

## ***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 Communications about the contract by the contractor to the Contracting Authority will be in writing and addressed to the attention of \_\_\_\_\_ indicating the contract reference number; a scanned copy will be sent to the following email address: \_\_\_\_\_.

#### **Article 6 Subcontracting**

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

#### **Article 7 Supply of documents**

- 7.1 The Contractor takes full responsibility of the implementation of tasks in order to successfully achieve the scope of the contract. So, he could decide to perform a sites survey before the effectiveness of the contract. The Contractor will submit a final plan of activities agreed with the Contracting Authority, stamped and signed by the legal representative. The final activity plan will indicate the human resources and all the other means intended to use. This plan must take into account the operational needs of the Health Facilities where equipment and services are delivered and minimize any inconvenience arising from the execution of the contract. The activity plan should also put in evidence any civil works to be performed by the Health Facilities before the delivery of the equipment. Any needed civil works that are not mentioned in the activity plan and agreed with the Contracting Authority will be at charge of the Contractor, without any reimbursement.
- 7.2 The Contracting Authority shall approve the activity plan after its submission or may propose modifications. If the Contracting Authority will not respond, the activity plan will be considered approved by silent consent. In the event of request of modification, the contractor could propose modifications to the activity plan. If modifications will not be submitted for approval, the Contractor may incur in the sanctions as provided for in the following Article 21 – Delays in implementation of the tasks and also in the contract General Conditions.

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

- 8.1 The Visa, for a period of 90 days can be obtained at immigration offices at borders of the country under payment of the fees settled by the Sudan Government.
- 8.2 The Contracting Authority will take all the necessary steps to provide the Contractor with all the necessary documents for the tax exemption and custom clearance

## **Article 9 General obligations**

- 9.1 The contractor shall take the necessary measures to ensure the visibility of the Italian Cooperation Financing. These measures must comply with the requirements settled down in the article 29.5

## **Article 10 Origin**

- 10.1 All goods purchased must originate from any country. For these purposes, 'origin' means the place where the goods are mined, grown, produced or manufactured. 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 10 % of the total contract price, including any amounts stipulated in addenda to the contract.
- 11.7 The performance guarantee shall be released within 60 days of the issuing of the signed final acceptance certificate for its total amount except for amounts which are the subject of amicable settlement, arbitration or litigation.

## **Article 12 Liabilities and insurance**

- 12.1 All risks insurance: Subject: "warehouse to warehouse"; Amount: 110% of DDP (Delivery Duties Paid– Incoterms 2020) value in Euro must be included in the DDP prices. Insured parties: Insurance should be made in the name of the Contracting Authority. Coverage period: From the date of commencement of activities to date of provisional acceptance.

## **Article 13 Programme of implementation of tasks**

- 13.2 Within 10 days from the notification signature of the contract the contractor will send to the Contracting Authority a timetable of activities to come, with indication of duration, date, means and units of Human resources appointed to undertake the task. The Project Manager will approve by AICS the Programme of Implementation of tasks.

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

- 14.1 The Contractor will provide the final user with a complete set of technical drawings for installation, including the electrical drawings of every component with service manual in English language.

## **Article 15 Sufficiency of tender prices**

- 15.1 No revision of tender prices is allowed and the Contractor is deemed to have evaluated with diligence every cost component arising from the implementation of contract tasks.

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

- 16.1 Delivery conditions are DDP incoterms 2020.

## **Article 17 Patents and licences**

- 17.1 All Licence for software utilization and updates have to be in the name of the final User.

## **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 period of implementation of task is 45 days from the commencement date.

## **Article 21 Delays of implementation of the tasks**

- 21.4 If the authorized local service in charge of the after-sale and maintenance service does not provide the service according to the deadline established in the Technical Specifications, it will be subject to penalties. This penalty for such delay is set to 50 Euro per day and up to a maximum of 1 % of the value of the contract. The amount corresponding of the total delays will be deducted from the Performance Guarantee or any other payment due to the contractor.

## **Article 24 Qualities of Supplies**

- 24.4 The supplies shall have valid FDA approval, CE marked and shall be compliant with IEC 60601 last revision standard, IEC 61010-1 EU Directive 93/42/CEE MDD where expressly indicated in the technical Specification form.
- 24.5 The Tenderer shall warrant that all supplies have no defect arising from design, materials or workmanship.
- 24.6 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 25 Inspection and testing**

- 25.2 The place to inspect and test the goods will be the place of final destination at the presence of the final user, the donor and the contractor representatives.
- 25.4 The Contractor shall test, calibrate and commission the goods, in presence of the Contracting Authority, as appropriate and in such way that, upon installation completion, they are fully operational and ready for use.

- 25.9 the Contractor shall cover all official testing and commissioning procedure costs including costs for instrumentation and materials.
- 25.10 Only specialized and qualified personnel by the contractor will install and test the supplies.
- 25.11 The contractor will submit to the Contracting Authority and the final user the complete set of reports of installation.

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

- 26.1 Payments shall be made in euros. Pre-financing is applicable to this contract. Payments shall be authorised by AICS Khartoum Office and made by AICS Central Office.
- 26.3 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.
  - 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 price revision.

## **Article 29 Delivery**

- 29.1 The Contractor shall bear all risks relating to the goods until final acceptance at destination. The supplies shall be packaged so as to prevent their damage or deterioration in transit to their destination
- 29.3 The packaging shall remain the property of the contractor subject to environmental considerations.
- 29.4 The Supplier shall mail to the Contracting Authority, with a copy to the Insurance Company all the documents necessary to the delivery of the goods (the list of these documents will be defined at the moment of the contract signature).
- 29.5 Sticker with the Logo of the Donor (see Pattern – Dimension of minimum 20 cm – lower side or if rounded consider the radius) must be placed on each package of the items described in Article 1.1 of the Instruction to the Tenderers, with the words: Grant of AICS.

## **Article 30 - Verification operations**

- 30.6 The Contractor will provide reconstruction of the whole floors, walls, finishing and any other damage or need for adaptation/repair of the rooms/building. This means, but it is not limited to, also the fixed furniture and finishing and the installations (including electrical power, data network, medical gases, air conditioning, water supply and drainage, etc.) possibly affected by the supply, as well as all other damages caused during the installation works.

- 30.7 Any damage to hospital structures, finishing or installations caused by the supplier/installer shall be repaired by the supplier/installer within 2 weeks using the same construction materials of the damaged areas and restoring all the previous services with the same supply quality.
- 30.8 The Contractors shall install, put in perfect operating conditions and ready to use the offered medical equipment, including the calibration of the systems to ensure the best digital images quality.
- 30.9 The Contractor shall perform on the contract with due care and diligence, providing for the delivery, assembly, testing and start-up of the equipment, including correction of any defects. The Contractor must have skilled manpower equipped with appropriate tools to properly execute the contract.

### **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**

- 32.2. Unlimited *On demand* interventions shall be included for any defect covered by the warranty according to the Technical Specification in Annex II. The interventions will include spare parts.
- 32.10 Spare parts, consumables and maintenance services Availability of spare parts, consumables and maintenance services must be guaranteed for not less than 10 years from the date of signature of the contract.

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

- 33.2 The Contractor shall provide, for all the articles supplied, the provision of reliable and regular aftersales and maintenance service at the place of installation, guaranteeing repair of the goods supplies during 12 months period after Provisional Acceptance.
- 33.3 This service has to be conducted according to the requirements indicated in Annex II and III. Such service will make available timely the necessary spare parts, reagents and consumables through a commercial relationship with the producer.

- 33.4 Except for what differently provided in the technical specifications (annex II to the contract), the after sales service is comprehensive of 2 mandatory interventions per year. After Sale service shall include regular preventive maintenance/safety and functionality checks / QA as per Manufacturer's recommendations

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

- 40.1 Any disputes arising out of or relating to this contract, which cannot be settled, otherwise shall be referred to the exclusive jurisdiction of Italy in accordance with the national legislation of the state of the contracting authority.

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

- 44.1 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.
- 44.2 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