



GENERAL CONDITIONS OF CONTRACT (SERVICES)

DEFINITIONS

1. In the Contract as defined below, words and expressions shall have the following meanings assigned to them, except where the context requires otherwise:
 - (a) "Contract" means the agreement of the Parties relating to the procurement of Services including the present General Conditions of Contract (Services) which shall form an integral part of the Contract;
 - (b) "Contractor" means the person or entity named as 'CONTRACTOR' in the Contract and any agreed in writing by OSCE legal successor(s) in title;
 - (c) "Day" means any calendar day;
 - (d) "Delivery Date" means the latest possible date by which the Services shall be provided by the Contractor to the OSCE, as specified in the Contract;
 - (e) "*Force Majeure*" means acts of God, war, acts of a public enemy, invasion or any similar cause or force. Failure to perform caused by events arising out of, or in connection with civil unrest shall not constitute force majeure under the Contract;
 - (f) "OSCE" means the Organization for Security and Co-operation in Europe, including the OSCE Secretariat, Institutions (the OSCE Secretariat, the Office of the High Commissioner on National Minorities (HCNM), the Office of Democratic Institutions and Human Rights (ODIHR) and the Office of the Representative on Freedom of the Media) and Field Operations (Missions, Centres, Groups, Presences, Project Coordinators and any other field operations), whichever is or are applicable;
 - (g) "Party" means the OSCE or the Contractor and "Parties" means the OSCE and the Contractor;
 - (h) "Services" means all of the services to be provided to the OSCE and performed by the Contractor under the Contract.

CONCLUSION OF THE CONTRACT

2. The Contract is made between the OSCE and the Contractor.
3. The Contract shall be concluded upon the Contractor duly following the countersigning procedure stated in the OSCE Purchase Order.

FUNDING

4. The Contract shall become and remain effective only on the condition that the Secretary General of the OSCE issues a budget allotment or a provisional budget allotment in respect of the Services to be performed pursuant to the Contract. In the event this is not or no longer the case, the OSCE shall without unreasonable delay notify the Contractor thereof. Any continuation of the Contractor's performance under the Contract after being notified by the OSCE shall be at the Contractor's risk and expense.

PERFORMANCE OF SERVICES, COMMENCEMENT AND COMPLETION DATES

5. The Contractor shall perform the Services at the location(s) specified in the Contract. The commencement and completion dates, as specified in the Contract, shall be strictly adhered to, and time shall be of the essence. The Services performed by the Contractor shall fulfil all requirements, as specified in the Contract including any acceptance criteria, if applicable.
6. The Contractor shall:
 - (a) supply everything necessary to properly perform the Services;
 - (b) carry out the Services in a diligent and efficient manner;
 - (c) comply with all laws and regulations applicable to the performance of the Services;
 - (d) take reasonable and proper care of all OSCE property while such property is in its possession or subject to its care, custody or control and the Contractor shall be responsible for any loss or damage, except ordinary wear and tear, resulting from its failure to do so; and
 - (e) perform the Services in accordance with standards of quality acceptable to the OSCE and in full conformity with the requirements of the Contract.
7. The Contractor represents and warrants that:
 - (a) it is competent to perform the Services;
 - (b) it has the necessary capacities and qualifications, including knowledge and skills, to perform the Services; and
 - (c) it knows of no proprietary, intellectual property or any other rights of third parties which might be infringed in the execution of the Contract.

INSTRUCTIONS

8. The Contractor is engaged as an independent contractor for the sole purpose of performing the Services. The Contractor shall neither seek nor accept instructions from any authority external to the OSCE in connection with the performance of its obligations under the Contract. The Contractor shall refrain from any action which may adversely affect the OSCE and shall fulfil its commitments with the fullest regard to the interests of the OSCE.

9. While present at the OSCE's premises, personnel of the Contractor shall, at all times, obey and conform to all requests and instructions of OSCE's officials.

CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES

10. The Contractor shall be responsible for the professional and technical competence of all its employees and personnel and will select, for the performance of the Services, reliable individuals who will perform effectively in the implementation of the Contract, respect local customs and conform to a high standard of moral and ethical conduct.

ASSIGNMENT OF PERSONNEL

11. The Contractor shall not replace or withdraw any personnel referred to in the Contract for the performance of the Services without the prior written approval or request of the OSCE.
12. Prior to assignment, replacement or withdrawal of any personnel performing the Services, the OSCE may request that the Contractor submit to the OSCE the curriculum vitae or detailed justification in order to allow the OSCE to evaluate the impact such assignment, replacement or withdrawal may have on the performance of the Services.
13. In the event of the withdrawal of any personnel, all costs and additional expenses resulting from the replacement, for whatever reasons, of any of the Contractor's personnel shall be at the sole cost and risk of the Contractor. Any such withdrawal shall not be considered any termination, whether in whole or in part, of the Contract.

CONFLICT OF INTEREST

14. No employee of the Contractor assigned to perform Services under the Contract shall engage, directly or indirectly, in any business, profession or occupation connected or related to the Services to be provided under the Contract that may constitute a conflict of interest.

EVALUATION OF THE SERVICES

15. The duly authorised representative(s) of the OSCE shall have the right, before payment, to evaluate the Services performed under the Contract and to certify that the Services are in compliance with the Contract, including any acceptance criteria therein. The Contractor shall provide all necessary facilities for such an evaluation.
16. The OSCE may issue a written waiver of inspection at its discretion. Any evaluation carried out by representative(s) of the OSCE or any waiver thereof shall be without prejudice to other relevant provisions of the Contract concerning obligations assumed by the Contractor.

RATES

17. The rates for the Services to be performed shall be as stated in the Contract and may not be increased, except with the express written agreement of the OSCE.

PAYMENT

18. Unless otherwise stipulated in the Contract, the OSCE shall make payment within thirty (30) Days of the later of:
- (a) the OSCE's certified satisfactory acceptance of the Services;
 - (b) receipt of any documents specified in the Contract; and
 - (c) receipt of the original invoice issued by the Contractor.
19. All invoices shall be in original and shall contain the OSCE Purchase Order number, and a description together with the unit and total price(s) of the Services performed. The currency of invoice and payment shall be as specified in the Contract. Subject to Clause 22 below, if applicable, the VAT amount shall be separately identified in the invoice.
20. Payment of any Services pursuant to the Contract shall not be deemed as the OSCE's satisfactory acceptance of the Services.
21. Unless otherwise stipulated in the Contract, the OSCE shall not pay any charge for late payments.

TAX EXEMPTION

22. The Contractor's price shall reflect any tax exemption to which the OSCE is entitled. If it is subsequently determined that any taxes that have been included in the price are not required to be paid or if, having been paid, any such taxes are subject to refunding, the OSCE shall deduct the amount from the Contract price. Payment of such adjusted amount shall constitute full payment by the OSCE. In the event that any taxing authority refuses to recognize the OSCE's exemption from taxes, the Contractor shall immediately consult with the OSCE to determine a mutually acceptable procedure for settling the applicable amount.

INSURANCE

23. The Contractor shall provide and maintain insurance cover throughout the term of the Contract for an appropriate amount against public or third party liabilities for death, bodily injury and property damage arising from any operations carried out by the Contractor, anyone directly or indirectly employed by the Contractor, or any subcontractor of the Contractor, in order to fulfil its obligations under the Contract.
24. A copy of the insurance certificate, acceptable to the OSCE, shall be presented to the OSCE within three (3) Days of the OSCE's request to be provided with a copy of same. The certificate shall not be cancelled, amended or otherwise expire during the term of the Contract. Any information concerning a reduction of insurance coverage shall be promptly presented by the Contractor to the OSCE.

DEFAULT AND DAMAGES

25. If due to reasons attributable to the Contractor, the Contractor fails or refuses to:

- (a) provide any or all of the Services under the Contract;
- (b) comply with any or all of the terms and conditions set out in the Contract; or
- (c) provide any or all of the Services under the Contract on or before the Delivery Date;

the OSCE may hold the Contractor in default under the Contract.

- 26. When the Contractor is thus in default, the OSCE may, by written notice to the Contractor, immediately terminate the Contract in whole or in such part(s) thereof in respect of which the Contractor is in default.
- 27. Alternatively to clause 26 above, when the Contractor is thus in default, the OSCE may, at its own discretion, set a reasonable period of time for the Contractor to remedy its default. Any new delivery date shall be specified in a written amendment to the Contract, duly countersigned by the Contractor.
- 28. The OSCE may, at its discretion, withhold any payment to the Contractor or, on account of subsequently discovered evidence, nullify the whole or part of any payment, and/or impose penalties upon the Contractor calculated in accordance with clause 32 for each Day the Contractor is late in performing all of the Services by the Delivery Date initially specified in the Contract.
- 29. If the Contractor does not remedy its default within the period of time accorded under clause 27, the OSCE may, by written notice to the Contractor, terminate the Contract with immediate effect.
- 30. Upon any termination of the Contract, in whole or such part(s) thereof in respect of which the Contractor is in default, the OSCE may engage another contractor to perform the Services and recover any difference in price and any additional costs from the Contractor.
- 31. The Contractor shall indemnify the OSCE for all losses, charges, costs and expenses, which the OSCE may suffer or incur as a result the Contractor's default, including those resulting from engaging another contractor pursuant to clause 30.

PENALTIES

- 32. If, in accordance with clause 28, the OSCE imposes penalties on the Contractor, such penalties shall amount to zero point one percent (0.1%) of the total Contract price for each Day the Services are delayed past the initial Delivery Date specified in the Contract, but shall not amount to more than ten percent (10%) of the total Contract price. The penalties for the delay may be deducted by the OSCE from any sum(s) due, or to become due, by the OSCE to the Contractor.

DELAY NOT ATTRIBUTABLE TO THE CONTRACTOR

- 33. If the Contractor is delayed at any time in the performance of the Services or fulfilment of any of the Contractor's obligations by any act or omission of the OSCE, or by any of its officials, or by any separate contractor(s) contracted by the OSCE, or by substantial changes made to the ordered Services, or the location(s), or any causes beyond the Contractor's reasonable control, or by any other cause, which the OSCE determines may reasonably justify the delay, the time for performance of the Services, or fulfilment of any of the Contractor's applicable obligations shall be extended for such reasonable period of time as the OSCE and the Contractor mutually determine. The set reasonable period of time and any amended delivery date shall be specified in a written amendment to the Contract, duly countersigned by the Contractor.

FORCE MAJEURE

- 34. As soon as possible after the occurrence of any event constituting *Force Majeure*, but no later than three (3) Days, the Contractor shall give notice and full particulars in writing to the OSCE of the *Force Majeure*. If the Contractor is thereby rendered unable, wholly or in part, to meet its obligations under the Contract, the OSCE may terminate the Contract with immediate effect by providing written notice to the Contractor.

INDEMNITY

- 35. The Contractor shall indemnify, hold and save harmless and defend at its own expense the OSCE, its officials, agents, servants and employees from and against all suits, claims, demands and liability of any nature or kind, including costs and expenses, arising out of acts or omissions of the Contractor or its employees, agents or subcontractors in the performance of the Contract.
- 36. Clause 35 shall include, without limitation, claims and liabilities in the nature of workmen's compensation and claims and liabilities arising out of the use of patented inventions or devices.

ASSIGNMENT

- 37. The Contractor shall not assign, transfer, pledge or make other disposition of the Contract or any part thereof or of any of the Contractor's rights, claims or obligations under the Contract except with the express written consent of the OSCE. Any assignment made without such consent shall be void and of no effect.
- 38. The Contractor shall not subcontract any of its obligations under the Contract without the express written consent of the OSCE. The OSCE may require the Contractor to furnish particulars of the proposed subcontract as the OSCE deems necessary.
- 39. The OSCE's approval of any subcontracting shall not relieve the Contractor from any liability or obligation under the Contract. In any subcontract, the Contractor agrees to bind the subcontractor by the same terms and conditions by which the Contractor is bound under the Contract.

INSOLVENCY AND BANKRUPTCY

- 40. Should the Contractor become insolvent or should control of the Contractor change by virtue of insolvency, the OSCE may with immediate effect and without prejudice to any other right or remedy available to it, suspend the performance of the Contractor's obligations or terminate the Contract with immediate effect, by providing the Contractor with written notice thereof.

41. Should the Contractor be adjudged bankrupt, or should the Contractor make a general assignment for the benefit of its creditors, or should a receiver be appointed on account of the Contractor's insolvency, the OSCE may, without prejudice to any other right or remedy available to it, terminate the Contract with immediate effect by providing the Contractor with written notice thereof.

TERMINATION

42. The OSCE shall have the right to terminate the Contract or any of the provisions thereof at any time by serving a three (3) Days notice to the Contractor.
43. In the event of termination, the Contractor may charge the OSCE for reasonable costs or expenses incurred by it up to the effective date of the termination. Such expenses shall only be paid by the OSCE on production by the Contractor of supporting evidence to the satisfaction of the OSCE.
44. Clause 43 above shall not apply to cases of termination including those in accordance with clauses 26 and 29 herein.

WAIVER

45. A waiver of any breach of or default under the Contract shall not constitute a waiver of any other breach or default and shall not affect the other terms of the Contract. The rights and remedies provided by the Contract are cumulative and are not exclusive of any other rights or remedies.

ADVERTISING

46. The Contractor shall not advertise or otherwise make public the fact that it is a contractor to the OSCE. The Contractor shall not in any way use the name, emblem, logo, official seal, or any abbreviation of the OSCE.

DISCRETION and CONFIDENTIALITY

47. The Contractor is required to exercise the utmost discretion in all matters relating to the Contract. Unless required in connection with the performance of the Contract or expressly authorised in writing by the OSCE, the Contractor shall not disclose at any time to any third party any information which has not been made public and which is known to the Contractor by reason of its association with the OSCE. The Contractor shall not, at any time, use such information to any private advantage. These obligations do not lapse upon any completion, expiration, or termination of the Contract.

NOTICES

48. Any notice given in connection with the Contract shall be given in English and in writing and shall be deemed to be validly given if sent by registered mail or by fax to the other Party at the contact details set out in the Contract.

STAFF MEMBERS NOT TO BENEFIT

49. The Contractor shall not grant to any official of the OSCE any direct or indirect benefit or preferential treatment on the basis of the Contract or the award thereof. Any breach of this provision shall constitute a fundamental breach of the Contract.

INTELLECTUAL PROPERTY

50. Except to any extent the Contractor has granted a license to the OSCE, the OSCE shall be entitled to all intellectual property, including without limitation copyrights, patents and trademarks, with regard to any products, documents or other materials related to or produced or collected pursuant to the Contract. The Contractor shall take all necessary steps, prepare and process all necessary documents and assist in securing such property rights and transferring them to the OSCE.

BANK GUARANTEE

51. When required by the OSCE, a bank guarantee in a form and from a bank acceptable to the OSCE and for an amount to be prescribed by the OSCE shall be obtained by the Contractor at its expense and deposited with the OSCE together with the countersigned copy of the Contract.
52. In the event of any loss, damage and/or extra costs incurred by the OSCE by reason of the Contractor's default under the Contract, that part of any such loss, damage and/or extra costs represented by the full, or by any lesser, amount of such bank guarantee shall be immediately payable to the OSCE from such bank guarantee without prejudice to the OSCE's right to hold the Contractor liable for the full amount of such loss, damage and/or extra costs.
53. The bank guarantee shall be valid for a period of not less than thirty (30) Days after the Delivery Date.
54. If an additional period of time for the performance of the Services is given in accordance with clause 27, the bank guarantee shall be extended for such a period of time as to be valid for a period of not less than thirty (30) Days after any new or amended delivery date.

GOVERNING LAW

55. The Contract shall be governed by and construed in accordance with the substantive laws of the Republic of Austria.

SETTLEMENT OF DISPUTES

56. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with the Contract or its interpretation. Any dispute, controversy or claim arising out of or in relation to the Contract shall be settled through negotiations between the Parties. If the Parties fail to settle the dispute amicably within sixty (60) Days of commencement of the negotiations, the dispute shall be settled through arbitration. Arbitration shall be performed in accordance with the UNCITRAL arbitration rules. One (1) sole arbitrator shall be appointed who shall have full powers to make final and binding decisions. The appointing authority shall be the Permanent Court of Arbitration at The Hague. The place of arbitration shall be Vienna and the language used in the arbitration proceedings shall be English.

PRIVILEGES AND IMMUNITIES

57. No provision of the Contract shall be deemed, or interpreted as, a waiver of the privileges and immunities enjoyed by the OSCE.

AMENDMENTS

58. No modification, amendment or change to the Contract, or waiver of any of its provisions, or any additional contractual relationship with the Contractor shall be valid unless approved in the form of a written amendment to the Contract, signed by a fully authorised representative of each Party.

VALIDITY

59. The invalidity in whole or part of any condition of the Contract or clause thereof shall not affect the validity of the remainder of such condition or clause.

AUDIT

60. The Contractor shall keep accurate and systematic accounts and records in respect of its performance of the Contract, in accordance with internationally accepted bookkeeping standards and principles. The Contractor shall permit the OSCE or its designated representative periodically, and up to seven (7) years after the expiry or termination of the Contract, to examine these accounts and records, to have them audited by auditors appointed by the OSCE, and to have copies made.

ENTIRE AGREEMENT

61. The Contract constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement, whether orally or in writing, between the Parties relating to the subject matter of the Contract.

GOVERNING LANGUAGE

62. The English language shall be the binding and controlling language for all matters relating to the meaning and interpretation of the Contract.