

# ***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 For the Contracting Authority at the time of tendering**

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#### **For the Contractor**

## **Article 7 Supply of documents**

7.1 The Contractor shall supply all the relevant manuals and documents related to the items listed in the **Technical Specifications** and **Technical Offer** not later than one (1) month before the end of the period of implementation of tasks for review and approval by the Contracting Authority.

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

8.1-8.4 Mandatory procedures are to be followed in order to allow for the import of the goods on the island. These are available at the Jamaica Customs website at: [http://www.jacustoms.gov.jm/home\\_template.php?page=duties&](http://www.jacustoms.gov.jm/home_template.php?page=duties&)

Waiver of duty and taxes upon entry of goods require the approval of the Ministry of Finance and the Public Service. The **Contractor** is required to submit a Proforma Invoice as well as the specifications for the goods to the **Contracting Authority** for processing, five (5) days after signing the contract, to facilitate approval by the Ministry of Finance and the Public Service.

The goods should not be shipped until the approval for duty and tax-free entry is received from the Contracting Authority.

Notwithstanding waivers of duties and taxes, the payment of fees will be applicable during the customs clearance and import procedures. These fees will be borne by the **Contractor**, which include, but are not necessarily limited to, the following:

- Standard Compliance Fee (SCF)
- Processing Fee
- Environmental Levy

The **Contractor** is required to verify any applicable fees on the Jamaica Customs website: [http://www.jacustoms.gov.jm/home\\_template.php?page=duties&](http://www.jacustoms.gov.jm/home_template.php?page=duties&)

## **Article 9 General obligations**

9.9 The contractor must comply with the minimum obligation toward visibility laid in the Communication and Visibility Manual for EU External Actions.

## **Article 10 Origin**

10.1 All goods purchased can originate in any country.

## **Article 11 Performance guarantee**

11.1 The amount of the performance guarantee shall be **5%** of the total contract price, including any amounts stipulated in addenda to the contract.

## **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.

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

12.2(a), paragraph 1 By derogation from Article 12.2(a), paragraph 1, of the general conditions, upon the signature of the contract by the last party, the contractor shall ensure that itself, its personnel, its subcontractors and any person for which the contractor is answerable, are adequately insured with insurance companies recognized on the international insurance market, unless the contracting authority has given its express written consent on a specific insurance company.

12.2(a), paragraph 2 By derogation from Article 12.2(a), paragraph 2, of the general conditions it is upon the signature of the contract by the last party that the contractor shall provide the contracting authority with all cover notes and/or insurance certificates showing that the contractor's obligations relating to insurance are fully respected.

12.2(b), paragraph 2 The Contractor shall provide insurance to cover risks until the final place of destination. The nature of the risks to be covered includes, but is not necessarily limited to, transportation, loading, intermediate storage, unloading, including storage and protection, theft, damage, loss, and wetting. 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 shall submit to the Contracting Authority for approval, within 15 days from the date of signature of the Contract, a detailed programme of performance as stipulated in Article 13.1 of the General Conditions.

The programme should show, among other things and if applicable, the latest dates for: (a) completion of sourcing of goods, (b) shipping, arrival in country, custom clearance (if applicable), (c) arrival at place of acceptance and provisional acceptance and (d) provision of two (2) day training.

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

14.1 The Contractor shall supply all the relevant manuals and documents related to the items listed in the Technical Specifications and Technical Offer not later than one (1) month before the end of the period of implementation of tasks for review and approval by the Contracting Authority.

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

16.1 Delivery conditions are **DDP** as mentioned in the General Conditions (Annex 1).

### **Article 18 Commencement order**

18.1 The implementation of the tasks is to commence on the date of signature by the last party.

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

19.1 The implementation period of the tasks is **six (6) months** from the signature of the contract by the last party to provisional acceptance.

## **Article 24 Quality of supplies**

24.2 No preliminary technical acceptance is required.

## **Article 25 Inspection and testing**

25.2 The goods to be inspected and tested upon delivery at **the Rural Agricultural Development Authority, Hope Gardens, Kingston 6** (Contact: Mr. Vaughn Barnaby, Senior Director, Strategic Planning, Performance & Project Management Directorate).

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

26.1 Payments shall be made in Jamaican dollars.

26.3 By 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:

- One original of the Contract document counter-signed by the Contractor shall be returned to the Contracting Authority.
- Submission of the contractually required Performance Guarantee by the Contractor and approved by the Project Manager.
- Submission of certified copies of the cover notes and/or certificates from the insurance policies taken by the Contractor to cover for the liabilities and instance requirements stipulated in Article 12 of the Conditions of Contract. The Contractor's insurance policies require the approval of the Contracting Authority.
- By derogation from article 26.5 of the general conditions, no pre-financing guarantee is required.
  - 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.

26.9 The contract does not include a price revision clause.

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

## **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 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 Jamaica 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, personnel, 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