# *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

**Contact details for the Contracting Authority: Contract details for the Contractor:**

Mr. Erdem Demiroz. Contact person.....................................

Project Coordinator Title…………………………………..

Address: Edirne Cad. No:1 Address:……………………………...

39010, Kirklareli, Turkey ……………………………………….

Email: kirklareli@ogm.gov.tr

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 7 Supply of documents**

The Contractor should provide to the Project Manager copies from the warranty documents, certificates of the products and of the company relating to the equipment.

**Article 8 Assistance with local regulations**

The European Union Commission and Republic of Turkey signed the IPA Framework Agreement on 11.02.2015 (this FWA adopted as law (no: 6647) by Turkish Parliament on 04 April 2015, which  has been put into force by the government decree, no 2015/7708 that was published in Official Gazette no: 29393, dated 21 June 2015) to fully exonerate the following taxes: Value Added Tax (VAT), Special Consumption Tax (SCT), Motor Vehicle Tax, Special Communication Tax, and/or taxes of equivalent effect, stamp or registration duties, special charges or any other charge having equivalent effect. Please refer to the articles 27&28 of the Framework Agreement and the Communiqués issued by:

* The Ministry of Trade (MoT) thereto for further information, especially for exemption scope and implementation procedure, which are available at the MoF’s website at: <http://www.gib.gov.tr/sites/default/files/uluslararasi_mevzuat/1_SIRA_NOLU_IPAII_GENEL_TEBLIGI_TR.pdf>.
* The Ministry of Trade (MoT) thereto for further information, especially for facilities extended for customs clearance, which is available at the MoCT’s website at: [http://mevzuat.basbakanlik.gov.tr/Metin.Aspx?MevzuatKod=9.5.14369&Mevzuatiliski=0&sourceXmlSearch=Türkiye- AB Katılım Öncesi Yardım Aracı, published in the Official Gazette of Turkey, No:27730, on 15.10.2010.](http://mevzuat.basbakanlik.gov.tr/Metin.Aspx?MevzuatKod=9.5.14369&Mevzuatiliski=0&sourceXmlSearch=Türkiye-%20AB%20Katılım%20Öncesi%20Yardım%20Aracı,%20published%20in%20the%20Official%20Gazette%20of%20Turkey,%20No:27730,%20on%2015.10.2010.%20)

The contractor shall, within two weeks from the commencement of the contract, contact the contracting authority in order to receive information about the taxes and customs arrangements. The contractor will use its best endeavours to facilitate customs procedures and the freedom from clearance and taxes in accordance with Annex V – Taxes and Customs Arrangements.

**Article 9 General obligations**

9.9 The Contractor must take necessary measures to ensure the vısıbılıty of the EU funding and the co-financing of the project. These visualization 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> and with the visualization rules of the Interreg-IPA CBC Bulgaria – Turkey Programme 2014-2020 <http://www.ipacbc-bgtr.eu/>.

**Article 10 Origin**

## 10.1 All goods purchased must originate in a Member State of the European Union or a country covered by the 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.

**All supplies under this contract may originate from any country.**

**Article 11 Performance guarantee**

11.1 No performance guarantee is required.

**Article 12 Liabilities and insurance**

12.1(a) ‘By way of derogation from Article 12.1(a), paragraph 2, of the general conditions, compensation for damage to the supplies resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to the contract value..

12.2(b), paragraph 2 This type of insurance will vary depending on the nature of transport (land, air or sea) and the nature of the risks to be covered: loading, intermediate storage, unloading, including stowage and protection, theft, damage, loss, wetting, etc.

In the case of use of Incoterms, the contractor shall provide transport insurance to the extent that it assumes transportation risks. The question of the extent of the risks assumed by the contractor (seller) depends in particular on the Incoterms used:

* ***DDP - Delivered Duty Paid****:* Incoterm which imposes on the seller maximum obligations vis-à-vis transportation and loss risks and damage associated with the goods:

*‘the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.’[[1]](#footnote-1)* The transfer of risks and costs occurs at the place of unloading of the goods at the agreed place of destination.

**Article 13 Programme of implementation of tasks**

13.2 The contractor will have 10 days from signing of the contract by the two sides for delivery of the equipment.

**Article 16 Tax and customs arrangements**

16.1 Not applicable.

**Article 17 Patents and licences**

17.1 Not applicable.

**Article 18 Commencement order**

18.1The period of implementation of tasks will commence on the date of the signature of the contract by both parties.

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

19.1The supply, delivery, installation, testing, inspection and training of goods will be completed 4months (120 days) starting from the date of commencement of the contract.

**Article 24 Quality of supplies**

The Technical Specification describes the minimum requirements. Participants should offer equipment fully covering or exceeding the minimum parameters and functionalities set out in this specification.

24.3 At each reference to a standard, specification, technical evaluation, technical approval or technical standard above, the Contracting Authority shall also accept the equivalent (s).

24.5 For those specified in the Technical Specification: specific standard, specification, technical evaluation, technical approval, technical standard, specific process or method of manufacture, specific model, source, specific process that characterizes the product or service, trademark, patent, type, specific origin or read production to be supplemented by the words "or equivalent".

**Article 25 Inspection and testing**

25.2 The inspection and testing of all supplies will be started and completed within a maximum of 30 calendar days after each delivery phase by the beneficiary. During the inspection and testing procedure, the quantities, the technical performances the technical specifications and technical documentation will be verified. At least one week before the completion of delivery, the supplier will inform the contracting authority and the beneficiary about the possible schedule for inspection and testing procedures.

**Article 26 General principles for payments**

26.1 Payments shall be made in euros.

Payments shall be authorised and made by Contracting Authority.

26.3 By derogation, the pre-financing payments shall be made within 90 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:

[if the total contract price is below EUR 60 000:]

[By derogation from article 26.5 of the general conditions, no pre-financing guarantee is required.]

[if the total contract price is above EUR 60 000:]

[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[[2]](#footnote-2), 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 machinery under every lot should be delivered accompanied with the full set of documents, listed herein, as well as a delivery protocol.

**Article 31 Provisional acceptance**

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

31.2. By derogation, the contractor may apply, by notice to the project manager, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The project manager shall within 45 days of receipt of the contractor's application either:

* 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 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 contractor for the certificate to be issued.

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 contractor shall at its own cost make good the defect or damage as soon as practicable for a period of 2 years after the provisional acceptance (contractor warranty). During the contractual warranty period, the contractor shall also provide preventive maintenance service and repairs at its own cost.

After the contractual and commercial warranty periods expired, the contractor shall guarantee to provide technical support services at beneficiary’s cost for 2 years.

In case a preventive maintenance session has to be executed then the contractor shall inform the beneficiary at least 48 hours in advance of his intervention.

In the contractual warranty period the contractor has to troubleshoot the problem within 24 hours of the request, overcome the problem within 10 working days, and fully repair and re-integrate within maximum 30 working days. If the reparation of the broken equipment/part is not possible, the contractor shall replace that equipment/part with another equipment/part of the same trademark and same or higher model. No additional cost shall be borne by the contracting authority or the beneficiary. The contractor shall provide maintenance and repair services in Turkey.

32.7 The warranty must remain valid for two years after provisional acceptance.

**Article 33 After-sales service**

33.1 Not applicable.

**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 Kirklareli, Turkey in accordance with the national legislation of the state of the contracting authority.

**Article 44 Data protection**

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.

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1. See http://www.iccwbo.org/incoterms/ [↑](#footnote-ref-1)
2. 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-2)