

## ***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:**

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E-mail:	<a href="mailto:kirs@kirs.gov.rs">kirs@kirs.gov.rs</a>

##### **For the Contractor <Please note: to be specified after the contract award>:**

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 7 Supply of documents**

Any specific documents, other than those described in Article 11 of the Instruction to Tenderers, for submission by the Contractor to the Contracting Authority, are referred to in the Technical Specifications.

## **Article 9 General obligations**

- 9.9 The contractor shall take the necessary measures to ensure visibility of the European Union financing or co-financing. These activities must comply with the rules laid 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 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.

## **Article 11 Performance guarantee**

- 11.1 The amount of the performance guarantee shall be **10 %** of the total contract price (as given in Annex IV), including any amounts stipulated in addenda to the contract.

## **Article 12 Liabilities and insurance**

- 12.1(a) Without prejudice to Article 32 (warranty obligations) and Article 38 (force majeure), the contractor shall assume (i) full responsibility for maintaining the integrity of the supplies and (ii) the risk of loss and damage, whatever their cause, until the final acceptance as foreseen in Article 34.
- 12.2(b), paragraph 2 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 DDP - Delivered Duty Paid: Incoterm.
- 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**

- 13.1 The Contractor shall submit to the Project Manager for approval, following the notification of award of contract and before the commencement date for the

implementation of tasks an accurate and detailed programme of performance as stipulated in Article 13.1 of the General Conditions. When preparing the programme the Contractor shall refer to the **Specific tender requirements – Annex II-B**. The said programme must be clear and with enough detail to allow the Contracting authority to be sure that the Contractor fully understands and can fulfil all the particularities of this supply Contract and throughout the implementation period. The programme can be submitted in English or Serbian language.

No separate payment shall be made for the preparation/updating as requested of such a programme and the Contractor shall allow for the associated costs elsewhere in his tender.

- 13.2 The Project Manager shall make comments and/or objections concerning the Programme supplied by the Contractor within 14 calendar days of its submission. It shall be considered that all these comments and/or objections are accepted by the Contractor, if he should not contradict them in writing, either by registered letter, fax or e-mail sent to the Project Manager, within 7 calendar days of their receipt. The absence of any comments and or objections from the Project Manager within the 14 calendar days above shall be deemed to be approval.

#### **Article 14 Contractor's drawings**

- 14.1 Not applicable.

#### **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.

#### **Article 16 Tax and customs arrangements**

- 16.1 The European Commission and the Republic of Serbia have agreed in the Framework Agreement signed on 29/11/2007 to fully exonerate the following taxes: customs duties, import duties, taxes or fiscal charges in connection with import, value added tax, documentary stamp or registration duties or fiscal charges having an equivalent effect.

#### **Article 17 Patents and licences**

- 17.1 There is no derogation from Article 17 of the General Conditions.

## **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 shall run from the Commencement date in accordance with Article 18 of the Special Conditions and end no later than 15 months calculated in calendar days, and no later than June 12, 2021.

## **Article 24 Quality of supplies**

- 24.1 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 shall be held at the disposal of the contracting authority or the project manager for the purposes of identification throughout the period of execution.

The Contractor shall be required to meet strict quality standards, parameters and criteria both in terms of the quality of the supplied products and in terms of the service provided including but not limited to delivery, timeliness, hygiene, transport, staff training, etc.

The Contractor shall insure that food quality, quantity and targeted Kcal are met all the time in all 16 reception centers.

The Contracting Authority reserves the right to demand the improvement of any service provided by the Contractor, if in their opinion such a service is not up to standard. Any meal which is or appears to be inferior in quality, appearance, taste or smell, would be refused by the Contracting authority – Food field officer or other delegated personnel. In the latter case, **substitute meal** / meals must be provided within a maximum of **three hours**. Such replacement can include the purchase of alternate meal (especially in the case where the meal needs to be served immediately) from other service providers at the expense of the current contractor.

The Contractor and the Contracting Authority shall hold meetings at any time at the request of either party in relation to the quality of the products and services or to discuss any problems that may have arisen, improvements that may be required in performance of the tasks, eventual complaints by beneficiaries and decide upon the appropriate remedy to redress such complaint.

## **Article 25 Inspection and testing**

- 25.2 The Contracting Authority will monitor on a regular basis the quality of hygiene conditions, food management and distribution and ensure hygiene test be carried out by a specialised testing company.

Regular food inspection for testing of quality, appearance, taste and portion size, shall be held at the discretion of the Contracting Authority. The Contracting Authority or his representative shall also have the right to inspect on a regular basis, the chosen Contractor's facilities and any other location involved in the provision of the meal supply to ensure that the conditions of the Contractors and the standard of service and supply is being followed.

The Contractor shall also be subject to periodical inspections by the Public Health institution to ensure that local regulations are rigorously observed and that the overall environment upholds the highest hygienic standards.

The Contractor shall be responsible to perform, at its own expense, **once every two weeks a bacteriological analysis** of each of the constituents of a full Meal, or as otherwise directed by the Contracting Authority and/or the Health Authority. The tests/analysis are to be conducted at a certified laboratory. Contracting Authority may at its own discretion order additional checks to measure compliance with hygienic requirements of the kitchens and of the actual food to ensure that food quality, quantity and targeted Kcal are met all the time in all 16 centers.

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

- 26.1 Payments shall be made in **RSD**. The exchange rate to be used for invoicing shall be in accordance with the National Bank of Serbia's buying exchange rate (EUR/RSD) on the date of monthly invoicing.

The payments shall be made to the bank account mentioned on the financial identification form completed by the Contractor.

Payments shall be authorised and made by the **Department for financial-material operations – Commissariat for refugees and migration** („Odsek za finansijsko materijalne poslove – Komesarijat za izbeglice i migracije, Narodnih heroja 4, 11070 Belgrade, Serbia).

- 26.5 In order to obtain payments, the contractor must forward to the authority referred to in paragraph 26.1 above:

a) **Monthly Report** - to be produced **by the 5<sup>th</sup> of the current month for the previous month**, from the start of implementation. The monthly reports must be accompanied by corresponding invoices and are bases for **monthly payments**. The specification on the invoice should be per reception center, per day and per meal quantity delivered. Payments will be made within 15 days after the submission of above documents and issued Monthly Final acceptance certificate (see 31.1).

The procedure for VAT exemption at the Tax administration shall be communicated to the Contracting authority before the issuance of the commencement order.

b) **Final report shall summarise the monthly reports**. The structure of the final report will be additionally communicated to the Contractor. The final report must also be provided along with the corresponding invoice and is obligatory for the execution of the final payment. Final payment will be made within 15 days after the submission of above documents.

The reports referred to above must be submitted to the project manager identified in the contract. The project manager is responsible for approving the reports.

### **Verification of the quantities of supplies delivered**

The contractor shall put in place a system to record the consumption of meals in order to proceed with the monthly reporting and invoicing. The Contractor shall be required to submit a detailed report on meal consumption, specifying meals ordered and meals served at the end of each calendar month. This information will be cross checked by the delegated Contracting Authority staff member. The Contractor shall also make record on any difficulties encountered or expected, suggestions for the improvement of the execution of the supply etc.

26.9 This contract does not include a price revision clause.

## **Article 29 Delivery**

29.1 Delivery time will be as follows:

Type of meal	Time of distribution/serving
Breakfast	07:30 – 09:00
Lunch	12:00 – 13:30
Dinner	18:30 – 20:00

Subject to Contracting Authority's decision, the delivery and serving time can change with 3 day prior notice given to the Contractor.

The meals shall be well prepared, fresh, nutritious and taking into account the varying tastes of the multicultural beneficiaries. It is the responsibility of the contractor to ensure on-time delivery.

For food delivery and serving, the Contractor shall provide adequate staff which must fulfil with sanitary and health conditions prescribed by the Law.

### **Food order delivery**

The chosen Contractor shall be responsible for putting in place a data collection system to process the meal orders originating from each reception center.

The exact number of daily meal requirements / quantities are communicated by the Contracting Authority on a daily basis and will be confirmed to the Contractor within the agreed cut-off time (usually within 24 hours) and could vary per location and per type of meal. The Contracting Authority shall have the right to contact the chosen Contractor's representative and to request the supply of extra Meals in case of urgent admission and last minute changes. This communication shall be done first in writing and then re-confirmed verbally in enough time for the chosen Contractor to be able to produce the requisite meals in time.

The Contractor should be able to decrease and increase the production and delivery of meals up to 25% variation per reception center (on totality of meals) on short notice (24 hours) as per the Contracting Authority request without changes in price.

In case Contracting Authority is closing a Reception Centre, it will give 10 day notice to the Contractor.

29.2 Without prejudice to Article 29.2 of the General conditions, the Contractor shall enable that:

- The prepared meals at facility of the Contractor are stored in appropriate containers and transported in appropriate vehicles to each of the reception centers. Transportation of food should strictly follow Serbian regulation.
- The vehicles used for the transport of meals to the reception centers are to be duly certified as being suitable for the transportation of food. Meals have to be maintained in warm state; therefore the vehicles must be capable of transporting food at the prescribed temperatures.

## 29.5 **Delivery note**

Each delivery shall be accompanied by a delivery note in duplicate, duly signed and dated by the Contractor or his carrier, giving the Order number and particulars of the goods delivered. One copy of the delivery note shall be countersigned by the Contracting Authority's representative at the reception center and returned to the Contractor or to his carrier.

Signing of the delivery note by the Contracting Authority is simply an acknowledgment of the fact that the goods have been delivered and in no way implies conformity of the goods with the Order.

## **Article 31 Provisional acceptance**

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

- 31.1 The supplies shall be taken over by the Contracting Authority when they have been delivered in accordance with the Contract, have been installed or have been commissioned as the case may be, have satisfactorily passed the required tests, and a certificate of provisional acceptance has been issued or is deemed to be issued. The Contracting Authority may appoint its representative to perform provisional acceptance /inspection on its behalf.

With provisional acceptance, the Beneficiary Institutions acquires full title and ownership to the goods supplied and the right to make full and unimpaired use of the supplies delivered.

Provisional acceptance of supplies i.e. meals delivered and served at reception center will be issued **daily for each meal and at each reception center** under the condition in paragraph 1 of this article and article 24.1 paragraph 4. The Certificate is signed by the representative of the Contracting authority and the Contractor or its representative.

Issued daily Provisional acceptance certificates are precondition for issuing a Monthly Final acceptance certificate.

## **Article 32 Warranty obligations**

- 32.6 No additional obligations under the warranty are applicable to this Contract.

## **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 the courts of Belgrade, Serbia 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<sup>1</sup> and as detailed in the specific privacy statement published at ePRAG.

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<sup>1</sup> OJ L 205 of 21.11.2018, p. 39