# *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/or the Project Manager, on the one hand, and the Contractor on the other must state the Contract title and identification number, and must be sent by post, fax, e-mail or by hand.

For the Contracting Authority:

|  |  |
| --- | --- |
| **Name:** |  |
| **Address:** |  |
| **Telephone:** |  |
| **Fax:** |  |
| **e-mail:** |  |

For the Contractor:

|  |  |
| --- | --- |
| **Name:** |  |
| **Address:** |  |
| **Telephone:** |  |
| **Fax:** |  |
| **e-mail:** |  |

For the Project Implementation Unit:

|  |  |
| --- | --- |
| **Name:** |  |
| **Address:** |  |
| **Telephone:** |  |
| **Fax:** |  |
| **e-mail:** |  |

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 9 General obligations**

9.9 The Contractor shall take the necessary measures to ensure the visibility of the European Union financing or co financing. These 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>.

**Article 10 Origin**

## 10.1 All goods purchased must originate from an eligible source country as defined in the Instrument for Pre-Accession Assistance (IPA II) 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.

## By derogation, the following items may originate from any country:

|  |  |
| --- | --- |
| 1 | Desktop Computer |
| 2 | Laptop Computer |
| 3 | Tablet |
| 4 | Keyboard with large keys |
| 5 | Large Trackball Computer Mouse |
| 7 | Color Ink Tank CISS Printer with compatible waste ink tank |
| 8 | Set of 4 ink colour bottles |
| 9 | Binding Machine |
| 10 | Binding Covers Color |
| 11 | Binding Covers Transparent |
| 12 | Plastic Binding Combs d 10mm |
| 13 | Plastic Binding Combs d12mm |
| 14 | Plastic Binding Combs d 14mm |
| 15 | Laminating Machine |
| 16 | Laminating Pouches A4 |
| 17 | Laminating Pouches A5 |
| 18 | Laminating Pouches A6 |
| 19 | Paper Trimmer |

**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 15 Sufficiency of tender prices**

15.1 Without prejudice to Article 15 of the General conditions, the goods to be supplied, as itemized and the overall prices, calculated on the basis of DDP, include the full cost of delivery of the goods to the place of destination, packing, insurance, transportation, the full cost of clearance formalities, storage, unloading, unpacking, installation, putting into operation, testing and inspection including all cost of consumables to make them ready for acceptance, any copy rights, or patent rights or license, warranty and training and training materials, if any, and manuals, fees, allowances, all kind of social charges, etc. of the staff and/or expert hired and assigned to service to be provided under this contract and any expenditure that such staff and/or expert will incur for execution of their activities during the operation, and excluding taxes and customs duties.

No price adjustment, which might occur as the result of a change in the price of labour, or any material components shall be applied, i.e. unit prices are fixed.

**Article 16 Tax and customs arrangements**

16.1 The European Commission and Montenegro have agreed in the Agreement between the Government of Montenegro and the European Commission on the arrangements for implementation of Union financial assistance to Montenegro under the Instrument for Pre-Accession Assistance (IPA II) (Official Gazette of Montenegro, International agreements, No. 05/2015) to allow full exemption from the following taxes:

• Customs duties, import duties, taxes or fiscal charges having equivalent effect;

• Value added tax, documentary stamp or registration duties or fiscal charges having equivalent effect.

**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**

19.1The period of implementation of tasks, starting from the date stipulated in the Commencement Order and ending on the day of issuance of the certificate of Provisional Acceptance will last 132 calendar days.

**Article 25 Inspection and testing**

25.2 The inspection and testing prior to the provisional acceptance will take place at the locations where the equipment is delivered, installed and put into operation. The inspection and testing of all equipment will start and be completed within a maximum of 30 calendar days after the date of signing the Handover certificate. During the testing period the Beneficiary will inform the Contractor about the possible problems related to devices. The Contactor has obligation to respond to those requirements and to help to resolve the problem. In case of the malfunctioning of the supplied goods the Supplier must resolve the situation within 30 calendar days either by repair of the good or by replacement of the good supplied.

**Article 26 General principles for payments**

26.1 Payments shall be made in euros.

Payments shall be authorised and made by The Ministry of Finance of Montenegro, The Directorate for Finance and Contracting of the EU Assistance Funds, Stanka Dragojevića 2, 81 000 Podgorica, Montenegro

26.3By derogation, the final payment to the contractor of the amounts due shall be made within 90 days after receipt by the contracting authority of an invoice and of the application for the certificate of provisional acceptance.

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[[1]](#footnote-1), by derogation from article 26.5 of the general conditions no pre-financing guarantee is required.

b)For the 60 % balance, the invoice(s) together with the request for provisional acceptance of the supplies.

**Article 28 Delayed payments**

28.2By 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.

**Article 29 Delivery**

29.3The packaging shall become the property of the recipient subject to environmental considerations.

29.5/6/7 The documents which have to accompany the delivery include:

* + 1. A detailed packing list identifying the contents of each package;
    2. Usual transport document;
    3. Technical documentation/operating instructions and certificates, as specified in the Technical Specifications (Annex II);

d) Statement drawn up by the Contractor which must attest that the delivered goods are new, in working order and compliant with all technical specifications of the Tender dossier. This statement must use the following wording:

“<Full official name of Contractor> attests that the delivered goods are new, in working order and compliant with all technical specifications of the Tender dossier.”

The package should bear the following identification:

Contract Title: **Purchase of teaching aids and IT equipment for schools in Montenegro**

Identification number: CFCU/MNE/xxx

(Number and Description of Item)

(Address of the place of delivery)

**Article 31 Provisional acceptance**

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

The Contractor shall deliver to the Contracting Authority, together with the request for provisional acceptance, 3 copies of the Provisional Acceptance Certificate signed by the Contractor, as well as the official Certificate of Origin for all delivered supplies. The request for provisional acceptance to the Project Manager (Contracting Authority) should take place before the deadline specified in the Article 1 of the Contract. The Provisional Acceptance Certificate shall be issued by the Contracting Authority as stipulated in Article 31 of the General Conditions.

The Contracting Authority may appoint its representative to perform provisional acceptance/inspection on its behalf. With provisional acceptance, the Beneficiary Institution acquires full title and ownership to the goods supplied and the right to make full and unimpaired use of the supplies delivered.

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, and a certificate of provisional acceptance has been issued or is deemed to have been issued.

**Article 32 Warranty obligations**

32.6 The commercial warranty is to be provided for the item no. 1 - Desktop Computer and must remain valid for the period of 2 years as specified in the Technical Specifications (Annex II).

32.7 The warranty must remain valid for one year after provisional acceptance. The Contractor shall warrant that the supplies are new, unused, of the most recent models and incorporate all recent improvements in design and materials. The Contractor shall further warrant that none of the supplies have any defect arising from design, materials or workmanship.

**Article 40 Settlement of disputes**

40.4 Any disputes arising out of or relating to this contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of responsible courts of Montenegro in accordance with the national legislation of the state of the contracting authority.

**Article 44 Data protection**

1. Processing of personal data related to the implementation of the contract by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

2. To the extent that the contract covers an action financed by the European Union, the Contracting Authority may share communications related to the implementation of the contract, with the European Commission. These exchanges shall be made to the Commission, solely for the purpose of allowing the latter to exercise its rights and obligations under the applicable legislative framework and under the financing agreement with the Partner country – contracting authority. The exchanges may involve transfers of personal data (such as names, contact details, signatures and CVs) of natural persons involved in the implementation of the contract (such as contractors, staff, experts, trainees, subcontractors, insurers, guarantors, auditors and legal counsel). In cases where the contractor is processing personal data in the context of the implementation of the contract, he/she shall accordingly inform the data subjects of the possible transmission of their data to the Commission. When personal data is transmitted to the Commission, the latter processes them in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC[[2]](#footnote-2) and as detailed in the specific privacy statement published at ePRAG.

\* \* \*

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