

IOM office-specific Ref. No.	MD10-317/22
IOM Project Code	

CONSTRUCTION AGREEMENT
between the
International Organization for Migration
and
SC Maistcons Grup SRL

This Construction Agreement is entered into between the **International Organization for Migration**, an organization part of the United Nations system, acting through its [insert office name, e.g., Mission in Moldova, 36/1 Ciuflea str., Chisinau, MD-2001, Republic of Moldova, represented by **Lars Johan LONNBACK**, Chief of Mission (hereinafter referred to as "IOM"), and **SC Maistcons Grup SRL**, of s. Varatic, Ialoveni, MD-7731, Republic of Moldova, represented by **Victor CARABADJAC**, director (hereinafter referred to as the "Contractor"). IOM and the Contractor are also referred to individually as a "Party" and collectively as the "Parties."

1. Introduction and Integral Documents

IOM intends to engage the services of **SC Maistcons Grup SRL** for the Modernization of **Toilets and access ramps, of "Rehabilitation of the 2nd floor, roof insulation and waterproofing of the State Prosecutor Office Building in Cimislia"**
SN.0168.MD10.D.10.001

- 1.1 Located at **State Prosecutor Office Building in Cimislia** (the "Works"). The Works are what this Agreement requires the Contractor to construct, install and turn over to IOM, as defined in the plans, specifications and Bill of Quantities.
- 1.2 The following documents form part of this Agreement and are attached as Annexes:
 - (a) **Annex A** - Detailed Instruction to Bidders dated 01.07.2022, with annexed Scope of Work, Technical Specifications, Drawings, and General Conditions of Tender;
 - (b) **Annex B** - Bid Form including Contractor's firm and final proposal/bid dated 07.07.2022 with detailed Bill of Quantities ("BoQ") and unit cost;
 - (c) **Annex C** - Accepted Notice of Award ("NoA");

In the event of conflict between the provisions of any Annex and the terms of the main body of the Agreement, the latter shall prevail.

- 1.3 Any other Project documentation, agreed and signed by both Parties during the implementation of this Agreement, shall form part of this Agreement.
- 1.4 All correspondence, instructions, notes and other communications relating in any way to the performance of this Agreement will be in the English language. The English language version of the Agreement will at all times be the version of the Agreement which binds the Parties. Translations of the Agreement into languages other than English may be prepared for working purposes but will have no legally binding effect on the Parties.
- 1.5 If either Party finds any discrepancy or ambiguity in this Agreement, that Party must notify the other Party in writing. The Parties agree to consult with each other to attempt to resolve the discrepancy or ambiguity.

1.6 Unless otherwise advised by IOM in writing, all Project reports and other issues arising under this Agreement shall be addressed to IOM's authorized signatory of this Agreement.

2. Scope of Work

2.1 The Contractor shall furnish all the necessary materials, tools and equipment, labor, supervision, and other services, for the satisfactory and timely completion of the Works in accordance with this Agreement.

2.2 Only IOM may approve any changes, modifications, deviations, and substitutions, in the Scope of Work in accordance with Article 7 ("**Work Variation**").

2.3 IOM reserves the right to supply any materials, equipment, or resources, and to delete or reduce any work item, whether in whole or in part and update Annexes as necessary and a reduced Contract Price shall be agreed.

3. Contract Price

3.1 The total contract price (the "**Contract Price**") shall be **MDL 2 120 525.38 (Two million one hundred twenty thousand five hundred twenty five Moldovan lei and 38 bani)** only, inclusive of all applicable fees, taxes and permits that may be imposed by any Government entity in connection with the execution, completion, and turnover of the Works pursuant to this Agreement.

3.2 The Contract Price and unit cost as outlined in Annex B shall be binding and shall not be altered in any event. The Contract Price will be modified only in cases of IOM-approved Work Variations and IOM-supplied materials as outlined in Articles 2.2 and 2.3 of this Agreement and shall be reflected in writing.

3.3 The liability of IOM to the Contractor is STRICTLY LIMITED to the Contract Price outlined in Article 3.1, regardless of any increase in wage or labor cost or fluctuation in the cost of materials and equipment, occurring at any time. The Contractor shall be liable for its under-estimation of the requirements of this Agreement, inflation or currency devaluation, if any.

4. Manner of Payment

4.1 The Contract Price shall be paid in accordance with the following payment schedule

(a) IOM will pay the Contractor **MDL 848 210.00** (eight hundred forty eight thousand two hundred ten Moldovan lei) on confirmation by IOM of satisfactory progress toward the completion of 40 % (forty per cent) actual measured work as per Bill of Quantities at Annex B and logbook.

(b) IOM will pay the Contractor **MDL 1 272 615.38** (one million two hundred seventy two thousand six hundred fifteen Moldovan lei and 38 bani) after the completion of 100% (one hundred per cent) of the Works and inspection and provisional acceptance of the completed Works.

- (c) The balance of 10% (ten per cent) of the total Contract Price in the amount of **MDL 212 052.54** (Two hundred twelve thousand fifty two Moldovan lei and 54 bani) will be held for 12 (twelve) months after provisional acceptance of the completed Works in accordance with Article 10 of this Agreement.

4.2 Payments for the Works will be done in installments in accordance with the Payment Schedule above in Moldovan lei (MDL) by bank transfer to the following bank account:

Bank Name: OTP Bank

Bank Branch: 81A Stefan cel Mare str.

Bank Account Name: MOBBMD22

Bank Account Number: 22666597100

Swift Code: MOBBMD22

IBAN Number: MD07M02224ASV22666597100

- 4.3 The Contractor's Progress Claims shall be submitted to and certified by IOM's appointed Project Manager who will verify the value of the work done with regard to the value of the quantities of items completed in the Bill of Quantities. The Contractor shall submit all Progress Claims with the following attachments:
- (a) Updated Financial Statement of the Project;
 - (b) Statement of Completed Works;
 - (c) Progress Photos; and
 - (d) Contractor's Sales Invoice.
- 4.4 Within 7 (seven) calendar days of Contractor's submission of the Progress Claims and Statement of Completed Works and all required attachments to the Project Manager, the Project Manager shall evaluate the said Progress Claim(s). Evaluated and approved Progress Claims shall be due and payable within 10 (ten) working days from date of approval of Progress Claim. During this period of evaluation and processing of payments, the Contractor shall continue progress of the work in accordance with the Approved Work Schedule.
- 4.5 Any progress payment/s made by IOM does not imply nor signify acceptance of any portion of the accomplished work and does not waive IOM's right to enforce the Contractor's warranty as provided in Article 14.2 of this Agreement, nor to enforce penalties for delay.
- 4.6 The Contractor can only submit the final Progress Claim as per the Payment Schedule when the Contractor has satisfactorily completed and submitted:
- (a) All works, including Work Variation Orders, as stipulated in the annexed documents;
 - (b) Rectification of all reported non-conforming works;
 - (c) Completed demobilization and clean-up of site;
 - (d) Applicable materials and work test certificate/s;
 - (e) Approval duly signed by the Project Manager and by the Contractor's authorized representative that the Work is completed in accordance with drawings and specifications and in compliance with applicable laws, rules and regulations of the local and/or national government of the location where the Project is to be implemented.
- 4.7 A Certificate of Provisional Acceptance of completed Works shall be issued by IOM when each of the requirements under Article 4.6 have been fulfilled to its satisfaction.

- 4.8 A Certificate of Provisional Acceptance of terminated Works shall be issued by IOM if IOM terminates the contract in accordance with Article 26. This Certificate will indicate the Completion Rate as per Article 6.2 and the Contractor shall remain responsible for the rectification of non-conforming or defective portions of the Works in accordance with Article 14.2.
- 4.9 A Certificate of Final Acceptance shall be issued by IOM 12 (twelve) months after the date a Certificate of Provisional Acceptance of the completed or terminated Works is issued provided that any works required during the warranty period have been completed to its satisfaction.

5. Completion Period

- 5.1 The Contractor shall mobilize all necessary and appropriate resources and coordinate all work activities with IOM to ensure commencement of the Works on **28 July 2022** and completion and turn-over of the Works to IOM by **31 August 2022**. ("**Completion Date**").
- 5.2 Where the Contractor is unable to complete the Works by the **31 August 2022** date specified in Article 5.1, the Contractor may request a time extension in writing explaining the reasons for the delay.
- 5.3 IOM shall not approve requests for time extension for reasons such as but not limited to:
- (a) Project location, conditions and restrictions identified during time of tender and award of the Agreement;
 - (b) Normal weather and climatic conditions prevailing at the site location;
 - (c) Logistics, implementation, coordination problems and other reasons within the control of the Contractor;
 - (d) Financial, operational and labor difficulties of the Contractor or any of its sub-Contractor/s or supplier/s;
 - (e) Any required rectification of non-conforming work items; and
 - (f) Nature and condition of terrain.
- 5.4 IOM may revise the Completion Date as stated in Article 5.1 in response to the Contractor's request for time extension caused by any of the following:
- (a) Force Majeure as described in Article 16;
 - (b) Approved Work Variation Order/s requiring additional time for completion by the Contractor, as agreed between the Parties;
 - (c) IOM's failure to make timely payments for the Works completed to IOM's satisfaction;
- Provided, the requested extension shall not exceed the duration of the work stoppage or delay caused by the foregoing.
- 5.5 If the Works are not completed by the Completion Date specified in Article 5.1 the Contractor shall be liable to IOM for liquidated damages equivalent to 0.1% (one-tenth of one per cent) of the total Contract Price for each day of delay until the whole Works are completed and accepted by IOM according to Article 4.7. IOM may, at its discretion, grant a conditional time extension whereby the Works are not considered to be in delay during the time extended, but in case of non-completion within the extended period, the calculation of liquidated damages for delay outlined herein shall be from the original completion date before

to claim or receive any Service fee or costs incurred during the period of suspension of this Agreement.

27. Severability

If any part of this Agreement is found to be invalid or unenforceable, that part will be severed from this Agreement and the remainder of the Agreement shall remain in full force.

28. Entire Agreement

This Agreement and its Annexes embody the entire agreement between the Parties and supersedes all prior agreements and understandings, if any, relating to the subject matter of this Agreement.

29. Final Clauses

29.1 This Agreement will enter into force upon signature by both Parties. It will remain in force until completion of all obligations of the Parties under this Agreement unless terminated earlier in accordance with Article 26.

29.2 Amendments may be made by mutual agreement in writing between the Parties.

Signed in duplicate in English, on the dates and at the places indicated below.

For and on behalf of
The International Organization for Migration

Signature



Name: **Lars Johan LONNBACK**
Position: Chief of Mission
Date: *29/7/2022*
Place: *Chişinău*

For and on behalf of
Maistcons Grup SRL

Signature



Name: **Victor CARABADJAC**
Position: Director
Date: *23.08.22*
Place: