

## ***C. 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 competent Commission departments, other clauses may be introduced to cover specific situations.

#### **Article 2 Law applicable**

2.1 Portugal law shall apply in all matters not covered by the provisions of the contract.

2.2 The language used shall be English or Portuguese.

#### **Article 4 Communications**

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.

##### **Contracting Authority**

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with cc Isaac Carrelo | [i.carrelo@tese.org.pt](mailto:i.carrelo@tese.org.pt)  
TESE – Associação para o Desenvolvimento  
Rua das Amoreiras, 101, 1250-022 Lisboa  
PORTUGAL  
Telefone: 351 21 3863536

##### **Contractor**

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#### **Article 6 Subcontracting**

Unauthorized subcontracting

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

The Contractor shall deliver to the contracting authority:

- Technical specifications sheets and drawings of all the supplies;
- Schedule of supply, delivery and unloading;
- A certificate of origin of all the materials supplied by legal authorities;
- Certificates of manufacturer's warranty.

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

The Contractor is responsible for obtaining any permits or import licenses within a reasonable time, taking into account the dates of the contract, and in accordance with the provisions of the General Conditions.

The contracting authority will be responsible for the request of Tax and customs arrangements described in Annex VI to the Guinea-Bissau Local Authorities.

The contracting authority will not be legally and financially responsible for any the delays or any other kind of costs apart form those described in *Annex IV - Financial Offer*.

## **Article 9 The Contractor's obligations**

9.6 The Contractor shall take the necessary measures to ensure the visibility of the European Union financing or co-financing. These measures must comply with the rules in the Communication and Visibility Manual for EU External Actions published by the European Commission: [http://ec.europa.eu/europeaid/work/visibility/index\\_en.htm](http://ec.europa.eu/europeaid/work/visibility/index_en.htm) .

## **Article 10 Origin**

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

Goods originating in the EU includes goods originating in the Overseas Countries and Territories.

## **Article 11 Performance guarantee**

The amount of the performance guarantee shall 10% of the Contract Value and the part in respect of after sales service including any amounts stipulated in addenda to the contract.

## **Article 12 Insurance**

Contractor bears the risk of loss or damage during shipping, and at all times prior to the provisional acceptance of the goods by the Contracting Authority in Bambadinca, and Contractor shall procure insurance to cover such risk.

## **Article 13 Programme of implementation of the tasks (timetable)**

Tasks	Dead Line
Contract Signature	Day 1
Provisional acceptance	90 days after the contract signature
Final acceptance	365 days after the Provisional acceptance

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

The Contractor shall submit to the contracting authority for approval the delivery and unloading schedules as well as any other technical documentation as specified in General Conditions.

## **Article 15 Tender prices**

The price of the supplies shall be that shown on the financial offer (Annex IV).

## **Article 17 Patents and licences**

Article 17 of the General Conditions

## **Article 18 Commencement order**

18.1 1 days after contract signature

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

19.1 90 days (ninety days) after contract signature.

## **Article 22 Variations**

The Contracting Authority reserves the right, to vary the quantities at the time of contracting and during the validity of the contract within a range of +/- 100%. The total value of the supplies may not rise or fall as a result of the variation in the quantities by more than 25% of the tender price. The unit prices used in the tender shall be applicable to the quantities procured under the variation.

## **Article 24 Quality of supplies**

Article 17 of the General Conditions

## **Article 25 Inspection and testing**

All supplies will be inspected and tested on site in accordance with the Quantity and Technical Specifications Document (Annex II).

## **Article 26 Methods of payment**

26.1 Payments shall be made in euro.

Payments shall be authorised and made by

TESE – Associação para o Desenvolvimento pela Tecnologia, Engenharia, Saúde e Educação, Rua S. Filipe Nery, nº 25 B, 1250 - 225 Lisboa, Portugal, VAT number 506007910.

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

- a) For the 50% pre-financing, in addition to the payment request and the invoice, the performance guarantee.
- b) For the 50% balance: i) the invoice; ii) the certificate of provisional acceptance of the supplies signed by TESE; iii) certificate of origin of all the supplies.

26.3 By derogation the sums due shall be paid within no more than 90 days.

26.4 By derogation the period shall be 90 days.

## **Article 28 Delayed payments**

Article 17 of the General Conditions.

## **Article 29 Delivery**

29.1 The Contractor shall bear all risks relating to the goods until provisional 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 respect for the environment.

## **Article 31 Provisional acceptance**

The Certificate of Provisional Acceptance must be issued using the template in Annex C11. Provisional acceptance shall be made in accordance with Article 31 of the General Conditions.

## **Article 32 Warranty**

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. This warranty shall remain valid for one (1) year after provisional acceptance.

Additionally, the Contractor ensures that all supplies have manufacturer's warranty as specified in the Annex II - Technical Specifications.

## **Article 40 Settlement of disputes**

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- 40.1 Any dispute arising out of or relating to this contract which cannot be settled otherwise shall:
- (a) in the case of a national contract, be settled in accordance with the national legislation of the state of the contracting authority; and
  - (b) in the case of a transnational contract, be settled either:
    - (i) if the parties to the contract so agree, in accordance with the national legislation of the beneficiary country or its established international practices; or
    - (ii) by arbitration in accordance with the Procedural rules on conciliation and arbitration of contracts financed by the European Development Fund, adopted by Decision 3/90 of the ACP-EEC Council of Ministers of 29 March 1990 (Official Journal No L 382, 31.12.1990)(see Annex a12 to the Practical Guide to contract procedures for EU external actions)