

## ***SPECIAL CONDITIONS***

### **CONTENTS**

These conditions amplify and supplement, if necessary, the general conditions governing the contract. Unless the special conditions provide otherwise, those general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the articles of the general conditions. In exceptional cases, and with the authorisation of the appropriate Commission departments, other clauses may be added to cover specific situations.

#### **Article 2 Language of the contract**

- 2.1 The language used shall be English.

#### **Article 4 Communications**

- 4.1 Any written communication relating to this contract between the Contracting Authority and the Contractor must state the Contract title and identification number, and must be sent by post, fax, email or by hand to:

For the Contracting Authority:

National Authorising Office's Office,  
Ministry of Finance  
P.O. Box MB 40  
Accra – Ghana  
Attention of Mr. Ebenezer NORTEY – Head of EU/Europe/Americas Unit /  
Room G13 / Annex A

Email: enortey@mofep.gov.gh / ebennort75@gmail.com

For the Contractor:

For the European Union Delegation to Ghana

Delegation of European Union to Ghana  
81 Cantonments Road  
P.O.Box 9505, KIA Accra  
Ghana  
Attention of Head of Cooperation

Email: Delegation-ghana@eeas.europa.eu

- 4.2 An electronic system will be used by the contracting authority and the contractor for all stages of implementation including, inter alia, management of the contract (amendments and administrative orders), reporting (including reporting on results) and payments. The contractor will be required to register in and use the appropriate electronic exchange system to allow for the e-management of the contract.

The electronic management of the contract through the aforementioned system may commence on the date on which implementation of the contract starts, as described in Article 18 below, or at a later date. In the latter case, the

contracting authority will inform the contractor in writing that he will be required to use the electronic system for all communications within a maximum period of 3 months.

## **Article 6 Subcontracting**

- 6.3 When selecting subcontractors the contractor must give preference to natural persons or companies from ACP States capable of implementing the tasks required on similar terms.

## **Article 8 Assistance with local regulations**

The Office of the National Authorising Officer for EDF at the Ministry of Finance will provide the necessary assistance with local regulations and their implementing authorities.

## **Article 9 General obligations**

- 9.9 The activities must comply with the rules lay down in the Communication and Visibility Manual for EU External Actions published on the website of DG International Cooperation and Development: [https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions\\_en](https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en) .

## **Article 10 Origin**

- 10.1 All goods purchased must originate in a Member State of the European Union or a country covered by the 11<sup>th</sup> EDF programme. For these purposes, ‘origin’ means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the EU Customs Code or to the relevant international agreement applicable.

Goods originating in the EU includes goods originating in the Overseas Countries and Territories.

Under Lot 1: all supplies must originate in one or more of the above countries.

Under Lots 2 and 3: the rule of origin is not applicable. Nevertheless, the tenderer will have to provide a certification from an authorised distributor attesting the conformity of supplies to international standards.

## **Article 11 Performance guarantee**

- 11.1 The amount of the performance guarantee shall be 10 % of the total contract price, including any amounts stipulated in addenda to the contract.

## **Article 12 Liabilities and insurance**

All supplies shall be fully and adequately insured for their full replacement value and associated expenses in accordance with International and Republic of Ghana Law.

## **Article 18 Commencement order**

- 18.1 The contracting authority shall inform the contractor by administrative order of the date on which implementation of the tasks shall begin.

## **Article 19 Period of implementation of the tasks**

- 19.1 The implementation period of the tasks (supply, delivery, installation, training, after-sales services) shall finish no later than **240 days** after the date of the administrative order for commencement.

## **Article 25 Inspection and testing**

- 25.2 After installation of the equipment in final use, the Contractor shall demonstrate that all equipment conforms to the technical specifications.

## **Article 26 General principles for payments**

- 26.1 Payments shall be made in euros (EUR).

Payments shall be authorised and made by the **Ministry of Finance, P.O. Box MB 40, Accra**.

In the case of indirect management ex ante procedures and where invoices are presented to the authorities of the country of the contracting authority, the contractor must inform the European Commission at **Delegation of European Union to Ghana, 81 Cantonments Road, P.O.Box 9505, KIA Accra, Ghana**, thereof by sending a copy of the correspondence.

- 26.3 By derogation, the pre-financing payment shall be made within 60 days from the date on which an admissible invoice is registered by the contracting authority. The final payment to the contractor of the amounts due shall be made within 90 days following provisional acceptance of the goods, after receipt by the contracting authority of an admissible invoice.
- 26.5 In order to obtain payments, the contractor must forward to the authority referred to in paragraph 26.1 above:
- a) For the 40% pre-financing, the pre-financing guarantee, when (i) the pre-financing requested is equal or below EUR 300 000 **and** (ii) the contracting authority does not require a financial guarantee following a risk assessment<sup>1</sup>, by derogation from article 26.5 of the general conditions no pre-financing guarantee is required.
  - b) For the 60% balance, the invoice(s) in triplicate together with the request for provisional acceptance of the supplies.

## **Article 28 Delayed payments**

- 28.2 By derogation from Article 28.2 of the general conditions, once the deadline laid down in Article 26.3 has expired, the contractor shall, upon demand, be entitled to late-payment interest at the rate and for the period mentioned in the general conditions. The demand must be submitted within two months of receiving late payment.

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<sup>1</sup> Such risk assessment is required, for example, when a company is awarded a contract without itself meeting the selection criteria, but relying on the capacity of another company.

## **Article 29 Delivery**

- 29.3 The contractor shall bear all risks relating to the goods until provisional acceptance at destination. The supplies shall be packaged so as to prevent their damage or deterioration in transit to their destination.

The packaging shall become the property of the recipient subject to environmental considerations.

- 29.5/6/7 Supplies will be accompanied by set of documentation clearly written in English to cover the following but not be limited to (if applicable): installation manual; user manual; maintenance instructions; troubleshooting manual; applications manuals; a statement of performance characteristics, e.g. accuracy, sensitivity; health and safety information, etc.

## **Article 31 Provisional acceptance**

The certificate of provisional acceptance must be issued using the template in Annex C11.

By derogation from Article 31.2, second paragraph , the contracting authority's time limit for issuing the certificate of provisional acceptance to the contractor shall not be considered included in the time limit for payments indicated in Article 26.3.

## **Article 32 Warranty obligations**

- 32.6 The commercial warranty is an extension of the factory and/or supplier warranty for an additional period of 24 months after the end of the standard warranty period referred to in Article 32.7. This warranty will be provided for the items specified in the technical specifications. The extended warranty will guarantee the operation and reliability of the product under normal conditions of use. In case of malfunctioning of the equipment, the contractor will troubleshoot the problem within two working days after notification, overcome the problem within a period of ten working days, and fully repair and re-integrate the equipment within a period of 20 working days. The contractor shall at its own costs repair and/or replace the defective equipment/parts. If repair/replacement of defective parts is no longer possible, the Contractor will replace the product within 30 working days. No extra costs will be borne by the Contracting Authority. The Contractor will also provide free of charge technical support, whether or not through a helpdesk function, to the user. Moreover, the Contractor will notify and provide the user with free updates of firmware.

- 32.7 The warranty must remain valid for one year after provisional acceptance.

## **Article 33 After-sales service**

- 33.1 The service and maintenance contract, requested in the technical specifications of selected items, will provide for an annual site visit by the Contractor to inspect, and if necessary to repair, the product and implement a preventive maintenance programme, including cleaning, testing functionalities, and a status report of the product. If possible and available, the Contractor could remotely monitor the status and performance of the product. The last of the annual inspection visits will take place within three months before the end of the service and maintenance contract. The contractor will promptly perform on-site diagnostics and repairs after notification of malfunctioning of the product, if other solutions to solve the problem are of no avail. All costs related to labour

and travel, and for replacement parts and components, will be included. This service will be provided for 12 months after the date of provisional acceptance.

#### **Article 40 Settlement of disputes**

40.4 Any disputes arising out of or relating to this contract which cannot be settled

Any dispute arising out of or relating to this contract which cannot be settled otherwise shall:

- (a) in the case of a national contract, be settled in accordance with the national legislation of the state of the contracting authority; and
- (b) in the case of a transnational contract, be settled either:
  - (i) if the parties to the contract so agree, in accordance with the national legislation of the state of the contracting authority or its established international practices; or
  - (ii) by arbitration in accordance with the procedural rules on conciliation and arbitration of contracts financed by the European Development Fund, adopted by Decision 3/90 of the ACP-EEC Council of Ministers of 29 March 1990 (Official Journal No L 382, 31.12.1990, Annex a12 to the practical guide)

#### **Article 44 Data protection**

Not applicable

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