**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.

All communications between the Contractor, Contracting Authority, Supervisor or their representatives and other interested bodies shall be in Bulgarian.

Requests for Payments, with descriptions of executed volumes of works and respective prices, shall be made by the Contractor to the Contracting Authority in the Bulgarian language.

The correspondence between the Contractor, the Contracting Authority and the Supervisor shall be done according to the prescriptions in the Bulgarian Law of Spatial planning and all relevant Regulations. Copies of the administrative orders and all other documentation exchanged between both parties shall be presented to the Contracting Authority in Bulgarian.

**Article 4 Communication**

4.1 Communications between the Contracting Authority and/or the Supervisor on the one hand, and the Contractor on the other, shall be exclusively in writing. Official communications shall be sent by post or delivered by hand to the following addresses:

Municipality of Rila

Address: 2630 Rila, 1 Vazrajdane Sqr.,

Republic of Bulgaria

Phone No - + 359 884 400 944

E-mail: [rilamunicipality@gmail.com](mailto:rilamunicipality@gmail.com)

Contact person:……………………..(will be specified)

**For the Contractor:**

**……………………….**

Unofficial communication will be exchanged by phone, e-mail or fax transmission.

**Article 5. By way of derogation in GC.**

5.1 The construction site supervisor and author`s supervisor and their representatives will be assigned by the Contracting Authority with another contract.

5.2 The site supervisor and its representatives have the powers and responsibilities described in the Bulgarian Law on Spatial Planning.

5.3 Instructions and/or orders issued in writing by the Supervisor shall be made in the compliance with Bulgarian Law on Spatial Planning.

**Article 8. Supply of documents.**

8.1. By derogation of Article 8.1. the rules of Bulgarian Ordinance № 3 of 31 July 2003 for the composition of acts and protocols during construction will be applied.

**Article 9. Access to the site.**

9.1 The Contracting Authority shall give access of the Contractor to the Site in compliance with Art. 157 of the Bulgarian Law of Spatial planning.

**Article 12 General obligations**

12.9 The contractor is obliged to place a temporary information board during the construction process in accordance with the visibility rules of the Programme.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 shall also use the project identification in addition to/or the programme logo, indicated in the Communication and Visibility Guidelines under the Interreg IPA CBC Bulgaria – Serbia Programme, available at <http://www.ipacbc-bgrs.eu>.

**Article 15 Performance guarantee**

15.1 The performance guarantee shall be in the amount of 5 % of the contract price.

15.8 Remains fully unchanged.

**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 to the minimum coverage of the professional risk indemnity insurance of the Contractor in accordance with art. 171 of the Territory Structure Act in Bulgaria.

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 to the minimum coverage of the professional risk indemnity insurance of the Contractor in accordance with art. 171 of the Territory Structure Act in Bulgaria.

16.2. By derogation of Article 16.2. the Professional risk indemnity insurance of the Contractor in accordance with art. 171 of the Territory Structure Act in Bulgaria will be applied. The minimum coverage of the insurance should be in compliance with the Ordinance for the conditions of compulsory insurance in design and construction in Bulgaria (SG. No. 17/02.03.2004) for objects of Art. 137, para. 1, item 1, letter “M” of the Territory Structure Act of Bulgaria.

If the tenderer is an entity registered outside of Bulgaria it should provide an equivalent document, according to the legislation of the country where the entity has its headquarters or operations managed.

**Article 17 Programme of implementation of tasks**

17.1 The Contractor shall provide the Supervisor with a simplified programme (linear calendar schedule) 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 art. 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 33. Commencement orders**

33.1.

By derogation of GC the period of implementation of tasks shall start **from the date of drawing up a Protocol for opening a construction site and for determining the construction line and level (Annexes № 2 and 2a) .**

33.3. By derogation of GC will not be applied.

**Article 34 Period of implementation of tasks**

34.1 The period of implementation of tasks shall be ……………………. calendar days (based on the tenderer`s offer) calculated from the date, notified in accordance with Article 33, to the date of drawing up a Statement of findings to establish the suitability for acceptance of the construction (Annex № 15) according to the Bulgarian ordinance № 3 of 31 July 2003 for drawing up acts and protocols during the construction without prejudice to extensions of the period which may be granted under Article 35.

**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 (Order Book) shall be kept and maintained on the site by the Contractor in accordance with the requirements of applicable law.

39.2 Delete Article 39.2 of the general conditions.

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

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

(a) the requirements of the Technical Specifications, exhibited in Volume 3 of the Tender Dossier;

(b) the requirements of the Design Documents, exhibited in Volume 3 of the Tender Dossier;

(c) the requirements of applicable law.

(d) the requirements of the funding Programme;

(e) the requirements of Bulgarian standards and codes or equivalent.

40.3 No preliminary technical acceptance is 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 BGN.

44.2 Payments due by the Contracting Authority shall be made to the bank account mentioned on the financial identification form completed by the Contractor. The same form, annexed to the payment request must be used to report changes of bank account.

**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. 46.3. No pre-financing shall be granted until:

a) the signature of the contract;

b) provision of the performance guarantee in accordance with Article 15;

c) fulfilment of the Contractor's obligation under article 16;

d) approval of the programme of implementation of tasks by the Supervisor.

46.3(c) By derogation to Article 46.3(c) of the General Conditions, no pre-financing guarantee is required.

46.8 The pre-financing shall be repaid through 20 % percentage deductions in Interim Payment Certificates.

**Article 47 Retention monies**

47.1 The sum retained to guarantee implementation of the contractor’s obligations 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 until the issuance of a use permit or the relevant act, in accordance with the national legislation, after which the site is available for use.

**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 and according to art.46 of this Special conditions. |
| 2. | 20% | Interim payment of Article 50 | After completion of 40% of the firm quantities for which the Contractor submitted its all-in price. |
| 4. | 20% | Interim payment of Article 50 | After completion of 60 % of the firm quantities for which the Contractor submitted its all-in price. |
| 5 | 30% | Interim payment of Article 50 | After issuing of the certificate of provisional acceptance and /or the relevant document, according to applicable national legislation for construction works. |
| 6 | 10% | Retention money of Article 47 | Within 45 days of the issuing of the signed final statement of account or the relevant document - a use of permit/certificate for exploitation or the relevant act, in accordance with the national legislation, after which the site is available for use. |

**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 according to Bulgarian National legislation.

**Article 62 - Final acceptance**

By derogation of Article 62.1, 62.2 and 62.3 the final acceptance of works will be made accordingly the Bulgarian legislation. The contract shall be considered as completed when the Permit for use according to the Bulgarian Low on Spatial Planning is issued.

**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 competent Bulgarian court of law in accordance with the national legislation of the state of the Contracting Authority.

**Article 72 Data protection**

72.1 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.

72.2 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)