

SPECIAL CONDITIONS OF CONTRACT.

These Special Conditions supplement the General Conditions governing the contract. Except where the Special Conditions provide otherwise, the General Conditions remain fully applicable. For ease of reference, the number of an Article in the Special Conditions is the same as the number of the General Condition to which it refers.

The Contracting Entity – Mosta Parish – is an NGO. It is not bound by the Public Procurement Regulations and these regulations do not apply to this Contract. Mosta Parish is however following the spirit of these Regulations to achieve a high standard of procurement practice.

DEFINITIONS:

Reference 'The Glossary' in the General Conditions:

"Administrative Orders"	'Administrative Orders' shall have the same meaning as 'Instructions'.
Beneficiary Country	does not apply.
Central Government Authority	Decisions are taken by the Contracting Entity or by the Engineer, as applicable. This is not a 'Public Tender'.
Contracting Authority, Final Beneficiary.	Mosta Parish is the the final beneficiary of the contract. "Contracting Entity" replaces "Central Government Authority" and 'Contracting Authority' in the General Conditions of Contract. Mosta Parish is an NGO and is not subject to Central Government Authority, nor do the 'Public Procurement Regulations' apply.
Engineer	the person responsible for administering the contract on behalf of the Contracting Entity.
Framework Contract	Not relevant to this tender.
"Supervisor / Engineer /Project Manager"	Duties taken over by the Engineer
Site	Mosta Church (the Rotunda) and immediate surroundings where works under this contract have to be carried out.

The Special Conditions.

In the following 'Special Conditions', the Article number is the same as that of the General Condition to which it refers.

A. Preliminary Provisions.

Article 1

The Contracting Entity – Mosta Parish – is an NGO. It is not bound by the Public Procurement Regulations and these regulations do not apply to this Contract. Mosta Parish is however following the spirit of these Regulations to achieve a high standard of procurement practice.

Articles 1.4 and 1.5 do not apply.

Article 2: Law and language of the Contract

Article 2.1 The Laws of Malta shall apply in all matters not covered by the provisions of the contract. English is the language used for the Contract and for official communication relating to it. All instruction manuals and technical literature shall be in English

Article 3: Order of Precedence of Contract Documents

3.1 The order of precedence of documents in the contract is as follows:

- (a) the Contract;
- (b) the Special Conditions;
- (c) the General Conditions;
- (d) the Contracting Authority's technical specifications and design documentation;
- (e) the Contractor's technical offer, and the design documentation (drawings);
- (f) the bill of quantities/financial bid (after arithmetical corrections)/breakdown;
- (g) the tender declarations in the Tender Response;
- (h) any other documents forming part of the contract, including clarifications.

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

Article 4: Communications

3.1 All Communications by the Contractor in relation to this Contract are to be addressed to the Engineer.

and copied to

Fr Sebastian Caruana, Parish Priest – Parish Office, 15 Church Street, Mosta, Malta .
Email – office@mostachurch.com;

And

progettiparroccamosta@gmail.com'

cc. email – ronnie.bezzina@yahoo.com

The successful tenderer will be formally informed of the name and contact details of the Engineer at the award of contract.

Communications between the Parties shall be made in writing, through email.

Article 5: Supervisor and Supervisor's Representative

The Supervisor referred to in the General and these Special Conditions shall be the Engineer (as in 4.1 above).

Sub-articles 5.1 - 5.7 As per General Conditions

Site Instructions to the Contractor shall be issued solely by the Engineer or his designated representative. The Engineer will monitor the progress of the Works, compliance with the Specifications and Drawings and the quality of workmanship.

Officers of the parish will also monitor the works. Mosta church is a Class I Heritage Building and this places special responsibilities upon the parish.

Important and substantial verbal Instructions issued by the Engineer or the Engineer's Representative shall be confirmed in writing within three (3) working days.

Article 6: Assignment.

Article 6.2 Except as in Article 6.2, no assignments are allowed.

Article 7. Subcontracting

Article 7.7 Schedule 13 of the Public Procurement Regulations is being reproduced here:

Schedule 13

List of International Social and Environmental Conventions

- ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- ILO Convention 98 on the Right to Organise and Collective Bargaining;
- ILO Convention 29 on Forced Labour;
- ILO Convention 105 on the Abolition of Forced Labour;
- ILO Convention 138 on Minimum Age;
- ILO Convention 111 on Discrimination (Employment and Occupation);
- ILO Convention 100 on Equal Remuneration;
- ILO Convention 182 on Worst Forms of Child Labour;
- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.

Article 7.10 does not apply.

B. Obligations of the Contracting entity

Article 8: Supply of Documents

- Articles 8.1 All available drawings from the contracting entity are published within the Contract document package.
- Articles 8.4 An efficient procedure for approval of drawings and similar matters will be agreed between the parties following the award of the Contract.

Article 9: Access to site.

Article 9.1 The site will generally be put at the disposal of the Contractor according to agreed work plans. However, despite Mosta Church being a place of daily worship and a prime tourist attraction, any interruptions to this access are unlikely and, in any case, minor.

The Contractor has to liaise with the Parish administrator about this access to minimise disruptions.

Article 9.2 The Parish does not deem it necessary to provide any land to the Contractor for this project.

Article 10: Assistance with Local Regulations

Article 10.1 The Contractor is to make his own arrangements with third parties if he deems specialist assistance is required. While cooperating with the Contractor, the Contracting Entity is not equipped to provide any specialist assistance.

Local wardens, the Police and the Local Council are the Entities concerned with vehicle parking, loading and unloading in the vicinity of the Church. The Parish can advise on these matters. Working on the Church building at any time but especially during abnormal working hours, and any other requirement for the works to be carried out must be cleared with the Parish officers, who may set conditions in the interest of orderly implementation of the Project and their responsibility for the Church administration.

Articles 10.3 and 10.4 are not applicable.

C. Obligations of the Contractor.

Article 11: The Contractor's General Obligations

Article 11.9 The contractor, if necessary for the timely completion of the Project shall also perform works outside normal working hours, and weekends at no additional cost to the Contracting Entity. These costs are assumed to be built into the Contract price.

Article 11.7 It shall be the responsibility of the Contractor to ensure that all lifting equipment that is used on the Project, even if rented out, is certified by a warranted Mechanical Engineer every six (6) months, in accordance with the regulations issued by the Occupational Health and Safety Authority.

Article 11.11 Within 10 working days following the order to start work, the contractor shall draw up and submit any drawings as well as any literature, documents or items required for the execution of the works for approval by the Engineer. A procedure for this approval process shall be agreed between the parties.

Article 11.14 Schedule 13 of the Public Procurement Regulations is reproduced under Article 7.

Article 11.16 and 11.17 All drawings so far prepared by the Contracting Entity are being published with this tender document. These drawings are the property of the Contracting Entity and the Contractor may not reproduce or communicate them to third parties outside the project except with the Contracting Entity's agreement

Article 11.19 is not applicable since this Project is not EU funded.

The Contractor shall ensure cleanliness at the site of works. A systematic housekeeping programme shall be established and followed throughout the contract period.

Article 13: Performance Guarantee

No performance guarantee is being asked for under this contract.

Article 14: Insurance

The insurance cover must be at least against any loss or damage for which the contractor is liable arising other than from force majeure or risks attributable to the Buyer. Such insurance shall cover at least all materials to the full replacement cost against all loss or damage from whatever cause and an additional sum of 15% of such replacement cost, to cover all the additional direct or indirect costs of making good losses or damage.

The Contracting Entity, its employees and persons acting on its behalf shall be held harmless and indemnified against any claims by third parties for damage to property or personal injuries arising from the execution of the works by the Contractor, or employees or persons acting on his behalf.

Article 15: Performance Programme.

The Project is to be completed within a period of four months maximum.

Article 15.2 The contractor must submit his project performance programme, supported by a reasonable amount of data and detail, within 7 days from the issue of the order to start works. Failure by the Contractor to achieve completion of the works within the stipulated time gives rise to financial penalties.

Procurement of hardware on time to meet the planned programme of Works is a critical task having a significant impact on Project completion. The Engineer is to be kept fully informed of developments in this regard.

Article 15.3. The Engineer may require alterations in or additions to the Programme of Works as submitted. Changes proposed by the Contractor shall be considered and if deemed fit, approved in writing, within 2 working days, by the Contracting Entity.

The Contractor is to attend progress meetings at reasonable intervals as and when required by the Engineer and when so indicated by circumstances, to monitor both the progress and the quality of the works.

Article 17: Contractor's Drawings/Diagrams

Article 17.1 At the first meeting after the award of the Contract, the Contracting Entity, the Contractor and the Engineer shall draw up a mutually acceptable procedure and timetable for efficient submission and approval of drawings that allows project completion as stipulated.

Article 17.7 Similarly, the contractor shall submit, for approval, early in the project implementation period a contents table for the operations manual that will be delivered by the Contractor during the instruction period prior to take-over.

Article 18: Sufficiency of Tender Prices

Article 18.4 Further to Article 18 of the General Conditions, the Contractor shall be deemed to have taken into account in his tender price all works, fees and costs that are necessary to complete the project and to fully hand over in operational condition in the stipulated completion period.

Cost of works outside normal working dates and hours is assumed to have been built in the tender price.

Article 20: Safety on site.

If requested, within 5 working days, The contractor shall draw up and submit an updated Health and Safety Risk Assessment and submit it for approval to the Engineer. Within a further 5 working days, the Contracting authority is obliged to accept or reject the health and safety risk assessment.

The Contractor shall also, in addition to the above, take any necessary action to ensure and maintain the health and safety of his employees and the general public lawfully at the site and its vicinity effected by the Works. The Contractor shall follow any relevant instructions and/or recommendations of the Engineer to fulfil the obligations set out in Legal Notice 88/2018 of Malta.

Note: Article 11.7 is also relevant to this section.

Article 20.3 It shall be the responsibility of the Contractor to ensure that all lifting equipment that he shall employ on the Project, even if rented out, is certified by a warranted Mechanical Engineer every six (6) months, in accordance with the regulations issued by the Occupational Health and Safety Authority.

Article 20.4. The General Condition without reference to the Public Procurement Regulations is sufficient.

Article 21 Safeguarding Adjacent Properties.

Mosta Church dominates a public square that is extremely busy from both a pedestrian and vehicular traffic perspective. The Church is also adjacent to and surrounded by catering establishments that serve clients outdoors on public spaces (pavements).

The Contractor is to ensure that disruption and inconvenience to the day-to-day activities – pedestrian, vehicular and business – is minimised. This can easily be avoided by some work-planning. When some disruption cannot be avoided, the Contractor is to inform the Engineer in advance and make the necessary arrangements with local warden entity, the local Council, and possibly the police. The Contractor shall actively ensure that damage to adjacent buildings or property, including public spaces, and injury to persons is avoided.

Article 22: Interference With Traffic.

See Article 21

Article 25: Demolished Materials

Article 25.1 No civil-works type demolition material is envisaged to be generated. Scrap generated is expected to consist of old cable and electrical hardware such as old disused luminaires.

Article 25.2. The Contracting Entity does not intend to retain any material from the existing installations except for existing cable which is being retained as installed for continued service. Most existing hardware will be scrapped. Carting away and dumping of this material shall be the responsibility of the Contractor.

Should, an item that the Contracting Entity may wish to retain arises in the course of the works, the Contractor will deliver it to the parish store adjacent to the Church.

Article 26: Discoveries

Not applicable

Article 28: Soil Studies

Not applicable

Article 29: Overlapping Contracts.

There are no overlapping contracts nor are any foreseen for the near future. The Contracting Entity's staff carry out routine maintenance.

Article 30: Patents and Licences

As per general conditions.

D. Commencement of Performance and Delays.

Article 31: Commencement Date

Sub-article 31.1 The project shall start at the latest ten days following the signature of the contract with the successful Tenderer. When all the preliminary requirements are fulfilled, the 'Order to Start Work' to be issued by the Engineer will stipulate the Commencement Date.

The Contracting Entity requires the project to be completed in a maximum of four (4) months.

Article 32: Period of Execution of Tasks

The Contractor is to organise implementation of the Project to complete all works and hand over the Works within the stipulated completion period of four months maximum. This is to be reflected in the Programme of Works and Gantt Chart to be submitted in terms of Article 15.

The Contractor will need to satisfy the Contracting Entity of his ability in terms of organisation and resources to respect the completion date. The Contract price should allow for all work outside normal working days and hours if necessary. The Contracting Entity will not cover this expenditure.

Article 33. Extension of the Period of Execution of tasks.

The references to the Central Government Authority and to the Public Procurement Regulations do not apply.

Article 34: Delays in Execution

Article 34.1 In the event of delays in the completion of the works over the agreed completion period that are attributable to the Contractor, the Contractor shall pay the Contracting Entity the amount of € 500.00 euro per calendar day of delay in liquidated damages, up to a maximum of 20% of the contract Value. This is without prejudice to other remedies under the contract.

A penalty of 100 euro per day will be payable if performance is lagging behind the programme submitted by the Contractor until the project catches up with the anticipated progress. If the final completion period is achieved, this penalty is refunded.

The maximum amount of liquidated damages under this Article shall not exceed 20% of the Contract value.

If circumstances warrant, the Contracting Entity will invoke Articles 4.2 and 34.3 of the General Conditions.

Article 35: Modification to the Contract

Article 35.1 and 35.2 All modifications ordered under this contract will be determined by the Contracting Entity and/or the Engineer as appropriate and reference to the Public Procurement Regulations does not apply.

Article 35.3 In the last sentence, "In terms of the Public Procurement Regulations" deleted.

Article 35.8 Repetition of works shall be capped at a 2% of contract value.

Article 35.9 Value of additional works capped at 10% of the original contract.

Articles 35.9 and 35.10 Reference to Public Procurement Regulations does not apply.

E. Materials and Workmanship.

Article 37: Work Register

The Engineer and the Contractor shall, at the start of the Project agree on a convenient and efficient method of recording work, services and supplies which cannot be measured or verified subsequently but which may be required to determine progress, payments, penalties or similar.

Article 38: Origin

As per General Conditions

Article 39: Quality of Works and Materials

39.2 All designs, components, materials, and interventions/methodologies shall be according to the technical specifications. Any clarification or missing information on any item of material or operation shall be referred to the Engineer for preliminary technical approval, prior to implementation or procurement.

Article 40: Inspection and Testing

Article 40.2 It is not the intention of the Contracting Entity to witness tests at the manufacturer's works. Certification of material and of operational safety and type test results are to be provided to the Engineer as part of the on-site acceptance procedure. A Test Certificate by a Warranted Engineer certifying the safe use of all the equipment in terms of LN88/2018 may be requested. Any hardware that does not meet standards and safety criteria will be rejected.

Article 42: Ownership of Plants and Materials

It will be the responsibility of the Contractor to satisfy himself of the security of all items that he brings to the site but which is not delivered or taken over. The Contracting Entity will not be responsible for any missing / stolen plant or material, but will cooperate with the Contractor on this issue.

F. Payments

Article 43: Payments: General Principles.

Article 43.1 Payments will be made in Euro.

Payment terms should be as in the table below:

<u>Payment Description</u>	<u>Amount</u>
Pre-financing for the purchase or order of hardware necessary for the Works.	Maximum 25% of contract value of material and hardware subject to proof of purchase or order.
Interim payments for works completed and commissioned (Provisional Acceptance)	Maximum of 60% of contract value less previous payment.
Upon taking over of works	30%
Retention up to a 6 month Defects period.	10%
Retention up to 24 months after handing over	Retention money reduced to 5%

The Contracting Entity will make payments to the Contractor as follows:

- Receipt of a tax invoice from the Contractor, supported by documentation justifying the amount and content of the claim to the satisfaction of the Engineer.
- Certification by the Engineer and confirmation by the Contracting Entity within 5 days of the Engineer's certification. If all is in order, the Contracting Entity will issue a payment certificate and process the invoice.

Payments shall be made within 55 days after the issue of the Payment Certificate.

See also 'Article 34: Delays in Execution' in the General and Special Conditions of Contract.

Article 44: Pre-financing

Article 44.1 Pre-financing will be given upon submission by the Contractor of 'proof of the conclusion of a contract for the purchase of materials and hardware necessary for the execution of the contract' to the satisfaction of the Engineer.

The contractor is to group several purchase contracts together to need processing of less than four invoices for prefinancing. The description of the material being purchased should be sufficiently clear as to be able to assign prefinances to later invoices for interim payments (See Art 48).

Article 44.2 Article does not apply. This project is not EU funded.

Article 45: Retention Monies

Article 45.2 Replacement of retention money by a bank guarantee will only be made in exceptional circumstance and must be justified.

Article 46: Price Revision

46.1 No revision of prices will be allowed in this contract.

Article 47: Measurement

47.1 (iii) 'and the Public service Regulations' does not apply.

47.2 Works and material supplied under the Contract, shall follow as much as possible the detailed breakdown in Bills of Quantities. and as specified in the appropriate clauses in the Technical Specifications.

The contractor shall give the Engineer, at least one week notice, to allow for a final inspection and the measurement of works and any witnessing required. The Contractor shall ensure that the Engineer has all the necessary access, and tools necessary to fulfill these tasks.

Article 48: Interim Payments

Interim payments are due for sections of the works that are completed and commissioned. Any pre-financing on that section of work will be deducted from the interim payment.

Invoices for payment by the Contractor should be supported by documentation justifying the amount and content of the claim to the satisfaction of the Engineer, who will certify it.

Within 5 days of the Engineer's certification, the Contracting Entity will check the certified invoice against the BoQs and otherwise as may be necessary, and if all is in order, issue a payment certificate and process the invoice.

Article 50: Delayed Payments.

In Article 43 of these 'Special Conditions, the procedures for payments to the Contractor by the Contracting Entity are described. Payments will be made within 55 days of the Engineer's certification. If payment is not effected within this stipulated time, General condition 50.2 applies.

Article 53: End Date.

The Contractor shall achieve completion of the Works within a maximum period of 4 months.

The payment obligations of the National Development and Social Fund for this project cease on 31st December 2022.

G. Acceptance and Maintenance

Article 58: Maintenance Obligations

There shall be a maintenance period of five years, commencing on the date of provisional acceptance of works under the Contract during which the Contractor will make good for certain defects or damages, as stipulated in Article 58.1. This period will restart for replaced items during the maintenance period.

The necessary remedial works during the maintenance period are to be done by the Contractor, who will be responsible for all the necessary arrangements at no cost to the Contracting Entity.

The Contractor must have technical support from manufacturer/s that is based in Europe.

H. Breach of Contract and Termination.

I. Dispute Settlement.

J. ETHICS CLAUSES

Article 67 to 68: Ethics Clauses

Article 69: Checks and Audits

Article 69.1 Replace 'Central Government Authority' by Government or other Public bodies established at law.