

# **GENERAL TERMS AND CONDITIONS FOR PROCUREMENT OF GOODS**

Zagreb, 23 December 2020

These General Terms and Conditions (hereinafter referred to as: GTM) shall apply to every procurement of goods/ equipment and shall contain general terms and conditions under which the company Odašiljači i veze d.o.o. (hereinafter referred to as: OIV) procures goods/equipment and goods/equipment with related works and services, based on a contract/ purchase order, unless otherwise agreed, in writing, by the Contracting Parties.

Any terms and conditions derogating from the terms and conditions herein, or from general terms and conditions of the counterparty, shall apply only if explicitly agreed upon, in written form, by OIV.

By accepting a purchase order or by signing a contract, these GTM shall become an integral part thereof.

If there is any discrepancy between provisions of the contract/purchase order and provisions herein, provisions set forth in the contract/purchase order shall prevail.

## **I. REQUEST FOR PROPOSAL**

- 1.1. Depending on the the subject matter, type and complexity of the procurement procedure, when submitting a request for proposals and/or procurement documentation, OIV may refer to general terms and conditions herein and, provide a bidder, along with the request, with a blank contract, i.e., a blank framework agreement.
- 1.2. When submitting a request for proposal, OIV shall refer to general terms and conditions herein. Depending on the complexity and type of procurement subject matter, OIV may also, in its request for proposal, set out different terms and conditions.

## **II. PROCUREMENT DOCUMENTATION**

- 2.1. In its Procurement Documentation (hereinafter referred to as: PD), OIV shall specify terms and conditions for specific procurement in relation to: the form and content of the bid, bid validity period, bid price, method and terms of payment, type, instruments and conditions of guarantee, bid selection criteria, technical specifications (description of the procurement subject), bid validity period, location and time of a bid opening procedure, the possibility of Bidders' authorised representatives being present at bid opening procedure and evidence which Bidders are obliged to provide, along with their bid, to demonstrate they meet the capacity criteria.
- 2.2. Terms and conditions specified in the procurement documentation shall not be modified and are binding for all parties in the procurement procedure.
- 2.3. PD may contain a blank contract or framework agreement, in which case they shall constitute an integral part thereof.
- 2.4. Where OIV, in specific procurement procedures, envisages different rules than those specified in the general terms and conditions herein, OIV shall specify the differences in the procurement documentation.

## **III. BID**

- 3.1. A submission of a bid shall be construed as acceptance of these general terms and conditions. A bid is a declaration of intent, in written form, to deliver goods/equipment and carry out related works/provide related services in line with OIV's terms and conditions and it shall contain all relevant elements of a contract.
- 3.2. All bids shall be prepared without any costs and fees charged.

- 3.3. Within the time limit for submission of bids, the Bidder may modify its bid or decide to withdraw it.

#### **IV. BID SECURITY**

- 4.1. If so requested by OIV, the counterparty undertakes to submit a bid security, along with its bid, in the amount and form specified in the PD in the event that the bidder withdraws its bid within bid validity period, fails to provide corrective documents, fails to accept a correction of a miscalculation, refuses to sign a contract or framework agreement, i.e., fails to sign a contract or framework agreement within a period of 3 (three) business days from the date of its receipt or failure to provide a performance guarantee or framework agreement when such a framework agreement stipulates that an agreement be concluded and performed.
- 4.2. All aforementioned events shall be listed exhaustively in the bid security.
- 4.3. The bid security shall be charged when one (any) of the aforementioned conditions is fulfilled with respect to the Bidder.
- 4.4. In lieu of the bid security, the Bidder may guarantee its bid with a cash deposit in the amount equal to the required bid security. In the event herein, the Bidder shall submit evidence of the cash deposit.
- 4.5. In the event of a joint venture (joint bid) by several business entities, the bid security shall be addressed jointly to all members of the joint venture, and not exclusively to one member, and it shall specify that it pertains to a joint venture or each member may submit a bid security severally for their part of the guarantee. In such case, the cumulative amount of the submitted bid securities shall equal the total amount of the bid security as required. In the event of a joint venture by several business entities, one member can make the cash deposits for all members jointly or each member can make a cash deposit severally for their share of the bid security. In such case, the cumulative amount of the cash deposits shall equal the total amount of the the bid security as required.
- 4.6. In the event when the bid security is not charged, OIV shall return a bid security to bidders within a period of ten days from the date on which a contract or framework agreement has been signed, i.e., performance guarantee has been provided, a copy of which shall be deposited.
- 4.7. If the Bidder is required to extend the existing bid security for the reasons of bid security validity or is required to submit a new bid security, it shall be obliged to extend the bid security or provide a new bid security within a period of not less than 15 calendar days before the existing bid security expires. Otherwise, OIV shall retain the right to charge the existing bid securities.
- 4.8. The type and amount of bid security, consequences in the event that OIV is forced to use the bid security, the return of the bid security, the possibility for OIV to use the bid security, obligation to provide a new bid security in case of bid security period extension, consequences for failing to provide a bid security and other relevant provisions concerning the bid security shall be regulated in the PD or otherwise, on condition they derogate from these GTM.
- 4.9. Failure to submit a bid security shall be construed irremediable defect and such a bid shall be rejected.

#### **V. PURCHASE ORDER**

- 5.1. The purchase order shall contain the following information: number and date, contract number (if available), description and quantity, unit price and total price, completion date. Purchase order once issued shall, as a rule, be irrevocable and final. Purchase order may be withdrawn, replaced or cancelled only on reasonable grounds.

- 5.2. In the event of the counterparty's failure to meet deadlines, non-performance or defective performance of obligations, OIV can unilaterally cancel the purchase order, and shall be entitled to indemnities, covering the full amount of damage incurred. Indemnity shall include compensation for loss of profit.

## **VI. CONTRACT**

- 6.1. OIV may conclude contracts in which the subjects of procurement are both goods/equipment and services. In such cases, the contract for procurement of goods/equipment shall be the contract with higher estimated procurement value of goods/equipment or contract in which both procurement subjects have the same estimated value.
- 6.2. Where a procurement procedure is initiated with a view to concluding a procurement contract with successive deliveries of goods/equipment, estimated price shall be determined in line with the accepted bid, based on unit prices up to a determined maximum amount, which shall not be binding for OIV.
- 6.3. For contracts with successive deliveries of goods/ equipment, the counterparty shall deliver the subject of procurement successively, in line with OIV's needs and based on a purchase order. In such cases, OIV shall not be obliged to purchase the entire quantity of procurement subject matter.
- 6.4. In the event that a blank contract constitutes a part of the PD, the counterparty shall return the signed contract to OIV within the stipulated deadline which shall not exceed 3 (three) business days from the date of receipt. Otherwise, it shall be construed that the counterparty has withdrawn from the contract. In the event herein, OIV shall be entitled to charge bid security.
- 6.5. In procurement procedures, when a blank contract does not constitute an integral part of the PD, the counterparty shall submit the response to the draft contract to OIV within the stipulated deadline, which shall not exceed 3 (three) business days from the date of receipt. Until the conclusion of the contract the counterparty shall provide OIV with all answers to inquiries related to the conclusion of the contract and comments to OIV's draft contracts within the stipulated deadline and it shall deliver its comments within the stipulated deadline which shall not exceed 7 (seven) calendar days from the date of receipt. OIV shall provide the counterparty with a response within 7 (seven) calendar days from the date of receipt. When the contract has been agreed in writing, the counterparty shall return the signed contract to OIV within the stipulated deadline which shall not exceed 3 (three) business days from the receipt of the agreed draft contract. Otherwise, it shall be construed that the counterparty has withdrawn from the contract. In the event herein, OIV shall be entitled to charge the bid security. OIV shall retain the right to disqualify such a counterparty from subsequent procurement procedures for the period of up to two years.
- 6.6. When concluding an annex to a contract, irrespective of who had initiated the procedure, the counterparty shall provide OIV with a response to the draft annex within the stipulated deadline which shall not exceed 3 (three) business days from the date of the receipt. Until the conclusion of the annex the counterparty shall provide OIV with all answers to inquiries related to the conclusion of the annex and comments to OIV's draft annex within the stipulated deadline and it shall deliver its comments within the stipulated deadline which shall not exceed 3 (three) calendar days from the date of receipt. Otherwise, it shall be construed that the counterparty has accepted the draft annex and that the annex has been agreed, and OIV shall deliver draft annex to the counterparty for signing. The counterparty shall return the signed annex to OIV within the stipulated deadline which shall not exceed 3 (three) business days from the receipt of the agreed draft annex. Otherwise, it shall be construed that the agreed annex had been

concluded and that deadlines for the performance of the obligations subject to the agreed annex have commenced from the deadline for the signing of the annex.

- 6.7. In the event when certain provisions of the contract fail to be agreed, and when the blank contract does not constitute an integral part of the PD, or annex, and when such provisions pertain to volumes of goods, item descriptions, prices and dates of completion, OIV shall retain the right to engage a certified court expert of the relevant profession whose expertise shall be deemed final. This provision shall apply when the counterparty and OIV fail to agree provisions, when the blank agreement does not constitute an integral part of the PD or annex even after 14 (fourteen) calendar days from the beginning of efforts to reach an agreement. The costs pertaining to court expertise shall be borne by OIV and the counterparty in equal share.
- 6.8. In the event of discrepancy between the contract and annexes thereto, the contract shall prevail. If the event of discrepancy between annexes to the contract, the relevant annexes drafted by OIV shall prevail. In the event of discrepancy between annexes drafted by OIV, OIV shall determine the relevant document.

## **VII. FRAMEWORK AGREEMENT**

- 7.1. OIV may initiate a procurement procedure with the aim of concluding a framework agreement.
- 7.2. OIV may conclude a framework agreement with one or more contracting parties. The purpose of a framework agreement shall be to specify terms and conditions under which single contracts/ purchase orders are to be concluded over a specific period.
- 7.3. Framework agreement shall not oblige OIV to conclude a procurement contract based on such underlying framework agreement.
- 7.4. Negotiation completion dates, conclusion and return of signed framework agreements to OIV are subject to provision of Articles 6.4. and 6.5. of these GTM.
- 7.5. The conclusion of annex to the framework agreement, failure to agree certain provisions of the framework agreement when it does not constitute an integral part of the PD and discrepancy between the framework agreement and annexes thereof shall be subject to provisions of Articles 6.6., 6.7. and 6.8 of these GTM.

## **VIII. CONTRACTS WITH SERVICE/GOODS PROVIDERS OF DIFFERENT PRIORITIES**

- 8.1. OIV may initiate the procurement process with the aim of concluding more procurement contracts with the same procurement subject matter with two or more goods/equipment providers from which the Bidder with the most advantageous tender constitutes the goods/equipment provider with priority A.
- 8.2. The purpose of contracts with goods/equipment providers of different priorities is to ensure OIV's business continuity and reduce adverse impacts arising from dependence on a sole provider.
- 8.3. PD shall also specify conditions and modalities of prioritising as well as other elements of contracting with goods/equipment providers of different priorities.

## **IX. PRICE, CALCULATION OF PAYMENT, INVOICING AND PAYMENT TERMS**

- 9.1. Price shall represent the value to be paid by OIV to the counterparty and shall be specified in the contract/ purchase order. It shall consist of unit price and total price. Value added tax (VAT) shall be calculated in line with applicable law and subordinate legislation.

- 9.2. All procurement costs shall be included in the price in all types of contracts and framework agreements.
- 9.3. For contracts with successive delivery of goods/ equipment, total price shall be set in accordance with the contract, and it shall be calculated based on unit price from the price list, up to a maximum amount under the contract/ purchase order, and shall not be binding for OIV.
- 9.4. In the case of a framework agreement, total estimated non-binding value shall be the value for the duration of the framework agreement.
- 9.5. Unless otherwise specified in the contract/purchase order, total price shall be determined based on parity DAP-OIV warehouse in Zagreb in line with Incoterms 2010.
- 9.6. Payments shall be calculated based on goods/ equipment actually delivered. OIV shall make the payment within a period of 60 (sixty) days from the date of issuance of a valid invoice, which is to be issued on the day of delivery, unless otherwise provided for in the contract/purchase order. Where OIV requests related works and services, the invoice shall be issued after an approved handover record has been signed.
- 9.7. If the invoice is not valid, no obligation of payment shall be construed and OIV shall return the original invoice to the counterparty for correction, and the service provider shall be required to correct the invoice and re-submitted it within 3 (three) days.
- 9.8. Default interest for late payment shall amount to 6 % on an annual basis, unless otherwise provided for in the contract/purchase order.
- 9.9. When issuing invoices, dispatch note or other documents, the counterparty shall make reference to the number of the contract/ purchase order.
- 9.10. An invoice shall contain all elements as stipulated by law.
- 9.11. Relevant elements such as price, invoicing, delivery of invoice, payment due date and other necessary elements shall be regulated in contract/purchase order or otherwise.

#### **X. PACKAGING OF GOODS/ EQUIPMENT**

- 10.1. Goods/equipment shall be delivered in a standardised packaging and labelled in accordance with relevant regulations for such goods/ equipment.
- 10.2. Provisions relevant for packaging of goods/ equipment, method of packaging goods/ equipment and other provisions related to packaging shall be regulated in the contract/ purchase order or otherwise.

#### **XI. FACTORY ACCEPTANCE PROCEDURE**

- 11.1. OIV may request a factory acceptance or any other form of acceptance before the handover or transfer of title.
- 11.2. Handover deadline and duration, prior mandatory notice, handover/acceptance method, consequences for the counterparty in case of delays in factory acceptance or in case of defects detected during the handover procedure, consequences for OIV in case of a failure to respond to an invitation for factory acceptance, training costs for OIV representatives at the counterparty's factory, signing of the factory handover/acceptance record and other provisions relevant for factory handover/acceptance and other forms of acceptance before handover procedure and transfer of title shall be regulated by the contract/ purchase order or otherwise.

## **XII. DELIVERY OF GOODS/ EQUIPMENT**

- 12.1. The counterparty shall deliver goods/equipment to OIV within a specified time period, at the location, in a manner and based on the parity specified by OIV.
- 12.2. Where goods/equipment are procured by a contracting party with registered seat outside the territory of the Republic of Croatia, the parity shall be determined in accordance with INCOTERMS 2010 or its newest edition.
- 12.3. When handing over the goods/ equipment, the counterparty shall attach a delivery note, and other necessary documents, to the goods/ equipment, depending on the type of goods/ equipment being delivered.
- 12.4. Upon handover of goods/equipment, OIV's authorized person shall attest by their signature on the delivery note that goods/equipment have been accepted in the quantity specified in the delivery note.
- 12.5. Notification of planned delivery, date and manner of delivery, consequences for non-delivery of goods/ equipment under contracted terms shall be regulated in the contract/ purchase order or otherwise.
- 12.6. Where OIV requests a delivery, i.e., handover and acceptance on site, in such a case, deadline and duration, prior mandatory notice, handover method, composition of handover commission, testing and inspection, signing of the handover record, consequences for the counterparty in the case of defects detected upon handover, i.e., in the case of non-compliance with specified requirements, organisation of trainings for OIV representatives related to operation and maintenance of goods/ equipment and other relevant provisions related to handover on site shall be regulated by contract purchase order or otherwise.

## **XIII. RELATED WORKS AND SERVICES**

- 13.1. In addition to procurement of goods/equipment, OIV may request related works and services such as assembly, installation and commissioning of goods/equipment and other related works and services.
- 13.2. In such cases, the counterparty undertakes to perform related works and services professionally, properly, within the deadline and in a manner specified by OIV and in line with standards, regulations and professional rules. The counterparty also undertakes to comply with and implement all prescribed and required occupational health and safety measures.
- 13.3. OIV may allow the counterparty to subcontract certain parts to a third party of their own choice (subcontractors) and this shall in no way affect mutual rights and obligations between OIV and the counterparty and the counterparty shall be completely assume responsibility for the work of subcontractors.
- 13.4. Conditions, deadlines and performance of related works and services related to assembly, installation and commissioning of goods/ equipment, and other related works and services, as well as consequences for non-compliance with these provisions shall be regulated by contract/ purchase order or otherwise.

## **XIV. INSPECTION OF GOODS/EQUIPMENT AND VISIBLE DEFECTS**

- 14.1. OIV shall carry out a standard inspection of delivered goods/equipment.
- 14.2. Defect notification period to the counterparty, compulsory presence of the counterparty's representative when lodging a complaint, time limit and method of remedying irregularities and defects by the counterparty, OIV's complaint concerning quantity and quality of the delivered

goods/equipment and other relevant provisions related to inspection of goods/equipment shall be regulated by the contract/purchase order or otherwise.

#### **XV. HIDDEN DEFECTS**

- 15.1. If OIV, after acceptance of goods/equipment, subsequently detects certain defects (hidden defects) on the goods/equipment, which could not have been detected by regular visual inspection when accepting the goods, in such cases provisions of the Civil Obligations Act shall apply.

#### **XVI. TRANSFER OF RISK AND TITLE TO GOODS/EQUIPMENT**

- 16.1. The counterparty shall bear the risk of accidental destruction or damage to goods/equipment until goods/ equipment are delivered to OIV, and upon the delivery of goods/equipment the risk shall be transferred to OIV.
- 16.2. The risk shall not be transferred to OIV if OIV has terminated the contract or requested a replacement of goods/equipment due to defects in delivered goods/equipment.
- 16.3. In the case of contracts for procurement of goods/ equipment with related services such as assembly, installation and commissioning of goods/ equipment or other related works and services, the guarantee period shall commence upon signing relevant handover document.

#### **XVII. GUARANTEE PERIOD**

- 17.1. The counterparty shall guarantee that goods/ equipment shall operate properly during the guarantee period.
- 17.2. In the case of contracts for procurement of goods/ equipment with related services such as assembly, installation and commissioning of goods/ equipment or other related works and services, the guarantee period shall commence upon signing relevant handover document.
- 17.3. OIV may request from the counterparty a guarantee for defect liability period.
- 17.4. The extension of the warranty period shall be determined in line with relevant provisions of the Civil Obligations Act.
- 17.5. In exceptional cases, OIV may specify a different beginning date and length of the warranty period in contracts for procurement of goods/equipment and related works and services such as assembly, installation and commissioning of goods/ equipment and other related works or services. This shall be specified in procurement documentation and/or contract.
- 17.6. The beginning date and the length of the warranty period as well as other relevant provisions related to warranties for goods/equipment shall be specified in the contract/ purchase order or otherwise.

#### **XVIII. CONTRACTUAL PENALTY**

- 18.1. Where the counterparty fails to perform any obligations under the contract/purchase order in a timely manner, the counterparty in question undertakes to pay for each day of delay an amount of 0.5% of the total contracted price and the total contractual penalty shall not exceed 10% of the total contracted price, unless otherwise provided in the contract/ purchase order or otherwise.
- 18.2. Payment of contractual penalty shall not release the counterparty from the obligation to meet its contractual obligations.

- 18.3. Where, as a result of the counterparty's delay in performance of contractual obligations, OIV suffers damage exceeding the amount of the highest contractual penalty, OIV shall be entitled to indemnities beyond the amount of contractual penalty, covering the full amount of the damage incurred.
- 18.4. In the case of the counterparty's delay in performance of any obligation under the contract/purchase order of more than 30 (thirty) calendar days after specified deadlines under the contract/purchase order, OIV shall, in addition to contractual penalty and indemnities, have the right to terminate the contract with immediate effect.
- 18.5. The counterparty shall pay the contractual penalty within a period of 10 (ten) days from the date on which an invoice is issued. Otherwise, OIV shall charge the amount of contractual penalty from the performance guarantee.

#### **XIX. GUARANTEE FOR RECOVERY OF ADVANCE PAYMENT**

- 19.1. As a rule, OIV shall not make advance payments, unless it so specifies in procurement documentation or in extraordinary situations when it is so specified in the contract.
- 19.2. Where advance payments are made, the counterparty shall provide advance recovery guarantee in the amount of the contracted advance.
- 19.3. In lieu of the advanced recovery guarantee, the counterparty may guarantee with a cash deposit in the amount equal to the stipulated advanced recovery guarantee.
- 19.4. If the counterparty is required to extend the existing advanced recovery guarantee or required to submit a new advance recovery guarantee, it shall be obliged to extend the advance recovery guarantee or provide a new advance recovery guarantee within a period of not less than 15 calendar days before the existing advance recovery guarantee expires. Otherwise, OIV shall retain the right to charge the existing bid securities.
- 19.5. Delivery time, amount, form, repayment and other relevant provisions related to advance recovery guarantee shall be specified in the contract/purchase order or otherwise.

#### **XX. PERFORMANCE GUARANTEE**

- 20.1. For the breach of any contractual obligations, the counterparty shall provide a performance guarantee for a contract, or for a framework agreement when performance is stipulated therein, or for a contract based on the underlying framework agreement when no performance obligation is specified in the framework agreement.
- 20.2. Otherwise, OIV shall charge the amount of contractual penalty from the performance guarantee. The counterparty undertakes to ensure that the performance guarantee provides the possibility of charging contractual penalty as specified in this Article .
- 20.3. Where a framework agreement is concluded, a performance guarantee shall specify a percentage for the maximum contracted price, which shall not be binding for OIV , unless otherwise stipulated by the contract/purchase order or otherwise.
- 20.4. In lieu of the performance guarantee, the counterparty may guarantee its contract performance with a cash deposit in the amount equal to the stipulated performance guarantee.
- 20.5. In the event of a joint venture (joint bid) by several business entities, the performance guarantee shall be addressed jointly to all members of the joint venture, and not exclusively to one member, and it shall specify that it pertains to a joint venture or each member may submit a performance guarantee severally for their part of the guarantee. In such case, the cumulative amount of the submitted guarantees shall equal the total amount of the performance guarantee as required. In the event of a joint venture by several business entities, one member can make

the cash deposits for all members jointly or each member can make a cash deposit severally for their share of the performance guarantee. In such case, the cumulative amount of the cash deposits shall equal the total amount of the the performance guarantee as required.

- 20.6. Unless otherwise specified by the contract/purchase order or otherwise, when concluding annexes that might result in an increase of the contracted price, the counterparty shall submit a new guarantee issued in proportional increased amount so that it shall amount to 10% of the new total contract value with annexes or it shall provide a guarantee for the difference in the amount. In the event the contract is extended, the counterparty shall extend the performance guarantee validity, unless otherwise specified in the contract/purchase order or otherwise.
- 20.7. If the counterparty is required to extend the existing performance guarantee or required to submit a new performance guarantee, it shall be obliged to extend the guarantee or provide a new performance guarantee within a period of not less than 15 calendar days before the existing performance guarantee expires. Otherwise, OIV shall retain the right to charge the existing bid securities.
- 20.8. The type and amount of performance guarantee, consequences in the event that OIV is forced to use performance guarantee, the return of the guarantee to the counterparty, the possibility for OIV to use the guarantee, obligation to provide a new guarantee in case of guarantee period extension, consequences for failing to provide a guarantee and other relevant provisions concerning performance guarantee shall be regulated in the contract/ purchase order or otherwise.

## **XXI. GUARANTEE FOR DEFECT LIABILITY PERIOD**

- 21.1. OIV may request from the counterparty a guarantee for defect liability period. A guarantee for defect liability period shall be valid in cases where the counterparty fails to fulfil the obligation to rectify potential defects within the warranty period.
- 21.2. In lieu of the defect liability guarantee period, the counterparty may guarantee its contract performance with a cash deposit in the amount equal to the stipulated defect liability guarantee.
- 21.3. In the event of a joint venture (joint bid) by several business entities, the defect liability guarantee shall be addressed jointly to all members of the joint venture, and not exclusively to one member, and it shall specify that it pertains to a joint venture or each member may submit a defect liability guarantee severally for their part of the guarantee. In such case, the cumulative amount of the submitted guarantees shall equal the total amount of the defect liability guarantee as required. In the event of a joint venture by several business entities, one member can make the cash deposits for all members jointly or each member can make a cash deposit severally for their share of the defect liability guarantee. In such case, the cumulative amount of the cash deposits shall equal the total amount of the the defect liability guarantee as required.
- 21.4. If the counterparty is required to extend the existing defect liability guarantee or required to submit a new defect liability guarantee, it shall be obliged to extend the guarantee or provide a new defect liability guarantee within a period of not less than 15 calendar days before the existing defect liability guarantee expires. Otherwise, OIV shall retain the right to charge the existing guarantees.
- 21.5. Upon expiration of the warranty period, OIV shall return the defect liability guarantee to the counterparty on condition that the counterparty has fulfilled all obligations arising from the warranty period.
- 21.6. The type of defect liability guarantee, guarantee amount, consequences in the event that OIV is forced to enforce the guarantee, return of the guarantee to the counterparty, the possibility for OIV to use the guarantee, obligation to provide a new guarantee in the case of guarantee period

extension, consequences for failing to provide a guarantee and other relevant provisions concerning defect liability period shall be regulated in the contract/ purchase order or otherwise.

## **XXII. COVENANT OF INTEGRITY**

- 22.1. Where the goods/equipment being purchased exceed 20 000 HRK, the bidder shall provide, and attach to their bid, a certified Covenant of Integrity, to be provided by OIV with the invitation to submit a bid.

## **XXIII. INTELLECTUAL PROPERTY**

- 23.1. For the procurement of goods/equipment subject to any intellectual property rights, the counterparty undertakes to ensure that OIV enjoys the extent of intellectual property rights which OIV requires in order to use the goods/equipment for the intended purpose, unless otherwise defined by the contract/purchase order or otherwise.
- 23.2. Charges for the use of intellectual property of the counterparty or its manufacturer of goods/equipment shall be included in the price.
- 23.3. Other relevant provisions pertaining to intellectual property shall be regulated in the contract, purchase order or otherwise.

## **XXIV. ENERGY EFFICIENCY**

- 24.1. When procuring goods/equipment which have or might have an impact on significant energy use, when applicable, technical specifications for procurement and bid selection criteria shall include requirements on energy efficiency, and bid evaluation process shall take into consideration energy efficiency, all in line with procurement documentation.
- 24.2. When applicable, OIV shall, as a rule, apply the following criteria to assess energy use, consumption and efficiency during planned or expected operational useful life of a product, equipment and service, which are expected to have significant impact on energy efficiency: energy consumption, energy cost, required number of units per year, costs of annual maintenance and repair, expected lifespan and disposal costs.
- 24.3. Technical specifications for energy supply shall, as a rule, contain requirements ensuring efficient energy use, for example, requirements for energy quality, energy availability, environmental impact and similar. If necessary, specifications proposed by an energy supplier may be used.

## **XXV. FORCE MAJEURE**

- 25.1. The Contracting Parties shall not be liable for non-performance of any obligation if such non-performance is a result of force majeure event - an event beyond the control of the Contracting Parties and not a consequence of their own will, which directly impacts performance of contractual obligations and is not a result of negligence, which could not have been anticipated or avoided, provided that the Party affected by force majeure event has notified the other party thereof.
- 25.2. Force majeure shall include, but shall not be limited to, natural disasters, war, strike, embargo, restrictions.

- 25.3. In the event of force majeure, the affected Party shall do everything possible to fulfil its obligations.
- 25.4. The Contracting Party affected by force majeure event shall forthwith notify the other Party, in writing, thereof, it shall provide evidence for force majeure event and specify which obligations it is not able to meet as a result of force majeure event. In the event of force majeure, the causes of which last longer than 30 (thirty) days, OIV shall retain the right to terminate the Contract by way of written notice and with immediate effect.

## **XXVI. CONFIDENTIALITY**

- 26.1. Any confidential business information, business secret or data provided by one Contracting Party to the other Contracting Party or any information disclosed by Contracting Parties or by any other person on their behalf and in relation to the contract or any provision therein or any information obtained during the contract performance shall be confidential. The Contracting Parties shall not disclose any information concerning the content of the contract, without a prior written consent of the other Party. In addition, the contracting parties cannot prevent each other from disclosing any such information when doing so is requested by relevant bodies, when this is necessary in judicial procedure or if so prescribed by law.
- 26.2. The Contracting Parties shall be responsible for the conduct of their employees, for those who have any legal relation for the purpose of the contract, for their suppliers or those acting on their behalf on any legal grounds, including confidentiality, as if they performed those activities themselves.

## **XXVII. PROTECTION OF PERSONAL DATA**

- 27.1. The Counterparty shall process personal data, collected in the course of performing its contractual obligations, in line with Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), the Act on the Implementation of the General Data Protection Regulation (OG 42/2018) or other national regulation based on this Regulation, applying adequate technical and security measures designed to prevent unauthorised access, abuse, disclosure, loss or destruction.

## **XXVIII. COMMUNICATION**

- 28.1. Communication or any other exchange of information between OIV and the counterparty may be done via post, electronically, by fax or through a combination of these means, as per OIV's choice. Communication between OIV and the Counterparty shall be verifiable regardless of the chosen means of communication. Chosen means of communication are to be generally available and are not to lead to discrimination. Electronic means of communication must not have discriminatory technical features and must be compatible with generally available IT technology products. Communication that is not recorded in writing shall have no legal effect.
- 28.2. Information on contact persons shall be provided in the sections for the receipt of notifications, which are attached to contracts and are an integral part thereof. Where a contact person has been changed, the Contracting Parties shall inform each other thereof within the shortest possible period via usual means of communication, in which case, an appendix to contracts shall not be required.

## **XXIX. TERMINATION OF CONTRACT**

- 29.1. In the event of the counterparty's failure to meet deadlines, non-performance or defective performance of obligations, which have a significant impact on contract performance, OIV can unilaterally terminate the contract and shall be entitled to indemnities, covering the full amount of damage incurred. Indemnity shall include compensation for loss of profit.
- 29.2. If the counterparty reaches the total amount as defined in Article 18.1., OIV shall retain the right to terminate the contract with immediate effect.

## **XXX. AMENDMENTS TO THE CONTRACT**

- 30.1. Amendments to the contract shall have legal force only if such amendments are made in writing and duly signed by authorised representatives of both Contracting Parties.
- 30.2. Any verbal agreements or any statements made by representatives of the Contracting Parties shall not have any legal effect and shall not be binding for any Contracting Party.

## **XXXI. DISPUTE RESOLUTION**

- 31.1. Any disputes shall be settled amicably by the Contracting Parties and where the Parties are unable to settle the matter between themselves, the matter shall be referred to jurisdiction of the competent court in Zagreb.
- 31.2. All disputes where the bidder/ counterparty is a legal person, whose sole founder or member, i.e., interest holder is the Republic of Croatia shall, first and foremost, be settled out of court. Out-of-court dispute resolution shall include negotiations, mediation and arbitration. In this case, the Contracting Parties shall first attempt to settle the matter through negotiations. Where disputes cannot be resolved by negotiation, the Contracting Parties shall resort to mediation to resolve the dispute and refer the matter to the Mediation Centre at the Croatian Chamber of Economy in accordance with the Act on Mediation and relevant mediation rules. Where disputes cannot be resolved by mediation, the dispute shall be referred to the arbitration procedure in line with the Rules on Arbitration of the Permanent Arbitration Court at the Croatian Chamber of Economy.

## **XXXII. BILINGUAL CONTRACT/ PURCHASE ORDER**

- 32.1. Where the contract/purchase order is made in Croatian and English languages, in case of any divergence of interpretation, the English text shall prevail.

## **XXXIII. FINAL PROVISION**

- 33.1. Matters not regulated by provisions herein, or otherwise, shall be subject to provisions and relevant regulations of the Republic of Croatia.
- 33.2. These GTM shall come into force on the date of their publication on OIV's website [www.OIV.hr](http://www.OIV.hr). OIV shall retain the right to update these GTM at any time and publish the the updates on the website. The Bidder undertakes the responsibility to stay informed of any and all possible updates to these GTM published on OIV's website.

These General Terms and Conditions for Procurement of Goods shall come into force on 1 January 2021.