**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 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, e-mail or by hand with note of Publication reference CB007.2.21.072 –PP1-TD01:

Contracting authority:

City of Pirot, LED office.

Srpskih vladara 82, 18 300 Pirot , Republic of Serbia;

Marija Djošić , project manager

Email: [marija.djosic@pirot.rs](mailto:marija.djosic@pirot.rs),

Contractor:

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 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). All representatives of supervisors will be appointed by Contracting Authority in compliance with Law on planning and construction. 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.

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 by the Supervisor/ shall be by way of administrative orders and must be in compliance the Law on planning and construction. 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.

**Article 7 Subcontracting**

7.3 Subcontracting is allowed. The upper limit authorized for subcontracting is 30% of the Contract Price

**Article 8 Documents to be provided**

8.1 Within 15 days of the signing of the contract, the Contracting Authority and Supervisor’s representatives shall provide the Contractor, free of charge, with a copy of the drawings prepared for the implementation of the contract and a copy of the specifications and other contract documents. Upon the issue of the final acceptance, the Contractor shall return to the Contracting Authority all drawings, specifications and other contract documents.

**To replace sub article 8.2 with the following:**

* 1. If a Party becomes aware of any mistake or fault of technical nature in a document that has been prepared to be used for the execution of the works on site, the Party must send notice to the other Party, notifying of such a mistake or fault.

**Article 9 Access to the site**

9.1 The contractor is reminded that there is a Head of Interreg IPA CBC Bulgaria-Serbia Programme in the state of the Contracting Authority .The contractor is obliged to give Head of Interreg IPA CBC Bulgaria-Serbia Programme in the state of the Contracting Authority free access to its sites, factories, workshops, etc., and generally assist the head of Interreg IPA CBC Bulgaria-Serbia Programme 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 .

Appendix to sub article 9.1 The Contracting Authority shall 15 days after signature of the Works contract give access of the Contractor to the Site or under appropriate conditions all in compliance with the Serbian Law on planning and construction.

**Article 12 General obligations**

12.9 **Replace sub article 12.9with the following:**

The visibility measures must comply with the rules laid down in the Communication and Visibility Manual for EU External Actions published by the European Commission and <http://www.ipacbc-bgrs.eu/implementation-stage-news/project-implementation-manual-v-314082020>

**Article 15 Performance guarantee**

15.1 The amount of the performance guarantee will be7% of the amount of the contract and any addenda thereto.

The performance guarantee shall be released within 45 days of the issuing of the signed final statement of account for its total amount except for amounts which are the subject of amicable settlement, arbitration or litigation

**Article 16 Liabilities and insurance**

16.1 a) No derogation from General Conditions.

16.1 b) No derogation from General Conditions.

16.2 a) point 4 Tenderer must provide the relevant insurance for their workers.

In accordance with Serbian procurement regulations /Official Gazette RS 91/2019)add text:

The tenderer is obliged to submit with the offer :

- Original letter of the bank intent , that in case the tender gets the job, on the day of handover of works, it will issue a bank guarantee for elimination of defects within the warranty period, binding for the bank, in the amount of not less than 5% of the total contract value without VAT , with a validity period that cannot be shorter than the deadline specified in the tender documentation. The letter must not be limited in duration (date) and must not have content related to the bank's policy and the provision that the letter does not represent a further obligation for the bank, as a guarantor. It is necessary for the tenderer to have a non-resident account in the country where he is bidding for public procurement, bearing in mind that the Contracting Authority makes payments through the Administration of the Treasury ( “UPRAVA ZA TREZOR) and not through commercial banks, and does not have the ability to collect financial security in a foreign bank. It is necessary that the amount on the financial security is expressed in dinars. If the bidder does not submit the requested letter of intent of the bank, his bid will be rejected as unacceptable.

Contractor ( SELECTED TENDERER) has obligation to provide Insurance of liability related to the soundness of the works in accordance Law on Planning and Construction of Serbia in terms of Warranty period of 2 years from the date of final acceptance. .

Contractor ( SELECTED TENDERER)has obligation to submit:

Bank guarantee for elimination of defects within the warranty period - The selected tenderer undertakes to hand over at the moment of final acceptance a bank guarantee for elimination of defects within the warranty period, which will be with clauses: unconditional and payable on the first call. The bank guarantee for the elimination of defects within the warranty period is issued in the amount of not less than 5% of the total value of the contract without VAT, in favour of the Contracting Authority.. The validity period of the bank guarantee must be 5 days longer than the warranty period. The Contracting Authority will cash the bank guarantee for the elimination of defects within the warranty period in the event that the selected tenderer does not fulfil the obligation to eliminate defects that could reduce the possibility of using the subject of the contract during the warranty period. It is necessary for the tenderer to have a non-resident account in the country where he is bidding for public procurement, bearing in mind that the Contracting Authority makes payments through the Administration of the Treasury ( “UPRAVA ZA TREZOR) and not through commercial banks, and does not have the ability to collect financial security in a foreign bank. It is necessary that the amount on the financial security is expressed in RSD. After execution of the contractual obligations of the tenderer to which they refer, the means of financial security will be returned.

**Article 17 Programme of implementation of tasks**

In case of any unforeseen circumstances or additional works , Contracting Authority must require approval from the Managing Authority

**Article 19 Contractor’s drawings and execution studies**

19.1 The Contractor shall submit Construction diary daily to the Supervisory authority to sign it. The Contractor will periodically submit all needed documents to the supervisory authority to sign it until the period of making the situations. Signing of the situations will be the basis for the procedure of payment to the Contractor.

In case of some unforeseen circumstance on the building site, contractor should make detailed explanation and submitted for the Supervisor’s approval, if applicable

19.7 Language of the manuals and drawings is language of the Contract, but also should be translated in Serbian

**Article 20 Sufficiency of tender prices**

No derogation from General conditions

**Article 21 Exceptional risks**

21.4 No derogation from General conditions

**Article 24 Interference with traffic**

24.2 The Contractor shall be responsible for providing all permits necessary for performing the works described in this Article including declarations of public companies and other institutions responsible for cultural facilities of special importance.

Add following articles after Article 24.2:

24.3 No important operation of any kind, especially cutting through, transit over, or closing existing roads, water conduits or other public utility shall be carried out without the written consent of the Supervisor.

24.4 The Contractor shall inform the Supervisor in due time which shall be not less than 7 calendar days in writing before commencing such works in order that the Supervisor may arrange adequate supervision and safety precautions

**Article 27 Demolished materials**

27.2 Demolition materials are the property of the Contracting Authority in accordance to Technical specification and work description for this contract

27.4 The Contractor is obligated to remove demolition material.

**Article 29 Temporary works**

29.2 No temporary works

**Article 30 Soil studies**

30.1 No derogation from General conditions

**Article 32 Patents and licenses**

32.1 No derogation from General conditions

**Article 34 Period of implementation of tasks**

34.1 6 (Six) months from the commencement date

The commencement date of the construction works is the date of giving access to the Site (according to the Serbian Law on planning and construction i.e. the introduction of contractors in the works contract which is evidenced in Construction dairy(Log) by supervisor.

**Article 36 Delays in the implementation of tasks**

36.1 In case of exceeding the deadline, Contractor is committed to pay for each day of delay to Contracting Authority 0,5‰ of the total contract value and not more than 5%. Completed situation for implemented works is permanently reduced by the amount of calculated contractual fine

**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 information:

1. the weather conditions, interruptions of work owing to inclement weather, hours of work, number and type of workers 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; This data will be in form of Construction dairy (Log) in serbian: (Građevinski dnevnik), according to Serbian Law of Planning and Construction.
2. 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 Technical rules for drawing up statements should be in accordance with Serbian Law of 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 Interreg IPA CBC Bulgaria-Serbia 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 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 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 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 Serbian standards and codes according to Serbian Law of Planning and Construction

40.3 Preliminary technical acceptance is not necessary

**Article 41 Inspection and testing**

Any part on the reconstructed object can be inspected and tested according with Serbian Law of Planning and Construction

**Article 43 Ownership of plant and materials**

43.2 Equipment, temporary structures, plant and materials on the site do not belong to the Contracting Authority under Article 43 of the General Conditions and the legal instrument(s) used.

**Article 44: General principles for payments**

44.1 Payments shall be made in EUR (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 launching the tender shall be used)

44.2 Sub section is replaced with

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 in payment procedure

44.3 By derogation, Interim payments to the Contractor of the amounts due under each of the interim payment certificates approved by the supervisor shall be made within 45 days by Contracting authority 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 30 days from the day of final statement account.

* Payments shall be made in EUR/RSD according to the following schedule:
* First Interim payment – up to 30% of contract price , upon submission of necessary documents regarding First temporary situation (prva privremena situacija) with approval of Supervisor as a proof of performed works - 2 months from the commencement day
* Second Interim payment – up to 40% of contract price, upon submission of necessary documents regarding Second temporary situation (druga privremena situacija) with approval of Supervisor as a proof of performed works - 4 months from the commencement day
* Final -balance payment (% up to 100% of realized contract value) , upon submission of necessary documents regarding Final temporary situation (konacna privremena situacija) after the positive technical acceptance of works and issuing of final acceptance with approval of Supervisor as a proof of performed works -6 months from the commencement day
* Payments will be authorised and made by City of Pirot , Srpskih vladara 82 , 18300 Pirot, which is represented by Vladan Vasić, the Mayor or his representative

**Article 46 Pre-financing**

46.1 Pre-financing is not applicable.

**Article 47 Retention monies**

47.1 Not applicable

**Article 48 Price revision**

Price revision is not allowed by any circumstances.

**Article 49 Measurement**

49.1

**(\*)** This is a lump‑sum contract.

It will be will be defined through the measurement of the percentage of works carried out in relation to the firm quantities of each item of the Breakdown of the Lump-sum Price and by applying that percentage to the lump-sum price of the related item and also on the base of construction book (if applicable) by measuring the material used in construction works in accordance with national legislation in the field of construction works.

**Article 50 Interim payments**

50.1 In order to obtain interim payment the Contractor must forward to the Contracting Authority referred to paragraph 44.3, the payment request and provisional situation on finished works signed by Supervisor. Interim payment shall be previously checked and signed by the Supervisor.

**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 provisional 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 and all further sums which the Contractor considers to be due to it under the contract.

51.2 Within 7 days from issuing the certificate of final acceptance referred to in Article 62, the Supervisor shall prepare and signed the final statement of account.

**Article 60 Provisional acceptance**

60.1 In complement to article 60.1 of the General Conditions Provisional acceptance will be organized when 100% of contracted work is finished. No partial acceptance will be allowed.

60.2 In complement to article 60.2 of the General Condition, the Supervisor shall within 5 days after the receipt of the Contractors’s application either

1. issue the certificate of provisional acceptance to the Contractor with a copy to the

Contracting Authority stating, where appropriate, his reservations, and, *inter alia,*

the date on which, in his opinion, the works were completed in accordance with the

contract and ready for provisional acceptance; or

b) reject the application giving his reasons and specifying the action which, in his

opinion, is required of the Contractor for the certificate to be issued.

**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 defect 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.

Duration of the defects liability period is maximum 30 days.

**Add in accordance to general conditions:**

**Article 62: Final acceptance**

**62.4** The “final acceptance certificate” will be issued only after positive certificate on acceptance of works (“Zapisnik o tehnickom prijemu) is issued, if all the works are truly completed and in accordance with requirements of this Contract.

**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 Economic Court Nis Serbia 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-2) and as detailed in the specific privacy statement published at ePRAG.

**Article 73 Further additional clauses**

Not applicable .

\* \* \*

1. OJ L 205 of 21.11.2018, p. 39 [↑](#footnote-ref-2)