

SUPPLY CONTRACT

agreed between and signed by

CONTRACTING AUTHORITY: **Republic of Slovenia, Ministry of Defence,**
Vojkova cesta 55, Ljubljana,
Represented by Matej Tonin, MSc, Minister

Registration no.: **5268923000**
Account no.: **01100-6370191114**
VAT Identification no.: **SI47978457**
(hereinafter: Buyer)

and

CONTRACTOR: **EuroSpike GmbH**
Fischbachstr. 16
90552 Röthenbach
Germany
Represented by **Wolfgang Herrnberger and Günter Lauer**
Managing Directors EuroSpike GmbH

Registration no.: **HRB 21534**
VAT Identification No.: **DE241118947**
IBAN: **DE85 2904 0090 0102 2565 00**
SWIFT: **COBADEFF290**
(hereinafter: Seller)

Introductory provision

Article 1

The Contracting Parties hereby note that the Buyer carried out a public contract award procedure MORS 112/2021-ON-PSPb for the supply of SPIKE LR extension cables following the negotiated procedure without prior publication under Article 22 of the Public Procurement for Defence and Security Act (Official Gazette of the Republic of Slovenia no. 90/12, 90/14-ZDU1I and 52/16, hereinafter: ZJNPOV) and in accordance with the Invitation to Tender no. 430-128/2020-2 dated 31 March 2021.

The Seller was selected based on the Contract Award Decision no. 430-128/2021-16 dated 25 May 2021, which took effect on 8 June 2021.

Subject of contract

Article 2

The Seller undertakes to supply to the Buyer the SPIKE LR extension cables (hereinafter: Products) in compliance with the Buyer's requirements set forth in the Invitation to tender MORS 112/2021-ON-PSPb and the Bid no. EUSP 12/2021A dated 22 April 2021 and the Final Bid no. EUSP 12/2021A dated 19 May 2021 appended hereto to constitute an integral part hereof.

Prices, location and time of delivery

Article 3

The Seller shall deliver to the Buyer the Products at the prices:

	Product	Unit	Quantity	Price per Unit in EUR, excl. VAT	Total value in EUR, excl. VAT
1	2	3	4	5	6 = 4 x 5
1	SPIKE LR extension cable NSN 6150-31-017-4892 RAFAEL P/N G60429A	piece	8	5,720.00	45,760.00

The Total Value under this Contract shall be equal to **EUR 45,760.00**, exclusive of Value Added Tax (hereinafter: VAT). VAT shall be calculated and paid by the Buyer following payment of every invoice.

The value of the 1st delivery shall be equal to **EUR 5,720.00**, exclusive of VAT.

The value of the 2nd delivery shall be equal to **EUR 40,040.00**, exclusive of VAT.

The prices are per DDP (INCOTERMS 2020) delivery terms.

Place of delivery:

MORS, 157. LOGP/ESDND, Vojašnica VEP, Leskoškova 7, Ljubljana, Slovenija, where the Buyer shall conduct the quality control as per Article 6 hereof.

Time of Delivery:

1st delivery: the Seller shall hand over to the Buyer one (1) cable 8 weeks after the Contract is signed and export licence is granted.

2nd delivery: The Seller shall hand over to the Buyer the remaining Products within 14 months of the Contract signature by both Parties.

Where the Seller requires the End User Certificate (EUC) or any other permit required for the import of the Products, it shall submit a request therefor to the Contract Administrator. As a rule, the Seller shall be provided with the said certificate within 3 business days. The Seller shall incorporate the time necessary for signing the certificate into the delivery period stipulated under the Contract.

Invoicing and payment

Article 4

The Seller shall issue and submit to the Buyer the invoice for payment within 5 days of the date of successful quality and quantity control for acceptance for each delivery. The invoice citing the Buyer's address: Ministry of Defence, Vojkova cesta 55, 1000 Ljubljana, Slovenia, and bearing the number of this Contract as assigned by the Buyer shall be submitted as a .PDF document to: glavna.pisarna@mors.si.

Any invoice submitted shall be accompanied by:

- duly completed delivery note, inclusive of quantity and price, signed by the Buyer,
- duly completed Minutes of Quality Control of Products signed by the Buyer (Form SS14-7).

The Buyer shall pay any correct invoice submitted, which shall serve as the basis for payment, on the 30th day calculated from the first day after the date of official receipt of the invoice in question at the Buyer's address.

In the event of any claim, the Buyer will reject the invoice. Upon receipt of the new invoice issued after the settlement of the claim, payment shall be made on the 30th day counted from the day of official receipt of the new invoice, which shall serve as the basis for payment. The deadline for payment shall begin on the first day after the date of official receipt of the invoice at the Buyer's address.

If the Buyer fails to settle the invoice in due time, the Seller will be entitled to interests for late payment.

Quality of Products

Article 5

The quality of Products supplied shall fully conform to the Buyer's technical specifications and the Bid submitted and appended hereto.

Quality Control by the Buyer

Article 6

Two weeks before the expected shipment of the Products, the Seller shall e-mail to glavna.pisarna@mors.si (include the reference number of this Contract):

- Notification of products ready for acceptance (Form SS 12-7).

As proof of the Products' quality, the Seller shall submit to the Buyer's transport company the following:

- Technical specifications and basic information for use, maintenance, transport and storage written in Slovenian or English,
- CoC,
- Warranty certificate.

Following delivery to the designated place, Form SS 14-7 - Minutes of Quality Control of Products subject to this Contract shall be drawn up and signed by the authorized representatives of both Contracting Parties. The Buyer's authorized person for acceptance is a representative of the Materiel Acceptance Section, or a person authorized thereby; the Contractor's authorized person for the acceptance is Mr. Asif Roger Kazi.

After the successful completion of quality acceptance protocol, the Minutes shall be classified as: »Quality does comply with contractual provisions«.

The Contracting Parties hereby agree that the Products shall be deemed to have been delivered on the date the Products subject hereto have been handed over to the Buyer at the designated location, and both the Minutes of Quality Control for Acceptance of Products stating that "Quality does comply with contractual provisions" and the respective duly completed delivery note have been signed by the Buyer.

Article 7

The Parties hereto agree that the provisions of the Code of Obligations of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, no. 97/07 – official consolidated text) shall apply to all material defects. During the warranty period, provided the Seller is immediately notified of the defect

by the Buyer, the Seller shall remain liable for any hidden defects on the Products.

The Seller shall remedy the defect or replace any defective Product with a new Product within the time limit set forth by the Buyer, otherwise the Seller shall be liable to payment of compensation. Expenses incurred by the remedy of the defect, inclusive of transport costs and related reimbursements, shall be borne by the Seller.

Warranty

Article 8

Each Product subject hereto shall be provided with the warranty of 12 months. Each warranty provided shall enter into effect on the date of quality control for acceptance of products conducted by the Buyer.

During the warranty period, the Seller shall ensure faultless performance of the delivered Products and shall remedy, free of charge, the defects that cannot be attributed to the Buyer. Where enforcing the warranty claim, the Buyer shall define a suitable deadline for the remedy of the defects in question; however, this deadline may not be shorter than 60 days. If the Contractor fails to remedy the defects within the timeframe set, the Contractor shall replace any defective Product with a new, faultless Product. All transport and other costs related to repair or replacement within the warranty period shall be borne by the Seller. Because the Product(s) could not be used, the Buyer shall have the right to reimbursement for the damage caused by the defect from the moment the repair or replacement was requested to the implementation thereof.

For a minor repair and replacement Product, the warranty period shall be extended for the time equivalent to the time during which the Buyer could not use the Products in question.

Liquidated Damages

Article 9

Where the Seller fails to provide the Buyer with the Products on the dates agreed hereunder for reasons that cannot be attributed to Force Majeure or the Buyer, the Seller shall pay to the Buyer as liquidated damages an amount equal to 5‰ (per mil) of the total value of the delayed Products (exclusive of VAT), for each day of such delay, but not more than 5% (percent) of the total value of the delayed Products (exclusive of VAT).

Where the Seller fails to deliver to the Buyer all Products subject hereto, the Seller shall pay to the Buyer as liquidated damages for non-delivery an amount equal to 5% (per cent) of the Total Contract Value, exclusive of VAT.

The Seller hereby agrees that the Buyer may recover any debts subject to this liquidated damages clause by offsetting them against the financial obligations hereunder. Where this is not possible, the Buyer shall issue a separate invoice to be paid by the Seller within 8 days of receipt thereof.

Should the damage caused to the Buyer exceed the amount charged as liquidated damages, the Buyer shall have the right to demand that the remaining amount to full compensation be paid.

Contract Management

Article 10

The Buyer hereby appoints Ms. Dubravka Zupanec, Logistics Directorate, as the Contract Administrator; the Seller appoints Mr. Marc Hoschek for the same purpose.

For the purposes of implementation of this Contract, the Buyer hereby appoints MSG Andrej Mrak and CPT Franc Vučko; the Seller appoints Mr. Asif Roger Kazi for the same purpose.

Any agreements reached without knowledge and approval of the Administrators of the Contract, are void and null.

Anti-corruption clause

Article 11

Any Contract in which a person promises, offers or gives any undue advantage to the representative or agent of a public sector body or organization on behalf or for the account of another contracting party for the purpose of obtaining business, concluding business under more favourable terms and conditions, omitting due supervision over the implementation of contractual obligations or for the purpose of any other act or omission, which causes a public sector body or organisation damage or by which the representative or the agent of the public sector body or organisation, the other contracting party or its representative, agent or intermediary are put in a position to obtain an undue advantage shall be null and void.

Force Majeure

Article 12

Force Majeure shall mean the occurrence of any event which a Party could not foresee, avoid or avert when entering into the Contract even though it acted with due care, on condition that the said event comes from the external sphere of their operation and the party was not required to take such an event into consideration.

The Party affected by the Force Majeure shall immediately notify the other Party, in writing, of the start and the termination of the Force Majeure event. Additionally, within 2 days of the beginning or the end of the said event, the affected Party shall present to the other Party credible evidence to the existence and duration of such an event.

Following the end of the Force Majeure event, both Parties shall prepare written records of any changes to the obligations under the Contract. If the Parties cannot agree thereon, the Party where circumstances of Force Majeure did not occur has the right to withdraw from the Contract by sending a written notification thereof to the other Party. Each Party shall thereafter settle any obligations incurred through the day the Contract has been so terminated.

Withdrawal from Contract

Article 13

The Buyer shall have the right to withdraw from this Contract and demand reimbursement for potential damage, if the Seller:

- becomes insolvent, or if an court order for the payment of debts has been issued against the Seller, if the Seller is facing compulsory settlement or bankruptcy, or if the Seller as a legal person adopted a decision to terminate the company (except for voluntary liquidation due to merging or restructuring), if a liquidator has been appointed for any part of the Seller's company or assets or if a similar act is initiated against him as a result of debt,
- delays delivery of the Products for more than 30 days,

- fails to fulfill the obligations under this Contract in the manner prescribed herein.

If the Seller withdraws from the Contract after the Contract has been signed and thus fails to fulfil its contractual obligations for reasons attributed to the Seller, the provisions governing liquidated damages for non-delivery under this Contract shall apply.

Liability

Article 14

Notwithstanding anything to the contrary implicitly or expressly stated in this Contract or in law, the Seller's total and cumulative liability and indemnity arising out of or in connection with this Contract, whether derived from contractual non-compliance or liability and/or indemnification in tort either by this Contract and/or by law, shall not exceed the Contract Price actually paid to the Seller under this Contract and shall be limited to direct damages only. In no event the Seller shall be liable for incidental and/or consequential and/or punitive and/or exemplary damages.

Final Provisions

Article 15

This Contract is concluded for the procurement of the Products stipulated herein and shall expire upon delivery thereof.

Article 16

Should there be any changes to the Seller's status during the performance of the Contract, its contractual obligations shall be transferred to its legal successors.

Article 17

Either Contracting Party may propose modifications and additions hereto. These shall be deemed effective only if agreed in writing as an amendment hereto.

Changes of the authorized representatives specified under Article 10 may be reported by one Party to the other by a written notice thereof.

Article 18

The Contracting Parties agree that the Code of Obligations (Official Gazette of the Republic of Slovenia, No. 97/07 – official consolidated text) shall apply for any provision not agreed under the Contract.

Article 19

The Contracting Parties shall seek settlement of any dispute arising from this Contract in an amicable way. Should that not be possible, the dispute shall come under the jurisdiction of a competent court of law in Ljubljana, Slovenia, and shall be resolved in accordance with the Slovenian legislation.

Article 20

This Contract shall be written in two (2) identical copies, one (1) of which shall be kept by each Contracting Party.

The Parties agree that the Contract shall enter into force, and the Products shall be deemed to have been ordered, on the date of signature by both Parties.

Number: 4300-374/2021-1
Date: 29. 07. 2021

BUYER
Republic of Slovenia
Ministry of Defence

Marko Grubar, MSc
Secretary
Deputy Director-General
Logistics Directorate

SELLER
EuroSpike GmbH
Germany

Wolfgang Herrnberger / Günter Lauer
Managing Directors EuroSpike

Appendices constituting an integral part of this Contract:

Appendix 1: Bid no. EUSP 12/2021A dated 22 April 2021 and the Final Bid no. EUSP 12/2021A dated 19 May 2021

Appendix 2: Forms: SS 12-7 and SS 14-7