

## **GENERAL TERMS & CONDITIONS for WORKS & SERVICES**

*Terms and Conditions may vary depending on the type of services procured.*

### **1. DEFINITIONS**

“Contract” means this Order and/or Contract stipulated between “FAO” (Food and Agriculture Organization of the United Nations) and the “Contractor” (the party with whom FAO is contracting to supply the goods and/or services). Such term also includes any amendment or change to said Order and/or Contract, including all documents and/or annexes referenced therein.

### **2. VAT EXEMPTION**

- a. FAO enjoys tax exemption on the basis of Law No. 11 of 9 January 1951 ("Headquarters Agreement between FAO and the Republic of Italy"). In particular, goods and services acquired by the Organization are exempt from VAT ("IVA") on the basis of article 72 of DPR No. 633/1972, as amended by DPR No. 687/1974 and further amended by DPR No. 288/1975. Moreover, this tax exemption status has been recognized in Article 15 (10) of EEC Council Directive 77/388 as amended by Directive 91/680. In view of its tax exempt status, the Organization has no VAT registration number.
- b. For billing purposes, it should be noted that the fiscal code of the Organization is:

### **3. SPECIAL CLAUSES**

- a. It is understood that the amount indicated on the Order represents the integral and full costs to the Contractor for goods and services required for the satisfactory performance of this contract.
- b. The Contractor shall, for the purposes of this Contract, have the status of an independent contractor and shall be fully responsible, in particular, for acts or omissions of its employees, agents or other representatives.
- c. The Contractor is responsible for the behavior of the personnel assigned to the execution of the services specified in the present contract and FAO reserves the right to ask for the immediate substitution of any member of the Contractor's staff without having to justify its request, which in any case shall not be unreasonably withheld.
- d. Should the Contractor become insolvent or bankrupt, the present contract shall be deemed to have been terminated as of right.
- e. Notwithstanding any specific provision herein, this Contract and any dispute arising there from shall be governed by general principles of law, to the exclusion of any single national system of law.
- f. FAO shall not be responsible for consequential damages, losses or injuries which may occur to the Contractor or its staff as a result of

the execution of the present contract, and the Contractor relieves FAO from any and all responsibility in this regard.

- g. Nothing contained in or relating this Contract shall be construed as constituting a waiver of the privileges and immunities of the Organization, nor as conferring any privileges or immunities on the Contractor or its employees.
- h. Except as may be required to perform the services set forth in this contract, the Contractor shall not use the name, abbreviation of the name, emblem or official seal of the Organization for any purpose. The Contractor shall not advertise or make public the fact that is it furnishing goods or services to the Organization.
- i. Nothing in this Contract shall be construed as relieving the Contractor from conforming to any national law applicable in its relations to third parties, including its employees or to any national law applicable to it by reason of its trade, business or activities. The Contractor shall promptly correct any violations thereof and shall keep the Organization informed of any conflict or problem arising in relation to national authorities.
- j. The Contractor warrants that no official, staff member or their representative of the Organization or any family member of any such person shall have interest in or derive benefit from this Contract. In particular, the Contractor warrants that no official, staff member or representative of the Organization or any family member of any such person holds or shall hold any direct or indirect financial interest in the Contractor's business. For the purposes of this Article, the mere holding of shares in publicly listed company shall not be considered as constituting a financial interest, provided that such shares do not confer a power to control or otherwise significantly influence the management of the Contractor's business. Should the Contractor fail to comply with this obligation, the Organization shall have the right to terminate this Contract at any time, in accordance with the provisions of Article 8.
- k. Any change to the present contract shall be effected with an amendment to the contract, subject to written notice between parties.

#### 4. **PAYMENT**

The Organization will endeavor to effect payment of the invoices submitted in accordance with paragraphs 2 and 3 above, within 30 (thirty) calendar days of the date of their receipt but shall under no circumstances be liable to pay interest on amounts not paid within such period.

#### 5. **SETTLEMENT OF DISPUTES, CONCILIATION and ARBITRATION**

- a. Any dispute between the parties concerning the interpretation and the execution of the Contract shall be settled by negotiation

between the parties. If the dispute is not settled by negotiation between the parties, it shall, at the request of either party, be submitted to one conciliator. Should the parties fail to reach agreement on the name of a sole conciliator, each party shall appoint one conciliator. The conciliation shall be carried out in accordance with the Conciliation Rules of the United Nations Commission on International Trade Law, as at present in force.

- b. Any dispute between the parties that is unresolved after conciliation shall, at the request of either party be settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law, as at present in force.
- c. The conciliation or the arbitration proceedings shall be conducted in the language in which the contract is drafted provided that it should anyway be one of the five languages of the Organization (Arabic, Chinese, English, French and Spanish). In cases in which the language of the Contract is not a language of the Organization, the conciliation or the arbitration proceedings shall be conducted in English.
- d. The parties may request conciliation during the execution of the Contract and anyway not later than twelve months after the completion, expiry or termination of the Contract. The parties may request arbitration not later than ninety days after the termination of the conciliation proceedings.
- e. Any arbitration award rendered in accordance with the provisions of this Article shall be final and binding on the parties.

## **6. DELAYS and DEFAULT**

- a. If the Contractor fails to provide any materials or services necessary for the performance of the Contract or fails to complete items or services required within the time specified in the Contract, or within any extension that may be granted, the Organization may, without prejudice to any further rights it may have under this Contract and in particular under Article 8 below:
  - i. suspend or cancel the right of the Contractor to proceed further with any items or services - or part thereof - in which there has been a delay;
  - ii. obtain elsewhere upon such terms and conditions as may be deemed appropriate, replacement items or services similar to those which the Contractor failed to provide; and
  - iii. make a corresponding adjustment to the consideration payable to the Contractor;provided, however, that the Contractor shall continue performance of this Contract to the extent not suspended or cancelled under the provisions of this paragraph.
- b. The Contractor shall be liable for any excess costs or damage caused to the Organization by a failure or delay on the part of the

Contractor in the performance of its obligations under this Contract, except where such failure or delay is due to:

- i. causes which are attributable to the Organization;
  - ii. any unforeseen cause beyond the control of and without the fault or negligence of the Contractor, including but not limited to acts of God, acts of Governments, fires, floods, epidemics, quarantine restrictions, strikes, lock-outs, and freight embargoes.
- c. The Organization shall determine the effects of any delay or default particularly in regard to an adjustment of the consideration due to the Contractor and to excess cost or damages caused to the Organization and its findings shall be binding, provided always that the Contractor shall have the right to avail itself of the provisions of Article 5 of this Section.

## **7. DISSOLUTION**

Either party may terminate the contract at any given time by giving 30 (thirty) days written notice by registered letter to the other party.

## **8. TERMINATION**

- a. This contract may be terminated by FAO if it considers that its continuation is impossible or impractical:
  - i. for unforeseen causes beyond the control of the Organization
  - ii. in the event of default or delay on the part of the Contractor.
- b. If this contract shall be terminated the following shall apply:
  - i. FAO will pay amounts due up to the effective date of termination;
  - ii. The Contractor shall deliver all works and/or services relative to the contract and shall take all reasonable steps to avoid losses or damages to materials or machinery or any other damage;
  - iii. FAO will pay to the Contractor the amount that FAO considers equitable for the works and/or services in progress;
  - iv. Notice of termination shall take effect at the earliest ten (10) days after receipt thereof by the addressee.

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source: <http://www.fao.org/unfao/procurement/en/6/7/index.html>