**VOLUME 2**

**SECTION 3**

**SPECIAL CONDITIONS** **FOR LOT 2 and 3**

**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 communications between the Contracting Authority on the one hand, and the Contractor on the other hand, shall state the contract title and identification number and shall be sent by post, cable, telex, facsimile transmission, e-mail or personal delivery, to the following addresses:

**For Contracting Authority:**

Contact name: Gergana Nikolova – project manager

Address: 13 "Osvobozhdenie" square, Botevgrad, postal code 2140, Republic of Bulgaria

Tel: +359 888 04 08 84

E-mail: gergana.nikolova@botevgrad.org

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**

5.1 According to the Bulgarian legislation site supervisor as per art. 168, par. 2 of the Bulgarian Spatial Planning Law is not required. The supervision of the site and the duties of a supervisor on the site shall be carried out by assigned representatives of the Contracting Authority.

5.4 Instructions, acts and/or protocols and/or orders issued in writing by the Contracting authority and/or authorised representatives of it shall be made in the compliance with the Bulgarian Spatial Planning Law and related ordinances and the approved working design and are compulsory for the Contractor unless they derogate to the contractual obligation or applicable legislation.

**Article 8 Supply of documents**

8.1. Within 15 days of the signing of the contract, the Contracting Authority shall provide to the Contractor, free of charge, a copy of the drawings, documents for approval of the investment design by the respective companies for utilities, certificate that assessment of the environmental impact is not required, specifications and other contract documents.

**Article 9 Access to the site**

9.1 The Contracting Authority shall, in 30 days of contract signature and in conformity with the progress of the works, place the site and access thereto at the disposal of the Contractor in accordance with the approved programme of implementation of tasks. The Contractor is obliged to give to representatives of the Contracting Authority, Ministry of Regional Development and Public Works of the Republic in Bulgaria, JS of the Interreg-IPA CBC Programme Bulgaria-Serbia Programme 2014-2020, CCI 2014TC16I5CB007 other EU, state, regional and local authorities, which are authorised by international agreements, Bulgarian 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.

**Article 12 General obligations**

12.9 The contractor is obliged to place two information boards - one temporary during the construction process and one permanent at the end of the construction process at the site of the construction. The two boards shall comply with the minimum requirements of visibility laid down in the Communication and Visibility Guidelines of Interreg-IPA CBC Programme Bulgaria-Serbia Programme 2014-2020, CCI 2014TC16I5CB007, which are published on <http://www.ipacbc-bgrs.eu/bg>.

**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 Contracting Authority 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 Contracting Authority shall return these documents to the contractor with its approval or any relevant remarks within ten days of receipt, save where the Contracting Authority, within those ten days, notifies the contractor of its wish for a meeting in order to discuss the documents submitted.

**Article 34 Period of implementation of tasks**

34.1 The period of implementation of tasks for each lot shall be 4 months (120 days). The period of implementation of tasks starts from the issuing of contract, provision of access to the sites of construction with authorization letter and the provision of necessary construction documentation and permissions mentioned in Article 8.1 of this Special conditions until the provisional acceptance with the signing of the last in line certificate of acceptance for establishment of the executed construction works without prejudice to extensions of the period which may be granted under Article 35 of the General Conditions, but not later than the end date of project CB007.2.11.224, which is 29.06.2021 or the new deadline for the implementation of the project in case of its extension.

**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 is not required. An order book and protocols in the construction process will be kept on the site by the Contractor and shall be developed and signed by the Contracting Authority, who shall enter in them all information required for proper execution of the construction.

39.2 The statements of quantitative elements of the work done should be made in the form of protocol for acceptance of works.

**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 Programme Bulgaria-Serbia Programme 2014-2020, CCI 2014TC16I5CB007: 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.

When importing goods, any change in the specified origin must be pointed out to the Contracting Authority or its representatives 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 set in the detailed design project

(\*) the requirements of the detailed design project

40.3 Preliminary technical acceptance shall be made by the Contracting Authority.

**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.

44.3 By derogation, Payment to the contractor shall be done as follows:

(a) pre-financing payment to the contractor shall be made as follows for the lump-sum advance shall be made within 30 days.

(b) Interim payments to the contractor of the amounts due under each of the interim payment certificates approved by the Contracting Authority 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 Contracting Authority 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) of the general conditions.

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

46.8 The tranches laid down in Article 49.1 of these special conditions are determined so that the pre-financing is fully repaid before provisional acceptance.

**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. | 20% | Interim payment of Article 50 | After completion of 40% of the firm quantities for which the Contractor submitted its all-in price. |
| 3. | 20% | Interim payment of Article 50 | After completion of 60 % of the firm quantities for which the Contractor submitted its all-in price. |
| 4. | 30% | Interim payment of Article 50 | After issuing of the Certificate of provisional acceptance (according to applicable national legislation for construction works). |
| 5. | 10% | Retention money of Article 47 | Within 45 days of the issuing of the signed Final statement of account (according to applicable national legislation for construction works). |

**Article 50 Interim payments**

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

**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 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.

61.7. The defects liability period is in accordance to art. 20, par. 4 of the Ordinance № 2 of 31 July 2003 on the Commissioning of the Construction Works in the Republic of Bulgaria and Minimum Warranty Periods for Construction and Mounting Works, Facilities and Construction Sites.

**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 District court of Sofia district in accordance with the national legislation of the state 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)