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07.08.2017

VOLUME 2

**SECTION 1
CONTRACT FORM**

WORKS CONTRACT FOR EUROPEAN UNION EXTERNAL ACTIONS

NO BG-TR-CBC/139-LP-WORKS-01/..... 07.08.2017

FINANCED FROM THE IPA funds and National public contribution, in accordance with the rules of Interreg - IPA CBC Bulgaria -Turkey Programme 2014-2020 with CCI, Number: 2014TCI615CB005

Between **Regional historical museum Burgas**, address: 69 "Slavyanska" str., 8000 Burgas, Republic of Bulgaria, registration number: 000044598, represented by Milen Nikolov, Director, ('The Contracting Authority'), of the one part,

and

Restavracia EAD, address: Residential estate Istok, 7 Lachezar Stanchev str., bl.5B, fl.3, 1125 Sofia, Republic of Bulgaria, registration number: 831555095 and VAT Reg Number: BG831555095, represented by Lyudmil Kostov, Director¹ ('the Contractor') of the other part,

have agreed as follows:

**PROJECT "Common cultural and historical heritage beyond the borders",
CB005.1.21.139**

CONTRACT TITLE

Work contract for Emergency conservation of Archaeological site "Late Antiquity and Medieval Fortress Aquae Calidae Terma"

Burgas, Bulgaria

Identification number BG-TR-CBC/139-LP-WORKS-01

Whereas the Contracting Authority would like the Contractor to carry out the following works:

Construction of continued and implemented conservation and restoration works on the following archaeological structures of Late Antiquity and Medieval Fortress Aquae Calidae Tenna. In this stage:

- 1.The west side by Eastern corpus of the Early Byzantine bath;
2. Remains from the Antiquity aqueducts on the East side of the Eastern Early Byzantine corpus;
3. Medieval wall on the West and South side of the Eastern Early Byzantine Bath;
4. Wall from the Eastern corpus of the Turkish bath-under footbridge;
5. Pool (frigidarium);
6. New wall on the North side of the pool to strengthen the water facility;
7. Small Early Byzantine pool;
8. Part of a pool (under the building of the Turkish bath and to the East of it);
9. Early Byzantine wall between the Turkish bath and apodyterium;
- 10.Channel and surrounding area between the bath and apodyterium;
11. Apodyterium-partial reconstruction of the east wall.
- 12.

¹ Except where the contracting party is not VAT registered.

Conservation of the water supply piping; 13. Supporting wall-Western wall of the central corpus of the Early Byzantine bath and stone floor level, and has accepted a tender by the Contractor for the execution and completion of such works and the remedying of any defects therein.

It is hereby agreed as follows:

- (1) In this Contract, words and expressions shall have the meanings assigned to them in the contractual conditions set out below.
- (2) The following documents shall be deemed to form and be read and construed as part of this Contract, in the following order of precedence:
 - (a) the Contract,
 - (b) the Special Conditions,
 - (c) the General Conditions,
 - (d) the Technical and /or Performance Specifications,
 - (e) the Design Documentation (drawings),
 - (f) the breakdown of lump-sum price,
 - (g) the tender,
 - (h) any other documents forming part of the Contract.

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they shall prevail in the order in which they appear above. Addenda shall have the order of precedence of the document they are amending.

- (3) In consideration of the payments to be made by the Contracting Authority to the Contractor as hereinafter mentioned, the Contractor undertakes to execute and complete the works and remedy defects therein in full compliance with the provisions of the Contract.
- (4) The Contracting Authority hereby agrees to pay the Contractor in consideration of the execution and completion of the works and remedying of defects therein the amount of:
 - Contract price (excluding VAT/other taxes) **EUR 136 861.76**
The EU component EUR²164 234.12 EUR incl. VAT
 - Contract price **EUR - One hundred sixty-four thousand two hundred thirty-four euro and 12 cents**

or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract. VAT will be paid in compliance with the binding regulations, national law and international agreements concerning the execution of the project. VAT and other taxes shall not be paid on the funds originating from EU funds.

- (5) The Parties agree to the set of rights and obligations described in the attached contractual documents, with the following main characteristics, further detailed in the attachments:

			Contract- article:
1	Price	Lump sum contract	49
		Prices can not be revised	48
2	Duration	12 months implementation of works	34
		Provisional acceptance, after completion of works	60
		Defects liability period of 365 days, after provisional acceptance	61
		Final acceptance, after expiry of defects liability period	62

² In the event of cofinancing, the EU-contribution must normally be entered as a lump sum in euro.

3	Delay	0.1% of the contract price for every day of delay	36
4	Supervisor	<ul style="list-style-type: none"> - Independent Supervision during Construction: Kostov i Sinove OOD - Technical Design Supervision: Arh. Nikola Nikolov - Investor control: RHM Burgas 	5
5	Sub-contracting	Allowed up to 50% of the contract price, with the main Contractor maintaining full responsibility	7
6	Bank guarantees	no performance, prefinancing and retention guarantees	15, 46, 47
7	Insurances	For damage to 3 rd parties, unlimited for bodily injury	16
		Contractor all risk insurance	16
		Insurance against accidents at work	16
		Insurance for soundness of works	16
8	Payments	lump sum advance for 20% of the original contract price, after conclusion of the contract	46
		Interim payment for 30% of the contract price, after completion of % 50 of works	49, 50
		Interim payment for 40% of the contract price, after completion of %100 of works and after issuing of the Certificate of provisional acceptance.	49, 50
		Retention money for 10% of the contract price, after signed Final statement of account	47, 49

In witness whereof the parties hereto have signed the Contract. This Contract shall take effect on the date on which it is signed by the last party, namely the Contractor.

Done in English in two originals: one original for the Contracting Authority and one original for the Contractor.

For the Contractor

Name: *Lyudmil Kostov*

Title: *executive*

Signature: 

Date: *07.08.2017*



For the Contracting Authority

Name: *Milen Nikolov*

Title: *Директор*

Signature: 

Date: *07.08.2017*



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SECTION 3 SPECIAL CONDITIONS

CONTENTS

These conditions amplify and supplement the General Conditions governing the Contract. Unless the Special Conditions provide otherwise, the General Conditions remain fully applicable. The numbering of the Articles of the Special Conditions is not consecutive but follows the numbering of the General Conditions. Other Special Conditions should be indicated afterwards.

Article 2 Language of the Contract

2.1 The language used shall be English.

Article 4 Communication

4.1 Contact data for the Contracting Authority:

Regional historical museum Burgas,
represented by Milen Nikolov, Director
Address: 69 "Slavyanska" str., 8000 Burgas, Republic of Bulgaria,
Phone/ fax: 0035956820 344
E-mail: main@burgasmuseums.bg
Contacting person: Radovesta Stewart

4.2 Contact data for the Contractor:

Restavracia EAD
Address: 7, Lachezar Stanchev str., 1797 Sofia, Republic of Bulgaria
Phone/ fax: 02/8705200
E-mail: restavracia@restavracia.com
Contacting person: Lyudmil Kostov – legal representative

4.3 Contact data for the Independent Supervision during Construction:

Kostov i Sinove OOD
Legal Address: 87, Patriarh Evtimii str., 8000 Burgas, Republic of Bulgaria
Correspondence Address: 2, Knyaz Boris I str., fl.1, office 2, 8000 Burgas, Republic of Bulgaria
Phone/ fax: 056 817 848
E-mail: kostovisinove@gmail.com
Contacting person: Kaloyan Kostov – legal representative

4.4 Contact data for Technical Design Supervision:

Arh. Nikola Nikolov
Legal Address: 11 Debelt str., 8000 Burgas, Republic of Bulgaria

Phone/ fax: 0899804781

E-mail: niksim_nik@abv.bg

All official communication between the Parties upon the whole procedure and implementation of the Contract shall be in written.

Article 5 Supervisor and Supervisor's representative

5.2 Under this contract, the Supervisor does not delegate his duties and authority to a Supervisor's Representative.

Article 9 Access to the site

9.1 The Contractor is reminded that there is a Head of Delegation of the European Commission in the state of the Contracting Authority. The Contractor is obliged to give the Head of Delegation free access to its sites, factories, workshops, etc., and generally assist the Head of Delegation, like the project Supervisor, in the performance of his duties. The same provisions also apply to the appointed representatives of the Head of Delegation.

All correspondence between the Contractor and the Contracting Authority or project Supervisor must be copied, for information, to the Head of Delegation of the European Commission at the following official address:

Ministry of Regional Development and Public Works of the Republic of Bulgaria,
Directorate General "Territorial Cooperation Management"

Address: 17-19 "Kiril and Metodiy" Str., 1202 Sofia, Bulgaria

Telephone: +359 2 94 05 581

Fax: +359 2 987 07 37

E-mail: tcm_exbd@mrrb.government.bg

Article 12 General Obligations

12.9 Initial technical information

Before commencing and during the execution of the assigned works, the contractor must:

analyze and verify all data;

to check all quantities reflected in the quantitative accounts;

to review the site and obtain all necessary information;

to make additional measurements and calculations;

to clarify all tasks;

to assess the type of equipment and facilities needed to perform the works specified in the specifications;

to require from the contracting authority all available information that is necessary for the performance of the activities covered by the contract.

Equipment

The Contractor shall have the tools, facilities and equipment necessary to carry out the activities subject to the Contract.

Control of conservation and restoration works

The Contracting authority shall designate a responsible official - Investor Inspector who will monitor the fulfillment of the agreed obligations, including the signing of the following acts and protocols during the execution of the site, drawn up in accordance with the Ordinance № 3 for drawing up of acts and protocols in time of construction:

Act model 12 - for the identification of all types of construction and installation works to be closed;

Act model 10 - for the suspension of the construction works and accordingly Act model 11 for the continuation of the construction, at the discretion of the Contracting authority, due to bad weather conditions, etc. Force majeure circumstances;

A quantitative - value account for the actual executed conservation and restoration works of the site;

Protocol for final transmission by the Contractor and acceptance by the Contracting authority of the executed object, according to the contract - finding act - analogous to act model 15;

All declarations of conformity, certificates of materials, to be transmitted to the representative of the Contracting authority, designated for site control.

Quality control

The Contractor must provide the Contracting authority with a professional implementation of the conservation and restoration works.

Safety and coordination requirements

When carrying out the conservation and restoration works, all the requirements of the Bulgarian and international legislation on safety, health and safety at work, as well as the requirements for fire safety shall be observed.

Observe the requirements of Ordinance No 2 on Minimum Requirements for Health and Safety at Work, as of March 22, 2004.

In the case of subcontracting, all provisions will apply to subcontractors and the Contractor will act as coordinator.

When more than one contractor is working at the same workplace at the same time, a coordinator will be appointed in advance. It has to coordinate not only the necessary types of work but the risk-related policy.

Only qualified staff and workers are eligible to perform the work properly.

Protection of the environment

In the implementation of the conservation and restoration works on the realization of the order to include measures and activities for preservation and protection of the environment, the preparation for implementation of which to start before and continue during the period of construction of the site, until it is put into operation, in order to ensure compliance with legal regulations and prevent negative impacts on the environment and health of people working on the site as well as the population in the area.

All construction and installation work must be carried out in compliance with the Bulgarian and international environmental protection laws and regulations.

Minimize the noise and dust of the object. Every day the site and adjacent areas should be cleaned and waste dumped.

Schedule of implementation of the conservation and restoration works

When starting work, the Contractor must update the timetable, proposed in his technical proposal for the execution of the contract and the workforce diagram, which are tailored to the specific construction site conditions.

The deadline for the execution of the site can not be corrected without the existence of an emergency or force majeure.

The workforce chart must show the number of workers at any given time, as well as the average number of workers on the site.

Cleaning and transmitting of the object

The contractor must maintain the site clean and orderly throughout the execution of the works.

There is no extra charge for the cleaning and delivery of the facility.

Upon transmission of the object, the contractor shall transmit to the assignor all keys and all documentation (records, certificates, etc.).

Scope of construction and assembly works

Within the framework of this contract, the following shall be carried out:

Conservation and restoration activities

Sealing and conservation on the western side of the eastern Early Byzantine corps of the bath-imprint and conservation on the western side of the eastern Early Byzantine corps between the quarters A 4 to A 10;

Stabilizing and preserving discovery in 2009-2010;

Conservation and installation on the eastern side of the eastern Early Byzantine corps of the remains of the antique and late antique waterways;

Conservation of a medieval wall from the western and southern sides of the Eastern Early Byzantine Corps - the southern end of the square № A 5, -A 5, -B 5;

Conservation of the wall from the eastern corridor of the Turkish bath under the passanger - square B 4, C 5 and C 6;

Pool Conservation (Frigidarium);

Conservation of the stone structure (a greatly damaged andesite tuff);

Restoration of the marble floor, restoration of the brick plinth along the pool;

Stabilization of the cloak west and southwest along the pool (right next to the pool from the west and southwest exposed partial drainage channel);

A new structural wall on the northern side of the pool to strengthen the waterworks;

Conservation of the small Early Byzantine basin (square A 3);

Stabilization of the embankment over the exposed basin and the foundations of the Turkish bath;

preservation of the Early Byzantine wall between the Turkish bath and the apoditarium (square-A 3, A 3);

Stabilization and strengthening of the brickwork, restoration of demolished brick rows;

Conserving the channel and the space around it between the bath and the apoditrium in (-A 2, -B 1-2);

Conservation of water supply channels (square A 5, A 4, -A 3);

Conservation and partial restoration of a bearing structural wall in order to influence the visitors about the volumes of the bath complex;

Cleaning and stabilizing the floor level from solid stone slabs of andesite tuff;

Constructive reinforcement of the southern profile of the archaeological excavation, south of the south-east apoditrium;

Socialization and exhibition of the archaeological finds

Approach for visitors with direct access to the apoditrium, Eastern Corps of the Early Byzantine Bath, pools;

Decorative artistic lighting;

Construction of an octagonal gazebo type "Exotic".

The execution of all construction and assembly works must be coordinated with the Contracting authority.

Article 15 Performance guarantee

15.1 The guarantee periods proposed by the contractor for the performed conservation and restoration works shall not be less than the ones referred to in Art. 20, para. 4, item 4 of Ordinance No. 2 of 2003 for the commissioning of the construction works in the Republic of Bulgaria and minimum warranty terms for completed construction and assembly works, facilities and construction sites.

The warranty period begins to run from the date of submission of the site by the contractor to the assignor, certified by a protocol.

Any defects occurring before the end of the warranty period shall be established by a protocol drawn up and signed by the representatives of the contracting authority. This protocol is immediately sent to the contractor with a specified time limit for removal of the defect. If defects occur before the end of the warranty period as a result of bad quality materials or equipment or poorly executed works by the contractor, they will remove them for their own account within a time limit set by the contracting authority under the terms of the contract.

Article 16 Liabilities and Insurance

- 16.1 a) By way of derogation from Article 16.1, a) paragraph 2, of the general conditions, compensation for damage to the works resulting from the Contractor's liability in respect of the Contracting Authority is capped at an amount equal to the contract value.
- 16.1 b) By way of derogation from Article 16.1, b), paragraph 2, of the general conditions, compensation for damage resulting from the Contractor's liability in respect of the Contracting Authority is capped at an amount equal to the contract value.

Article 17 Programme of implementation of tasks

- 17.1 The Contractor shall provide the Supervisor with a simplified programme of implementation of the tasks. This programme shall include at least the order and time limits in which the Contractor proposes to carry out the works, and shall be based on the tranches foreseen in art. 49.1 of the special conditions.
- 17.2. The Supervisor shall return this document to the Contractor with any relevant remarks within 10 days of receipt, save where the Supervisor, within those 10 days, notifies the Contractor of its wish for a meeting in order to discuss the documents submitted.

Article 21 Exceptional risks

- 21.4 The parties do not owe compensation for damages and lost profits if they are caused as a result of force majeure
- 21.5. Force majeure within the meaning of this Agreement is any unforeseeable and unavoidable event of extraordinary nature and beyond the reasonable control of the parties arising after the conclusion of the contract, which renders its execution impossible.
- 21.6. A party that cannot fulfill its obligation by force majeure shall be bound within three days of the occurrence and notify the other party of what constitutes force majeure and what its possible consequences are. Upon failure to notify within a time limit, the party concerned shall be liable for damages.
- 21.7. (1) Upon the suspension of construction due to force majeure, the terms provided for in the preceding article shall be increased by the period of suspension.
(2) There is no force majeure if the relevant event is due to unpaid care by the builder or due diligence can be overcome.

(3) If the force majeure, respectively the suspension under the preceding paragraph, persists for more than 30 days and there are no indications of its early termination, either party may terminate the contract in the future by notifying the other in writing.

21.8. (1) The risk of accidental loss or damage of clearly accepted construction, constructions, materials, construction equipment, etc. is borne by the Contracting Authority.

(2) The Contractor bears the risk of losing or damaging the already accepted works, if the loss or damage is not the fault of the Contracting Authority and the latter could not prevent it.

Article 34 Period of implementation of tasks

34.1 Duration of implementation of tasks is 12 months /twelve/ months/ from the signing of the contract.

Article 36 Delays in the implementation of tasks

36.1 The rate of liquidated damages for delays in the completion of works shall be 0.1% of the contract price for every day or part thereof which elapses between the end of the period of implementation of tasks and the actual date of completion, up to a maximum amount of 10 % of the contract price or, if the contract is subdivided into phases, 10% of the price of the phase concerned.

Article 39 Work register

39.1 Supervisor shall enter information in work register, as follow:

the weather conditions, interruptions of work owing to inclement weather, hours of work, number and type of workmen employed on the site, materials supplied, equipment in use, equipment not in working order, tests carried out in situ, samples dispatched, unforeseen circumstances, as well as orders given to the Contractor;

39.2 The statements shall be prepared according to the rules in internal legislation, namely to the general conditions of the investment works related to the cultural monuments. All statements shall be signed by the Contractor, Supervisor and he Contracting Authority.

Article 40 Origin and quality of works and materials

40.1 All goods purchased under the Contract must originate in any eligible source country as defined in Interreg - IPA CBC Bulgaria -Turkey Programme 2014-2020 with CCI, Number: 2014TCI6I5CB005. However, the goods to be purchased may originate from any country, whenever the total price of the estimated quantity of those goods, as reflected in a separate item of the Breakdown of the Lump-sum Price (Volume 4.2.3) is below 100.000 €. A category of similar goods to be purchased shall not be broken down over more than 1 item of the Breakdown of the Lump-sum Price (Volume 4.2.3)]

For these purposes, 'origin' means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the EU Customs Code or the applicable international agreement.

When importing goods, any change in the specified origin must be pointed out to the project Supervisor and approved by him.

40.2 The works and the objects, appliances, equipment or materials used in their construction must comply with:

(*) the following specifications and the requirements of:

The quality and type of all building materials to be used on the site must be assessed in accordance with the Ordinance on Essential Construction Requirements and Conformity

Assessment of Construction Products and must be accompanied by a "Declaration of Conformity".

All construction and assembly works must comply with:

"Rules for Execution and Acceptance of Construction and Assembly Works" (PIPCR); Ordinance № 2/2004 of the Ministry of Regional Development of the Republic of Bulgaria and the Ministry of Labor and Social Policy on the minimum requirements for health and safety at work during the construction of a workshop;

Ordinance No IZ-1971/2009 of the Ministry of Regional Development and Public Works on the construction and technical rules and norms for ensuring fire safety.

All the materials to be placed on the site must be accompanied by appropriate certificates of origin and quality, instructions for use and a declaration certifying the conformity of each of the construction products incorporated with the essential requirements for the works according to the requirements of the Technical Requirements Act Products and by-laws to it. All products are subject to approval by the Contracting authority.

- 40.3 New, unused and non-defective materials are used. In case of replacement of materials, as well as in terms of color definition, the Contracting authority's approval must be sought.

The Contractor shall provide access for the Contracting authority's representatives to verify the execution of the schedule, the technological sequence and the materials used. The Contractor is responsible for the required quantity and quality of the materials.

Article 43 Ownership of plant and materials

- 43.2 The equipment, temporary structures, plant and materials on the site shall for the duration of the execution of the works, be vested in the Contractor.

Article 44: General principles for payments

- 44.1 Payments shall be made in euro.
- 44.2 If invoices are submitted to the Contracting Authority, the Contractor shall inform the Programs authority thereof by sending a copy to the Beneficiary Portal of the Program.
- 44.3 By derogation, pre-financing payment to the Contractor for the lump-sum advance shall be made within 30 days. Other pre-financing payments to the Contractor shall be made within 60 days. Interim payments to the Contractor of the amounts due under each of the interim payment certificates approved by the supervisor shall be made within 60 days, and the final payment to the Contractor of the amounts due after the final statement of account issued by the Supervisor shall be made within 60 days.

Article 46 Pre-financing

- 46.1 The only prefinancing granted to the Contractor, is the lump sum advance referred to in Article 46.1(a).
- 46.2 By derogation to Article 46.2 of the General Conditions, the lump sum advance referred to in Article 46.1(a) shall be 20% of the original contract price.
- 46.3(c) By derogation to Article 46.3(c) of the General Conditions, no pre-financing guarantee is required.
- 46.8 The tranches laid down in Article 49.1 of these Special Conditions are determined so that the pre-financing is fully repaid before Provisional Acceptance.

Article 47 Retention monies

- 47.1 The sum retained to guarantee implementation of the Contractor's obligations during the defects liability period is 10 % of the contract price. By derogation to Article 47.1 of the General Conditions, that money is not retained from interim payments. The tranches laid down in Article 49.1 of these Special Conditions are determined so that the retention sum

amounts to 10 % of the contract price at the moment of the Certificate of provisional acceptance.

- 47.2 By derogation to Article 47.2 of the General Conditions, the retention sums can not be substituted by a retention guarantee.

Article 48 Price revision

- 48.1 Prices are fixed and shall not be revised.

Article 49 Measurement

- 49.1 This is a lump-sum contract.

Under the conditions imposed by the Special Conditions and General Conditions, the amounts due shall be calculated through the following tranches, expressed as percentage of the contract price:

	Percentage	Nature	Timing
1.	20%	Lump-sum advance of Article 46.1(a)	After conclusion of the contract
2.	30%	Interim payment of Article 50	After completion of 50 % of the firm quantities for which the Contractor submitted its all-in price.
3.	40 %	Interim payment of Article 50	After completion of 100 % of the firm quantities for which the Contractor submitted its all-in price and after issuing of the Certificate of provisional acceptance
4.	10%	Retention money of Article 47	Within 45 days of the issuing of the signed Final statement of account

Article 50 Interim payments

- 50.7 The interim payments will be paid as determined in Article 49.1 of these Special Conditions.

Article 61 Defects liability

- 61.1 The defects liability period is defined as the period commencing on the date of provisional acceptance, during which the Contractor is required to make good any effect in, or damage to, any part of the work which may appear or occur during this period as notify by the Supervisor or the Contracting Authority. The rights and obligations of the parties with regard to this defects liability period are laid down in Article 61 of the General Conditions.

Article 68 Dispute settlement

- 68.4 Any dispute arising out of or relating to this Contract which cannot be settled otherwise shall be referred to the exclusive jurisdiction of the Bulgarian court in accordance with the national legislation of the state of the Contracting Authority.

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