where the Supervisor, within those 3 days, notifies the Contractor of its wish for a meeting in order to discuss the documents submitted. The approval of the Dynamics of works is given by the Investor after the after obtaining an opinion of the Supervisor.

**Article 21 Exceptional risks**

21.4 No derogation from General conditions

**Article 33 Commencement order**

**Replace text of sub article 33.1 with the following:**

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 60/sixty/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 there of 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 Intereg – IPA CBC 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.

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 euro (in case the Contractor is registered in the country outside of Serbia) or in RSD (in case the Contractor is registered in Serbia) (equal in RSD in the currency exchange rate of the Infor Euro at the month of payment). Monthly exchange rates of the InforEuro can be found at the following websitehttp://ec.europa.eu/budget/contracts\_grants/info\_contracts/inforeuro/index\_en.cfm.

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 |
| 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**

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

**Article 51 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 60 Provisional acceptance**

60.1 Provisional acceptance of works shall be the final acceptance of works and all the clauses shall be read so.

**Article 61 Defects liability**

61.1 The defects liability period is defined as the period commencing on the date of acceptance of Works, 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.

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