

# ***D SUPPLY CONTRACT***

**Supply of commodities and services to**

**Italian – Egyptian Commodity Aid Programme**

**SUPPLY CONTRACT No.**

**BETWEEN**

***THE CONTRACTING AUTHORITY:***

THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT - MINISTRY OF PLANNING AND INTERNATIONAL COOPERATION 8, Adly Street - Cairo Represented by the “Contracting Authority”, Amb. Marawan Badr, Who signs the Contract for approval.

**AND**

***THE CONTRACTOR:***

**have agreed as follows**

***PREAMBLES***

- A) The Italian Government through its Ministry of Foreign Affairs, agreed to grant to the Egyptian Government through its Ministry of International Co-operation - European Co-operation Sector, a the sum of Italian Liras 60.000.000.000 (sixty thousand billion) equal to Euro 30.987.413,95 (thirty million nine hundred eighty seven thousand four hundred and thirteen euros and 95 cents), plus the accrued interest up to date, to import goods and services of Italian origin (“***Commodity Aid Programme***”)
- B) The Government of the Italian Republic and the Government of the Arab Republic of Egypt on May 12<sup>th</sup>, 1994 signed a Financial Protocol, hereinafter referred to as “***The Protocol***” including its amendments, which sets the rules for utilization of the grant.
- C) The Government of the Arab Republic of Egypt - Ministry of International Co-operation European Co-operation Sector, as “***Contracting Authority***”, conclude purchase contracts through open Tenders in the Italian market, and manage and monitor the fulfilment of the supply contract;
- D) The Italian Ministry of Foreign Affairs has appointed its representative on site, hereinafter referred to as “***The Italian Expert***”.

- E) The Government of the Arab Republic of Egypt - Ministry of Foreign Affairs - International Co-operation Sector - conferred on the date 31.10.1994 a mandate to Intesa-Sanpaolo S.p.A. hereinafter referred to as “**Agent Bank**”.
- F) The Government of the Arab Republic of Egypt has appointed within the terms of the Protocol, as per the Agreement dated September 22nd 1994, the Company: VIGLIENZONE ADRIATICA S.p.A. - Circonvallazione P.za D’Armi 130 - 48100 Ravenna, hereinafter referred to as “**Control and Surveillance Company**”.
- G) On the Tender Notice relevant to the Commodity Aid Egypt Tender no. has been published for the supply of , to the , hereinafter referred as “**Consignee**”.
- H) On , by letter no. dated , the Contracting Authority communicated to the Company , from now on referred to as “Contractor”, the Award of the Tender no.
- I) This Purchase Agreement will be hereinafter called “**Contract**”.

## **Assumption**

*The legal validity of the present contract depends on the suspensive condition of its positive approval and on pre-established inspections relative to legal procedures in force, as well as preventive controls regarding its legitimacy by the Italian Court of Auditors which will issue a Decree of approval of the Contract.*

The present Contract will be effective and enter into force on the day of the official and written endorsement by the Ministry of Foreign Affairs of Italy.

## **Article 1: PURPOSE OF THE AGREEMENT**

1.1 The supply (as per IncoTerms 2000 - Annex IX) Destination:

- List of Commodities as per Annex II, to be provided according to the Technical Specifications detailed in Section E;
- Spare parts up to 10% of the total value of the above mentioned commodities, according to the technical specifications requested by the Contracting Authority;
- Packing;
- Transport from ex work to port of embarking;
- Sea freight to the selected sea Port, handling loading and unloading;
- The seller bears the costs and risks associated with the import clearance, unloading and subsequent delivery beyond the place of final destination excluded any duties and taxes to be born by the Contracting Authority;
- All risk insurance policy for the 110% of the contract value ;
- Warranty for 36 months;
- Preliminary visit and training in Italy
- Assembling and training course in Egypt;

as listed by the Contractor into the Pro-forma Invoice no. dated . with annexes; all herewith enclosed and to be considered integral part of this *contract* (and it will be *Annex* no. X).

1.2 The Contractor hereby undertakes that the supply and the conditions of supply described into the Pro-forma Invoice no. dated and annexes, are absolutely the same as specified into the technical offer no. and financial offer no. dated and indicated in the Letter of Award protocol no. dated .

## **ARTICLE 2: PERFORMANCE GUARANTEE**

2.1 The Supplier shall issue a Performance Guarantee (as per Annex III) in favour of the Purchaser, according to the provisions of the Tender’s documents, delivered to the Person in Charge together with the Contract duly signed for acceptance not later than 30 days from the date of receipt of its date. The Supplier commits himself to instruct the Bank to extend the validity of the guarantee and the relevant expiry date in case of changes for whatsoever reason in the delivery schedule.

- 2.2 The Performance Guarantee is kept to reimburse the Purchaser for any damage caused by the fact that the Supplier has not completely and properly fulfilled his obligations as laid down the Contract.
- 2.3 The Performance Guarantee shall be released within 30 days from the date of the acceptance by the Contracting Authority. It will become automatically null and void after 30 (thirty) days from the date of the “**Certificate of Conformity at final destination and of delivery**” issued by the Control and Surveillance Company

### ***ARTICLE 3: PRICE OF THE CONTRACT***

The total price of the supply delivered (as per Incoterms 2000 – (Annex IX) with destination: is of Euro ( euros only) . The price of the supplies shall be the same shown on the financial offer (specified in Annex III). and shall be the sole remuneration owed by the Contracting Authority to the Supplier under the contract. It shall be firm and not subject of any revision.

The *Contractor* undertakes that the above-mentioned prices are fixed and cannot vary for the entire period of the Contract.

Any taxes, custom duties and expenses relevant to the importation of goods into the Arab Republic of Egypt, including commission to be paid to the National Bank of Egypt for the issue of the letters of credit as per next Article 4 are at *Purchaser's* charge.

### ***ARTICLE 4: PAYMENT CONDITIONS***

Payments shall be made in accordance with the Special Conditions and General Conditions.

Payments shall be made by means of irrevocable and confirmed Letter of Credit, which currency shall be Euro and issued by National Bank of Egypt as *Agent Bank* within 30 days from the date of receiving of the Contract from the *Contracting Authority* according to the following terms and conditions:

The supplies shall be exempt from all duties and taxes, including VAT. The Contracting Authority will take all the necessary steps to provide the Contractor with all necessary documents for the tax exemption and custom clearance.

The contract is made up of the following documents, listed according to precedence:

- this Contract agreement;
- The Instructions to Tenderers (as per Section A);
- the Special Conditions (as per Section C), including the technical annex (Section E: Technical Specifications) [including clarifications before the deadline for submission of tenders];
- the Contractor's tender, including annexes;
- the Price List (as per Annex II);
- the General Conditions (as per Section B);

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

For all matters not covered by the above provisions, the law applicable shall be law of the Italian Republic.

### ***ARTICLE 5: “ANTIMAFIA” CERTIFICATION***

The validity of the contract will be underneath the condition that the “Antimafia Certification” presented by the *Contractor* to the *Agent Bank* is valid and in accordance to the laws in force in Italy.

## **ARTICLE 6: COMING INTO FORCE**

The coming into force of the contract is subject to the fulfilment of the following conditions:

- a) Issuing and validity of the Performance Guarantee as per Article 2
- b) Issuing of the Antimafia Certification as per Article 5.
- c) Issuing of a Letter of Credit by the National Bank of Egypt in favour of the Italian Agent Bank, Intesa-Sanpaolo S.p.A.

The official date of entering into force of the contract will be the date of notification of the letter of Credit by the *Agent Bank* to the Contractor's bank: Intesa Sanpaolo S.p.A. located in BRESCIA c/c 9006 IBAN: IT62 B010 2511 2001 0000 0009 006.

## **ARTICLE 7: CARRIERS -TRANSPORT**

For the shipping of the goods to \_\_\_\_\_, the *Contractor* shall use Italian Carriers only. Transport may be carried out combined by sea, railway and road. To be noticed that the ship used to transport to Egypt the goods object of this Supply Contract must be Italian, namely, must flies Italian flag only.

## **ARTICLE 8: ACCEPTANCE AND TAKING OVER OF THE GOODS**

8.1. The commodities are delivered \_\_\_\_\_ and, therefore, at the date of the issuing of the "Certificate of Conformity at final destination and of delivery" by the *Control and Surveillance Company*, **the commodities will be considered accepted** and taken over the responsibility of the *Consignee*.

8.2. Starting from the date of the Certificate of Conformity at final destination and of delivery, the warranty period of 36 months will start.

## **ARTICLE 9: MONITORING AND INSPECTIONS**

**The inspections and monitoring activities will be carried out by the *Control and Surveillance Company* as follows:**

9.1 Quantity and quality inspection of the commodities, i.e. verification of the number of pallets, inspection of the packing, certification concerning shipping at the Contractor's factory, loading and discharging port.

9.2 For the operations mentioned in this article, point 9.1, the following certificates shall be issued from the *Control and Surveillance Company*:

- Certificate of Conformity at loading;
- Certificate of Discharge;
- Certificate of Conformity at final destination and of delivery.

The Inspection and Monitoring activities, as per Financial Protocol will be carried out by the Control and Surveillance Company named Viglienzona Adriatica S.p.A. located at 130, Circonvallazione Piazza d'Armi - 48100 Ravenna - ph. +390544 422242 - fax +390544 590765

## **ARTICLE 10: ARBITRATION**

Arbitration ruling is excluded and any dispute arising from the performance, or/and interpretation, and/or execution of this contract, shall be settled through the Egyptian courts.

## ***ARTICLE 11: LAW and JURISDICTION***

**Enforceable regulations:** The law ruling the tender procedure is the Italian one. After signing the contract, and after the shipment of the commodities, the jurisdiction for any controversy arising from the interpretation or application of this contract, is the Egyptian one.

The contract shall be automatically terminated if the contractors are the subject of proceedings for a declaration of bankruptcy, for winding-up, for administration by the courts, for an arrangement with creditors or for any similar procedure provided for in national legislation or regulations.

## ***ARTICLE 12: CORRESPONDENCE***

Any written communication relating to this Contract between the Contracting Authority and the Contractor shall be in English and shall state the Contract title and identification number. It must be sent in copy also to the Consignee, the Italian Expert and the Control and Surveillance Company, by post, fax, or handed over using the following addresses:

***The Contracting Authority:***

Government of the Arab Republic of Egypt  
Ministry of Planning and International Cooperation  
8, Adly Street - Cairo  
Tel.: +202 23901801 - Fax +202 23910344

***Consignee:***

***Contractor:***

***The Italian Expert:***

Embassy of Italy, Cooperation Office, Italian-Egyptian Commodity Aid Programme  
1079 Corniche El , Garden City, Cairo,  
Tel. +202 2792 0873/4 – fax +202 2795 6904 - +202 2792 02 72

***Control and Surveillance Company:***

VIGLIENZONE ADRIATICA S.p.A.  
C.ne Piazza D'Armi 130 – II p.  
48100 Ravenna – Italy  
Tel. 0039 0544 42 22 42 – fax 0039 0544 590 765

## ***ARTICLE 13: AMICABLE SETTLEMENT OF DISPUTES***

The contracting parties shall make every effort to settle amicably any dispute which may arise between them. The procedures applicable are set out in the Special Conditions and General Conditions.

**ARTICLE 14: DELIVERY**

The delivery period shall run from the date of the Contract effectiveness.

**ARTICLE 15: SUPPLIER’S BANK ACCOUNT**

The bank account of the Supplier into which payments shall be made is:

<b>Account number</b>	
<b>Account name</b>	
<b>Bank name &amp; address</b>	
<b>Corresponding bank (if any)</b>	

Written in English in eight originals of equal legitimacy and value,

**THE CONTRACTOR:**

The legal Representative:

Place: Cairo, Egypt, Date: ..... signature: \_\_\_\_\_

**THE CONTRACTING AUTHORITY:**

Government of the Arab Republic of Egypt, Ministry of International Cooperation, Ambassador Marawan Badr

Place: Cairo, Egypt, Date: ..... signature: \_\_\_\_\_

**THE ITALIAN EXPERT:**

Italian-Egyptian Commodity Aid Programme  
Embassy of Italy in Cairo, Dr. Igor Marcialis

Place: Cairo, Egypt, Date : ..... signature: \_\_\_\_\_  
(for conformity)

**THE CONSIGNEE:**

The Legal Representative:

Place: Cairo, Egypt, Date : ..... signature: \_\_\_\_\_  
(for acceptance)