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 on one hand, and the Contractor on the other hand must state the contract title and the identification number and must be sent by email or by personal delivery with copies to the other parties as per the addresses below;

Contracting Authority	**The National Authorising Officer of the European Development Fund, OAU Drive, Tower Hill, Freetown, Sierra Leone. Telephone: (232 76 660009, 23230 333 006)**
Supervisor	
Financing Authority	**Head of the European Union Delegation in the Republic of Sierra Leone Leicester Peak, Regent Freetown**
The Contractor	
Supervisor's Representative	

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 6 Subcontracting

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

Article 7 Supply of documents

7.1 Within 15 days of the signing of the contract, the Contracting Authority shall provide the Contractor, free of charge with the specifications and other contract documents.

7.6 The Contractor must provide the Contracting Authority of all test/quality certificate of the Supplies within 15 days of them needing approval of the same. The Contracting Authority shall approve the supplies within 15 days after submission, otherwise the supplies shall be deemed approved by the Contracting Authority/Project Manager

Article 8 Assistance with local regulations

8.1 The Contractor may request the assistance of the Contracting Authority in obtaining copies of laws, regulations and information on local customs, orders or bye-laws of the country where the supplies are to be delivered which may affect the Contractor in the performance of his obligations under the contract. The Contracting Authority may provide the assistance requested to the Contractor at the Contractor's cost.

Article 9 General obligations

9.9 The Contractor shall take the necessary measures to ensure the visibility of the European Union financing such as the placing of the EU Logo obtained from the Contracting Authority on all the supplies made under the contract. These measures must comply with the rules in the Communication and Visibility Manual for EU External Actions published by the European Commission: 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 11th EDF 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

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, at the latest together with the return of the countersigned contract, and for the period of implementation of the tasks, the contractor shall ensure that itself, its staff, 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 at the latest together with the return of the countersigned contract, 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. 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

12.2(b), paragraph 2: The contractor shall take out all insurance necessary to cover its liability, both with regard to its professional liability and its liability as provided under Article 12.1 'Liabilities'. The contractor shall in particular subscribe a product and after delivery insurance.

This insurance shall in particular cover the loading, intermediate storage, unloading, including stowage and protection, if such operations are included in the contract.

The contractor shall provide transport insurance to the extent that it assumes transportation risks, according to Incoterm:

***DAP - Delivered At Place**:* Incoterm whereby the buyer bears all risks and costs of import clearance:
'the seller delivers when the goods are placed at the disposal of the buyer on the arriving means of transport ready for unloading at the named place of destination. The seller bears all risks involved in bringing the goods to the named place'[1], including customs clearance for export, but not for import at the port or at the border of the agreed place of destination.

[1] Idem.

Article 13 Programme of implementation of tasks

13.2 Within two (2) weeks of the issuance of the commencement order by the contracting parties, the contractor shall submit the programme of implementation of tasks to the Project Manager for his/her approval. The Contracting Authority shall within one (1) week of submission of the programme either approve/reject/modify the same, otherwise the programme of implementation of tasks shall be deemed approved.

Article 14 Contractor's drawings

14.1 The Contractor shall provide the Contracting Authority (CA) with all documents (drawings, test/quality certificates, brochures etc) to enhance the approval of the supplies to be made under the contract.

Article 15 Sufficiency of tender prices

15.1 As per General Conditions of Contract

Article 16 Tax and customs arrangements

16.1 The terms of delivery of the goods shall be DAP (Delivered at Place), Incoterms 2010, International Chamber of Commerce

Article 17 Patents and licences

17.1 As per General Conditions of Contract

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 **and the delivery of the first batch of items.**

Article 19 Period of implementation of the tasks

19.1 The implementation period is 120 days, commencing from the date of issuance of the commencement order.

Article 24 Quality of supplies

24.2 The supplies must in all respects satisfy the technical specifications laid down in the contract and conform in all respects to the requirements in the contract which shall be held at the disposal of the PCCU (Project Coordination and Compliance Unit) for the purpose of identification throughout the period of performance.

Article 25 Inspection and testing

25.2 All goods will be inspected and tested at the various locations indicated in the Distribution List (Annex II +III.1) or as designated by the project manager on the day they are delivered. Relevant stakeholders will be invited to witness.

Article 26 General principles for payments

26.1 Payments shall be made in euros

Payments shall be authorised and made by:

The Director
National Authorising Office
OAU Drive, Tower Hill, Freetown

In the case of indirect management ex ante procedures and where invoices are presented to the authorities of the country of the Contracting Authority, the contractor must inform the European Commission at:

The Head of the European Union Delegation
Leicester Peak, Regent,
Freetown

thereof by sending a copy of the correspondence.

26.3 By derogation, the pre-financing payment shall be made within 60 days from the date on which an admissible invoice is registered by the contracting authority. The final payment to the contractor of the amounts due shall be made within 90 days following provisional acceptance of the goods, after receipt by the contracting authority of an admissible invoice.

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, in addition to the payment request, the contractor must provide a pre-financing guarantee for the full amount of pre-financing payment

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 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.

Article 29 Delivery

29.3 The Contractor shall bear all risks relating to the goods until provisional acceptance at destination. The supplies shall be packaged to prevent their damage or deterioration in transit to their destination. The packaging shall become the property of the recipient subject to environmental considerations.

29.5/6/7 The contractor shall provide such packaging of supplies as is required to prevent their damage and deterioration in transit to their destination as indicated in the

contract. The packaging shall be sufficient to withstand, without limitation, rough handling, and exposure to extreme temperatures, salt and precipitation during transit and open storage. Package size and weight shall take into consideration the possible absence of heavy handling facilities at all points in transit.

Delivery shall be done in two separate periods, as it will be indicated in the commencement or a purchase order issued by the contracting authority.

Each supply delivery shall be accompanied by the following documents:

a) User Manuals

b) Packing list

c) Warranty Certificate

d) Copy of the Certificate of Origin

Article 31 Provisional acceptance

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

31.2 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 32 Warranty obligations

32.6 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.

For the hardware equipment supplies, the Contractor must provide warranty for a minimum of one year (unlimited by distance or hours of use in the case of moving or utility machineries) in full compliance with the provisions of Article 32 of the General Conditions and Special Conditions of the Contract. In addition, the Contractor must provide standard commercial warranty to the Beneficiary.

32.7 The warranty must remain valid for of 365 days after provisional acceptance

Article 33 After-sales service

33.1 In addition to the requirements of Article 31.1 of the General Conditions, the contractor shall provide after sales services and maintenance of all supplies and installations for a period of 12 months after provisional acceptance. The proportion of the performance guarantee assigned to this activity shall be equal to 50%.

Where required, After-Sales Service (Article 33 of the General and Special Conditions of the Contract): The Contractor is required to ensure that a maintenance, service and repair centre, authorised by the Manufacturer, and which is able to rapidly supply genuine spare parts and consumables recommended by the Manufacturer is available within the Republic of Sierra Leone throughout the warranty period or the period of the manufacturer's commercial warranty (whichever is longer).

Article 40 Settlement of disputes

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 state of the contracting authority 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, Annex a12 to the practical guide)

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[1] and as detailed in the specific privacy statement published at ePRAG.

Article 45 Further additional clauses

None

[1] OJ L 205 of 21.11.2018, p. 39