

***B. DRAFT CONTRACT AND SPECIAL CONDITIONS,
INCLUDING ANNEXES***

DRAFT CONTRACT

SUPPLY CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

No <Contract number>

FINANCED FROM THE **GENERAL BUDGET** OF THE UNION

<Full name and address of the contracting authority [if direct management: The European Union, represented by the European Commission on behalf of and for the account of the government of <name of partner country/countries>] >

(‘The contracting authority’),

of the one part,

and

<Full official name of contractor>

[<Legal status/title>]¹

[<Official registration number>]²

<Full official address>

[<VAT number>]³, (‘the contractor’)

of the other part,

have agreed as follows:

PROJECT „Edinet insight into tomorrow’s cities” CONTRACT TITLE

Equipment for smart education in Edinet municipality

Reference number: 2020/421/644/6.7

Article 1 Subject

1.1 The subject of the contract shall be the [supply], [manufacture], [delivery], [unloading], [installation], [after-sales service], of the following supplies:

<general description of the supplies, including quantities> [in <insert number> lot[s]]

[lot n° 1: <general description with an indication of quantities>]

[lot n° 2: <general description with an indication of quantities>]

The place of acceptance of the supplies shall be Edinet municipality, 30, Octavian Cirimpei street, the time limits for delivery shall be 3 months and the Incoterm applicable shall be

¹ Where the contracting party is an individual.

² Where applicable. For individuals, mention their ID card or passport or equivalent document – number.

³ Except where the contracting party is not VAT registered.

DDP⁴. The implementation period of tasks shall run from the date of signing of the contract by the contractor to the date for provisional acceptance.

- 1.2 The contractor shall comply strictly with the terms of the special conditions and the technical annex.

Article 2 Origin

The rules of origin of the goods are defined in Article 10 of the special conditions.

A certificate of origin for the goods must be provided by the contractor at the latest when it requests provisional acceptance of the goods. Failure to comply with this condition may result in the termination of the contract and/or suspension of payment.

Article 3 Price

- 3.1 The price of the supplies shall be that shown on the financial offer (specimen in Annex IV). The total maximum contract price shall be EUR ...
- 3.2 Payments shall be made in accordance with the general and/or special conditions (Articles 26 to 28).

Article 4 Order of precedence of contract documents

The contract is made up of the following documents, in order of precedence:

- the contract agreement;
- the special conditions
- the general conditions (Annex I);
- the technical specifications (Annex II [including clarifications before the deadline for submission of tenders and minutes from the information meeting/site visit];
- the technical offer (Annex III [including clarifications from the tenderer provided during tender evaluation]);
- the budget breakdown (Annex IV);
- [specified forms and other relevant documents – Provisional acceptance certificate, (Annex V)];

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.

Article 5 Other specific conditions applying to the contract

For the purpose of Article 44 of the general conditions, for the part of the data transferred by the contracting authority to the European Commission:

- (a) the controller for the processing of personal data carried out within the Commission is the head of contracts and finance unit R4 of DG Neighbourhood and Enlargement Negotiations
- (b) the data protection notice is available at <http://ec.europa.eu/europeaid/frag/annexes.do?chapterTitleCode=A>.

Done in English in three originals, one original being for the contracting authority, one original being for the European Commission, and one original being for the contractor.

⁴ <DDP (Delivered Duty Paid)>/<DAP (Delivered At Place)> - Incoterms 2010 International Chamber of Commerce - <http://www.iccwbo.org/incoterms/>

For the contractor

Name:

Title:

Signature:

Date:

For the contracting authority

Name:

Title:

Signature:

Date:

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 <Indicate here the contact persons, addresses of the parties and their contact details the documents to provide and the procedure to be used by the Parties for communication.>
- 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 7 Supply of documents

Technical drawings to be elaborated for the installment works should be approved according to regulation of the Republic of Moldova

Article 8 Assistance with local regulations

The Contracting authority will provide assistance in obtaining necessary approvals/coordination and technical conditions for connections /installations of the equipment

Article 9 General obligations

- 9.9 All equipment should contain project visibility elements that must comply with the rules laid down in the Communication and Visibility Manual for EU External Actions published on the website of DG International Cooperation and Development: https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en.

The contractor will provide provisionally the design of visibility elements for approval by the EU Delegation in Moldova

Article 10 Origin

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

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 the addenda to the contract.

For contracts of EUR 150 000 or below, the contracting authority, on the basis of objective criteria such as the type and value of the contract, does not require such a guarantee.

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 100% of 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 100% of the contract value.

12.2(b), paragraph 2 The contractor shall provide transport insurance to the extent that it assumes transportation risks according to the Incoterms:

- **DDP - Delivered Duty Paid:** Incoterm which imposes on the seller maximum obligations vis-à-vis transportation and loss risks and damage associated with the goods:
*'the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.'*⁵ The transfer of risks and costs occurs at the place of unloading of the goods at the agreed place of destination.

Article 13 Programme of implementation of tasks

13.2 in **5 days** from the signing of the contract will be provided the planned program of implementation of the tasks

Article 16 Tax and customs arrangements

16.1 For exemption from the taxes and customs duties the contractor shall provide the copy of the invoice before the import procedures

Article 18 Commencement order

18.1 **implementation of the tasks shall start the day after submitting the performance guarantee or after signing the contract if the guarantee is not required.**

Article 19 Period of implementation of the tasks

19.1 3 months from signing the contract

Article 24 Quality of supplies

24.2 The supplies should meet the quality requirements of national legislation and EU provisions for these supplies

Article 25 Inspection and testing

25.2 30, Octavian Cirimpei street, Edinet municipality, the city hall premises is the place the goods to be inspected and tested in accordance with Article 25 of the general

⁵ See <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/the-incoterms-rules/>.

conditions and the practical arrangements for testing, or the premises of the municipal enterprise in Edinet municipality.

Article 26 General principles for payments

26.1 Payments shall be made in Euro for the nonresidents of the Republic of Moldova and in MDL for local residents at the exchange rate of NBM on the day of beneficiary exchange of the installment.

Payments shall be authorised and made by Edinet municipality city hall.

26.3 By derogation, the final payment to the contractor of the amounts due shall be made within 45 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 5 % pre-financing, - the pre-financing guarantee (if the contract is equal or more than 300 000 euro/ request of the advance payment
- b) For the 95 % or 100% balance, the invoice(s) [in triplicate] together with the request for provisional/final acceptance of the supplies.

26.9 no 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 packaging shall become the property of the recipient subject to environmental considerations.

29.5/6/7 The packages should be marked accordingly.

Article 31 Provisional acceptance

The certificate of provisional acceptance must be issued using the template in Annex to the contract. the detailed arrangements for provisional acceptance determined with contractor

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

32.7 The warranty must remain valid for <.....> after provisional acceptance.

Article 33 After-sales service

33.1 details of after-sales service that the contractor must provide and specify the proportion of the performance guarantee assigned to that activity.>

Article 40 Settlement of disputes

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

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/EC⁶ and as detailed in the specific privacy statement published at ePRAG.

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⁶ OJ L 205 of 21.11.2018, p. 39