|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **TENDER DOSSIER**  *According to Article 27 of Law no. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092*  **“SUPPLY” “SERVICES” “WORKS”**  ***COMPETTIVE NEGOTIATED PROCEDURE***  ***2nd phase***   |  | | --- | |  |   Date of preparation of the Tender Dossier :   |  |  |  |  |  | | --- | --- | --- | --- | --- | | **Procurement No[[1]](#footnote-1)** |  |  |  |  |   **Title:**  **THIS TENDER DOSSIER IS COMPOSED OF THREE PARTS:**  **Part A:**  **Tendering procedures containing instructions how to prepare tenders;**  **Part B:**  **Draft Contract containing the contractual conditions which must be**  **accepted by the tenderer awarded the contract; and**  **Part C: The Tender Form, i.e. the documents which must be submitted by**  **tenderers.** |

**This Tender Dossier has been prepared in Albanian, Serbian**  **language.**

**In the event there is a discrepancy among the language versions, the** *[insert language]* **language version shall prevail over others.**

**SUBJECT: INVITATION TO TENDER for**

**To:**

**Dear Mr. /Ms.:**

Thank you for your interest regarding the participation on the above-mentioned procurement activity.

In response to the first phase of the negotiated procedure after the publication of the contract notice, in which your Company was qualified, you are hereby invited to submit your tender for the above mentioned activity.

Please find enclosed the documents, which constitute the Tender Dossier.

You are expected to examine carefully all parts and sections of this tender dossier and its annexes and to comply with all requirements, specifications and conditions contained therein.

We, as Contracting Authority, will not accept any reservation.

This Invitation to Tender has been addressed to the following qualified Economic Operators:

Failure to submit a tender to the contracting authority within the deadline specified in this Tender Dossier and/or is not in compliance to all requirements set in this tender dossier shall be rejected and shall be considered as “*irresponsive tender”.*

No costs incurred by you in preparing and submitting the tender will be reimbursed and no liability shall be incurred by the contracting authority in case the procedure is cancelled.

The present tender procedure is regulated by the Public Procurement Law (Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092) and procurement rules issued on its basis.

The PPL and the Procurement Rules may be downloaded from Public Procurement Regulatory Commission’s (PPRC’s) website: [**www.krpp.rks-gov.net**](http://www.ks-gov.net/krpp)**.**

Tenders shall be submitted at the address specified in the part A “Tendering Procedures”, before.

In submitting a tender, the tenderer accepts in full and without reservation the special and general conditions governing this proposed contract as the sole basis of this tendering procedure.

We look forward to receiving your tender,

If you decide not to submit a tender, we would be grateful if you could inform us in writing, stating the reasons for your decision.

Please confirm in writing the receipt of this Invitation.

Yours sincerely,

First and last name:

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# *PART A: TENDERING PROCEDURES*

# Section I. Information to Tenderers

|  |  |
| --- | --- |
|  | General |
| 1. Scope of Tender | * 1. The Contracting Authority as **indicated in the Tender Data Sheet (TDS),** issues this Tender Dossier and invites you to tender for the procurement of Supplies/Services/Works as specified in the technical specification, Annex 1, and in Part C, the Price Description.   2. The contract title and identification number of this procurement activity are **indicated in the TDS.**   3. Tenders shall be submitted in the address of the contracting authority **indicated in the TDS.**   4. Throughout this Tender Dossier:  1. the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt; 2. if the context so requires, “singular” also means “plural” and vice versa; 3. “day” means calendar day; 4. you are referred as the “economic operator”, “candidate” or the “tenderer”; and 5. the issuer of this tender dossier is referred to as the “contracting authority”. |
| 2. Object of the contract | * 1. The Classification of Common Procurement Vocabulary and the object of the contract **are indicated in the TDS**   2. *If the contract is divided into lots,* each lot may lead to the award of a separate contract. The quantities indicated for different lots will be indivisible. The tenderer must offer the whole of the quantity or quantities indicated for each lot. If the tenderer is awarded contracts for more than one lot, a single contract may be concluded covering all those lots.   3. The number of lots is **indicated in the TDS**.   4. Estimated contract value is **indicated in the TDS** |
| 3. Mandatory technical specifications | 3.1 The supplies/services/works must fully comply with the technical specifications set out in this Tender dossier, see Annex 1, and conform in all respects with the other instructions.  3.2 Any specification not in compliance with the technical specifications will disqualify the tender. |
| 4. Delivery Requirement and conditions | 4.1 Place of the delivery of the goods/performance of the services/execution of works **as indicated in the TDS**.  4.2 Time limits for start and/or completion of the contract as **indicated in the TDS.** |
| 5. Tender Security | 5.1 If **indicated in the TDS** the tenderer shall furnish as part of its tender a Tender Security.   * 1. The Tender Security shall be in the amount andfor a validity period as **indicated in the TDS** and may be posted in one of the forms indicated below:  1. check certified by a first-class bank; 2. letter of credit, opened and confirmed by a first-class bank; 3. unconditional bank guarantee, issued by a first-class bank; 4. insurance policy issued by a licensed Insurance Company.   5.3 If a Tender Security is required, any tender not accompanied by a substantially responsive Tender Security shall be rejected as non-responsive tender.   * 1. Form of the tender security is specified in Annex 2 of this tender dossier.   5.5 The contracting authority shall return the tender security posted within five (5) days, after occurring any of the following:   1. expiration date of the tender validity; 2. contract award and entry into force; 3. cancellation or completion of the procurement activity prior to the award or entry into force; or 4. Upon withdrawal of a tender before the deadline for the tender submission unless it is stated in the TD that no such withdrawal is permitted.   5.6 The Tender Security may be forfeited if:   1. The Contracting Authority determines that the Economic operator has submitted false or misleading information; 2. The Economic operator withdraws its tender after the deadline for submissions of tenders, but before the expiry of the tender validity period; and 3. The Economic Operator is awarded the contract but refuses or fails: 4. to provide the performance security; 5. to comply with other conditions preceding to the signing of the contract; or 6. to execute the contract. |
| 6. Performance Security | 6.1 **If indicated in the TDS**, prior to the signing of the Contract, the successful tenderer, shall furnish the Contracting Authority with a Performance Security.  6.2 The Performance security shall be in amount and for a validity period **indicated in the TDS.**   * 1. Form of the performance security is specified in Part B, Section IV.   2. The performance security may be posted in one of the forms indicated for the Tender Security.   3. Failure of the successful Economic Operator to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security.   4. The Performance Security shall be forfeited in the event of:  1. breach of the signed contract, which causes material damage to the contracting authority and/or requires the contracting authority to incur material expense in obtaining the completion of such contract; and 2. The signed contract is breached and many workers are left unpaid, subcontractors and /or material suppliers;   6.7 If none of the events mentioned above have occurred requiring the forfeiture of the performance security, a contracting authority shall return the funds or document constituting such performance security in accordance with the terms of the concerned contract. |
|  | Contents of Tender Dossier |
| 7. Sections of the Tender Dossier | * 1. The Tender Dossier consists of Parts A, B, and C, which include all the Sections indicated below, and should be read in conjunction with any Addendum issued in accordance with the Information to Tenderers Section 9.   **PART A Tendering Procedures**   * Section I. Information to Tenderers * Section II. Tendering Data Sheet (TDS) * Annexes   **PART B Contract**   * Section I. Draft Contract Form * Section II. General Conditions of Contract (GCC) * Section III. Special Conditions of Contract (SCC) * Section IV. Performance Security Form * Section V. Financial Identification   **PART C Tender Submission Form – first stage tender**   * Section I. Tender Form   **PART C Revised Tender Submission Form – second stage tender**   * Section I. Tender Form * Section II. Price Description |
| 8. Clarification of the Tender Dossier | * 1. The tenderers are allowed to make a written request to the contracting authority for additional or clarifying information which they believe is needed to prepare or submit a responsive tender. Such a request may be made by use of the request form, see Annex 3, and submitted to the contracting authority by electronic means, letter or fax. The Contracting Authority will respond in writing to any request for clarification, provided that such request is received no later than the time limit **indicated in the TDS.** The Contracting Authority shall forward copies of its response to all those who have acquired the Tender Dossier including a description of the inquiry but without identifying its source. Should the Contracting Authority deem it necessary to amend the Tender Dossier as a result of a clarification, it shall do so following the procedure under Information to Tenders Section 9. |
| 9. Amendment of the Tender Dossier | 9.1 At any time prior to the deadline for submission of tenders, the Contracting Authority may amend the Tender Dossier by issuing an addendum.   * 1. Any addendum issued shall be part of the Tender Dossier and shall be communicated in writing to all economic operators who have obtained the Tender Dossier.   2. To give prospective tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Contracting Authority shall extend the deadline for the submission of tenders in accordance with Article 53 of the PPL. |
|  | Preparation of TENDERS |
| 10. Language of Tender | 10.1 Economic operators may prepare and submit their tender and related documents in Albanian, Serbian or English language. |
| 11. Currency and price Calculation | 11.1 All prices specified in tenders shall be stated in Euro **(€)** and shall include all applicable taxes, duties and other charges.  11.2 The tender prices are fixed during the Tenderer’s performance of the Contract and not subject to revision**.** The price offered is allowed to be marked with a maximum of two (2) decimal numbers after the decimal point. Any number listed after the second number (2) shall not be taken into account in the calculation of the value of the bid.  11.3If tenders are being invited for individual contracts (lots) prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. |
| 12. Tender Validity Period | 12.1 Tenders shall remain valid for the period as **indicated in the** **TDS.** Validity period of the tender shall begin on the date of the deadline for submission of tenders. A tender valid for a shorter period shall be rejected by the Contracting Authority as non responsive.  12.2 In exceptional circumstances, prior to the expiration of the tender validity period, the Contracting Authority may request tenderers to extend the period of validity of their tenders. The request and the responses shall be made in writing. If a Tender Security is requested it shall also be extended for a corresponding period. Failure to respond to the request made by the contracting authority shall lead to the rejection of the tender without forfeiting its Tender Security.  12.3 The tender validity period of Second Stage Tenders will be specified in the invitation to submit Second Stage Tenders. |
|  | Tendering Procedure |
| 13. Tendering Procedures | 13.1 The Tendering procedure is carried in two stages:  a. 1st stage – preliminary examination and evaluation stage of the technical conformity of the proposals; and  b. 2nd stage - Negotiations and award stage, only candidates having submitted acceptable proposals are invited to participate in further negotiations and get the same chance to amend and/or complete their original proposals. |
| 14. First stage – preliminary evaluation stage | 14.1 During the first stage, the proposals are evaluated in order to determine whether they are acceptable meaning that the technical aspects are substantially responsive to the requirements set forth in the Tender Dossier. The examination and evaluation of the proposals is preliminarily, as the proposals will serve as basis for further negotiations of the contract terms and conditions.  14.2 All candidates having submitted acceptable proposals will be invited to participate in further negotiations. |
| 15. Second stage - Negotiations and award stage | 15.1 Negotiations may concern the technical, economic, legal and other aspects of the contract, including the price or prices.  15.2 Negotiations will be held with each selected candidate separately. All selected candidates shall be subject to the same requirements and shall be provided with the same information on background, terms and conditions of the contract.  15.3 **Unless otherwise indicated in the TDS**, the contracting authority will conduct the negotiations with all candidates having submitted acceptable proposals all the way through, until the contract award.  15.4 Upon completion of the negotiations, the Contracting Authority will invite the candidates with whom negotiation has taken place to submit their final proposals.  15.5 The final proposals will be evaluated and compared according to the contract award criteria specified in the tender dossier. |
|  | Preparation of First Stage TENDERS |
| 16. Documents Comprising the First Stage Tender | 16.1 The Tender shall comprise the following:   1. Tender Submission Form by using the form furnished in Part C of this Tender Dossier; 2. Tender Security, in accordance with Information to Tenderers Section 5, *if applicable*; 3. The technical proposal or if applicable alternatives; 4. Any other document **required in the TDS.**   16.2 Tenderers shall note that they are permitted to propose technical alternatives or other alternative tenders with their First Stage Tender in addition to or in lieu of the requirements specified in the tender dossier, provided they can document that the proposed alternative Tenders are to the benefit of the Contracting Authority, that they fulfill the principal objectives of the contract, and that they meet the basic performance and technical criteria specified in the tender dossier. Any alternative tender proposed by tenderers in their First Stage Tender will be the subject of discussion during the negotiation stage. |
|  | Submission of First Stage TENDERS |
| 17. Sealing and Marking of first stage Tenders | 17.1 The Tenderer shall prepare one original of the documents comprising the tender as described in Information to Tenderers Section 16 and clearly mark it “**FIRST STAGE TENDER - Original.”** In addition, the Tenderer shall submit copies of the tender, in the number **indicated in the TDS** and clearly mark them **“FIRST STAGE TENDER - Copy.”**  17.2 The tenderer shall seal the original tender and each copy ***in separate envelopes*** and shall on the front of each one of such envelopes:   * Mark clearly as ***“Original – 1st stage Tender”*** or ***“Copy – 1st stage Tender”;*** * Indicate the Procurement number as stated in the tender dossier; and * Indicate the name and address of the tenderer.   17.3 The envelopes shall then be sealed in an outer envelope marked with:   * The address of the place for submission of tenders; * The Procurement number; * Warning that the envelope should not be opened before the date and time of tender opening; and * The name and address of the tenderer. |
| 18. Deadline for Submission of First stage tenders | 18.1 Tenders must be received by the Contracting Authority at the address and no later than the date and time **indicated** **in the** **TDS.** |
| 19. Late tenders | 19.1 The Contracting authority shall not consider any tender that arrives after the deadline for submission of tenders. Any tender received by the Contracting Authority after the deadline for submission of tenders shall be declared late, rejected, and returned unopened to the Tenderer. |
|  | Opening and Evaluation of First Stage TENDERS |
| 20. Opening of First Stage Tenders | 20.1 The Contracting Authority shall conduct the tender opening at the address, date and time **indicated in the** **TDS.** There shall be no public opening meeting.  20.2 All proposals shall be opened one at a time, reading out: the name and address of the tenderer and the total tender Price specified in the Tender submission form. All this shall be recorded in the minutes of the tender opening meeting, which shall be signed by the Procurement Officer and by all opening committee members. |
| 21. Preliminary Examination of First Stage Tenders | 21.1 The Contracting Authority will examine the First Stage Tenders to determine whether they are complete, whether the documents have been properly signed and whether the Tenders are generally in order. Any First Stage Tender found to be nonresponsive or not meeting the minimum levels of the performance or other criteria specified in the tender dossier will be rejected by the Contracting Authority and not included for further consideration. The Contracting authority will also carry out a preliminary examination of any alternative Tenders submitted by Tenderers. |
| 22. Technical Evaluation of First Stage Tenders | * 1. The Contracting Authority will carry out a detailed evaluation of the First Stage Tenders in order to determine whether the technical aspects are substantially responsive to the requirements set forth in the tender dossier.   22.2 The Contracting Authority will also review complete technical alternative Tenders, if any, offered by the Tenderer, to determine whether such alternatives may constitute an acceptable basis for a Second Stage Tender to be submitted on its own merits. The Contracting Authority will ascertain to its satisfaction whether tenderers determined as having submitted responsive First Stage Tenders are qualified to satisfactorily perform the contract.  22.3 An affirmative determination will be a prerequisite for the Contracting Authority to invite the candidates for negotiations. A negative determination will result in rejection of the Tenderers’s tender. |
|  | Negotiations |
| 23. Negotiations of First Stage Tenders and Review of Tenderers’ Proposed Deviations and Alternative Solutions | 23.1 The Contracting Authority shall conduct negotiations with each candidate to clarify any aspects of its First Stage Tender that require explanation at this stage of the evaluation. During these meetings, the Contracting Authority may bring to the attention of the Tenderer any matters, technical or otherwise, where for whatever reason, it requires amendments or changes to be made to the First Stage Tender. All such amendments or changes required by the Contracting Authority will be listed in an Annex documenting the negotiations entitled **“Changes Required Pursuant to First Stage Evaluation”** and will be formally notified to the Tenderer as part of the invitation to submit the Second Stage Tender.  23.2 The Contracting Authority will advise the Tenderer of any exceptions or deviations in the First Stage Tender, that are unacceptable and that are to be withdrawn in the Second Stage Tender.  23.3 The Contracting Authority will also advise the Tenderer whether the proposed alternative tender, if any, is acceptable, and will identify the degree (if any) to which such an alternative tender may be incorporated in the Tenderer’s Second Stage Tender. |
| 24. Invitation to Submit Second Stage Tenders | 24.1 At the end of the First Stage evaluation and after the negotiations, the Contracting Authority will invite Tenderers who have submitted substantially responsive Technical Proposals to prepare and submit their Final Proposals.  24.2 The Contracting Authority will either  (i) invite the candidate to submit an updated Technical Proposal and Financial Proposal in a Second Stage Tender based on the updated Draft Contract and any revisions required for the First Stage Tender as recorded in the Annex entitled “Changes Required Pursuant to First Stage Evaluation”, or  (ii) invite the candidate to submit an updated Technical Proposal and Financial Proposal in the Second Stage Tender based on an alternative tender proposed by the Tenderer in its First Stage, taking into account the updated Draft Contract and any other revisions required for the First Stage Tender as recorded in the Annex entitled “Changes Required Pursuant to First Stage Evaluation”, or  (iii) Notify the candidate that its proposal has been rejected on the grounds of being substantially nonresponsive.  24.3 The deadline for submission of Second Stage Tenders will be specified in the invitation to submit Second Stage Tenders. |
|  | Preparation of Second Stage TENDERS |
| 25. Documents Comprising the Second Stage Tender | 25.1 The Tender shall comprise the following:   1. The Revised Tender Submission Form and the applicable revised Price Description by using the forms furnished in Part C of this Tender Dossier; and 2. The Revised technical proposal. |
|  | Submission of Second Stage TENDERS |
| 26 Sealing and Marking of second stage Tenders | 26.1 The Tenderer shall prepare one original of the documents comprising the tender as described in Information to Tenderers Section 25 and clearly mark it “**SECOND STAGE TENDER - Original.”** In addition, the Tenderer shall submit copies of the tender, in the number **indicated in the TDS** and clearly mark them **“SECOND STAGE TENDER - Copy.”**  26.2 The tenderer shall seal the original tender and each copy ***in separate envelopes*** and shall on the front of each one of such envelopes:   * Mark clearly as ***“Original – 2nd stage Tender”*** or ***“Copy – 2nd stage Tender”;*** * Indicate the Procurement number as stated in the tender dossier; and * Indicate the name and address of the tenderer.   26.3 The envelopes shall then be sealed in an outer envelope marked with:   * The address of the place for submission of tenders; * The Procurement number; * Warning that the envelope should not be opened before the date and time of tender opening; and * The name and address of the tenderer. |
| 27. Deadline for Submission of Second Stage Tenders | 27.1 Second Stage Tenders must be received by the Contracting authority at the address and no later than the date and time indicated in the Letter of Invitation to submit a Second Stage Tender. |
| 28. Late Tenders | 28.1 The Contracting authority shall not consider any tender that arrives after the deadline for submission of tenders. Any tender received by the Contracting Authority after the deadline for submission of tenders shall be declared late, rejected, and returned unopened to the Tenderer. |
| 29. Withdrawal, Substitution, and Modification of Second Stage Tenders | 29.1 A Tenderer may withdraw, substitute, or modify its tender after it has been submitted by sending a written notice to the contracting authority, duly signed by an authorized representative. The corresponding substitution or modification of the tender must accompany the respective written notice. All notices must be:   1. submitted in accordance with Information to Tenderers Section 26 and in addition, the respective envelopes shall be clearly marked “Second stage tender - Withdrawal,” “Second stage Tender - Substitution,” or “Second stage Tender - Modification”; and 2. Received by the Contracting authority prior to the deadline prescribed for submission of tenders.   29.2 Tenders requested to be withdrawn shall be returned unopened to the Tenderers.  29.3 No tendermay be withdrawn in the interval between the deadlines for submission of tenders and the expiry of the tender validity period. Withdrawal of a tender during this interval will result in forfeiture of the tender security. |
|  | Opening, Evaluation and Comparison of Second Stage Tenders |
| 30. Opening of Second Stage Tenders | 30.1 The Contracting Authority shall conduct the tender opening at the address, date and time specified in the Letter of Invitation to submit a Second Stage Tender**.**  30.2 If withdrawals, substitutions or modifications were allowed, first the envelopes marked “second stage tender - Withdrawal” shall be opened and read out and the envelope with the corresponding tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the tenderer, the corresponding tender will be opened. Next, envelopes marked “second stage tender - Substitution” shall be opened and read out and exchanged with the corresponding tender being substituted, and the substituted tender shall not be opened, but returned to the Tenderer. Envelopes marked “second stage tender - Modification” shall be opened and read out with the corresponding Tender.  30.3 No tender withdrawal, substitution or modification shall be permitted unless the corresponding withdrawal, substitution or modification notice contains a valid authorization to request the withdrawal, substitution or modification and is read out at Tender opening. Only envelopes that are opened and read out at Tender opening shall be considered further.  30.4 All proposals shall be opened one at a time, reading out: the name and address of the tenderer and the total tender Price specified in the Tender submission form. All this shall be recorded in the minutes of the tender opening meeting, which shall be signed by the Procurement Officer and by all members participating in the tender opening. Copies of the minutes shall be distributed to all tenderers. |
| 31. Examination of tenders | 31.1 **Timely** received tenders will be examined, evaluated and compared according to the requirements set forth in this tender dossier.  32.2 A tender is considered to be **responsive** when it:   1. complies in administrative terms with the formal requirements of the tender dossier; and 2. complies in technical terms with the description, requirements and specifications established in the tender dossier.   32.3 A Second Stage Tender containing technical or commercial alternatives not submitted as part of the First Stage technical proposal will be treated as nonresponsive. |
| 32. Clarification of Tenders | 32.1 To assist in the examination, evaluation and comparison of the tenders, the Contracting Authority may, at its discretion, ask any Tenderer for a clarification of its tender. Any clarification submitted by a tenderer in respect to its tender and that is not in response to a request by the Contracting authority shall not be considered.  32.2 The request for clarification and the response must be in writing only, but no change in price may be sought, offered or permitted.  32.3 A contracting authority shall correct an error in a tender that is of a purely arithmetical nature if such an error is discovered during the examination of tenders, however, this correction cannot be higher than two percent (2%) of the total amount of the bid. In such a case, offered price unit by the economic operator in its financial tender shall be deemed to be a prevailing price over any other contradictory price. When unit prices are not required, elements of the single price of the total price offered by the economic operator in its financial tender shall be deemed to be prevailing price over the total price. A contracting authority shall promptly provide all tenderers a written notice of any such correction.  32.4 In cases of a discrepancy between the unit price and the total amount, or between words and figures the former will prevail. |
| 33. Responsiveness of the tenders | 33.1 If a tender is not responsive it shall be rejected and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.  33.2 Responsive tenders shall be evaluated and compared according to the contract award criteria established in the Tender Dossier. The contract shall be awarded to the highest ranked tender. |
|  | Award of Contract |
| 34. Award Criteria | 34.1 The contract awarded criteriaisthe **most economically advantageous** **responsive** tenderdetermined by the weighted criteria as stated in Annex 4. |
| 35. Complains | 35.1 Pursuant to Article 108/A of the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092*,* a complaint may be submitted, free of charge, by an interested party at any stage of any procurement activity and with respect to any act or omission of the concerned contracting authority that is alleged to be in violation of the present law, or acts issued in its implementation.  35.2 The Standard form of the complaint may be downloaded from the PPRC’s or PRB’s websites: [**www.krpp.rks-gov.net**](http://www.ks-gov.net/krpp) or [**www.oshp.rks-gov.net**](http://www.oshp.rks-gov.net).  35.3 The complaint shall be submitted in original to the Contracting Authority at the address specified in Section I.1) of this Tender Dossier.   * Where the complaint relates to the contract notice or the tender documents within five (5) days prior to the deadline for submission of bids; * Where the complaint relates to the decision to award a contract, within five (5) days after the date of notification of the contract award notice is sent to the complainant. * Where the complaint relates to the decision to terminate the procurement procedure, within five (5) days from the date the procurement activity was formally terminated through a termination notice.   35.4 Against any decision taken by the contracting authority in accordance with Article 108A circumstances any interested party may lodge a complaint with the PRB. The complaint should be submitted only after a preliminary procedure for resolution of the dispute was conducted.  Appeal to the PRB must be submitted within ten (10) days after the decision issued by the contracting authority in the preliminary procedure of dispute resolution in accordance with Article 108A of this Law.  35.5 All complainants are required to pay a complaints fee of the amount of [*insert amount in Euro*]**-** together with the filing of a complaint. Payment shall be made in cash or cash equivalent into the account established by the PRB.  35.6 Refer to the PPL and the Procurement Rules for further complaints procedures. |

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# Section II. Tender Data Sheet (TDS)

The following specific data shall complement, supplement, or amend the provisions in the Information to Tenderers. Whenever there is a conflict, the provisions herein shall prevail over those in Information to Tenderers

*[Instructions for completing the Tender Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant* Information to Tenderers *Sections. Delete none relevant ones]*

|  |  |  |
| --- | --- | --- |
| Instructions to Tenderers | | Amendment/Modification of relevant Section in the Information to Tenderers |
| Section  description | Sec. No. | **General** |
| Scope of Tender | 1.1 | The Contracting Authority (CA) is:  **Name of CA**: *[insert**name of the CA]*  **Address of CA**: *[insert**address of the CA]*  **Town:** *[insert CA town]*  **Postal code**: *[insert CA city postal code]*  **Electronic address:** *(if applicable)*: *[insert* [*www.*](http://www.)*]*  **Contact person**: *[insert name of contact person]*  **E-mail:** *[insert email of contact person]*  **Telephone:** [*insert CA telephone number]*  **Fax:** *[insert CA fax number]* |
|  | 1.2 | The contract title and identification number of the procurement activity is: *[insert name and identification number]* |
|  | 1.3 | Tenders shall be submitted at the address mentioned under 1.1 |
| Object of the contract | 2.1 | Classification of Common Procurement Vocabulary (CPV): [*insert CPV number]*  The object of the contract is:  *[insert General description]* |
| **Division into Lots of the Contract** | 2.3 | *[If the object of the contract is not divided into lots insert*]  This contract is not divided into lots. Tenders must be submitted for the entirety of the quantities indicated in the tender dossier  *[If the object of the contract is divided into lots insert]*  The object of the contract is composed of *[insert number]* lots. Tenderers may submit a tender for *[insert one / all lots]*. Each part of the lot is indicated in the technical specifications, see Annex 1.  The maximum number of Lots that may be awarded to one Economic Operator is: *[insert number]*  [*determine objective and non-discriminatory criteria or rules for awarding different lots, where the application for the selection of the award criteria would result in awarding tenderer more lots than the maximum number]* |
| Contract value | 2.4 | ***[****insert estimated contract value****]*** |
| Mandatory technical specifications | 3.1 | In case of supply contract:  The economic operator shall submit documentary evidence of the offered object of contract including:   1. Statement on technical specifications of the offered object of contract to correspond to those mentioned in Annex 1 of tender dossier. |
| Delivery Requirement and conditions | 4.1 | Place is: [*insert place of acceptance/performance/execution*] |
|  | 4.2 | Time limits for start and/or completion of the contract: *[insert time limit*] |
| Tender Security | 5.1 | *[insert one of the following options:]*  *[If tender security is not required]*  No Tender Security is required.  *[If tender security is required]*  The tenderer has to post a tender security. |
|  | 5.2 | The amount of the Tender Security shall be [*insert the amount in words and figures*] for a validity period of [*insert duration in days or months]* |
| Performance Security | 6.1 | *[insert one of the following options:]*  *[If performance security is not required]*  No Performance Security is required.  [*If performance security is required*]  In case of awarding the contract to you, you will have to post, before the signing of the contract, a performance security. |
|  | 6.2 | The amount of the Performance Security is [*insert the amount or the percentage in words and figures*] for a duration period of [*insert duration in days or months]* |
| Clarification of the Tender Dossier | 9.1 | *[insert date]* |
| Tender Validity Period | 12.1 | Tender validity period shall be [*insert number]* days*.* |
| 15. Second stage - Negotiations and award stage | 15.3 | *[If negotiations are held in successive stages insert]*  [The Contracting Authority will conduct the negotiations in successive stages. During each such stage the Contracting authority will reduce the number of tenders to be negotiated by applying the contract award criteria stated in the tender dossier.] |
| Documents Comprising the First Stage Tender | 16.1(d) | *[List any other document required as part of First Stage Tender Dossier]* |
| Sealing and Marking of first stage Tenders | 17.1 | In addition to the original of the Tender the number of copies is [*insert number of copies]*. |
| Deadline for Submission of first stage tenders | 18.1 | The deadline for submission is [*insert date and time and place of submission*] |
| Opening of First Stage Tenders | 20.1 | The tender opening is [*insert date and time and place of opening*] |
| Sealing and Marking of second stage Tenders | 26.1 | In addition to the original of the Tender the number of copies is [*insert number of copies]*. |
| Complains | 35.3 | [*insert CA’s address*] |

# Annex 1. TECHNICAL SPECIFICATIONS

1. Describe in a non-discriminating manner, the mandatory characteristics of the object of the contract, such as: Quality, quality assurance, performance, terminology, design requirements, symbols, dimensions, testing and test methods, safety, packaging, marking, labelling.

Technical specifications shall be established in a manner that is both consistent with the purpose of the procurement and directed at providing the greatest possible access to all potentially interested economic operators.

A contracting authority is specifically prohibited from establishing a technical specification that favours or disfavours one or more economic operators.

2. The CA shall indicate the minimum specifications to be respected by a variant and any specific requirements for the presentation of a variant.

[3. If the object of the contract is divided into lots, indicate each lot in separate tables as below]

|  |  |  |  |
| --- | --- | --- | --- |
| Item No | Description | | Quantity |
| 1 |  | |  |
| 2 |  | |  |
| 3 |  | |  |
| 4 |  | |  |
| 5 |  | |  |
| 6 |  | |  |
|  | [add and remove as much lines as items you need in the lot] | |  |
| [Indication about different starting /delivery date , *if applicable*:] | | | |
| [Starting*]* | | <insert date> |  |
| [Delivery*]* | | < insert date > |  |
|  | | | |

[Detailed technical information can be written in the language commonly used internationally for such technique]

# Annex 2. TENDER SECURITY

**To: [name of contracting authority]**

(Hereinafter “the Contracting Authority”)

**On behalf of: [name and address of economic operator]**

(Hereinafter “tenderer”)

**Title of the procurement activity:**

**Procurement number:**

WHEREAS the Tenderer has undertaken to post a tender security referring to Tender Dossier, with the abovementioned procurement number dispatched by the Contracting Authority;

AND WHEREAS the Tenderer wants to post a guarantee for the sum specified in the Tender Dossier;

AND WHEREAS we have agreed to give the Tenderer such a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Tenderer, up to a total of <amount of the guarantee in words and figures>, and we undertake to pay you, upon your first written demand declaring the Tenderer to be in default because of:

1. the Contracting Authority has determined, on the basis of objectively verifiable evidence, that the Tenderer has provided materially false or misleading information to the Contracting Authority;
2. the Tenderer has withdrawn its tender after the deadline for the submission of tenders but prior to the expiration of the tender validity period specified in the Tender Dossier;
3. the Tenderer was awarded the concerned contract on the basis of its tender and the Tenderer then refuses or fails:

* to post any required performance security specified in the Tender Dossier;
* to comply with any other condition precedent to the signing of the concerned contract as specified in the Tender Dossier ; or
* to conclude the contract that conforms to the terms and conditions specified in the Tender Dossier.

Any sum within the limits of:< amount of guarantee> as aforesaid, without you’re needing to prove or to show grounds or reasons for your demand or to the sum specified herein.

This guarantee is valid until <date and time>

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Signature and seal of the Guarantors

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of financial institution

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

# Annex 3. REQUEST FOR ADDITIONAL INFORMATION

To: <name and address of contracting authority>

WHEREAS [name of economic operator] (hereinafter “the Economic Operator”), having received the tender dossier under the above mentioned Procurement Number., believes that additional or clarifying information is needed as follows:

|  |
| --- |
| *Identification of needed additional or clarifying information, including reference to section(s) of the tender dossier:* |

THEREFORE, I, the undersigned, representing the Economic Operator, hereby request the receipt of the identified information.

|  |  |
| --- | --- |
| **Economic Operator Identification (EO)** | |
| **Name of EO:** |  |
| **Full Address:** |  |
| **Full Address:** | |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

# Annex 4. CONTRACT AWARD CRITERIA [[2]](#footnote-2)

The following elements to determine criteria are non-exhaustive and non-mandatory. They shall be selected in accordance with the needs of the contracting authority and the subject of the contract

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Categories** | | **Criteria Description** | **Weight**[[3]](#footnote-3) | | **Evaluation method** |
| **1** | **Price** | Score <100x %> for the tender with lowest price. The tender score is calculated proportionally. |  | **%** | [[4]](#footnote-4) |
| **2** | **[Operating, maintenance, other life-time costs]** | Score <100x %> for the tender with best operating cost. The tender score is calculated proportionally (in cost) |  | **%** | [[5]](#footnote-5) |
| **3** | **[Functional, technical, environmental, aesthetic or similar characteristics]** | [Specify][[6]](#footnote-6) [Consider one (or more) objective measurable characteristic(s) and give score <100x %> for the tender with best characteristic(s). The tender score is calculated proportionally (in marks)] |  | **%** | [[7]](#footnote-7) |
| **4** | **[After sale services, technical assistance]** | [Specify][[8]](#footnote-8) [Consider one (or more measurable characteristic(s) and give score <100x %> for the tender with best technical assistance(s). The tender score is calculated proportionally (in marks)] |  | **%** | [[9]](#footnote-9) |
| **5** | **[Quality characteristics]** | [Specify][[10]](#footnote-10) [Consider one (or more) objective measurable characteristic(s) and give score <100x %> for the tender with best characteristic(s). The tender score is calculated proportionally (in marks)] |  | **%** | [[11]](#footnote-11) |
|  |  |  | **100 %** | |  |

# Choose one type of DRAFT contract (Supplies / Services / Works) and delete the other two.

# PART B: *Draft CONTRACT* for Supplies

# CONTRACT SECTION I: DRAFT CONTRACT FORM

[*Insert name of the Contracting Authority],* (hereinafter called "the Contracting Authority"), of the one part; and

[*Insert name of Supplier],* (hereinafter called “the Supplier”), of the other part, have agreed to conclude a public contract for the Supply of:

[*Insert Title*] with Identification number: [*insert Procurement Number*]

**Article 1 Subject**

1.1 The subject of the contract shall be the [*manufacture], [delivery], [installation], [commissioning], [maintenance], [after-sales service]* by the Supplier the following supplies:

[*insert general description of the supplies, including quantities],* in <*insert number*> lot(*s*)

*[lot no 1, general description with an indication of quantities]*

*[lot no 2, general description with an indication of quantities], [lot no …]*

**Article 2 Delivery terms**

2.1 The time limit for the delivery shall be [*insert number*] days from the time of the issue of the of purchase order by the Contracting authority.

2.2 The place of the delivery of the supplies shall be [*insert place of delivery*].

2.3 The Incoterm[[12]](#footnote-12) applicable shall be [insert Incoterm].

**Article 3 Origin**

3.1 A certificate of origin for the supplies must be provided by the Supplier at the latest when he/she requests provisional acceptance of the supplies. Failure to comply with this condition may result in the termination of the contract.

3.2 The origin of the goods shall be determined according to the Community Customs Code or the international agreements to which the country concerned is a signatory.

**Article 4 Price**

4.1 The total price of the supplies shall be: [*insert price of supplies in figures]* €; [*insert price of supplies in words]* Euro.

4.2 The price referred to in Article 4.1 above shall be the sole remuneration owed by the Contracting Authority to the Supplier under this contract.

4.3 The price shall be firm and shall not be subject to revision.

*[If some items are subject to revision]*

[Prices of the items that are subject to the price adjustments are subject to the following adjustments: [*insert index or other source of regulating prices*]

4.4 Payments shall be made in accordance with the General and/or Special Conditions of the Contract.

**Article 5 Order of precedence of contract documents**

5.1 The contract is made up of the following documents:

1. This Contract Agreement;
2. Special Conditions of Contract;
3. General Conditions of Contract;
4. The Supplier’s Tender including Technical Specifications;
5. The financial offer;
6. *[insert any other provisions of the tender dossier*].

5.2 The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

**Article 6 Communications**

6.1 Any written communication relating to this Contract between the Contracting Authority, on the one hand, and the Supplier on the other must state the Contract title and identification number and must be done in writing. Communications shall be sent by post, cable, telex, fax transmission, mail or delivered by hand.

6.2 If the sender of a communication requires acknowledgement of receipt, this shall be indicated in the communication. Whenever there is a deadline for the receipt of a written communication, the sender should ask for an acknowledgement of receipt of his communication. In any event, the sender shall take all necessary measures to ensure receipt of his communication.

6.3 Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words "notify", "certify", "approve" or "decide" shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

6.4 This contract is done in [[English] [Albanian] [Serbian][[13]](#footnote-13)] in three originals, two originals being for the Contracting Authority and one original being for the Supplier.

|  |  |  |  |
| --- | --- | --- | --- |
| **For the Contracting Authority** | |  | |
| **Name:** |  | |
| **Position:** | Responsible Procurement Officer | |
| **Signature:** |  | |
| **Date:** |  | |
| **Stamp:** |  | |

***[In case of large value contracts]***

|  |  |  |  |
| --- | --- | --- | --- |
| ***Name:*** |  | **Name:** |  |
| ***Position:*** | *Chief Administrative Officer* | **Position:** | *[Minister or other public authority]* |
| ***Signature:*** |  | **Signature:** |  |
| ***Date:*** |  | **Date:** |  |
| ***Stamp:*** |  | **Stamp:** |  |

|  |  |  |
| --- | --- | --- |
| **For the Supplier** | |  |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

# CONTRACT SECTION II GENERAL CONDITION

#### Article 1 Definitions

1.1 “**Contract"** means the agreement entered into between the Contracting Authority and the Supplier, as recorded in the Contract Form signed by the Parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.2 “**Products”** is determined as material goods that have economic value, including but without the restriction on the goods, articles, first materials, liquid, gas and concrete objects.

1.3 “**Contracting Authority**” means the organization purchasing the Goods, as named in the Tender Data Sheet.

1.4 **"The Supplier**" means a natural or legal person that is party to this contract and according to the dispositions of this contract supplies the goods that are the object of this contract.

1.5 **“Party (is)”** means the parties that sign the contract.

1.6 **“Incoterms”** means international trade termsthatcompose interpretation rules of trade terms that determine the manner, costs and risks related to the transfer of the products by the supplier to the contracting authority.

1.7 **“Supply”** means submission of the products with quality, amount and type specified in the contract, and also placed and packed in the manner determined in the contract.

1.8 **“Contract Price”** means the price payable to the Supplier as specified in the Contract Form, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.

1.9 **“After sale services”** means supporting services**,** as: installation, maintenance, reparation of the supplies, security of the spare parts that produces or distributes the supplier and/or similar obligations in relation with the supply of products.

1.10 **“GCC”** means the General Conditions of Contract.

1.11 **“SCC”** means the Special Conditions of Contract.

**Article 2 Law applicable and language**

2.1 The SCC shall specify the law governing all matters not covered by the contract.

2.2 The contract and all written communications between the parties will be drafted in the language specified in the SCC.

**Article 3 Assignment**

3.1 An assignment shall be valid only, if it is a written agreement by which the Supplier transfers his contract or part thereof to a third party.

3.2 The Supplier may not, without the prior written consent of the Contracting Authority, assign the contract or any part thereof, or any benefit or interest there under, except in the following cases:

a) a charge, in favour of the Supplier's bankers, of any amount due or to become due under the contract; or

b) the assignment to the Supplier's insurers of the Supplier's right to obtain relief against any other person liable in cases where the insurers have discharged the Supplier's loss or liability.

3.3 For the purpose of Article 3.2, the approval of an assignment by the Contracting Authority shall not relieve the Supplier of his obligations for the part of the contract already performed or the part not assigned.

3.4 Assignees must satisfy the eligibility criteria applicable for the award of the contract except in cases where assignments are done to a bank or an insurance company or other financing institution.

**Article 4 Subcontracting**

4.1 A subcontract shall be valid only if it is a written agreement by which the Supplier entrusts performance of a part of his contract to a third party.

4.2 The elements of the contract to be subcontracted and the identity of the subcontractors shall be notified to the Contracting authority upon the tender submission. In case of change of subcontractors during the implementation of the contract, the Contractor shall notify in writing to the Contracting Authority. The contracting authority shall notify the Contractor of its decision within 30 days of receiving the notification, stating its reasons if authorization is withheld. The Contractor shall not subcontract without the written authorization of the Contracting Authority. All the proposed subcontractors must meet eligibility requirements.

4.3 The Contracting Authority recognises no contractual link between itself and the subcontractors; however it may vouch, where deemed necessary, for direct payments to subcontractors.

4.4 The Supplier shall be responsible for the acts, defaults and negligence of his subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Supplier, his agents or employees. The approval by the Contracting Authority of the subcontracting of any part of the contract or of the subcontractors shall not relieve the Supplier of any of his obligations under the contract

4.5 If the Supplier has undertaken any continuing obligation for a period exceeding the warranty period under the contract towards the Supplier, in respect of the supplies provided by the subcontractors, the Supplier must, at any time after the expiration of the warranty period, transfer immediately to the Contracting Authority, at the Contracting Authority's request and cost, the benefit of such obligation for the unexpired duration thereof.

#### Article 5 Supply of documents

5.1 If necessary, within 30 days of the signing of the contract, the Contracting Authority shall, where necessary, provide the Supplier, free of charge, with a copy of the drawings prepared for the performance of the contract and a copy of the specifications and other contract documents. The Supplier may purchase additional copies of these drawings, specifications and other documents, in so far as they are available. Upon the issue of the warranty certificate, or upon final acceptance, the Supplier shall return to the Contracting Authority all drawings, specifications and other contract documents.

5.2 Unless it is necessary for the purposes of the contract, the drawings, specifications and other documents provided by the Contracting Authority shall not be used or communicated to a third party by the Supplier without the prior consent of the Contracting Authority.

5.3 The Contracting Authority shall have authority to issue to the Supplier administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the contract and the remedying of any defects therein.

#### Article 6 Assistance with local regulations

6.1 The Supplier may request the assistance of the Contracting Authority in obtaining copies of laws, regulations and information on local customs, orders or bye-laws of the Republic of Kosovo which may affect the Supplier in the performance of his obligations under the contract. The Contracting Authority may provide the assistance requested to the Supplier at the Suppliers’ cost.

6.2 If necessary, the Supplier shall duly notify the Contracting Authority of details of the supplies so that the Contracting Authority can obtain the requisite permits or import licences.

6.3 The Contracting Authority will undertake to obtain the requisite permits or import licences within a reasonable period, taking account of the performance dates for the contract.

#### Article 7 General Obligations of the Supplier

7.1 The Supplier shall perform the contract with due care and diligence including, where specified, the design, manufacture, delivery of the supplies and carrying out of any other work including the remedying of any defects in the supplies.

7.2 The Supplier shall comply with administrative orders given by the Contracting Authority. Where the Supplier considers that the requirement of an administrative order goes beyond the scope of the contract, he shall, on pain of breach of contract, notify the Contracting Authority thereof, giving his reasons, within 30 days of receipt of the order. Execution of the administrative order shall not be suspended because of this notice.

7.3 The Supplier shall respect and abide by all laws and regulations in force the Republic of Kosovo and shall ensure that his personnel, their dependants, and his local employees also respect and abide by all such laws and regulations.

7.4 The Supplier shall treat all documents and information received in connection with the contract as private and confidential. He shall not, save in so far as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority.

7.5 If the Supplier is a group, the composition of the group shall not be altered without the prior consent in writing of the Contracting Authority.

**Article 8** **Origin**

8.1 The Supplier shall present an official certificate of origin on provisional acceptance. Failure to comply with this obligation shall lead, after formal notice, to termination of the contract.

#### Article 9 Performance guarantee

9.1 The Supplier shall, not later than the day of signing the contract, furnish the Contracting Authority with a guarantee for the full and proper performance of the contract. The amount of the guarantee is specified in the SCC. The performance guarantee shall be held against payment to the Contracting Authority for any loss resulting from the Supplier's failure to perform his contractual obligations fully and properly.

9.2 The performance guarantee of the contract shall be in the format given in Section IV of this contract.

9.3 Except for such part as may be specified in the SCC in respect of after-sales service, the performance guarantee shall be released within 30 days of the issue of the provisional acceptance certificate.

**Article 10 Insurance**

10.1The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the SCC.

10.2 Notwithstanding the Supplier's insurance obligations under Article 10.1, the Supplier shall bear sole liability for, and indemnify the Contracting Authority against, any claims by third parties for damage to property or personal injuries arising from the execution of the contract by the Supplier, his subcontractors and their employees.

#### Article 11 Performance programme

11.1If the SCC so require, the Supplier shall submit to the Contracting Authority for approval a programme of performance of the contract which shall contain at least the following:

i) the order in which the Supplier proposes to perform the contract including design, manufacture, delivery to place of receipt, installation, testing and commissioning; and

ii) such further details and information as the Contracting Authority may reasonably require.

11.2The SCC shall specify the time limit within which the programme of performance must be submitted to the Contracting Authority for approval and the deadline for the Contracting Authority’s approval. The approval of the programme by the Contracting Authority shall not relieve the Supplier of any of his obligations under the contract.

11.3 If the Contracting Authority fails to notify his decision of approval referred to in Article 11.2 within the deadlines referred to in the contract such programme of performance shall be deemed to be approved on expiry of the deadlines. If no deadline is specified, they shall be deemed to be approved 30 days after receipt.

11.4No material alteration to the programme shall be made without the approval of the Contracting Authority. If, however, the progress of the performance of the contract does not conform to the programme, the Contracting Authority may instruct the Supplier to revise the programme and submit the revised programme to him for approval.

11.5 Before provisional acceptance of the supplies, the Supplier shall supply operation and maintenance manuals together with drawings, which shall be in such detail that will enable the Contracting Authority to operate, maintain, adjust and repair all parts of the supplies. Unless otherwise stated in the SCC, the manuals and drawings shall be in the language of the contract and in such forms and numbers as stated in the contract. The supplies shall not be considered completed for the purpose of provisional acceptance until such manuals and drawings have been supplied to the Contracting Authority

**Article 12 Tax and customs arrangements**

12.1 Subject to any other provisions stipulated in the SCC, the Supplier shall be entirely responsible for the payment of all taxes, stamp duties, license fees, customs charges and other such levies incurred or imposed until delivery of the contracted Goods to the place of delivery, as specified by the Contracting Authority.

#### Article 13 Patents and licences

13.1 Unless otherwise specified in the SCC, the Supplier shall indemnify the Contracting Authority against any claim resulting from the use as specified in the contract of patents, licences, drawings, models, or brand or trademarks, unless such infringement results from compliance with the design or specification provided by the Contracting Authority.

**Article 14 Period of execution of tasks**

14.1 The period of execution of tasks shall commence be as stated in the contract Article 2, without prejudice to extensions of the period which may be granted under Article 15.

14.2 Save where the Parties agree otherwise, performance of the contract shall begin no later than 90 days after notification of award of contract. After that date the Supplier shall be entitled not to perform the contract and to obtain its termination or compensation for the damage he has suffered. The Supplier shall forfeit this right unless he exercises it within 30 days of the expiry of the 90 day period.

14.3 If provision is made for separate periods of performance for separate lots, such periods shall not be aggregated in cases where one Supplier is allocated more than one lot.

**Article 15 Extension of period of execution**

15.1 The Supplier may request an extension to the period of execution if his performance of the contract is delayed, or expected to be delayed, for any of the following reasons:

a) extra or additional supplies ordered by the Contracting Authority;

b) exceptional weather conditions in the country of the Contracting Authority which may affect installation of the supplies;

c) physical obstructions or conditions which may affect delivery of the supplies, which could not reasonably have been foreseen by a competent supplier;

d) administrative orders affecting the date of completion other than those arising from the Supplier's default;

e) failure of the Contracting Authority to fulfil its obligations under the contract;

f) any suspension of the delivery and/or installation of the supplies which is not due to the Supplier's default;

g) force majeure;

h) any other causes referred to in these General Conditions which are not due to the Supplier's default.

15.2 Within 15 days of realising that a delay might occur, the Supplier shall notify the Contracting Authority of his intention to make a request for extension of the period of performance to which he considers himself entitled and, save where otherwise agreed between the Supplier and the Contracting Authority, within 30 days provide the Contracting Authority with comprehensive details so that the request can be examined.

15.3 Within 30 days, by written notice to the Supplier, the Contracting Authority shall grant such extension of the period of performance as may be justified, either prospectively or retrospectively, or inform the Supplier that he is not entitled to an extension.

#### Article 16 Delays in execution

16.1 If the Supplier fails under his own responsibility to deliver any or all of the goods or perform the services within the time limit(s) specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled, for every day which shall elapse between the expiry of the contractual period and the actual date of completion, to liquidated damages equal to 0,25% in days of the value of the undelivered supplies to a maximum of 10% of the total value of the contract.

16.2 If the non-delivery of any of the goods prevents the normal use of the supplies as a whole, the liquidated damages provided for in paragraph 16.1 shall be calculated on the basis of the total contract value.

16.3 If the Contracting Authority has become entitled to claim at least 10% of the contract value it may, after giving written notice to the Supplier:

**-** seize the performance guarantee;

- terminate the contract, in which case the Supplier will have no right to compensation; and

- enter into a contract with a third party for the provision of the balance of the supplies. The Supplier shall not be paid for this part of the contract. The Supplier shall also be liable for the additional costs and damages caused by his failure.

**Article 17 Suspension**

17.1 The Contracting Authority may, by administrative order, at any time, instruct the Supplier to suspend:

1. The manufacture of the supplies;
2. the delivery of the supplies to the place of acceptance at the time specified for delivery in the performance program or, if no time specified, at the time appropriate for it to be delivered; or
3. the installation of the supplies which have been delivered to the place of acceptance.

17.2 The Supplier shall, during suspension, protect and secure the supplies stored at the Supplier’s warehouse or elsewhere, against any deterioration, loss or damage to the extent possible and as instructed by the Contracting Authority, even if supplies have been delivered to the place of acceptance in accordance with the contract but their installation has been suspended by the Contracting Authority.

17.3 Additional expenses incurred in connection with such protective measure shall be added to the contract price. The Supplier shall not be paid any additional expenses if the suspension is:

a) dealt with differently in the contract; or

b) necessary by reason of normal climatic conditions at the place of acceptance;

c) necessary owing to some default of the Supplier; or

d) necessary for the safety or the proper execution of the contract or any part thereof insofar as such necessity does not arise from any act or default by the Contracting Authority.

17.4 The Supplier shall not be entitled to such additions to the contract price unless he notifies the Contracting Authority, within 30 days of receiving the order to suspend progress of delivery, of his intention to make a claim for them.

17.5 The contracting authority, after consultation with the Supplier, shall determine such extra payment and/or extension of the period of performance to be made to the Supplier in respect of such claim as shall, in the opinion of the Contracting Authority.

17.6 If the period of suspension exceeds 180 days, and the suspension is not due to the Supplier’s default, the Supplier may, by notice to the Contracting Authority, request to proceed with the supplies within 30 days, or terminate the contract.

17.7 Where the award procedure or performance of the contract is vitiated by substantial errors or irregularities or by fraud, the Contracting Authority shall suspend performance of the contract. Where such errors, irregularities or fraud are attributable to the Supplier, the Contracting Authority may also refuse to make payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularities or fraud.

17.8 The purpose of suspending the contract shall be to verify whether presumed substantial errors and irregularities or fraud have actually occurred. If they are not confirmed, performance of the contract shall resume as soon as possible. A substantial error or irregularity shall be any infringement of a contract or regulatory provision resulting from an act or an omission that causes or might cause a loss to the budget of Contracting Authority.

#### Article 18Quality of supplies

18.1 The supplies must in all respects satisfy the technical specifications laid down in the contract and conform in all respects to the drawings, surveys, models, samples, patterns and other requirements in the contract, which must be held at the disposal of the Contracting Authority for the purposes of identification throughout the period of performance

18.2 Any preliminary technical acceptance stipulated in the SCC should be the subject of a request sent by the Supplier to the Contracting Authority. The request shall specify the materials, items and samples submitted for such acceptance according to the contract and indicate the lot number and the place where acceptance is to take place, as appropriate. The materials, items and samples specified in the request must be certified by the Contracting Authority as meeting the requirements for such acceptance prior to their incorporation in the supplies.

18.3 Even if materials or items to be incorporated in the supplies or in the manufacture of components to be supplied have been technically accepted in this way, they may still be rejected if a further examination reveals defects or faults, in which case they must immediately be replaced by the Supplier. The Supplier may be given the opportunity to repair and make good materials and items which have been rejected, but such materials and items will be accepted for incorporation in the supplies only if they have been repaired and made good to the satisfaction of the Contracting Authority.

**Article 19 Inspection and testing**

19.1The Supplier shall ensure that the supplies are delivered to the place of acceptance in time to allow the Contracting Authority to proceed with acceptance of the supplies. The Supplier is deemed to have fully appreciated the difficulties which he might encounter in this respect, and he shall not be permitted to advance any grounds for delay.

19.2 The Contracting Authority shall be entitled, from time to time, to inspect, examine measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract, in order to establish whether the components, materials and workmanship are of the requested quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or at the place of acceptance or at such other places as may be specified in the SCC.

19.3 For the purposes of such tests and inspections, the Supplier shall:

a) provide the Contracting Authority, temporarily and free of charge, with such assistance, test samples or parts, machines, equipment, tools, labour, materials, drawings and production data as are normally required for inspection and testing;

b) agree, with the Contracting Authority, the time and place for tests;

c) give the Contracting Authority access at all reasonable times to the place where the tests are to be carried out.

19.4 If the representative of the Contracting Authority is not present on the date agreed for tests, the Supplier may, unless otherwise instructed by the Contracting Authority, proceed with the tests, which shall be deemed to have been made in the Contracting Authority’s presence. The Supplier shall immediately send duly certified copies of the test results to the Contracting Authority, who shall, if he has not attended the test, be bound by the test results.

19.5 When components and materials have passed the above-mentioned tests, the Contracting Authority shall notify the Supplier or endorse the Supplier's certificate to that effect.

19.6 If the Contracting Authority and the Supplier disagree on the test results, each shall state his views to the other within 15 days of such disagreement. The Contracting Authority or the Supplier may require such tests to be repeated on the same terms and conditions or, if either Party so requests, by an expert selected by common consent. All test reports shall be submitted to the Contracting Authority, who shall communicate the results of these tests without delay to the Supplier. The results of retesting shall be conclusive. The cost of retesting shall be borne by the Party whose views are proved wrong by the retesting.

19.7 In the performance of their duties, the Contracting Authority and any person authorised by him shall not disclose to unauthorised persons information concerning the undertaking's methods of manufacture and operation obtained through inspection and testing.

**Article 20 General principles of payment**

20.1 Payments shall be made in Euro. The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the SCC.

20.2 Payments due according to an invoice issued by the supplier shall be made to the bank account mentioned on Section V, **Financial Identification,** of this contract, completed by the Supplier. The same form, annexed to the payment request, must be used to report changes of bank account.

20.3 Sums due shall be paid within no more than 30 days from the date on which an admissible payment request is registered by the competent department. The date of payment shall be the date on which the institution's account is debited. The payment request shall not be admissible if one or more essential requirements are not met.

20.4 The 30-day period may be suspended by notifying the Supplier that the payment request cannot be fulfilled because the sum is not due, provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The Supplier shall provide clarifications, modifications or further information within 15 days of being asked to do so. The payment period shall continue to run from the date on which a properly drawn-up payment request is registered.

20.5 Once the deadline laid down in Article 20.3 has expired, the Supplier may, within two months of late payment, claim late-payment interest at the rediscount rate applied by the issuing institution of Kosovo on the first day of the month in which the deadline expired, plus seven percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

20.6 Any default in payment of more than 90 days from the expiry of the period laid down in Article 20.3 shall entitle the Supplier either not to perform the contract or to terminate it, with 30 days' prior notice to the Contracting Authority.

#### Article 21Delivery

21.1 The Supplier shall deliver the supplies in accordance with the conditions of the contract. The supplies shall be at the risk of the Supplier until their provisional acceptance.

21.2 The Supplier shall provide such packaging of supplies as is required to prevent their damage or deterioration in transit to their destination as indicated in the contract. The packaging shall be sufficient to withstand, without limitation, rough handling, and exposure to extreme temperatures, salt and precipitation during transit and open storage. Package size and weight shall take into consideration, where appropriate, the remoteness of the final destination of the supplies and the possible absence of heavy handling facilities at all points in transit.

21.3 The packaging, marking and documentation inside and outside the packages shall comply with such requirements as shall be expressly provided for in the SCC, subject to any variations subsequently ordered by the Contracting Authority.

21.4 No supplies shall be shipped or delivered to the place of acceptance until the Supplier has received a delivery order from the Contracting Authority. The Supplier shall be responsible for the delivery at the place of acceptance of all supplies and supplier's equipment required for the purpose of the contract.

21.5Delivery shall be deemed to have been made when there is written evidence available to both Parties that delivery of the supplies has taken place in accordance with the terms of the contract.

**Article 22 Verification operations**

22.1The supplies shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the Supplier. The inspections and tests may be conducted before shipment, at the point of delivery and/or at the final destination of the goods.

22.2 The Contracting Authority shall, during the progress of the delivery of the supplies and before the supplies are taken over, have the power to order or decide:

a) the removal from the place of acceptance, within such time or times as may be specified in the order, of any supplies which, in the opinion of the Contracting Authority, are not in accordance with the contract;

b) their replacement with proper and suitable supplies;

c) the removal and proper re-installation, notwithstanding any previous test thereof or interim payment thereof, of any installation which in respect of materials, workmanship or design for which the Supplier is responsible, is not, in the opinion of the Contracting Authority, in accordance with the contract;

d) that any work done or goods supplied or materials used by the Supplier is or are not in accordance with the contract, or that the supplies or any portion thereof do not fulfil the requirements of the contract.

22.3 The Supplier shall, with all speed and at his own expense, make good the defects so specified. If the Supplier does not comply with such order, the Contracting Authority shall be entitled to employ other persons to carry out the orders and all expenses consequent thereon or incidental thereto shall be deducted by the Contracting Authority from any monies due or which may become due to the Supplier.

22.4 Supplies which are not of the required quality shall be rejected. A special mark may be applied to the rejected supplies. This shall not be such as to alter them or affect their commercial value. Rejected supplies shall be removed by the Supplier from the place of acceptance, if the Contracting Authority so requires, within a period which the Contracting Authority shall specify, failing which they shall be removed as of right at the expense and risk of the Supplier. Any works incorporating rejected materials shall be rejected.

**Article 23 Provisional acceptance**

23.1 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

23.2 The Supplier may apply, by notice to the Contracting Authority, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The Contracting Authority shall within 30 days of receipt of the Supplier's application either:

-issue the certificate of provisional acceptance to the Supplier with a copy to the Contracting Authority stating, where appropriate, his reservations, and, inter alia, the date on which, in his opinion, the supplies were completed in accordance with the contract and ready for provisional acceptance; or

-reject the application, giving his reasons and specifying the action which, in his opinion, is required of the Supplier for the certificate to be issued.

23.3 Should exceptional circumstances make it impossible to proceed with the acceptance of the supplies during the period fixed for provisional or final acceptance, a statement certifying such impossibility shall be drawn up by the Contracting Authority after consultation with the Supplier. The certificate of acceptance or rejection shall be drawn up within 30 days following the date on which such impossibility ceases to exist. The Supplier shall not invoke these circumstances in order to avoid the obligation of presenting the supplies in a state suitable for acceptance.

23.4 If the Contracting Authority fails either to issue the certificate of provisional acceptance or to reject the supplies within the period of 30 days, he shall be deemed to have issued the certificate on the last day of that period, except where the certificate of provisional acceptance is deemed to constitute a certificate of final acceptance. If the supplies are divided by the contract into lots, the Supplier shall be entitled to apply for a separate certificate for each lot.

23.5 In case of partial delivery, the Contracting Authority reserves the right to give partial provisional acceptance.

23.6 Upon provisional acceptance of the supplies, the Supplier shall dismantle and remove temporary structures and materials no longer required for use in connection with the performance of the contract. He shall also remove any litter or obstruction and redress any change in the condition of the place of acceptance as required by the contract.

**Article 24 Warranty obligations**

24.1 The Supplier shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials, unless otherwise provided in the contract. The Supplier shall further warrant that all supplies shall have no defect arising from design, materials or workmanship. This warranty shall remain valid as specified in SCC.

24.2 The Supplier shall be responsible for making good any defect in or damage to, any part of the supplies which may appear or occur during the warranty period and which:

a) results from the use of defective materials, faulty workmanship or design of the Supplier; or

b) results from any act or omission of the Supplier during the warranty period; or

c) appears in the course of an inspection made by, or on behalf of, the Contracting Authority.

24.3The Supplier shall at his own cost make good the defect or damage as soon as practicable. The warranty period for all items replaced or repaired shall recommence from the date on which the replacement or repair was made to the satisfaction of the Contracting Authority. The warranty period shall be extended only for the part of the supplies affected by the replacement or repair.

24.4 If any such defect appears or such damage occurs during the warranty period, the Contracting Authority shall notify the Supplier. If the Supplier fails to remedy a defect or damage within the time limit stipulated in the notification, the Contracting Authority may:

a) remedy the defect or the damage itself, or employ someone else to carry out the work at the Supplier's risk and costs, in which case the costs incurred by the Contracting Authority shall be deducted from amounts due or guarantees held against the Supplier or from both;

b) in case no amounts are due or no guarantee is effective claim the amount due from the Supplier; or

c)terminate the contract.

24.5 The maintenance obligations shall be stipulated in the SCC and technical specifications. If the duration of the warranty period is not specified, it shall be 365 days. The warranty period shall commence on the date of provisional acceptance.

**Article 25 After-sales service**

25.1 An after-sales service, if required by the contract, shall be provided in accordance with the details stipulated in the SCC. The Supplier shall undertake to carry out or have carried out the maintenance and repair of supplies and to provide a rapid supply of spare parts. The SCC may specify that the Supplier must provide any or all of the following materials, notifications and documents pertaining to spare parts manufactured or distributed by the Supplier:

a) such spare parts as the Contracting Authority may choose to purchase from the Supplier, it being understood that this choice shall not release the Supplier from any warranty obligations under the contract

b) in the event of termination of production of the spare parts, advance notification to the Contracting Authority to allow it to procure the parts required and, following such termination, provision at no cost to the Contracting Authority of the blueprints, drawings and specifications of the spare parts, if and when requested.

**Article 26 Final acceptance**

26.1 Upon expiry of the warranty period or, where there is more than one such period, upon expiry of the latest period, and when all defects or damage have been rectified, the Contracting Authority shall issue the Supplier a final acceptance certificate, with a copy to the Contracting Authority, stating the date on which the Supplier completed his obligations under the contract to the Contracting Authority’s satisfaction. The final acceptance certificate shall be issued by the Contracting Authority within 30 days of the expiry of the warranty period or as soon as any repairs ordered under Article 24 have been completed to the satisfaction of the contracting authority.

26.2 The contract shall not be considered to have been performed in full until the final acceptance certificate has been signed or is deemed to have been signed by the contracting authority.

26.3 Notwithstanding the issue of the final acceptance certificate, the Supplier and the Contracting Authority shall remain liable for the fulfilment of any obligation incurred under the contract prior to the issue of the final acceptance certificate which remains unperformed at the time that final acceptance certificate is issued. The nature and extent of any such obligation shall be determined by reference to the provisions of the contract.

**Article 27 Breach of contract**

27.1 A Party shall be in a breach of contract if it fails to discharge any of its obligations under the contract.

27.2 Where a breach of contract occurs, the injured Party shall be entitled to the following remedies:

a) damages; and/or

b) termination of the contract.

27.3 In addition to the above-mentioned measures, damages may be awarded. They may be either:

a) general damages; or

b) liquidated damages.

27.4 Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be affected by deduction from the sums due to the Supplier, from the deposit, or by payment under the guarantee.

**Article 28 Termination of the Contract by the Contracting Authority**

28.1 The Contracting Authority may, after giving the Supplier 14 days' notice, terminate the contract in any of the following cases:

a) the Supplier substantially fails to perform his obligations under this contract;

b) the Supplier fails to comply within a reasonable time with a notice given by the Contracting Authority requiring him to make good any neglect or failure to perform his obligations under the contract which seriously affects the proper and timely performance of the works;

c) the Supplier refuses or neglects to carry out administrative orders given by the Contracting Authority;

d) the Supplier assigns the contract or subcontracts without the authorisation of the Contracting Authority;

e) the Supplier go into bankruptcy or is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

f) the Supplier has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;

g) the Supplier has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;

h) the Supplier has been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

i) the Supplier, following another procurement procedure or grant award procedure financed by the Community budget, has been declared to be in serious breach of contract for failure to perform its contractual obligations;

j) any organisational modification occurs involving a change in the legal personality, nature or control of the Supplier, unless such modification is recorded in an addendum to the contract;

k) any other legal disability hindering performance of the contract occurs;

l) the Supplier fails to provide the required guarantee or insurance, or if the person providing the earlier guarantee or insurance required under the present contract is not able to abide by his commitments.

28.2 Termination shall be without prejudice to any other rights or powers of the Contracting Authority and the Supplier under the contract. The Contracting Authority may, thereafter, conclude any other contract with a third party on behalf of the Supplier. The Supplier's liability for delay in completion shall immediately cease upon termination without prejudice to any liability there under that may already have occurred.

28.3 The Contracting Authority shall, upon the issue of the notice of termination of the contract, instruct the Supplier to take immediate steps to bring the execution of the supplies to a close in a prompt and orderly manner and to reduce expenditure to a minimum.

28.4 In the event of termination, the Contracting Authority shall, as soon as possible and in the presence of the Supplier or his representatives or having duly summoned them, draw up a report on the supplies delivered and the work performed and take an inventory of the materials supplied and unused. A statement shall also be drawn up of monies due to the Supplier and of monies owed by the Supplier to the Contracting Authority as at the date of termination of the contract.

28.5 The Contracting Authority shall not be obliged to make any further payments to the Supplier until the supplies are completed, whereupon the Contracting Authority shall be entitled to recover from the Supplier the extra costs, if any, of providing the supplies or shall pay any balance due to the Supplier prior to the termination of the contract..

28.6 If the Contracting Authority terminates the contract it shall be entitled to recover from the Supplier any loss it has suffered under the contractual conditions set out in Article 2 of SCC.

**Article 29 Termination by the Supplier**

29.1 The Supplier may, after giving 14 days notice to the Contracting Authority, terminate the contract if the Contracting Authority:

**-** fails to pay the Supplier the amounts due under any certificate issued by the authorised person after the expiry of the deadline stated.

**-** Consistently fails to meet its obligations after repeated reminders; or

- suspends the delivery of the supplies, or any part thereof, for more than 180 days, for reasons not specified in the contract or not attributable to the Contractor

29.2 Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Supplier.

29.3 In the event of termination in accordance with (a) and (b) under section 29.1, the Contracting Authority shall pay to the Supplier for any loss or damage the Supplier may have suffered.

**Article 30 Force majeure**

30.1 Neither Party shall be considered to be in default or in breach of its obligations under the contract if the performance of such obligations is prevented by any event of force majeure arising after the date when the contract becomes effective.

30.2 For the purposes of this Article, the term "force majeure" means acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar unforeseeable events which are beyond the Parties' control and cannot be overcome by due diligence.

30.3 Notwithstanding the provisions of Articles 16 and 28 , the Supplier shall not be liable to forfeiture of his performance guarantee, liquidated damages or termination for default if, and to the extent that, his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure. Nor, notwithstanding the provisions of Articles 20.5 and 29, shall the Contracting Authority be liable for the payment of interest on delayed payments, for non-performance or for termination by the Supplier for default if, and to the extent that, the Contracting Authority's delay or other failure to perform its obligations is the result of force majeure.

30.4 If either Party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other Party, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed by the contracting authority in writing, the Supplier shall continue to perform his obligations under the contract as far as is reasonably practicable, and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent him from performing. The Supplier shall not employ such alternative means unless directed to do so by the Contracting Authority.

30.5 If the Supplier incurs additional costs in complying with the Contracting Authority directions or using alternative means under Article 30.4, the amount thereof shall be certified by the Contracting Authority.

**Article 31 Amicable dispute settlement**

31.1 The Parties shall make every effort to settle amicably any dispute which may arise between them. Once a dispute has arisen, the Parties shall notify each other in writing of their positions on the dispute and any solution which they consider possible. If either Party deems it useful, the Parties shall meet and try and settle the dispute. A Party shall respond to a request for amicable settlement within 15 days of such a request. The maximum period laid down for reaching such a settlement shall be 30 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a Party fail to respond in time to requests for a settlement, either Party shall be free to proceed to the next stage of the dispute-settlement procedure by notifying the other.

31.2 If the amicable dispute-settlement procedure fails, the Parties may agree to try conciliation through the institution specified in SCC. If no settlement is reached within 30 days of the start of the conciliation procedure, each Party shall be entitled to move on to the next state of the dispute-settlement procedure.

**Article 32 Dispute settlement by litigation**

32.1 If no settlement is reached within 30 days of the start of the amicable dispute-settlement procedure, each Party may seek:

a) either a ruling from a court; or

b) where the parties agree, an arbitration ruling in accordance with the SCC.

32.2 Dispute settlement model ie courts or arbitration shall be decided by the parties before contract signature.

# CONTRACT SECTION III SPECIAL CONDITIONS

The following SCC shall supplement and / or amend the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC*.*

*[Instructions for completing the SCC are provided, as needed, in the notes in italics mentioned for the relevant* GCC *Articles. Delete none relevant ones]*

|  |  |  |
| --- | --- | --- |
| General Conditions of Contract | | Amendment/Modification of relevant Article in the GCC |
| Article  description | Art. No. |  |
| Law applicable and language | 2.1 | Kosovo Laws that are in power shall apply in all matters not covered by the provisions of the contract. The jurisdiction shall be the relevant court in Prishtina. |
|  | 2.2 | The language used shall be [*insert language of the procedure*]. |
| Performance guarantee | 9.1 | *[Specify the amount of the performance guarantee and the part in respect of after-sales service*] |
| Insurance | 10.1 | [*Specify any specific insurance requirements]* |
| Performance programme | 11 | *[Specify if the performance programme is required, with dates and deadlines, and requirements relating to any manuals]* |
| Taxes and customs arrangements | 12.1 | *[ insert the delivery terms]* |
| Patents and licences | 13.1 | [*Specify whether there is derogation from Article 13 of the GCC]* |
| Quality of supplies | 18.2 | *[indicate here if a preliminary technical acceptance is required]* |
| Inspection and testing | 19.2 | *[Specify the place where the goods will be inspected]* |
| Payment | 20.1 | Payments shall be made  *[Specify the administrative/technical conditions governing payments and the method of payments]* |
| Delivery | 21.3 | *[Specify any specific packaging requirements]* |
| Warranty obligations | 24.1 | *[insert warranty period* |
|  | 24.5 | *[Specify any additional obligations under the warranty]* |
| After sale services | 25.1 | *[Give details of any after-sales service that the Supplier must provide and specify the proportion of the performance guarantee assigned to that activity]* |
| Amicable dispute settlement | 31.2 | *[Specify the Commission department responsible for conciliation]* |
| Dispute settlement by litigation | 32.1 | *[Insert both ]*  a) Any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to *[specify competent court]* in accordance with the Kosovo law.  or  b) where the parties expressly agree, any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to the arbitration of [specify dispute-settlement body] in accordance with [*specify arbitration rules (rules of International Chamber of Commerce, United Nations Commission on International Trade Law, or other internationally recognised arbitration procedure)].* |

# PART B: *Draft CONTRACT* for SERVICES

# CONTRACT SECTION I: DRAFT CONTRACT FORM

[*Insert name of the Contracting Authority],* (hereinafter called "the Contracting Authority"), of the one part; and

[*Insert name of Service provider],* (hereinafter called “the Service Provider”), of the other part, have agreed to conclude a public contract for the following services:

[*Insert Title*] with Identification number: [*insert Procurement Number*]

**Article 1 Subject**

1.1 The subject of the contract shall be the performance by the Service Provider of the following services:

[*insert general description of the services],* in <*insert number*> lot(*s*)

*[lot no 1, general description of the services]*

*[lot no 2, general description of the services], [lot no …]*

**Article 2 Price**

2.1 The total price of the services shall be: [*insert price of services in figures]* €; [*insert price of services in words]* Euro.

2.2 The price referred to in Article 2.1 above shall be the sole remuneration owed by the Contracting Authority to the Service Provider under this contract. The price shown in the price Schedule shall be firm and shall not be subject to revision.

2.3 Payments shall be made in accordance with the General and/or Special Conditions of the Contract.

**Article 3 Order of precedence of contract documents**

3.1 The contract is made up of the following documents:

1. This Contract Agreement;
2. Special Conditions of Contract;
3. General Conditions of Contract;
4. The Service Provider’s Tender including Technical Specifications;
5. The financial offer (Price Description);
6. *[insert any other provisions of the tender dossier*].

3.2 The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

**Article 4 Communications**

4.1 Any written communication relating to this Contract between the Contracting Authority, on the one hand, and the Service Provider on the other must state the Contract title and identification number and must be done in writing. Communications shall be sent by post, cable, telex, fax transmission, mail or delivered by hand.

4.2 If the sender of a communication requires acknowledgement of receipt, this shall be indicated in the communication. Whenever there is a deadline for the receipt of a written communication, the sender should ask for an acknowledgement of receipt of his communication. In any event, the sender shall take all necessary measures to ensure receipt of his communication.

4.3 Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words "notify", "certify", "approve" or "decide" shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

4.4 This contract is done in [[English] [Albanian] [Serbian][[14]](#footnote-14)] in three originals, two originals being for the Contracting Authority and one original being for the Service Provider.

|  |  |  |  |
| --- | --- | --- | --- |
| **For the Contracting Authority** | |  | |
| **Name:** |  | |
| **Position:** | Responsible Procurement Officer | |
| **Signature:** |  | |
| **Date:** |  | |
| **Stamp:** |  | |

***[In case of large value contracts]***

|  |  |  |  |
| --- | --- | --- | --- |
| ***Name:*** |  | **Name:** |  |
| ***Position:*** | *Chief Administrative Officer* | **Position:** | *[Minister or other public authority]* |
| ***Signature:*** |  | **Signature:** |  |
| ***Date:*** |  | **Date:** |  |
| ***Stamp:*** |  | **Stamp:** |  |

|  |  |  |
| --- | --- | --- |
| **For the Service Provider** | |  |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

# CONTRACT SECTION II GENERAL CONDITION

#### Article 1 Definitions

1.1 **"Contract"** means the agreement entered into between the Contracting Authority and the Service Provider, as recorded in the Contract Form signed by the Parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.2 “**Services”** means the services to be performed by the Service Provider pursuant to the Specifications and the Price Description included in the Service Provider’s Tender.

1.3 **“Service Provider”** is the Economic Operator or group of the Economic Operators, appointed in the contract form, which is party to the contract and obligated to perform the tasks according to the agreement, and which for the performed tasks shall obtain the amount agreed in the contract form.

1.4 **“Personnel”** means persons engaged by the Service Provider or by any Sub-contractor as employees and assigned to the performance of the Services or any part thereof.

1.5 **“Contract Price”** means the sum stated in the Agreement representing the total amount payable for the provision of the Services.

1.6 **“Subcontractor”** means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Services to be provided or execution of any part of the Services is subcontracted by the Service Provider.

1.7 **“Party”** means the Contracting Authority or the Service Provider, as the case may be, and “Parties” means both of them.

1.8 **“Contracting Authority”** means the authority purchasing the Services, as specified in the Contract.

1.9 **“GCC”** means General Conditions of Contract.

1.10 **“SCC”** means Special Conditions of Contract.

**Article 2 Law applicable and language**

2.1 The SCC shall specify the law governing all matters not covered by the contract.

2.2 The contract and all written communications between the parties will be drafted in the language specified in the SCC.

**Article 3 Assignment**

3.1 An assignment shall be valid only, if it is a written agreement by which the Service Provider transfers his contract or part thereof to a third party.

3.2 The Service Provider may not, without the prior written consent of the Contracting Authority, assign the contract or any part thereof, or any benefit or interest there under, except in the following cases:

a) a charge, in favour of the Service Provider’s bankers, of any amount due or to become due under the contract;

or

b) the assignment to the Service Provider 's insurers of the Service Provider 's right to obtain relief against any other person liable in cases where the insurers have discharged the Service Provider 's loss or liability.

3.3 For the purpose of Article 3.2, the approval of an assignment by the Contracting Authority shall not relieve the Service Provider of his obligations for the part of the contract already performed or the part not assigned.

3.4 Assignees must satisfy the eligibility criteria applicable for the award of the contract except in cases where assignments are done to a bank or an insurance company or other financing institution.

#### Article 4 Subcontracting

4.1 A subcontract shall be valid only if it is a written agreement by which the Service Provider entrusts performance of a part of his contract to a third party.

4.2 The elements of the contract to be subcontracted and the identity of the subcontractors shall be notified to the Contracting authority upon the tender submission. In case of change of subcontractors during the implementation of the contract, the Contractor shall notify in writing to the Contracting Authority. The contracting authority shall notify the Contractor of its decision within 30 days of receiving the notification, stating its reasons if authorization is withheld. The Contractor shall not subcontract without the written authorization of the Contracting Authority. All the proposed subcontractors must meet eligibility requirements.

4.3 The Contracting Authority recognises no contractual link between itself and the subcontractors; however it may vouch, where deemed necessary, for direct payments to subcontractors.

4.4 The Service Provider shall be responsible for the acts, defaults and negligence of his subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Service Provider, his agents or employees. The approval by the Contracting Authority of the subcontracting of any part of the contract or of the subcontractors shall not relieve the Service Provider, of any of his obligations under the contract

**Article 5 Taxes and Duties**

5.1 The service provider is responsible for all taxes and customs duties in compliance with the Law of Republic of Kosovo.

5.2 The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

**Article 6 Commencement and Completion of services**

6.1 This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be stated in the SCC.

6.2 Before commencement of the Services, the Service Provider shall submit to the Contracting Authority for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.

6.3 The Service provider shall commence the services as soon as is reasonably possible after the receipt of the order with due expedition and without delay.

6.4 The Service Provider shall complete the activities by the Intended Completion Date, as is specified in the SCC. If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage. In this case, the Completion Date will be the date of completion of all activities.

6.5 The place of the performance of the services is specified in the SCC.

6.6 Save where the Parties agree otherwise, performance of the contract shall begin no later than 90 days after notification of award of contract. After that date the Service Provider shall be entitled not to perform the contract and to obtain its termination or compensation for the damage he has suffered. The Service Provider shall forfeit this right unless he exercises it within 30 days of the expiry of the 90 day period.

**Article 7 Extension of period of completion**

7.1 The Service Provider may request an extension to the period of execution if his performance of the contract is delayed, or expected to be delayed, for any of the following reasons:

a) failure of the Contracting Authority to fulfil its obligations under the contract;

b) force majeure as defined in Article 8;

7.2 Within 15 days of realising that a delay might occur, the Service provider shall notify the Contracting Authority of his intention to make a request for extension of the period of performance to which he considers himself entitled and, save where otherwise agreed between the Service Provider and the Contracting Authority, within 30 days of the same point in time provide the Contracting Authority with comprehensive details so that the request can be examined.

7.3 Within 30 days of receipt of the details mentioned in 7.2, the Contracting Authority shall by written notice to the Service Provider grant such extension of the period of performance as may be justified, either prospectively or retrospectively, or inform the Service provider that he is not entitled to an extension.

**Article 8 Force majeure**

8.1. Neither party shall be considered to be in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of notification of the award or the date when the contract becomes effective.

8.2. The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.

8.3. A party affected by an event of force majeure shall take all reasonable measures to remove such party’s inability to fulfill its obligations hereunder with a minimum of delay.

8.4. The Service Provider shall not be liable for liquidated damages or termination for default if its delay in performance or other failure to perform its obligations under the contract is the result of an event of force majeure. The Contracting Authority shall similarly not be liable to payment of interest on delayed payments, for non-performance or for termination for default if the Contracting Authority's delay or other failure to perform its obligations is the result of force majeure.

8.5. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Project Manager in writing, the Service Provider shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The Service Provider shall not put into effect such alternative means unless directed so to do by the Project Manager.

**Article 9 Termination of the Contract by the Contracting Authority**

9.1 The Contracting Authority may, after giving the Service Provider 14 days' notice, terminate the contract in any of the following cases:

(a) the Service Provider fails to comply within a reasonable time with the notice given by the Contracting Authority requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely performance of the services;

(b) the Service Provider refuses or neglects to carry out administrative orders given by the Contracting Authority;

(c) the Service Provider assigns the contract or sub-contracts without the authorization of the Contracting Authority;

(d) the Service Provider becomes bankrupt or is being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

(e) the Service Provider has been convicted of an offence concerning its professional conduct by a judgment which has the force of *res judicata*;

(f) the Service Provider has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify;

(g) the Service Provider has been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organization;

(h) any organisational modification occurs involving a change in the legal personality, nature or control of the Service Provider, unless such modification is recorded in an addendum to the contract;

(i) any other legal disability hindering performance of the contract occurs;

(j) the Service Provider fails to provide the required guarantees or insurance, or the person providing the underlying guarantee or insurance is not able to abide by its commitments.

9.2 Termination shall be without prejudice to any other rights or powers of the Contracting Authority and the Service Provider under the contract. The Contracting Authority may, thereafter, conclude any other contract with a third party on behalf of the Service Provider.

9.3 The Contracting Authority shall, upon the issue of the notice of termination of the contract, instruct the Service Provider to take immediate steps to bring the services to a close in a prompt and orderly manner and in such a way as to keep costs to a minimum.

9.4 In the event of termination, the Contracting Authority shall, as soon as possible and in the presence of the Service Provider or his representatives or having duly summoned them, draw up a report on the services performed. A statement shall also be drawn up of monies due to the Service Provider and of monies owed by the Service Provider to the Contracting Authority as at the date of termination of the contract.

9.5 The Contracting Authority shall not be obliged to make any further payments to the Service Provider until the services are completed, whereupon the Contracting Authority shall be entitled to recover from the Service Provider the extra costs, if any, of providing the service provider or shall pay any balance due to the Service Provider prior to the termination of the contract.

9.6 If the Contracting Authority terminates the contract it shall be entitled to recover from the Service Provider any loss it has suffered under the contractual conditions.

**Article 10 Termination of the Contract by the Service Provider**

10.1 The Service Provider may, after giving 14 days notice to the Contracting Authority, terminate the contract if the Contracting Authority;

a. fails to pay the Service Provider the amounts due under any certificate issued by the authorizing person after the expiry of the deadline stated;

b. consistently fails to meet its obligations after repeated reminders; or

c. if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

10.2 Termination shall be without prejudice to any other rights or powers under the contract of the Contracting Authority and the Service Provider.

10.3 In the event of termination in accordance with (a) and (b) under section 10.1, the Contracting Authority shall pay the Service Provider for any loss or injury the Service Provider may have suffered.

**Article 11 Service Provider’s obligations**

11.1 The Provider shall perform the Services under the contract with due care, efficiency and diligence, in accordance with best professional practices.

11.2 The Service Provider shall comply with administrative orders given by the Contracting Authority. Where the Service provider considers that the requirement of an administrative order goes beyond the scope of the contract, he shall, on pain of breach of contract, notify the Contracting Authority thereof, giving his reasons, within 30 days of receipt of the order. Execution of the administrative order shall not be suspended because of this notice.

11.3 The Service Provider shall respect and abide by all laws and regulations in force in the Republic of Kosovo and shall ensure that his personnel, their dependants, and his local employees also respect and abide by all such laws and regulations.

11.4 The Service Provider shall treat all documents and information received in connection with the contract as private and confidential. He shall not, save in so far as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority.

11.5 If the Service Provider is a consortium of two or more persons or corporations, all such persons or corporations shall be jointly and severally bound to fulfil the terms of the contract. The person designated by the consortium to act on its behalf for the purposes of this contract shall have the authority to bind the consortium. The composition of the group shall not be altered without the prior consent in writing of the Contracting Authority.

11.6 The Service Provider shall employ the key personnel identified in his Tender to carry out the functions stated in his Tender. Moreover, in the course of performance, and on the basis of a written and justified request, the Contracting Authority can ask for a replacement if it considers that a member of staff is inefficient or does not perform its duties under the contract. The Contracting Authority shall approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those identified.

**Article 12 Contracting Authority’s obligations**

12.1 The Contracting Authority shall supply the Service Provider promptly with any information and/or documentation at its disposal which may be relevant to the performance of the contract. Such documents shall be returned to the Contracting Authority at the end of the period of implementation of the tasks.

12.2 The Contracting Authority shall as far as possible co-operate with the Service Provider to provide information that the latter may reasonably request in order to perform the contract.

12.3 The Contracting Authority shall nominate a “*Project Manager*”, indicated in the SCC, who will be responsible for the supervision of the performance of the services at all the time and for reporting for any detail to the Contracting Authority.

**Article 13 Liquidated damages**

13.1 The Service Provider shall pay liquidated damages to the Contracting Authority at the rate per day stated in the SCC for each day that the Completion Date is later than the Required Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Contracting Authority may deduct liquidated damages from any payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

13.2 If the Completion Date is extended after liquidated damages have been paid, the Contracting Authority shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate.

**Article 14 Performance Security**

14.1 The Service Provider shall, not later than the day of signing the contract, furnish the Contracting Authority with a guarantee for the full and proper performance of the contract. The amount of the performance security is specifiedin the SCC. The performance guarantee shall be held against payment to the Contracting Authority for any loss resulting from the Service Provider's failure to perform his contractual obligations fully and properly.

14.2 The guarantee shall continue to remain valid 30 days after the issue of the Certificate of Completion.

14.3 The performance guarantee of the contract shall be in the format given in Section IV of this contract.

**Article 15 Insurance to be Taken out by the Service Provider**

15.1 The Service Provider shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at their own cost but on terms and conditions approved by the Contracting Authority, insurance against the risks, and for the coverage, as shall be specified in the SCC.

15.2 The Service Provider shall at the Contracting Authority’s request, provide evidence to the Contracting Authority that such insurance has been taken out and maintained and that the current premiums have been paid.

**Article 16 General principles of payment**

16.1 Payments shall be made in Euro. Payments will be made to the Service Provider according to the payment schedule stated in the SCC.

16.2 Payments due according to an invoice issued by the Service Provider shall be made to the bank account mentioned on Section V, **Financial Identification,** of this contract, completed by the Service Provider. The same form, annexed to the payment request, must be used to report changes of bank account.

16.3 Sums due shall be paid within no more than 30 days from the date on which an admissible payment request is registered by the competent department. The date of payment shall be the date on which the institution's account is debited. The payment request shall not be admissible if one or more essential requirements are not met.

16.4 The 30-day period may be suspended by notifying the Service provider that the payment request cannot be fulfilled because the sum is not due, provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The Service provider shall provide clarifications, modifications or further information within 15 days of being asked to do so. The payment period shall continue to run from the date on which a properly drawn-up payment request is registered.

16.5 Once the deadline laid down in Article 16.3 has expired, the Service provider may, within two months of late payment, claim late-payment interest at the discount rate applied by the Central Bank of Kosovo on the first day of the month in which the deadline expired, plus seven percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

16.6 Any default in payment of more than 90 days from the expiry of the period laid down in Article 16.3 shall entitle the Service Provider either not to perform the contract or to terminate it, with 30 days' prior notice to the Contracting Authority.

**Article 17 Quality Control**

17.1 The principle and modalities of Inspection of the Services by the Contracting Authority shall be as indicated in the SCC. The Contracting Authority shall check the Service Provider’s performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider’s responsibilities. The Contracting Authority may instruct the Service Provider to search for a Defect and to uncover and test any service that the Contracting Authority considers may have a Defect. Defect Liability Period is as defined in the SCC.

**Article 18 Correction of Defects**

18.1 The Contracting Authority shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.

18.2 Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Contracting Authority’s notice.

18.3 If the Service Provider has not corrected a Defect within the time specified in the Contracting Authority’s notice, the Contracting Authority will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Article 13.1.

**Article 19 Consequences of Breach of contract**

19.1 A Party shall be in a breach of contract if it fails to discharge any of its obligations under the contract as described in Article 9 and 10.

19.2 Where a breach of contract occurs, the injured Party shall be entitled to the following remedies:

a) damages; and/or

b) termination of the contract.

19.3 In addition to the above-mentioned measures, damages may be awarded. They may be either:

a) general damages; or

b) liquidated damages.

19.4 Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be affected by deduction from the sums due to the Service Provider, from the deposit, or by payment under the guarantee

**Article 20 Amicable dispute settlement**

20.1 The Parties shall make every effort to settle amicably any dispute which may arise between them. Once a dispute has arisen, the Parties shall notify each other in writing of their positions on the dispute and any solution which they consider possible. If either Party deems it useful, the Parties shall meet and try and settle the dispute. A Party shall respond to a request for amicable settlement within 15 days of such a request. The maximum period laid down for reaching such a settlement shall be 30 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a Party fail to respond in time to requests for a settlement, either Party shall be free to proceed to the next stage of the dispute-settlement procedure by notifying the other.

20.2 If the amicable dispute-settlement procedure fails, the Parties may agree to try conciliation through the institution specified in SCC. If no settlement is reached within 30 days of the start of the conciliation procedure, each Party shall be entitled to move on to the next state of the dispute-settlement procedure.

**Article 21 Dispute settlement by litigation**

21.1 If no settlement is reached within 30 days of the start of the amicable dispute-settlement procedure, each Party may seek either:

a) a ruling from a court; or

b) where the parties agree, an arbitration ruling in accordance with the SCC.

21.2 Dispute settlement model ie courts or arbitration shall be decided by the parties before contract signature

22. I**ndemnity**

22.1 The Service Provider will defend and indemnify the Contracting Authority and its present and former officers, directors, employees, and agents and hold it and them harmless from and against any costs, losses, damages, and fees incurred by the Contracting Authority including but not limited to attorneys fee and expenses in connections with any: negligence or willful misconduct by the Service Provider, breach or alleged breach of the Service Providers representations, claim by a third party that provision of this Services by the Service Provider or the use by or on behalf of the Contracting Authority or of any assets used or provided by the Service Provider in connection with the performance of the services infringes Intellectual Property Rights of that third party

# CONTRACT SECTION III SPECIAL CONDITIONS

The following SCC shall supplement and / or amend the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC*.*

*[Instructions for completing the SCC are provided, as needed, in the notes in italics mentioned for the relevant* GCC *Articles. Delete none relevant ones]*

|  |  |  |
| --- | --- | --- |
| General Conditions of Contract | | Amendment/Modification of relevant Article in the GCC |
| Article  description | Art. No. |  |
| Law applicable and language | 2.1 | Kosovo Laws that are in power shall apply in all matters not covered by the provisions of the contract. The jurisdiction shall be the relevant court in Prishtina. |
|  | 2.2 | The language used shall be [*insert language of the procedure*]. |
| Commencement and Completion of services | 6.1 | The Starting Date for the commencement of Services is *[insert date].* |
|  | 6.4 | The Completion Date is *[insert date]*. |
|  | 6.5 | The place of the performance of the services is *[insert place]* |
| Contracting Authority’s obligations | 12.3 | The Project Manager is *[insert name, address of the Project manager]* |
| Liquidated damages | 13.1 | The liquidated damages rate is *[insert percentage of the Contract Price]* per day.  The maximum amount of liquidated damages for the whole contract is *[insert percentage of the contract Price]* of the final Contract Price. |
| Performance Security | 14.1 | The Performance Security amount is *[insert the amount of the performance guarantee]* |
| Insurance to be Taken out by the Service Provider | 15.1 | The risks and coverage by insurance shall be:   1. Third Party motor vehicle *[insert amount]* 2. Third Party liability *[insert amount]* 3. Employer’s liability and workers’ compensation *[insert*   *amount]*   1. Professional liability *[insert amount]* 2. Loss or damage to equipment and property *[insert amount]* |
| General principles of payment | 16.1 | The payment schedule shall be: *[insert payment Schedule]* |
| Quality Control | 17.1 | The principle and modalities of inspection of the Services by the Contracting Authority are as follows: *[insert]*  The Defects Liability Period is  *[insert date]* |
| Amicable dispute settlement | 20.2 | *[Specify the Commission department responsible for conciliation]* |
| Dispute settlement by litigation | 21.1 | *[Insert both]*  a) Any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to *[specify competent court]* in accordance with the Kosovo law.  or  b) where the parties expressly agree, any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to the arbitration of *[specify dispute-settlement body]* in accordance with *[specify arbitration rules (rules of International Chamber of Commerce, United Nations Commission on International Trade Law, or other internationally recognised arbitration procedure)].* |

# PART B: *Draft CONTRACT* for WORKS

# CONTRACT SECTION I: DRAFT CONTRACT FORM

[*Insert name of the Contracting Authority],* (hereinafter called "the Contracting Authority"), of the one part; and

[*Insert name of Contractor],* (hereinafter called “the Contractor”), of the other part, have agreed to conclude a public contract for the following construction works:

[*Insert Title*] with Identification number: [*insert Procurement Number*]

**Article 1 Subject**

1.1 The subject of the contract shall be the execution by the Contractor of the following works:

[*insert general description of the works],* in <*insert number*> lot(*s*)

*[lot no 1, general description of the works]*

*[lot no 2, general description of the works], [lot no …]*

**Article 2 Price**

2.1 The total price of the works shall be: [*insert price of works in figures]* €; [*insert price of works in words]* Euro.

2.2 The price referred to in Article 2.1 above shall be the sole remuneration owed by the Contracting Authority to the Contractor under this contract. The price shown in the price Schedule shall be firm and shall not be subject to revision.

2.3 Payments shall be made in accordance with the General and/or Special Conditions of the Contract.

**Article 3 Order of precedence of contract documents**

3.1 The contract is made up of the following documents:

1. This Contract Agreement;
2. Special Conditions of Contract;
3. General Conditions of Contract;
4. The Contractor’s Tender including Technical Specifications;
5. The financial offer (Bill of Quantities);
6. *[minutes of the informative meeting/site visit]*
7. *[insert any other provisions of the tender dossier*].

3.2 The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

**Article 4 Communications**

4.1 Any written communication relating to this Contract between the Contracting Authority, on the one hand, and the Contractor on the other must state the Contract title and identification number and must be done in writing. Communications shall be sent by post, cable, telex, fax transmission, mail or delivered by hand. Communications to the Contracting Authority can be addressed to Contracting Authority or to the Project Manager nominated in the Special Conditions of the Contract.

4.2 If the sender of a communication requires acknowledgement of receipt, this shall be indicated in the communication. Whenever there is a deadline for the receipt of a written communication, the sender should ask for an acknowledgement of receipt of his communication. In any event, the sender shall take all necessary measures to ensure receipt of his communication.

4.3 Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words "notify", "certify", "approve" or "decide" shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

4.4 This contract is done in [[English] [Albanian] [Serbian][[15]](#footnote-15)] in three originals, two originals being for the Contracting Authority and one original being for the Contractor.

|  |  |  |  |
| --- | --- | --- | --- |
| **For the Contracting Authority** | |  | |
| **Name:** |  | |
| **Position:** | Responsible Procurement Officer | |
| **Signature:** |  | |
| **Date:** |  | |
| **Stamp:** |  | |

***[In case of large value contracts]***

|  |  |  |  |
| --- | --- | --- | --- |
| ***Name:*** |  | ***Name:*** |  |
| ***Position:*** | *Chief Administrative Officer* | ***Position:*** | *[Minister or other public authority]* |
| ***Signature:*** |  | ***Signature:*** |  |
| ***Date:*** |  | ***Date:*** |  |
| ***Stamp:*** |  | ***Stamp:*** |  |

|  |  |  |
| --- | --- | --- |
| **For the Contractor** | |  |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

# 

# CONTRACT SECTION II GENERAL CONDITION

#### Article 1 Definitions

1.1 **"Contract"** means the agreement entered into between the Contracting Authority and the Contractor, as recorded in the Contract Form signed by the Parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.2 **“Works”** is considered all those works that are the object of the contract and which the Contracting Authority requires to be performed by the contractor, be it construction, restoration, reparation or demolition of buildings, facilities, civil engineering structures, other structures or any part(s) of them.

1.3 “**Contractor”** is Economic Operator or group of the Economic Operators, appointed in the contract form, which is party to the contract and obligated to perform the work according to the agreement, and which for the performed work shall obtain the amount agreed in the contract form.

1.4 “**Project Manager**” is the person appointed in the specific conditions of the Contract (or any other competent person authorised by the Contracting Authority) which is responsible for the supervision of the performance of the works and for any detail shall report to the Contracting Authority.

1.5 **“Contract Price”** means the price payable to the Contractor as specified in the Contract Form

1.6 “**Construction place**” is destined location for accomplishment of the contracted works.

1.7 “**Contractor’s equipment**” means all machinery including transportation equipment, devices and other tools that are needed for the accomplishment of the contracted works to be performed according to the contract.

1.8 **“Sketches (Drawings)”** include drawings, calculations, secured and approved information by the Contracting Authority for the accomplishment of the contracted works.

1.9 **“GCC”** means General Conditions of Contract.

1.10 **“SCC”** means Special Conditions of Contract.

**Article 2 Law applicable and language**

2.1 The SCC shall specify the law governing all matters not covered by the contract.

2.2 The contract and all written communications between the parties will be drafted in the language specified in the SCC.

**Article 3 Assignment**

3.1 An assignment shall be valid only, if it is a written agreement by which the Contractor transfers his contract or part thereof to a third party.

3.2 The Contractor may not, without the prior written consent of the Contracting Authority, assign the contract or any part thereof, or any benefit or interest there under, except in the following cases:

a) a charge, in favour of the Contractor’s bankers, of any amount due or to become due under the contract; or

b) the assignment to the Contractor's insurers of the Contractor's right to obtain relief against any other person liable in cases where the insurers have discharged the Contractor's loss or liability.

3.3 For the purpose of Article 3.2, the approval of an assignment by the Contracting Authority shall not relieve the Contractor of his obligations for the part of the contract already performed or the part not assigned.

3.4 Assignees must satisfy the eligibility criteria applicable for the award of the contract except in cases where assignments are done to a bank or an insurance company or other financing institution.

#### Article 4 Subcontracting

4.1 A subcontract shall be valid only if it is a written agreement by which the Contractor entrusts performance of a part of his contract to a third party.

4.2 The elements of the contract to be subcontracted and the identity of the subcontractors shall be notified to the Contracting authority upon the tender submission. In case of change of subcontractors during the implementation of the contract, the Contractor shall notify in writing to the Contracting Authority. The contracting authority shall notify the Contractor of its decision within 30 days of receiving the notification, stating its reasons if authorization is withheld. The Contractor shall not subcontract without the written authorization of the Contracting Authority. All the proposed subcontractors must meet eligibility requirements.

4.3 The Contracting Authority recognises no contractual link between itself and the subcontractors, howevutgority may vouch, where deemed necessary, for direct payments to subcontractors.

4.4 The Contractor shall be responsible for the acts, defaults and negligence of his subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Contractor, his agents or employees. The approval by the Project Manager of the subcontracting of any part of the contract or of the subcontractors shall not relieve the Contractor of any of his obligations under the contract

4.5 If the Contractor has undertaken any continuing obligation for a period exceeding the warranty period under the contract towards the Contractor, in respect of the supplies provided by the subcontractor, the Contractor must, at any time after the expiration of the warranty period, transfer immediately to the Contracting Authority, at the Contracting Authority's request and cost, the benefit of such obligation for the unexpired duration thereof.

**OBLIGATIONS OF THE CONTRACTING AUTHORITY**

#### Article 5 Supply of documents

5.1 If necessary, within 30 days of the signing of the contract, the Contracting Authority shall, provide the Contractor, free of charge, with a copy of the drawings prepared for the performance of the contract and a copy of the specifications and other contract documents. The Contractor may purchase additional copies of these drawings, specifications and other documents, in so far as they are available. Upon the final acceptance, the Contractor shall return to the Contracting Authority all drawings, specifications and other contract documents.

5.2 Unless it is necessary for the purposes of the contract, the drawings, specifications and other documents provided by the Contracting Authority shall not be used or communicated to a third party by the Contractor without the prior consent of the Contracting Authority.

5.3 The Contracting Authority shall have authority to issue to the Contractor administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the contract and the remedying of any defects therein.

#### Article 6 Access to site

6.1 The Contracting Authority shall, in due time 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 programme of implementation of tasks referred to in these General Conditions.

6.2 The Contractor shall preserve any premises placed at his disposal in a good state while he is in occupation and shall, if so required by the Contracting Authority, restore them to their original state on completion of the contract.

6.3 The Contractor shall not be entitled to any payment for improvements resulting from work carried out on his own initiative.

**Article 7 Assistance with local regulations**

7.1 The Contractor may request the assistance of the Contracting Authority in obtaining copies of laws, regulations and information on local customs, orders or bye-laws of the Republic of Kosovo which may affect the Contractor in the performance of his obligations under the contract. The Contracting Authority may provide the assistance requested to the Contractor at the Contractor’ cost.

7.2 Subject to the provisions of the laws and regulations on foreign labour, the Contracting Authority shall make all efforts necessary to facilitate the procurement by the Contractor of all required visas and permits, including work and residence permits, for the personnel whose services the Contractor and the Contracting Authority consider necessary as well as residence permits for their families.

**OBLIGATIONS OF THE CONTRACTOR**

**Article 8 Contractor’s obligations**

8.1 The Contractor shall comply with administrative orders given by the Contracting Authority. Where the Contractor considers that the requirement of an administrative order goes beyond the scope of the contract, he shall, on pain of breach of contract, notify the Contracting Authority thereof, giving his reasons, within 30 days of receipt of the order. Execution of the administrative order shall not be suspended because of this notice.

8.2 The Contractor shall respect and abide by all laws and regulations in force in the Republic of Kosovo and shall ensure that his personnel, their dependants, and his local employees also respect and abide by all such laws and regulations.

8.3 The Contractor shall treat all documents and information received in connection with the contract as private and confidential. He shall not, save in so far as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority.

8.4 If the Contractor is a group, the composition of the group shall not be altered without the prior consent in writing of the Contracting Authority.

8.5 The contractor shall make sure that works will start and finish within the fixed time limits agreed notably in the program made according to Article 12.

8.6 The contractor will ensure that all works that he/she will do, as well as remedying of any defects during the works fulfilment will be done in time and in accordance with existing standards, practices, methods and procedures and in addition with the degree of skill and diligence, which would be expected from a skilled and experienced contractor undertaking similar work.

8.7 The contractor will ensure for the quality of the work and for the quality of the materials and the professional quality of the workers that are used for the fulfilment of the contracted works.

8.8 The Contractor shall secure the construction area immediately after works’ commencements for the following reasons

a. if for the performance of the works heavy equipment as: excavators of different kinds, cranes, trucks of different kinds, high scaffolds etc. will be used and

b. in order not to damage the coincidental passers, objects around, traffic etc.

8.9 The Contractor shall be responsible for the safety of all activities on the Site.

**Article 9 Personnel**

9.1 The Contractor shall employ the key personnel and use the equipment identified in its Tender, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Tender.

**Article 10 Performance Security**

10.1 The Contractor shall, not later than the day of signing the contract, furnish the Contracting Authority with a guarantee for the full and proper performance of the contract. The amount of the performance security is specifiedin the SCC. The performance guarantee shall be held against payment to the Contracting Authority for any loss resulting from the Contractor's failure to perform his contractual obligations fully and properly.

10.2 The guarantee shall continue to remain valid 30 days after the issue of the **Certificate of Provisional Acceptance.**

10.3 The performance guarantee of the contract shall be in the format given in Section IV of this contract.

**Article 11 Contractor Liability and Insurance**

11.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) are Contractor's risks and adjacent property.

11.2 The Contractor shall provide an insurance cover from the start day of the works to the end of the Defects Liability Period in the amounts stated in the SCC for the following events which are due to the Contractor's risks:

1. loss of or damage to the Works, Plant, and Materials;
2. loss of or damage to Equipment;
3. loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
4. his personnel injury or death.

11.3 The Contractor shall within 15 days after signing the contract submit to the Contracting Authority the policy and certificate for insurance for the necessary compensation in order to assure the loss and caused damages.

11.4 If the Contractor fails to provide such insurance, then the contract shall be considered rescind and the Contractor shall be excluded from the participation in procurement activities for one year.

11.5 If there are sufficient and convincing reasons for the extension of the term of the submission of the insurance certificate, the Contracting Authority can extend the time limit for the submission of the certificate on the insurance or eliminate the insurance requirement and deduct the price of a corresponding insurance from the payments to the contractor.

**Article 12 Program**

12.1 Within the time specified in the SCC, the contractor shall submit to the Project Manager a program for approval. The work programme shall contain at least the following: the order in which the Contractor proposes to carry out the works, the time limits within which submission and approval of the drawings are required, general methods to be implemented and the time schedule for each specified activity.

12.2 If the Project manager in addition asks modifications in the works program within the framework of the contracted works, the contractor shall review once more the program and will give it back again to the Project Manager. The Contractor shall update the Program at intervals no longer than the period stated in the SCC.

12.3 For any dissatisfaction or disagreement about the modification of the program, the contractor shall provide the argument in writing to the Project Manager.

12.4 Presentation of such program including any addition by the project manager will not reduce or increase the contractor’s obligations according to the contracted works as well as any modification included in the works program will not result in any extra payment to the contractor, if this has happened as a consequence of the negligence of the contractor during the compilation of the programme.

**Article 13 Safety on sites**

13.1 The Contractor shall have the right to forbid access to the site to any person not involved in the performance of the contract, with the exception of persons authorized by the Contracting Authority.

13.2 The Contractor shall ensure the safety on sites during the whole period of execution and shall be responsible for taking the necessary steps, in the interests of his employees, agents of the Contracting Authority and third parties, to prevent any loss or accident which may result from carrying out the works.

13.3 The Contractor shall take all essential steps, on his own responsibility and at his expense, to ensure that existing structures and installations are protected, preserved and maintained. He shall be responsible for providing and maintaining at his expense all lighting, protection, fencing and security equipment which proves necessary for the proper implementation of the tasks or which may reasonably be required by the Contracting Authority.

**Article 14 Interference with traffic**

14.1 The Contractor shall ensure that the works and installations do not cause damage to, or obstruct traffic on, communication links such as roads, railways, waterways and airports. He shall, in particular, take account of weight restrictions when selecting routes and vehicles.

14.2 Any special measures which the Contractor considers necessary or which are required by the Contracting Authority in order to protect or strengthen sections of roads, tracks or bridges, shall be at the expense of the Contractor, whether or not they are carried out by the Contractor. The Contractor shall inform the Contracting Authority of any special measures he intends to take before carrying them out. The repair of any damage caused to roads, tracks or bridges by the transport of materials, plant or equipment shall be at the expense of the Contractor.

**Article 15 Tax**

15.1 The contractor is responsible for all taxes and customs duties in compliance with the Law of the Republic of Kosovo.

15.2 All taxes and other costumes duties consider that they are included in the contract price.

15.3 The Project Manger shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of tenders and the date of the last completion certificate.

15.4 The Project Manager shall not adjust the contracted price in the amount of the tax increases and /or increases of the custom duties if this happened during the time that the contractor has been in delay.

**Article 16 Cost of Repairs**

16.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor’s cost if the loss or damage arises from the Contractor’s acts or omissions.

**COMMENCEMENT AND DELAYS**

**Article 17 Commencement of works**

17.1 The Contractor shall commence the Works within the time limit specified in the SCC.

17.2 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them within the time limit specified in the SCC.

**Article 18 Extension of the completion date**

18.1 The Contractor may request an extension to the period of execution if his performance of the contract is delayed, or expected to be delayed, for any of the following reasons:

a) failure of the Contracting Authority to fulfil its obligations under the contract;

b) force majeure as defined in Article 38;

18.2 Within 15 days of realising that a delay might occur, the Contractor shall notify the Contracting Authority of his intention to make a request for extension of the period of performance to which he considers himself entitled and, save where otherwise agreed between the Contractor and the Contracting Authority, within 30 days of the same point in time provide the Contracting Authority with comprehensive details so that the request can be examined.

18.3 Within 30 days of receipt of the details mentioned in 18.2, the Contracting Authority shall by written notice to the Contractor grant such extension of the period of performance as may be justified, either prospectively or retrospectively, or inform the Contractor that he is not entitled to an extension.

**Article 19 Liquidated damages**

19.1 The Contractor shall pay liquidated damages to the Contracting authority at the rate per day stated in the SCC for each day that the Completion Date is later than the Required Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Contracting Authority may deduct liquidated damages from any payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

19.2 If the Contracting Authority has become entitled to the maximum claim under Article 19.1 he may, after giving notice to the Contractor:

1. seize the performance guarantee; and /or
2. terminate the contract; and
3. enter into a contract with a third party at the Contractor's cost for the provision of the balance of the works.

**MATERIALS AND WORKMANSHIP**

**Article 20 Work register**

20.1 A work register shall, unless otherwise provided by the Special Conditions, be kept on the site by the Contractor, who shall enter in it at least the following information:

1. the weather conditions, interruptions of work owing to inclement weather, hours of work, number and type of workmen 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;
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.

20.2 Entries made in the work register as work progresses shall be signed by the Contracting Authority and countersigned by the Contractor or his representative. If the Contractor objects, he shall communicate his views to the Contracting Authority within 15 days following the date on which the entry or the statements objected to are recorded. Should he fail to countersign or to submit his views within the period allowed, the Contractor shall be deemed to agree with the notes shown in the register. The Contractor may examine the work register at any time and may, without removing the document, make or receive a copy of entries which he considers necessary for his own information.

* 1. The Contractor shall, on request, provide the Contracting Authority with the information needed to keep the work register in good order.

**Article 21 Origin and quality of works and materials**

21.1 The works, components and materials shall conform to the specifications, drawings, surveys, models, samples, patterns and other requirements in the contract which shall be held at the disposal of the Contracting Authority for the purposes of identification throughout the period of performance.

21.2 Any preliminary technical acceptance shall be the subject of a request sent by the Contractor to the Contracting Authority. The request shall indicate the reference to the contract, the lot number and the place where such acceptance is to take place, as appropriate. The components and materials specified in the request must be certified by the Contracting Authority as meeting the requirements for such acceptance prior to their incorporation in the works.

21.3 Even if materials or items to be incorporated in the works or in the manufacture of components have been technically accepted in this way, they may still be rejected and must be replaced immediately by the Contractor if a further examination reveals defects or faults. The Contractor may be given the opportunity to repair and make good materials and items which have been rejected, but such materials and items will be accepted for incorporation in the works only if they have been repaired.

**Article 22 Supervision and testing**

22.1 The Contracting Authority shall nominate a “*Project Manager*”, indicated in the SCC, who will be responsible for the supervision of the performance of the works at all the time, starting from the first day of the works until the expiry of the Defects Liability Period, and for reporting to the Contracting Authority.

22.2 The purpose of supervision is to control the quality of the works and quality of the materials used pursuant to the agreed technical specifications.

22.3 The Contractor shall ensure that the components and materials are delivered to the site in time to allow the Contracting Authority to proceed with acceptance of the components and materials. The Contractor is deemed to have fully appreciated the difficulties which he might encounter in this respect, and he shall not be permitted to advance any grounds for delay in fulfilling his obligations.

22.4 The Contracting Authority shall be entitled, either by himself or his agent, to inspect, examine, measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract in order to establish whether the components, materials and workmanship are of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or on the site or at such other places as may be specified in the contract.

22.5 When components and materials have passed the tests, the Contracting Authority shall notify the Contractor or endorse the procedure's certificate to that effect.

22.6 If the Contracting Authority and the Contractor disagree on the test results, each shall give a statement of his views to the other within 15 days after such disagreement arises. The Contracting Authority or the Contractor may require such tests to be repeated on the same terms and conditions or, if either party so requests, by an expert to be selected by common consent. All test reports shall be submitted to the Contracting Authority who shall communicate the results of these tests without delay to the Contractor. The results of the re-testing shall be conclusive. The cost of the re-testing shall be borne by the party whose views are proved wrong by the re-testing.

**Article 23 Early warning**

23.1 The Contractor shall immediately inform the Project Manager, if he/she notices any mistakes or omissions in the sketches (drawings) as well as in the technical specification during the performance of the works, warning that they can later affect in the quality of the works.

233.2 If the Project Manager verifies the existence of such mistakes or omissions, whether they are in sketches or in specifications, he/she shall avert them immediately and consider the consequences.

22.3 If the parties to the contract estimate that substantial changes of the works have become necessary because of such mistakes or omissions which substantially affect the contract price, then the Project Manager in co-operation with the Contracting Authority shall remedy the situation in a manner that does not infringe the requirements of the Law on Public Procurement.

**PAYMENTS**

**Article 24 Payment**

24.1 Payments shall be made in Euro.

24.2 Payments shall be adjusted for deductions for advance payments and retention. The Contracting Authority shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the Contracting Authority makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made, up to the date when the late payment is made, adjusted according to the local banks for the credits in construction.

24.3 Items of the Works for which no rate or price has been entered in will not be paid for by the Contracting authority and shall be deemed covered by other rates and prices in the Contract.

24.4 Payments due according to an invoice issued by the contractor shall be made to the bank account mentioned on Section V, **Financial Identification,** of this contract, completed by the Contractor. The same form, annexed to the payment request, must be used to report changes of bank account.

**Article 25 Bill of Quantities**

25.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

25.2 In the case of a lump sum contract, the Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for Materials on Site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

**Article 26 Advance Payment**

26.1 The Contracting Authority shall make advance payment to the Contractor of the amounts stated in the SCC by the date stated in the SCC against provision by the Contractor of an Unconditional Bank Guarantee in a form acceptable to the Contracting Authority in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged on the advance payment.

26.2 The Contractor is to use the advance payment only to pay for Equipment, materials and other expenses required specifically for carrying out the works. The Contractor shall demonstrate that advance payment has been used in this way by supply of copies of invoices or other documents to the Project Manager.

26.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis.

**Article 27 Retention Money**

27.1 An amount, specified in the SCC, will be retained from each payment to the Contractor until Completion of the whole of the Works. This amount shall in no case exceed 10 % of the original contract price. The Contractor may substitute retention money with an “on demand” Bank guarantee.

27.2 The sum retained or the retention guarantee shall be released within 30 days of the issuing of the signed final statement of account referred to in Article 29.

**Article 28 Payment Certificates**

28.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

28.2 The Project Manager shall check the Contractor's executed work and certify the amount to be paid to the Contractor.

28.3 The value of work executed shall be determined by the Project Manager.

28.4 The value of work executed shall comprise:

1. In the case of a Bill of Quantities contract, the value of the quantities of work in the Bill of Quantities that have been completed; or
2. In the case of a lump sum contract, the value of work executed shall comprise the value of completed activities in the Activity Schedule.

28.5 The value of work executed shall include the valuation of the changes Variations of Compensation Events.

**Article 29 Final Account**

29.1 The Contractor shall not later than 90 days after the issue of the final acceptance certificate, submit to the Project Manager a draft final statement of account with supporting documents showing in detail the value of the work done in accordance with the contract, together with all further sums which the Contractor considers to be due to him under the contract in order to enable the Project Manager to prepare the final statement of account

29.2 Within 30 days after receipt of the draft final statement of account and of all information reasonably required for its verification, the Project Manager shall prepare the final statement of account, which determines:

1. the amount which in his opinion is finally due under the contract; and
2. after establishing the amounts previously paid by the Contracting Authority and all sums to which the Contracting Authority is entitled under the contract, the balance, if any, due from the Contracting Authority to the Contractor, or from the Contractor to the Contracting Authority, as the case may be.

29.3 The Project Manager shall issue to the Contracting Authority or to its duly authorized representative, and to the Contractor, the final statement of account showing the final amount to which the Contractor is entitled under the contract. The Contracting Authority or its duly authorized representative and the Contractor shall sign the final statement of account as an acknowledgement of the full and final value of the work implemented under the contract and shall promptly submit a signed copy to the Project Manager.

**Article 30 Compensated events**

30.1 Compensated events are considered events as follow:

(a) The Contracting Authority does not give access to a part of construction area by the Site possession date stated in the SCC.

(b) The Project Manager orders adjournment without giving account for this or delays or does not give the sketches (drawings, specifications) or required advices for accomplishment of the contracted works in fixed time limit as in the contract.

(c) The Project Manager orders the contractor to discover or accomplish tests in the final work, which is then found to have no Defects.

(d) Other contractors, public authorities, municipality services or contracting authority causes delay or additional expenses for the contractor.

(e) The advance payment is delayed.

(f) The Project Manager without justified reasons delays in issuing of the certification for the fulfilment of the contract.

(g) The Contractor faces other obstructions for the accomplishment of the contracted work activities, which obstructions are not due to the non-professionalism of the contractor.

30.2 If such an event occurs, then the Contract Price shall be equitably adjusted.

**ACCEPTANCE AND DEFECTS LIABILITY**

**Article 31 General principles**

31.1 Verification of the works by the Contracting Authority with a view to provisional or final acceptance shall take place in the presence of the Contractor. The absence of the Contractor shall not be a bar to verification on condition that the Contractor has been summoned in due from at least 30 days prior to the date of verification.

**Article 32 Tests on completion**

32.1 The works shall not be accepted until the prescribed verifications and tests have been carried out at the expense of the Contractor. The Contractor shall notify the Contracting Authority of the date on which such verification and tests may commence.

32.2 Works which do not satisfy the terms and conditions of the contract, shall, if required, be demolished and rebuilt by the Contractor or repaired to the satisfaction of the Contracting Authority, otherwise this shall be done as of right after due notice at the expense of the Contractor, by order of the Contracting Authority.

**Article 33 Provisional acceptance**

33.1 The works shall be taken over by the Contracting Authority when they have satisfactorily passed the tests on completion and a certificate of provisional acceptance has been issued or is deemed to have been issued.

33.2 The Contractor may apply, by notice to the Contracting Authority, for a certificate of provisional acceptance not earlier than 15 days before the works, in the Contractor's opinion, are complete and ready for provisional acceptance. The Contracting Authority shall within 30 days after the receipt of the Contractor'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
2. 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.

33.3 If the Contracting Authority fails either to issue the certificate of provisional acceptance or to reject the Contractor's application within the period of 30 days, he shall be deemed to have issued the certificate on the last day of that period.

33.4 Upon provisional acceptance of the works, the Contractor shall dismantle and remove temporary structures as well as materials no longer required for use in connection with the performance of the contract. He shall also remove any litter or obstruction and redress any change in the condition of the site as required by the contract.

**Article 34 Defects liability**

34.1 The Contractor shall be responsible for making good any defect in, or damage to, any part of the works which may appear or occur during the defects liability period and which arises either from:

1. the use of defective plant or materials or faulty workmanship or design of the Contractor; and/or
2. any act or omission of the Contractor during the defects liability period.

34.2 The Contractor shall at his own cost make good the defect or damage as soon as practicable. The defects liability period for all items replaced or renewed shall recommence from the date when the replacement or renewal was made to the satisfaction of the Project Manager. If the contract provides for partial acceptance, the defects liability period shall be extended only for the part of the works affected by the replacement or renewal.

34.3 If any such defect appears or such damage occurs, during the period referred to, the Contracting Authority or the Project Manager shall notify the Contractor. If the Contractor fails to remedy a defect or damage within the time limit stipulated in the notification, the Contracting Authority may:

1. carry out the works himself, or employ someone else to carry out the works, at the Contractor's risk and cost, in which case the costs incurred by the Contracting Authority shall be deducted from monies due to or from guarantees held against the Contractor or from both; or
2. terminate the contract.

34.4 In case of emergency, where the Contractor cannot be reached immediately or, having been reached, is unable to take the measures required, the Contracting Authority or the Project Manager may have the work carried out at the expense of the Contractor. The Contracting Authority or the Project Manager shall as soon as practicable inform the Contractor of the action taken.

34.5 The defects liability shall be stipulated in the Special Conditions and technical specifications. If the duration of the defects liability period is not specified, it shall be 365 days. The defects liability period shall commence on the date of provisional acceptance.

**Article 35 Final acceptance**

35.1 Upon the expiry of the defects liability period, or where there is more than one such period, upon the expiry of the latest period, and when all defects or damage have been rectified, the Project Manager shall issue to the Contractor a final acceptance certificate and a copy thereof to the Contracting Authority stating the date on which the Contractor completed his obligations under the contract to the Project Manager’s satisfaction. The final acceptance certificate shall be given by the Project Manager within 30 days after the expiration of the above stated period, or as soon as any works ordered under Article 34 have been completed to the satisfaction of the Project Manager.

35.2 The works shall not be considered as completed until the final acceptance certificate has been signed by the Project Manager and delivered to the Contracting Authority, with a copy to the Contractor.

35.3 Notwithstanding the issue of the final acceptance certificate, the Contractor and the Contracting Authority shall remain liable for the fulfillment of any obligation incurred under the contract prior to the issue of the final acceptance certificate, which remains unperformed at the time such final acceptance certificate is issued. The nature and extent of any such obligation shall be determined by reference to the provisions of the contract.

**BREACH OF CONTRACT AND TERMINATION**

**Article 36 Breach of contract**

36.1 Either party commits a breach of contract where he fails to discharge any of his obligations under the contract.

36.2 Where a breach of contract occurs, the party injured by the breach shall be entitled to the following remedies:

1. damages; and/or
2. termination of the contract.

36.3 Damages may be either:

1. general damages; or
2. liquidated damages.

36. 4 In any case where the Contracting Authority is entitled to damages, he may deduct such damages from any sums due to the Contractor or from the appropriate guarantee.

**Article 37 Termination of the Contract**

37.1 The Contracting Authority or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

37.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

(a) the Contractor stops work for 15 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;

(b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 15 days; or agreement reached on payments due contractor for cost of delay.

(c) the Contracting Authority or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;

(d) a payment certified by the Project Manager is not paid by the Contracting Authority to the Contractor within 30 days of the date of the Project Manager's certificate;

(e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within 30 days determined by the Project Manager;

(f) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid.

37.3When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under 37.2 above, the Project Manager shall decide whether the breach is fundamental or not.

37.4 If because of third parties fault objective emergency circumstance come across and this hinders the fulfilment of the obligations of the contract, the Project Manager with the consent of the contractor shall terminate the continuance of the works fulfilments as soon as possible. The Project Manager shall do the evaluation of the partly completed work, shall require from the contractor to leave the working area and leave it in a good condition. The Project Manager shall pay the contractor for the accomplished works until the moment of receiving of written notice for termination.

37.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site within 15 days of the completion of the notice period.

**Article 38 Force majeure**

38.1 **“Force Majeure**” as is used here consists in industrial disorder, civil disorders, wars, explosions, natural disasters, earthquakes, fires, overflow, epidemics etc. caused not by fault or failure of the contract parties, not possible to foresee and beyond control of the contract parties.

38.2 If one of the events that determines Force Majeure happens and this makes it impossible for the contractor to accomplish the commitments and predicted responsibilities according to the contract, the contractor as soon as possible has to provide to the Contracting Authority a written statement with complete information regarding the event. In this case the following dispositions apply:

i. The obligations and responsibilities of the contractor shall be abeyant for the time until the level of the objective possibility of their fulfilment is reached.

ii. During the abeyance and in relation with the suspended works, all the expenses regarding the reparation of the technical equipment, accommodation of the staff and other similar expenses shall be borne by the contractor.

iii. Within 15 days, counting from the day of the event that determines Force Majeure, the Project Manager in co-operation with the Contracting Authority shall evaluate all completed works in order that the Contracting Authority pays the contractor.

iv. Deadline of fulfilment of the obligations by the Contractor of the contract obligations could be extended for a period for as long as the abeyance period lasts.

v. If the contractor for a long time is unable, because of the Force Majeure, to accomplish the commitment and predicted responsibilities of the contract, the Contracting Authority within seven (7) days could inform the contractor in writing on the termination of the contract.

**Article 39 Payment after the termination of the contract**

39.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Contracting Authority exceeds any payment due to the Contractor, the difference shall be a debt payable to the Contracting Authority.

39.2 If the Contract is terminated for the Contracting Authority 's convenience or because of a fundamental breach of Contract by the Contracting Authority, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

**Article 40 Property**

40.1 All Materials and Construction Equipment on the Site, Plant, Temporary Works, and Works shall be deemed to be the property of the Contracting Authority if the Contract is terminated because of the Contractor's default

**Article 41 Release from Performance**

41.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Contracting Authority or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards for which an agreement has been reached.

**SETTLEMENT OF DISPUTES**

**Article 42 Amicable dispute settlement**

42.1 The Parties shall make every effort to settle amicably any dispute which may arise between them. Once a dispute has arisen, the Parties shall notify each other in writing of their positions on the dispute and any solution which they consider possible. If either Party deems it useful, the Parties shall meet and try and settle the dispute. A Party shall respond to a request for amicable settlement within 15 days of such a request. The maximum period laid down for reaching such a settlement shall be 30 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a Party fail to respond in time to requests for a settlement, either Party shall be free to proceed to the next stage of the dispute-settlement procedure by notifying the other.

42.2 If the amicable dispute-settlement procedure fails, the Parties may agree to try conciliation through the institution specified in SCC. If no settlement is reached within 30 days of the start of the conciliation procedure, each Party shall be entitled to move on to the next state of the dispute-settlement procedure.

**Article 43 Dispute settlement by litigation**

43.1 If no settlement is reached within 30 days of the start of the amicable dispute-settlement procedure, each Party may seek either:

a) a ruling from a court; or

b) where the parties agree, an arbitration ruling in accordance with the SCC.

43.2 Dispute settlement model i.e. courts or arbitration shall be decided by the parties before contract signature

# CONTRACT SECTION III SPECIAL CONDITIONS

The following SCC shall supplement and / or amend the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC*.*

*[Instructions for completing the SCC are provided, as needed, in the notes in italics mentioned for the relevant* GCC *Articles. Delete none relevant ones]*

|  |  |  |
| --- | --- | --- |
| General Conditions of Contract | | Amendment/Modification of relevant Article in the GCC |
| Article  description | Art. No. |  |
| Law applicable and language | 2.1 | Kosovo Laws that are in power shall apply in all matters not covered by the provisions of the contract. The jurisdiction shall be the relevant court in Prishtina. |
|  | 2.2 | The language used shall be [*insert language of the procedure*]. |
| **Performance Security** | 10.1 | The amount of the performance security is *[insert the amount]* |
| Contractor Liability and Insurance | 11.2 | The minimum insurance amounts shall be:  (a) For loss or damage to the Works, Plant and Materials: *[insert amounts]*.  (b) For loss or damage to Equipment: *[insert amounts]*.  (c) For loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract *[insert amounts]*.  (d) for personal injury or death:   * + - 1. Of the Contractor’s employees: *[insert amount]*       2. of other people: *[insert amount]* |
| Program | 12.1 | The Contractor shall submit for approval a Program for the Works within *[insert number]* days from the date of Contract signature. |
|  | 12.2 | The period for the updated Program is *[insert number]* days |
| Commencement of works | 17.1 | The Start Date shall be *[insert the date on which performance of the contract is to commence]* |
|  | 17.2 | The Completion Date for the whole of the Works shall be *[insert number]* days. |
| Liquidated damages | 19.1 | The liquidated damages for the whole of the Works are *[insert percentage of the final Contract Price]* per day. The maximum amount of liquidated damages for the whole of the Works is *[insert percentage]* of the final Contract Price. |
| Work register | 20.1 | *[Specify if a work register is not needed]* |
| Supervision and testing | 22.1 | The project manager is *[insert the name and address of the Project manager]* |
| Advance Payment | 26.1 | The amount of Advance Payments is: *[insert amount]* |
| Retention Money | 27.1 | The amount of retention money is: *[insert percentage]* |
| **Compensated events** | 30.1 | The Site possession date is *[insert number]* days after the contract signature |
| **Defects liability** | 34.5 | The defects liability period is *[insert number]* days, |
| Payment after the termination of the contract | 39.1 | The percentage to apply to the value of the work not completed, representing the Contracting Authority’s additional cost for completing the Works, is *[insert percentage]*. |
| Amicable dispute settlement | 42.2 | *[Specify the Commission department responsible for conciliation]* |
| Dispute settlement by litigation | 43.1 | *[Insert both]*  a) Any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to *[specify competent court]* in accordance with the Kosovo law.  or  b) where the parties expressly agree, any dispute between the Parties that may arise during the performance of this contract and that it has not been possible to settle otherwise between the Parties shall be submitted to the arbitration of *[specify dispute-settlement body]* in accordance with *[specify arbitration rules (rules of International Chamber of Commerce, United Nations Commission on International Trade Law, or other internationally recognised arbitration procedure)].* |

# CONTRACT SECTION IV: MODEL PERFORMANCE GUARANTEE

*[On the headed notepaper of the financial institution providing the guarantee]*

**To: [name of contracting authority**]

(Hereinafter “the Contracting Authority”).

**On behalf of: [name and address of economic operator]**

(Hereinafter “economic operator”)

**Title of the procurement activity:**

**Procurement Number:**

**On First Demand Guarantee**

WHEREAS the economic operator has undertaken to post a performance security referring to Tender Dossier, with the abovementioned procurement number dispatched by the Contracting Authority;

AND WHEREAS the Economic Operator wants to post a guarantee for the sum specified in the tender dossier;

AND WHEREAS we have agreed to give the Economic Operator such a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Economic Operator, up to a total of <amount of the guarantee in words and figures>, and we undertake to pay you, upon your first written demand declaring the Economic Operator to be in default because:

1. The contracting authority based on the objectively verified evidences stated that economic operator has failed to complete its obligations under the contract and this has caused to the contracting authority substantial loss and/or substantial expenses in obtaining the completion of such contract; and
2. The Economic Operator has failed to perform signed contract, which leaves unpaid many workers, subcontractors, and/or material suppliers.

Payment in the limited sum of <amount of guarantee> as aforesaid shall be made without disagreement or complaint, as soon as possible after the registration of your demand with the confirmation of “acceptance”.

**This guarantee is valid until <date and time>**

Signature and seal of the Guarantors

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of financial institution

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date

# CONTRACT SECTION V: FINANCIAL IDENTIFICATION

|  |  |
| --- | --- |
| **ACCOUNT HOLDER** | |
| **Name** |  |
| **Address** |  |
| **City** |  |
| **Post Code** |  |
| **Contact** |  |
| **Telephone** |  |
| **Fax** |  |
| **E-mail** |  |
| **VAT number** |  |

|  |  |
| --- | --- |
| **BANK** | |
| **Name** |  |
| **Address** |  |
| **City** |  |
| **Post Code** |  |
| **Country** |  |
| **Bank Account** |  |
| **IBAN (optional)** |  |
| **BIC (Optional)** |  |

**REMARKS:**

|  |  |  |
| --- | --- | --- |
| **BNK STAMP + SIGNATURE of BANK REPRESENTATIVE (Both obligatory)** |  | **DATE + SIGNATURE of ACCOUNT HOLDER: (Obligatory))** |

# *PART C: TENDER SUBMISSION FORM – FIRST STAGE TENDER[[16]](#footnote-16)*

# Section I. TENDER Form

**To:** [***insert name and address of Contracting Authority****]*

(hereinafter “the Contracting Authority”)

Title of contract: [*insert Title]*

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

**1.** We have examined and accept in full the content of the tender dossier No [*insert procurement number]*. We hereby accept its provisions in their entirety, without reservation or restriction.

**2.** We offer to perform, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction:

*[If the object of contract is not divided in lots]*

[*insert the description of the supplies/services/works]*

*[If the object of the contract is divided in lots][[17]](#footnote-17):*

Lot no *[insert Lot number]:* [*insert the description of the supplies/services/works*]

Lot no *[insert Lot number]:* [*insert the description of the supplies/services/works*] …

**3.** We further undertake, if invited to do so by you, and at our own cost, to attend negotiation meetings at a place of your choice, for the purpose of reviewing our First Stage Tender and duly noting all amendments and additions thereto, and noting omissions that you may be required.

**4.** We further undertake, upon receiving your written invitation, to proceed with the preparation of our Second Stage Tender, updating our First Stage Tender and completing our tender in accordance with the updated technical proposal.

**5**. Total tender price is:

*[If the object of contract is not divided in lots]*

**Tender price in figures**: [*insert tender price in figures* ***€****]*

**And in words** [*insert tender price in words* ***Euro****]*

*[If the object of the contract is divided in lots][[18]](#footnote-18):*

Lot no [*[insert Lot number]:* *[insert the tender price per lot, in figures and in words]*

Lot no [*[insert Lot number]:* *[insert the l tender price per lot, in figures and in words.] …*

**6.** This tender is valid for a period of *[insert number of days*] from the final date for submission of tenders.

**7.** [If our tender is accepted, we undertake to provide, as required, a performance guarantee prior to the signing of the contract of [*insert amount or percentage of guarantee*].

**8.** Economic Operator [*and our subcontractors*] has/have the following nationality: **[***insert nationality*]

**9.**  We are making this application, for this tender *[insert Lot number, if applicable*], in our own right led by ourselves. We confirm that we are not tendering for the same contract in any other form

[*In case of a consortium]*

[We are making this application, for this tender [*insert Lot number,* *if applicable*] **as partner in the consortium** led by [*insert name of the leader*]. We confirm that we are not tendering for the same contract in any other form. We confirm, as a partner in the consortium, that all partners are jointly and severally liable by law for the performance of the contract, that the lead partner is authorised to bind, and receive instructions for and on behalf of, each member, that the performance of the contract, including payments, is the responsibility of the lead partner, and that all partners in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's performance].

**10.** We will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the implementation of the contract. We also fully recognise and accept that any inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts funded by the KCB.

**11.** We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to award only part of the contract and that it will incur no liability towards us should it do so.

**SUBMITTED BY**

|  |  |
| --- | --- |
| **Economic Operator Identification** | |
| **Company Name[[19]](#footnote-19)** |  |
| **Full Address** |  |
| **Represented by:** | |
| **Name& Surname** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

**[In case of Group of Economic Operators:]**

|  |  |  |
| --- | --- | --- |
|  | **Name(s)** | **Address-residency** |
| **Leader 1\*** |  |  |
| **Etc … \*** |  |  |

\* add/delete additional lines for partners as appropriate. *Note that a subcontractor is not considered to be a partner for the purposes of this tender procedure*.

**Name and surname name of the person duly authorised to sign the tender on behalf of the Consortium: [insert name and surname]**

**Signature: [signature of the authorised person]**

**Place and date: [insert place and date] Stamp of the Leader: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# *PART C: REVISED TENDER SUBMISSION FORM – SECOND STAGE TENDER[[20]](#footnote-20)*

# Section I. TENDER Form

**To:** [***insert name and address of Contracting Authority****]*

(hereinafter “the Contracting Authority”)

Title of contract: [*insert Title]*

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

**1.** We have examined and accept in full the content of the tender dossier No [*insert procurement number]* and your requirements incorporated in the Annex “Changes Required Pursuant to First Stage Evaluation”documenting the negotiations held between us on *[insert date]*. We hereby accept its provisions in their entirety, without reservation or restriction.

**2.** We offer to perform, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction:

*[If the object of contract is not divided in lots]*

[*insert the description of the works/services/supplies]*

*[If the object of the contract is divided in lots][[21]](#footnote-21):*

Lot no *[insert Lot number]:* [*insert the description of the works/services/supplies*]

Lot no *[insert Lot number]:* [*insert the description of the works/services/supplies*] …

**3.** We have enclosed the requested Revised Technical Proposal representing the required amendments and changes as agreed during the negotiations.

**4.** The Supplementary total tender price is:

*[If the object of contract is not divided in lots]*

**Tender price in figures**: [*insert tender price in figures* ***€****]*

**And in words** [*insert tender price in words* ***Euro****]*

*[If the object of the contract is divided in lots][[22]](#footnote-22):*

Lot no [*[insert Lot number]:* *[insert the tender price per lot, in figures and in words]*

Lot no [*[insert Lot number]:* *[insert the l tender price per lot, in figures and in words.] …*

**5.** This tender is valid for a period of *[insert number of days*] from the final date for submission of tenders.

**6.** [If our tender is accepted, we undertake to provide, as required, a performance guarantee prior to the signing of the contract of [*insert amount or percentage of guarantee*].

**7.** We note that the Contracting Authority is not bound to proceed with this invitation to tender and that it reserves the right to award only part of the contract and that it will incur no liability towards us should it do so.

**SUBMITTED BY**

|  |  |
| --- | --- |
| **Economic Operator Identification** | |
| **Company Name[[23]](#footnote-23)** |  |
| **Full Address** |  |
| **Represented by:** | |
| **Name& Surname** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

**[In case of Group of Economic Operators:]**

|  |  |  |
| --- | --- | --- |
|  | **Name(s)** | **Address-residency** |
| **Leader 1\*** |  |  |
| **Etc … \*** |  |  |

\* add/delete additional lines for partners as appropriate. *Note that a subcontractor is not considered to be a partner for the purposes of this tender procedure*.

**Name and surname name of the person duly authorised to sign the tender on behalf of the Consortium: [insert name and surname]**

**Signature: [signature of the authorised person]**

**Place and date: [insert place and date]**

**Stamp of the Leader:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_**

# Section II. PRICE DESCRIPTION

|  |
| --- |
| **Lot<Nr>** |
| **Item no.** | **Description** | **unit** | **qty** | unit price without VAT € | VAT (%) | unit price with VAT € | **total price with vat**  € |
| **1** |  |  |  |  |  |  |  |
| **2** |  |  |  |  |  |  |  |
| **etc.** |  |  |  |  |  |  |  |
| **Grand Total:** | | | | | | |  |

*[Add or remove as much as necessary]*

|  |
| --- |
| **Lot<Nr>** |
| **Item no.** | **Description** | **unit** | **qty** | unit price without VAT € | VAT (%) | unit price with VAT € | **total price with vat**  € |
| **1** |  |  |  |  |  |  |  |
| **2** |  |  |  |  |  |  |  |
| **etc.** |  |  |  |  |  |  |  |
| **Grand Total:** | | | | | | |  |

|  |  |
| --- | --- |
| **economic operator identification (eo)** | |
| **Name of EO:** |  |
| **name and first name of the representative of EO:** |  |
| **signature:** |  |
| **date:** |  |
| **Stamp:** |  |

1. To be reported on any document or request concerning this procurement activity. [↑](#footnote-ref-1)
2. Non applicable, where the criteria for contract award is specified as “the lowest price responsive tender” [↑](#footnote-ref-2)
3. Weights assigned to each criterion (in % - the total of all weights shall be equal to 100) [↑](#footnote-ref-3)
4. where P= Score for the tender, Ps= Lowest Price, Pt = tender price. [↑](#footnote-ref-4)
5. where O= Score for the tender, Os= Best Operating Cost, Ot = tender operating cost [↑](#footnote-ref-5)
6. If several characteristics are considered, describe weight and set evaluation method for each one. [↑](#footnote-ref-6)
7. where C= Score for the tender, Cs= Best characteristic score, Ct = tender characteristic score [↑](#footnote-ref-7)
8. It could be the number of sales-service points in the specified region, or the number of agents, or the number of technicians, etc… [↑](#footnote-ref-8)
9. where S = Score for the tender, Ss= Best TA marks, St = tender TA marks [↑](#footnote-ref-9)
10. If several characteristics are considered, describe weight and set evaluation method for each one. [↑](#footnote-ref-10)
11. where Q= Score for the tender, Qs= Best quality score, Qt = tender quality score [↑](#footnote-ref-11)
12. Incoterms 2010 International Chamber of Commerce [↑](#footnote-ref-12)
13. The language shall be the language used by the tenderers in this tender. [↑](#footnote-ref-13)
14. The language shall be the language used by the tenderers in this tender. [↑](#footnote-ref-14)
15. The language shall be the language used by the tenderers in this tender. [↑](#footnote-ref-15)
16. To be completed during the First stage tender. [↑](#footnote-ref-16)
17. Not applicable if object of the contract is not divided in lot(s). [↑](#footnote-ref-17)
18. Not applicable if object of the contract is not divided in lot(s). [↑](#footnote-ref-18)
19. In case of Group of EO insert the name of the leader [↑](#footnote-ref-19)
20. To be completed during the Second stage tender. [↑](#footnote-ref-20)
21. Not applicable if object of the contract is not divided in lot(s). [↑](#footnote-ref-21)
22. Not applicable if object of the contract is not divided in lot(s). [↑](#footnote-ref-22)
23. In case of Group of EO insert the name of the leader [↑](#footnote-ref-23)