

B. DRAFT CONTRACT, INCLUDING ANNEXES

DRAFT CONTRACT

SUPPLY CONTRACT No 2022/340854_TD2.2022

FINANCED FROM THE

"Business Development and Innovation Croatia" Programme

Financed by Norway Grants 2014-2021

Agens d.o.o., Medarska 69, 10090 Zagreb, Croatia, VAT No.:HR73831655633 ("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:

CONTRACT TITLE: Supply of Label Printing Press

Identification number:

2022/340854_TD2.2022

Article 1 - Law and language of the contract

1. The law of the Republic of Croatia shall apply in all matters not covered by the provisions of the contract.
2. The Parties shall make every effort to settle amicably any dispute relating to the contract which may arise between them.
3. The contract and all written communications between the parties will be drafted in the language of the procedure.

Article 2 - Order of precedence of contract documents

1. Save where otherwise provided in the special conditions, the contract is made up of the following documents, in order of precedence:

a) the contract agreement;

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.

- b) the Technical Specifications, the Technical Offer and the budget breakdown (Annex I) including clarifications before the deadline for submission of tenders;
- f) specified forms and other relevant documents (Annex II)

Addenda have the order of precedence of the document they are modifying.

2. The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

Article 3 - Communications

1. Communications between the Contracting Authority and the Contractor on the other, shall be exclusively in writing, shall be sent by post, cable, telex, fax transmission, or delivered by hand, to the addresses designated by the Parties for that purpose.

For the Contracting Authority: Iljen Blažević, Agens d.o.o., Medarska 69, 10090 Zagreb, Croatia, fax: +385 1 38 62 830, e- mail:illen@etikete-agens.hr

For the Contractor:

2. If the person sending a communication requires acknowledgement of receipt, he/she shall indicate this in his communication. Whenever there is a deadline for the receipt of a written communication, the sender should ask for an acknowledgement of receipt of his communication. In any event, the sender shall take all necessary measures to ensure receipt of his communication.

3. Wherever the contract provides for the giving or issue of any notice, consent, approval, certificate or decision, unless otherwise specified such notice, consent, approval, certificate or decision shall be in writing and the words "notify", "certify", "approve" or "decide" shall be construed accordingly. Any such consent, approval, certificate or decision shall not unreasonably be withheld or delayed.

Article - Subject

1. The subject of the contract shall be the supply, delivery (transport), mounting, installation and trail run of the following goods:

The Label Printing Press.

Item	Description	Quantity
1	Label Printing Press – 8 Flexographic print stations	1
2	Optional Equipment/Tooling - set	1
3	Spare parts	1
4	Documentation	1
5	Training	1
6	Warranty	1

After-sales services

1	Maintenance repairs and services.
2	Response service time in specified frame

2. The place of acceptance of the supplies shall be Agens d.o.o., Medarska 69, 10090 Zagreb, Croatia, the time limits for delivery shall be 70 days after the commencement of the Contract and the Incoterm applicable shall be DAP¹. The implementation period of tasks 90 days shall run from the Execution of the Contract (last signature of both Parties to date for provisional acceptance.

3. The Contractor shall comply strictly with the terms of the Special Conditions and the technical annex.

Article - Price

1. The price of the supplies shall be that shown on the financial offer. The total maximum contract price shall be <euros/national currency>.

Article - Methods of payment

1. Payments shall be made in euro. Payments shall be authorised and made by Agens d.o.o., from the main bank account. In order to obtain payments, the Contractor must forward to the Agens d.o.o.:

a) For the 30% pre-financing, after Execution of the Contract in addition to the payment request the pre-financing invoice(s).

b) For the 60% pre-financing, before delivery in addition to the notice of delivery date and payment request the pre-financing invoice(s).

c) For the 10% balance, the invoice(s), in duplicate, the performance guarantee following provisional acceptance of the supplies.

Article - Delivery

1. The Contractor shall bear all risks relating to the goods until provisional acceptance at destination.

2. The supplies shall be packaged so as to prevent their damage or deterioration in transit to their destination. The packaging shall become the property of the recipient subject to respect for the environment.

3. The documents which have to accompany the delivery include a detailed packing list identifying the contents of each package and usual transport document.

¹ DAP - Incoterms 2020 <http://www.iccwbo.org/incoterms/>

Article - Provisional acceptance

1. The Certificate of Provisional Acceptance must be issued using the template Contracting Authority shall deliver to Contractor, and he will deliver the dully signed Provisional Acceptance Certificate to Contracting Authority. The request for provisional acceptance should take place after execution of all contractual obligations (when the supplies have been delivered in accordance with the contract, have satisfactorily passed the required tests, or have been commissioned, installed, training provided), as specified in the technical specifications.
2. The Contracting Authority shall within 3 days of receipt:
 - a) issue the certificate of provisional acceptance to the Contractor 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
 - b) 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.

Article - Warranty

1. 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 12 months after provisional acceptance.
2. The Contractor shall be responsible for making good any defect in, or damage to, any part of the supplies which may appear or occur during the warranty period and which either:
 - a) results from the use of defective materials, faulty workmanship or design of the Contractor; and/or
 - b) results from any act or omission of the Contractor during the warranty period; or
 - c) appears in the course of an inspection made by, or on behalf of, the Contracting Authority.
3. The Contractor shall at his own cost make good the defect or damage as soon as practicable. The warranty period for all items replaced or repaired shall recommence from the date on which the replacement or repair was made to the satisfaction of the Contracting Authority. If the contract provides for partial acceptance, the warranty period shall be extended only for the part of the supplies affected by the replacement or repair.
4. If any such defect appears or such damage occurs during the warranty period, the Contracting Authority shall notify the Contractor. If the Contractor fails to remedy a defect or damage within the time limit stipulated in the notification, the Contracting Authority may:

a) remedy the defect or the damage itself, or employ someone else to carry out the tasks at the Contractor's risk and cost, in which case the costs incurred by the Contracting Authority shall be deducted from monies due to or guarantees held against the Contractor or from both; or

b) terminate the contract.

5. In emergencies, where the Contractor cannot be reached immediately or, having been reached, is unable to take the measures required, the Contracting Authority may have the work carried out at the expense of the Contractor. The Contracting Authority shall as soon as practicable inform the Contractor of the action taken.

6. The warranty period shall commence on the date of provisional acceptance and may recommence in accordance with this Article.

Article - After-sales service

1. An after-sales service, shall be provided in accordance with Technical specifications – response time 48 hours. The Contractor shall undertake to carry out or have carried out the maintenance and repair of supplies and to provide a rapid supply of spare parts.

a) such spare parts as the Contracting Authority may choose to purchase from the Contractor, it being understood that this choice shall not release the Contractor from any warranty obligations under the contract;

b) in the event of termination of production of the spare parts, advance notification to the Contracting Authority to allow it to procure the parts required and, following such termination, provision at no cost to the Contracting Authority of the blueprints, drawings and specifications of the spare parts, if and when requested.

Article - General Obligations

1. The Contractor shall implement the contract with due care and diligence including, where specified, the design, manufacture, delivery to site, erecting, testing and commissioning of the supplies and carrying out of any other work including the remedying of any defects in the supplies. The Contractor shall also provide all necessary equipment, supervision, labour and facilities required for the implementation of the tasks.

2. The Contractor shall treat all documents and information received in connection with the contract as private and confidential. He shall not, save in so far as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority

Article - Performance guarantee

1. The Contractor shall, together with the return of the countersigned contract, furnish the Contracting Authority with a guarantee for the full and proper execution of the contract. The amount of the guarantee shall be 5 % of the amount of the contract price.

2. The performance guarantee shall be held against payment to the Contracting Authority for any loss resulting from the Contractor's failure to perform his contractual obligations fully and properly.

3. The performance guarantee, to be approved by the Contracting Authority, may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a bond provided by an insurance and/or bonding company or an irrevocable letter of credit.

4. The performance guarantee shall be denominated in the currency in which the contract is payable. No payments shall be made in favour of the Contractor prior to the provision of the guarantee. The guarantee shall continue to remain valid until the contract has been fully and properly performed.

5. During the execution of the contract, if the natural or legal person providing the guarantee is not able to abide by his commitments, the guarantee shall cease to be valid. The Contracting Authority shall give formal notice to the Contractor to provide a new guarantee on the same terms as the previous one. Should the Contractor fail to provide a new guarantee, the Contracting Authority may terminate the contract. Before so doing, the Contracting Authority shall send a registered letter with acknowledgement of receipt, which shall set a new deadline of no less than 15 days from the day of delivery of the letter.

6. The Contracting Authority shall demand payment from the guarantee of all sums for which the guarantor is liable under the guarantee due to the Contractor's default under the contract, in accordance with the terms of the guarantee and up to the value thereof. The guarantor shall, without delay, pay those sums upon demand from the Contracting Authority and may not raise any objection for any reason whatsoever. Before making any claim under the performance guarantee, the Contracting Authority shall notify the Contractor stating the nature of the default in respect of which the claim is to be made.

7. Except for such part as may be specified in respect of after-sales service, the performance guarantee shall be released within 45 days of the expiry of the warranty period or as soon as any repairs ordered have been completed to the satisfaction of the Contracting Authority.

Article - Insurance

1. Contractor shall bear sole liability for, and indemnify the Contracting Authority against, any claims for damage to property or personal injuries arising from the execution of the contract by the Contractor, his subcontractors and their employees.

Article - General Obligations

1. The Contractor shall implement the contract with due care and diligence including, where specified, the design, manufacture, delivery to site, erecting, testing and commissioning of the supplies and carrying out of any other work including the remedying of any defects in the supplies. The Contractor shall also provide all necessary equipment, supervision, labour and facilities required for the implementation of the tasks.

2. The Contractor shall treat all documents and information received in connection with the contract as private and confidential. He shall not, save in so far as may be necessary for the purposes of the contract's execution, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority

Article - Commencement order, Extension and Delays

1. The Contracting Authority shall fix the date on which implementation of the tasks is to commence and advise the Contractor thereof in the notice of award of the contract.
2. The Contractor may request an extension to the period of implementation of the tasks if his implementation of the contract is delayed, or expected to be delayed, for any of the following reasons:
 - a) extra or additional supplies ordered by the Contracting Authority;
 - b) exceptional weather conditions in the country of the Contracting Authority which may affect installation or erection of the supplies;
 - c) physical obstructions or conditions which may affect delivery of the supplies, which could not reasonably have been foreseen by a competent contractor;
 - d) administrative orders affecting the date of completion other than those arising from the Contractor's default;
 - e) failure of the Contracting Authority to fulfil its obligations under the contract;
 - f) any suspension of the delivery and/or installation of the supplies which is not due to the Contractor's default;
 - g) force majeure;
 - h) any other causes referred to in these General Conditions which are not due to the Contractor's default.
3. Within 8 day of realising that a delay might occur, the Contractor shall notify the Project Manager of his intention to make a request for extension of the period of implementation of the tasks to which it considers himself entitled and, save where otherwise agreed between the Contractor and the Project Manager, within 8 days provide the Project Manager with comprehensive details so that the request can be examined.
4. Within 8 days the Project Manager shall, by written notice to the Contractor after due consultation with the Contracting Authority and, where appropriate, grant such extension of the period of implementation of the tasks as may be justified, either prospectively or retrospectively, or inform the Contractor that it is not entitled to an extension.
5. If the Contractor fails under his own responsibility to deliver any or all of the goods or perform the services within the time limit(s) specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled, for every day which shall elapse between the expiry of the implementation period of the tasks and the actual date of completion, to liquidated damages equal to 5/1000 of the value of the undelivered supplies to a maximum of 15% of the total value of the contract. If the non-delivery of any of the goods prevents the normal use of the supplies as a whole, the liquidated damages provided for in paragraph 21.1 shall be calculated on the basis of the total contract value.
6. If the Contracting Authority has become entitled to claim at least 15% of the contract value it may, after giving written notice to the Contractor:

- a) seize the performance guarantee;
- b) terminate the contract, in which case the Contractor will have no right to compensation; and
- c) enter into a contract with a third party for the provision of the balance of the supplies. The Contractor shall not be paid for this part of the contract. The Contractor shall also be liable for the additional costs and damages caused by his failure.

Article - Inspection and testing

1. The Contractor shall ensure that the supplies are delivered to the place of acceptance in time to allow to proceed with acceptance of the supplies. The Contractor is deemed to have fully appreciated the difficulties which it might encounter in this respect, and it shall not be permitted to advance any grounds for delay.

2. The Contracting Authority shall be entitled, from time to time, to inspect, examine, measure and test the components, materials and workmanship, and check the progress of preparation, fabrication or manufacture of anything being prepared, fabricated or manufactured for delivery under the contract, in order to establish whether the components, materials and workmanship are of the requisite quality and quantity. This shall take place at the place of manufacture, fabrication, preparation or at the place of acceptance or at such other places.

3. For the purposes of such tests and inspections, the Contractor shall:

- a) provide the Contracting Authority, temporarily and free of charge, with such assistance, test samples or parts, machines, equipment, tools, labour, materials, drawings and production data as are normally required for inspection and testing;
- b) agree, with the Contracting Authority, the time and place for tests;
- c) give the Contracting Authority access at all reasonable times to the place where the tests are to be carried out.

4. If the Contracting Authority is not present on the date agreed for tests, the Contractor may, unless otherwise instructed, proceed with the tests, which shall be deemed to have been made in the Contracting Authority's presence. The Contractor shall immediately send duly certified copies of the test results to Contracting Authority, who shall be bound by the test results.

5. When components and materials have passed the above-mentioned tests, the Contracting Authority shall notify the Contractor or endorse the Contractor's certificate to that effect.

6. If the Contracting Authority and the Contractor disagree on the test results, each shall state his views to the other within 15 days of such disagreement. The Contracting Authority or the Contractor may require such tests to be repeated on the same terms and conditions or, if either Party so requests, by an expert selected by common consent. All test reports shall be submitted to the Contracting Authority, who shall communicate the results of these tests without delay to the Contractor. The results of retesting shall be

conclusive. The cost of retesting shall be borne by the Party whose views are proved wrong by the retesting.

Article - Assignment and Subcontracting

1. An assignment shall be valid only if it is a written agreement by which the Contractor transfers his contract or part thereof to a third party.

2. A subcontract shall be valid only if it is a written agreement by which the Contractor entrusts implementation of a part of the tasks to a third party. The Contractor shall not subcontract without the prior written authorisation of the Contracting Authority. The elements of the contract to be subcontracted and the identity of the subcontractors shall be notified to the Contracting Authority. The Contracting Authority shall notify the Contractor of its decision within 30 days of receiving the notification, stating its reasons if authorisation is withheld. The Contractor shall be responsible for the acts, defaults and negligence of his subcontractors and their agents or employees, as if they were the acts, defaults or negligence of the Contractor, his agents or employees. The approval by the Contracting Authority of the subcontracting of any part of the contract or of the subcontractor shall not relieve the Contractor of any of his obligations under the contract.

3. If the Contractor has assigned his contract without authorisation or if the Contractor enters into a subcontract without approval, the Contracting Authority may, without giving formal notice thereof, apply as of right the sanctions for breach of contract provided further on in this contract.

Article - Breach of contract

1. A Party shall be in a breach of contract if it fails to discharge any of its obligations under the contract.

2. Where a breach of contract occurs, the injured Party shall be entitled to the following remedies:

- a) damages; and/or
- b) termination of the contract.

3. Damages may be either: a) general damages; or b) liquidated damages.

4. In any case where the Contracting Authority is entitled to damages, he may deduct such damages from any sums due to the Contractor or from the appropriate guarantee.

Article - Termination

1. The Contracting Authority may, after giving the Contractor seven days' notice, terminate the contract in any of the following cases:

- a) the Contractor substantially fails to perform his obligations under this contract;
- b) the Contractor fails to comply within a reasonable time requiring it to make good any neglect or failure to perform his obligations under the contract which seriously affects the proper and timely implementation of the tasks;
- c) the Contractor assigns the contract or subcontracts without the authorisation of the Contracting Authority;

d) the Contractor is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

e) the Contractor has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata;

f) the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify.

2. The Contractor may, after giving 14 days notice to the Contracting Authority, terminate the contract if the Contracting Authority:

a) fails to pay the Contractor the amounts due under any certificate issued by the Project Manager after the expiry of the deadline stated in the Special Conditions;

b) consistently fails to meet its obligations after repeated reminders; or

c) suspends the delivery of the supplies, or any part thereof, for more than 180 days, for reasons not specified in the contract or not attributable to the Contractor.

For the Contracting Authority

Name: Željko Bošnjak

Title: CEO

Signature:

Date: __. __. 2022.

For the Contractor

Name:

Title:

Signature:

Date:

PROVISIONAL/ FINAL ACCEPTANCE CERTIFICATE

Contract No: 2022/340854_TD2.2022 Title: Supply of Label Print Press

Contractor:

Contracting Authority: **Agens d.o.o.**

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Medarska 69, 10090 Zagreb, Croatia

Item	qty	Description	Delivery	Installation	Trial Run	Spare Parts	Documentation /Manuals	Training	Certificates	Remarks
1	1	Label Print Press								

Provisional: All of the above mentioned items have been delivered, installed, tested and found compliant with the Technical Specifications of the supply contract.

Final: The Supplier has remedied any defect or damage occurred during the warranty period, as specified in the contract.

Date of acceptance:.....

The Contractor

The Beneficiary

Name

Name

Signature.....

Signature.....