



Support Migrants and Host Communities in improving access to Safe Water and Sanitation

ABAC Reference: T05-EUTF-HOA-SDN-11-01
CUP J89D16003140002

WORKS CONTRACT

Ref.: **SDN11 – CUP J89D16003140002 – CIG Z0C2A9608C - Det. n.24 del 16/12/2019**
REP. *4/2020*

Tender Name:

**Rehabilitation and New Construction of Latrines Blocks in Kassala Schools
Kassala, Sudan**

Financed by:

EUROPEAN UNION

Implemented by:

AICS (ITALIAN AGENCY FOR DEVELOPMENT COOPERATION)

Between

AICS - Italian Agency for Development Cooperation

Khartoum Office - St. no 33rd Amarat, House no 25 Block 12 K-east
Khartoum, SUDAN

('The Contracting Authority'),

And

Of the one part,

TIHRAGA Engineering for building Company

Official registration number: C/15964

Full official address:Khartoum-Khartoum Nord-Ingaz St_Khatmia

3/1-Sq4 second floor – South Flat

VAT number:449

('The Contractor')

Of the other part,

Have agreed as follows:

PROJECT SDN11

CONTRACT TITLE

**Rehabilitation and New Construction of Latrines Blocks in Kassala Schools
Kassala, Sudan**

Identification number: **(CIG Z0C2A9608C)**





Support Migrants and Host Communities in
improving access to Safe Water and
Sanitation
ABAC Reference: T05-EUTF-HOA-SDN-11-01
CUP J89D16003140002

Whereas the Contracting Authority would like the Contractor to carry out the following works:

**Rehabilitation and New Construction of Latrines Blocks in Kassala Schools
Kassala, Sudan**

and has accepted a tender by the Contractor for the execution and completion of such works and the remedying of any defects therein.

It is hereby agreed as follows:

- (1) In this contract, words and expressions shall have the meanings assigned to them in the contractual conditions set out below.
- (2) The following documents shall be deemed to form and be read and construed as part of this contract, in the following order of precedence:
 - (a) the contract,
 - (b) the special conditions,
 - (c) the general conditions,
 - (d) the technical and/or performance specifications,
 - (e) the design documentation (drawings),
 - (f) the breakdown of lump-sum price,
 - (g) any other documents forming part of the contract.

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending

- (3) In consideration of the payments to be made by the contracting authority to the contractor as hereinafter mentioned, the contractor undertakes to execute and complete the works and remedy defects therein in full compliance with the provisions of the contract.
- (4) The contracting authority hereby agrees to pay the contractor in consideration of the execution and completion of the works and remedying of defects therein the amount of:

- **CONTRACT PRICE EURO 95,521.68**

Or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract

- (5) The parties agree to the set of rights and obligations described in the attached contractual documents, with the following main characteristics, further detailed in the attachments:

			Contract-article:
1	Price	Lump sum contract	49
		Prices cannot be revised	48
2	Duration	Maximum 6 months implementation of works	34
		Provisional acceptance, after completion of works	60



		Defects liability period of 90 days, after provisional acceptance	61
		Final acceptance, after expiry of defects liability period	62
3	Delay	0.1% of the contract price for every day of delay	36
4	Supervisor	Arch. Maha Omer Mohamed	5
5	Bank guarantees	no performance, pre-financing and retention guarantees	15, 46, 47
6	Insurances	For damage to 3 rd parties, unlimited for bodily injury	16
		Contractor all risk insurance	16
		Insurance against accidents at work	16
		Insurance for soundness of works	16
7	Payments	lump sum advance for 20% of the original contract price, after conclusion of the contract	46
		Interim payment for 35% of the contract price, after completion of 50% of quantities, cf. 49 SC>	49, 50
		Interim payment for 35% of the contract price, after completion of 100% of quantities, cf. 49 SC>	49, 50
		Retention money for 10% of the contract price, after signed final Acceptance and statement of account	47, 49

- (6) Other specific conditions applying to the contract the data protection notice is available at <http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A.1>

In witness whereof the parties hereto have signed the Contract. This Contract shall take effect on the date on which it is signed by the last party, namely the Contractor. Done in English in two originals, one original for the Contracting Authority and one original for the Contractor.

For the Contractor

Name: *Khalid Awi*
Title: *General Manager*
Signature: *[Signature]*
Date: *17/2/2020*



For the Contracting Authority

Name: Vincenzo Racalbuto
Title: Head of AICS Khartoum
Signature: *[Signature]*
Date: *17.02.2020*



VOLUME 2

SECTION 3 SPECIAL CONDITIONS

CONTENTS

These conditions amplify and supplement the general conditions governing the contract. Unless the special conditions provide otherwise, the general conditions remain fully applicable. The numbering of the articles of the special conditions is not consecutive but follows the numbering of the general conditions. Other special conditions should be indicated afterwards.

Article 2 Language of the contract

- 2.1 The language used shall be English.

Article 4 Communication

- 4.1 All official communications should be sent from/to Contractor to/from:

Italian Agency for Development Cooperation – SDN11 Program

St. no 33rd Amarat, House no 25 Block 12 K-east
Khartoum, SUDAN

Kind Attention to: Eng. Adil A. Moneim Ahmed – Wash Field Officer-Kassala

Tel: +249 962408421

E-mail: adil.abdelmonehim@coopitsudan.org

- 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 33 of the general conditions to the contract, 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 5 Supervisor and supervisor's representative

- 5.2 Under this contract, the Supervisor does not delegate his duties and authority to a Supervisor's Representative

- 5.4 Administrative orders in the form of Site Instructions shall be solely used by the Supervisor to request from the Contractor a specific intervention on site, either in case of No Compliancy to the Contract technical specifications and/or documentation (correction of mistakes, installation of supplies not approved by the Supervisor, discrepancies as regards to the design) or in case of Variation Order.

Article 9 Access to the site

- 9.1 The Contractor is obliged to give the Director of AICS Khartoum office and his appointed personnel free access to its sites, factories, workshops, etc., and generally assist the Director or his appointed personnel, like the project Supervisor, in the performance of his duties.

Article 12 General obligations



- 12.9 The Contractor will comply with its obligation toward visibility. These activities must comply with the rules lay down by AICS and instructions received by the site Supervisor.

Article 15 Performance guarantee

- 15.1 By derogation to Article 15 of the general conditions, no performance guarantee is required under this contract.

Article 16 Liabilities and insurance

- 16.1 a) By way of derogation from Article 16.1, a) paragraph 2, of the general conditions, compensation for damage to the works resulting from the contractor's liability in respect of the contracting authority is capped at an amount equal to the contract value.
- 16.1 b) By way of derogation from Article 16.1, 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.
- 16.2 a) At the latest together with the return of the countersigned contract, the contractor shall provide the contracting authority and the supervisor with all cover notes and/or certificates of insurance showing that the contractor's obligations relating to insurance are fully respected. The contractor shall submit without delay, whenever the contracting authority or the project manager so requests, an updated version of the cover notes and/or certificates of insurance.

Please refer to Contract Form art.5.

Article 17 Programme of implementation of tasks

- 17.1 The Contractor shall provide the Supervisor with a simplified programme of implementation of the tasks. This programme shall include at least the order and time limits in which the Contractor proposes to carry out the works, and shall be based on the tranches foreseen in art. 49.1 of the special conditions.
- 17.2. The Supervisor shall return this document to the Contractor with any relevant remarks within 10 days of receipt, save where the Supervisor, within those 10 days, notifies the Contractor of its wish for a meeting in order to discuss the documents submitted.

Article 21 Exceptional risks

- 21.4 No potential exceptional weather conditions are foreseen at the Project's location

Article 22 Safety on sites

Without prejudice to art. 22 of General Conditions for works contract, the Contractor is obliged to take all necessary steps to ensure safety on site.

AICS in his capacity of Contracting Authority is determined to foster a safety culture in the workplaces for workers, reasonably following european standards.

In view of the above, in order to support the Contractor, by derogation of art. 22.3 the Contracting Authority has introduced in the BoQs an item concerning safety on building site in the interests of Contractor employees, agents of the contracting authority and third parties.

The item is a percentage of budget for works and can only be spent for the purpose of ensuring safety by mean of (for instance) lighting, protection, fencing and security equipment which proves necessary for the proper implementation of the tasks or which may be required by the supervisor. The site supervisor will inform and indicate measures to be adopted in general and on case by case basis.

The contractor shall provide the contracting authority and the supervisor with copy of invoices and any other documents showing that the allocated budget has been properly spent.

Article 34 Period of implementation of tasks

- 34.1 The period of implementation of tasks is 6 (SIX) months maximum

Article 36 Delays in the implementation of tasks

- 36.1 The rate of liquidated damages for delays in the completion of works shall be 0.1% of the contract price for every day or part thereof which elapses between the end of the period of implementation of tasks and the actual date of completion, up to a maximum amount of 10% of the contract price or, if the contract is subdivided into phases, 10% of the price of the phase concerned.

Article 39 Work register

- 39.1 A work register is not required
39.2 **For lump sum contracts the statements criteria are based on percentage of works made corresponding to a percentage of global price.**

Article 40 Origin and quality of works and materials

- 40.1 All goods purchased under the contract must originate in any eligible source country as defined in SDN13 programme. However, the goods to be purchased may originate from any country, whenever the total price of the estimated quantity of those goods, as reflected in a separate item of the breakdown of the lump-sum price (Volume 4.2.3) is below EUR 100.000. A category of similar goods to be purchased shall not be broken down over more than 1 item of the breakdown of the lump-sum price (Volume 4.2.3)]
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 the applicable international agreement.
When importing goods, any change in the specified origin must be pointed out to the project supervisor and approved by him.
- 40.2 The works and the objects, appliances, equipment or materials used in their construction must comply with:
(*) the specifications set out in the Design Documents and BOQ where stated.
- 40.3 Preliminary technical acceptance will be implemented upon Site Supervisor request and instruction.

Article 43 Ownership of plant and materials

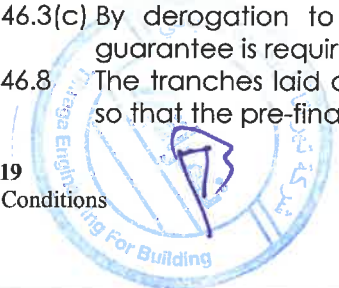
- 43.2 The equipment, temporary structures, plant and materials on the site shall for the duration of the execution of the works, be vested in the contracting authority.

Article 44: General principles for payments

- 44.1 Payments shall be made in EURO.
44.2 Invoices shall be submitted to the contracting authority.
44.3 By derogation, pre-financing payment to the Contractor for the lump-sum advance shall be made within 30 days. Other pre-financing payments to the Contractor shall be made within 60 days. Interim payments to the Contractor of the amounts due under each of the interim payment certificates approved by the supervisor shall be made within 60 days, and the final payment to the Contractor of the amounts due after the final statement of account issued by the Supervisor shall be made within 60 days.]

Article 46 Pre-financing

- 46.1 The only pre-financing granted to the contractor, is the lump sum advance referred to in Article 46.1(a).
46.2 By derogation to Article 46.2 of the general conditions, the lump sum advance referred to in Article 46.1(a) shall be 20% of the original contract price.
46.3(c) By derogation to Article 46.3(c) of the general conditions, no pre-financing guarantee is required.
46.8 The tranches laid down in Article 49.1 of these special conditions are determined so that the pre-financing is fully repaid before provisional acceptance.



Article 47 Retention monies

- 47.1 The sum retained to guarantee implementation of the contractor's obligations during the defects liability period is 10% of the contract price. By derogation to Article 47.1 of the general conditions, that money is not retained from interim payments. The tranches laid down in Article 49.1 of these special conditions are determined so that the retention sum amounts to 10% of the contract price at the moment of the certificate of provisional acceptance.
- 47.2 By derogation to Article 47.2 of the general conditions, the retention sums cannot be substituted by a retention guarantee.

Article 48 Price revision

- 48.1 Prices are fixed and shall not be revised.

Article 49 Measurement

- 49.1 This is a lump-sum contract.
Under the conditions imposed by the special conditions and general conditions, the amounts due shall be calculated through the following tranches, expressed as percentage of the contract price:

	Percentage	Nature	Timing
1.	20%	Lump-sum advance of Article 46.1 (a)	After conclusion of the contract
2.	35%	Interim payment of Article 50	After completion of 50% of works
...	35%	Interim payment of Article 50	After issuing of the certificate of provisional acceptance
<last>	10%	Retention money of Article 47	Within 60 days of the issuing of the signed final statement of account

Article 50 Interim payments

- 50.7 The interim payments will be paid as determined in Article 49.1 of these special conditions.

Article 53 Delayed payments

- 53.1 By derogation from Article 53.1 of the general conditions, once the time-limit referred Article 44.3 has expired, the contractor shall be entitled to late-payment interest at the rate and for the period mentioned in the general conditions. However, when the interest calculated in accordance with the first subparagraph is lower than or equal to EUR 200, it shall be paid to the creditor only upon a demand submitted within two months of receiving late payment

Article 61 Defects liability

- 61.1 The defects liability period is defined as the period commencing on the date of provisional acceptance, during which the contractor is required to make good any effect in, or damage to, any part of the work which may appear or occur during this period as notify by the supervisor or the contracting authority. The rights and obligations of the parties with regard to this defects liability period are laid down in Article 61 of the general conditions.

Article 68 Dispute settlement



Any dispute arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of the courts of Sudan.

Article 72 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/EC¹ and as detailed in the specific privacy statement published at ePRAG.]

* * *



¹ OJ L 205 of 21.11.2018, p. 39
July 2019
Special Conditions

