



WORLD TRADE ORGANIZATION  
ORGANISATION MONDIALE DU COMMERCE  
ORGANIZACIÓN MUNDIAL DEL COMERCIO

# **GENERAL TERMS AND CONDITIONS**

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## **1 SCOPE**

1.1. The provisions of the "General Terms and Conditions" shall, as an annex, form an integral part of the contract ("Contract") entered into by the World Trade Organization ("WTO") and a vendor, supplier, or service provider ("Contractor").

## **2 PERFORMANCE**

### **2.1 Responsibility for Personnel**

2.1. The Contractor shall supervise and be responsible and liable for all actions performed by its employees, staff members, agents, representatives, workers, and sub-contractors (or any of their employees, staff members, agents, representatives, workers, and sub-contractors) ("Personnel") and for their compliance with the terms and conditions of the Contract.

2.2. The Contractor shall ensure that all Personnel performing the services procured by the WTO under the Contract ("Services") are qualified, reliable, competent, properly trained, and conform to the highest standards of professional and technical competence, and moral and ethical conduct.

2.3. In relation to the Contract, the Contractor shall be fully responsible and liable for any action, omission, negligence, or misconduct of its Personnel.

2.4. The Contractor shall be solely responsible for any costs, expenses, or claims associated with any illness, injury, death, or disability of its Personnel.

2.5. Without prejudice to any other rights or remedies of the WTO under the Contract, at the request of the WTO, the Contractor shall promptly withdraw or replace any of the Contractor's Personnel.

### **2.2 Elements provided by the Contractor**

2.6. The Contractor is solely responsible for the arrangement, provision, and operation of all equipment, material, facilities, supplies, related support services, and Personnel (including any related costs or expenses so incurred) necessary for the performance of the Contractor's obligations under the Contract.

### **2.3 Items provided by the WTO to the Contractor**

2.7. Where items are funded or provided by the WTO to the Contractor ("Items") to support the performance of the Contractor's obligations under the Contract, the following terms apply:

- a. The Contractor acknowledges and agrees that the WTO hereby disclaims any and all warranties regarding the functionality or installation of such Items. The Contractor is solely responsible for the installation (including any personnel, tools, materials or other goods necessary for installation), maintenance and functioning of all the Items;
- b. The Contractor will promptly report to the WTO any loss, damage, theft, or deterioration of such Items that is beyond normal wear and tear;
- c. Title to the Items will be retained by the WTO. The Contractor will not cause or permit any lien, claim, or other encumbrance to be attached to any or all such Items, or to any other item, good, or element that is the subject matter of the Contract;
- d. Upon annulment, termination, or expiration of the Contract, all such Items will be returned to the WTO in the same condition as when delivered to the Contractor, excluding normal wear and tear. The return of such Items, or other disposal as the WTO may direct, will be at the Contractor's expense. Upon termination or expiration of the Contract, the Contractor will take all reasonable measures to avoid any loss of or deterioration to such Items. The Contractor will compensate the WTO for actual costs and expenses of any loss, damage, theft, or deterioration of such Items that is beyond normal wear and tear.

## **2.4 Purchase of Goods**

### **2.4.1 Delivery of Goods**

2.8. The Contractor shall hand over or make available the goods purchased by the WTO ("Goods"), and the WTO shall receive the Goods, at the place for the delivery of the Goods and within the time for delivery of the Goods specified in the Contract. The Contractor shall provide to the WTO such shipment documentation (including bills of lading, airway bills, and commercial invoices) as are specified in the Contract or, otherwise, as customarily done in the trade. All manuals, instructions, displays, and any other information relevant to the Goods shall be in English or French unless otherwise specified in the Contract.

2.9. The Contractor is solely responsible for making all shipment, transport, and delivery arrangements necessary for the performance of the Contractor's obligations under the Contract, including obtaining any permits, licenses, certifications, registrations, approvals, or authorizations necessary for the shipment, transportation, and delivery, including, as applicable, the importation and exportation of Goods.

2.10. All costs and expenses associated with any shipment, transport, and delivery of the Goods, including all freight and insurance costs, and all costs relating to obtaining any permits, licenses, certifications, registrations, approvals or authorizations will be borne by the Contractor.

2.11. The Contractor will insure the Goods against all risks until delivery of the Goods at the final destination.

2.12. The Contractor will ensure that the WTO receives all necessary transport documents in a timely manner, so as to enable the WTO to take delivery of the Goods in accordance with the requirements of the Contract. A duplicate of all necessary transport documents will be sent to the WTO in advance of the transport and delivery.

### **2.4.2 Acceptance of Goods**

2.13. The WTO shall have a reasonable opportunity to inspect the Goods following delivery before it accepts any Goods. Under no circumstances shall the WTO be required to accept any Goods that do not conform to the specifications and requirements in the Contract. Full or partial payment by the WTO, or delivery of the Goods to the WTO shall not be deemed acceptance of the Goods by the WTO.

### **2.4.3 Rejection of Goods**

2.14. Notwithstanding any other rights of or remedies available to the WTO, in case any of the Goods are defective or otherwise do not conform to the requirements of the Contract, the WTO may reject any part of or all the Goods and, at the WTO's sole discretion, request that the Contractor promptly and at the Contractor's sole expense:

- a. provide a full refund to the WTO of the entire price paid by the WTO for the Goods at issue, upon return of such Goods by the WTO;
- b. repair the Goods in a manner that would enable the Goods to conform to the specifications or other requirements in the Contract; or,
- c. replace the Goods with other Goods of equal or better quality.

2.15. In relation to Paragraph 2.14. of the WTO General Terms and Conditions, the Contractor shall pay promptly all related costs and expenses. This includes costs and expenses related to: (i) the repair or return of the non-conforming Goods; (ii) the storage by or at the request of the WTO of any such Goods; and (iii) the delivery of any replacement Goods to the WTO.

2.16. In addition, the WTO may decide to reduce or withhold the payment of the final instalment (good execution guarantee). Unless specified otherwise in the Contract, the final instalment is of ten (10) per cent of the total value of the Contract.

#### **2.4.4 Packing of Goods**

2.17. The Contractor shall package the Goods for delivery in accordance with the highest standards of export packing for the type and quantities and modes of transport of the Goods. The Goods shall be packed and marked in a proper manner in accordance with the instructions stipulated in the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by the transporters and manufacturers of the Goods, or any applicable law or norm. The packing, in particular, shall mark the Contract or Purchase Order number and any other identification information provided by the WTO as well as such other information as is necessary for the correct handling and safe delivery of the Goods. Unless otherwise specified in the Contract, the Contractor shall have no right to any return of the packing materials.

#### **2.4.5 Risk of Loss**

2.18. Unless otherwise stated in the Contract, the entire risk of loss, damage, or destruction of the Goods shall be borne exclusively by the Contractor until the physical delivery and acceptance of the Goods by the WTO in accordance with the Contract.

#### **2.4.6 Warranties specific to the Goods**

2.19. Unless otherwise specified in the Contract, in addition to and without limiting any other warranties, remedies, or rights of the WTO, the Contractor warrants and represents that:

- a. the quality of the Goods or deliverables foreseen under the Contract are in accordance with the highest industry and professional standards;
- b. the Goods, including all packing thereof, conform to the quality, quantity, description and other specifications in the Contract, and are fit for the purposes for which such Goods are ordinarily used and for any purposes expressly made known in the Contract;
- c. the Goods are securely contained, packaged, and marked, taking into account the modes of transport, in a manner so as to protect the Goods during delivery to their final destination;
- d. if the Contractor is not the original manufacturer of the Goods, the Contractor shall provide the WTO with the benefit of all manufacturer's warranties in addition to any other warranties required to be provided under the Contract;
- e. the Goods are free from any right of claim by any third party, including those related to infringement of any intellectual property rights, and unencumbered by any third party's title or other property rights, including any liens or security interests; and
- f. the Goods are new and unused, free from any faults and defects including in design, material, manufacturer, and workmanship.

2.20. All warranties shall remain valid for a period of one (1) year following acceptance of the Goods by the WTO unless specified otherwise in the Contract. During the period in which the Contractor's warranties are in effect, upon notice by the WTO that the Goods do not meet the terms or requirements in the Contract, or constitute any breach of the warranties, the Contractor shall promptly, and at the Contractor's sole expense, correct such non-conformities. If the Contractor is unable to correct such non-conformities within fifteen (15) days, at the WTO's sole discretion and request, and at the Contractor's sole expense, the Contractor shall immediately: (i) replace the non-conforming Goods with other Goods of the same or better quality; or (ii) remove the non-conforming Goods from the WTO and fully reimburse the WTO for the price paid for such non-conforming Goods.

2.21. Without prejudice to any other rights or remedies of the WTO under the Contract, in the event that the Contractor fails to meet any of the Contractor's obligations under Paragraphs 2.14. , 2.15. , or 2.20. of the WTO General Terms and Conditions, the WTO has the right, at the WTO's sole discretion, to replace or repair the Goods. In such case, the Contractor shall reimburse promptly the WTO for all costs and expenses so incurred, including by deduction or otherwise, against future amounts owed by the WTO to the Contractor.

## **2.5 Performance of Services**

### **2.5.1 Performance of Services**

2.22. The Contractor shall perform the Services with the necessary care and diligence, and in accordance with the highest professional standards expected from professionals providing similar services in a similar industry.

### **2.5.2 Acceptance of Services**

2.23. The WTO reserves the right to review and inspect all Services performed by the Contractor at all reasonable places and times. Under no circumstances shall the WTO be required to accept any Services that do not conform to the specifications and requirements in the Contract. Full or partial payment by the WTO or any delivery of the Services to the WTO shall not be deemed acceptance by the WTO of any Services or the Contractor's performance.

### **2.5.3 Rejection of Services**

2.24. Notwithstanding any other rights of or remedies available to the WTO, in case any of the Services are defective or do not conform to the requirements of the Contract, the WTO may reject any part of or all Services and, at the WTO's sole discretion, request that the Contractor promptly and at the Contractor's sole expense:

- a. take the measures necessary to re-perform or take any other appropriate actions (including replacing, repairing, correcting, or changing any faulty material, technique, workmanship, or equipment supplied by the Contractor) to remedy the rejected Services within a reasonable time specified by the WTO; or
- b. provide a full refund to the WTO of the entire price paid by the WTO for the Services at issue.

2.25. If the Contractor does not promptly take corrective measures or if the WTO reasonably determines that the Contractor is unable to remedy the improper performance in a timely manner, the WTO may obtain the assistance of other entities or persons and have corrective measures taken at the sole expense of the Contractor.

2.26. In addition, the WTO may decide to reduce or withhold the payment of the final instalment (good execution guarantee). Unless specified otherwise in the Contract, the final instalment is of ten (10) per cent of the total value of the Contract.

### **2.5.4 Warranties Specific to Services**

2.27. Unless otherwise specified in the Contract, in addition to and without limiting any other warranties, remedies or rights of the WTO, the Contractor warrants and represents that:

- a. the quality of the Services or deliverables foreseen under the Contract are in accordance with the highest industry and professional standards;
- b. any Services provided under the Contract will meet the specifications, timeframes, and related requirements set forth in the Contract;
- c. all materials, techniques, and workmanship utilized in performing the Services will be in accordance with the Contract and free from defects, and that materials, techniques, and workmanship not conforming to the specifications in the Contract will not be used in performance of the Services without prior written approval of the WTO;
- d. the Services are unencumbered and free from any right of claim by any third party, including those related to infringement of any intellectual property rights; and

- e. the Services are free from any faults and defects including in design, technique, and workmanship.

2.28. Without prejudice to any other rights or remedies of the WTO under the Contract, in the event that the Contractor fails to meet any of the Contractor's obligations under Paragraphs 2.24. , 2.25. , or 2.27. of the WTO General Terms and Conditions, the WTO has the right, at the WTO's sole discretion, to replace or repair the Services. In such case, the Contractor shall reimburse promptly the WTO for all costs and expenses so incurred, including by deduction or otherwise, against future amounts owed by the WTO to the Contractor.

### **3 ASSIGNMENT AND SUBCONTRACTING**

3.1. The Contractor may not assign, transfer, pledge, or make any other disposition of the Contract, of any part of the Contract, or of any rights, claims, or obligations under the Contract except with prior written authorization of the WTO. Any unauthorized assignment, transfer, pledge, or any other disposition, or any attempt to do so, will not be binding on the WTO.

3.2. If the Contractor requires goods and/or services of any subcontractor, the Contractor shall obtain the WTO's prior written authorization to subcontract and the approval of the WTO of the subcontractor selected. In case the WTO authorizes subcontracting, the Contractor continues solely responsible for all the obligations in the Contract, including in relation to the quality of the Goods and/or Services.

### **4 PAYMENT TERMS**

4.1. The WTO shall pay by bank transfer within thirty (30) days of receipt of invoice in good order. Invoices are to be sent to the address indicated in Contract.

4.2. As part of the WTO contribution to the international fight against money laundering, the invoice shall not be paid to anyone except the Contractor. The Contractor may be required to provide evidence that the bank account to which the transfer will be made is actually the Contractor's bank account.

### **5 GENERAL WARRANTIES, LIABILITY, INSURANCE, AND AUDITS**

#### **5.1 General warranties**

5.1. The Contractor warrants and represents that:

- a. all information provided by the Contractor to the WTO is accurate and complete. The Contractor understands that in the event the Contractor has provided false information or has failed to disclose any relevant information that may have impacted the WTO's decision to award the Contract to the Contractor, the WTO will be entitled, at the WTO's sole discretion, to annul the Contract with immediate effect, in addition to any remedies that the WTO may have arising from or in connection with the Contract, the Contractor's actions or omissions, or the procurement activity;
- b. the Contractor, the Contractor's parent entities (if any), or any of the Contractor's subsidiaries, subcontractors, or affiliated entities (if any) are not engaged in any practice inconsistent with the United Nations Convention on the Rights of the Child *mutatis mutandis*, including Article 32 thereof, which, *inter alia*, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development;
- c. the Contractor, the Contractor's parent entities (if any), individual owner(s), shareholder(s), Personnel, any of the Contractor's subsidiaries, or affiliated entities (if any) do not feature on the United Nations Security Council Consolidated List of individuals and entities subject to sanctions;

- d. the Contractor, the Contractor's parent entities (if any), and any of the Contractor's subsidiaries, subcontractors, or affiliated entities (if any) implement zero-tolerance policy towards sexual exploitation, sexual abuse, and sexual harassment as well as discrimination, harassment, forced labour, human trafficking, and abuse of authority; and that they shall take robust and prompt action in response to any such allegations;
- e. the Contractor, the Contractor's parent entities (if any), or any of the Contractor's subsidiaries, subcontractors, or affiliated entities (if any) have not and shall not offer to any official, staff member, or agent of the WTO any direct or indirect benefit arising from or related to the Contract, the award thereof, or for any other purpose intended to gain an advantage for the Contractor; and
- f. the Contractor, the Contractor's parent entities (if any), and any of the Contractor's subsidiaries, subcontractors, or affiliated entities (if any) implement appropriate measures to prevent misuse of resources, fraud, and corruption. They shall promptly inform the WTO and take robust and prompt action in response to any instances or suspicions of misuse of resources, fraud, or corruption in connection with the implementation of the Contract.

## 5.2 Liability of the Contractor

5.2. Any act or omission on the part of the Contractor that: (i) constitutes a breach, intentional, through negligence, or otherwise, of the Contract; or (ii) causes injury or damages of any kind to the WTO inside or outside the application of the Contract shall render the Contractor liable to the WTO.

5.3. Within this context, the Contractor undertakes to:

- a. fulfil the Contractor's obligations under the Contract competently, diligently, and efficiently, and in conformity with the applicable norms as well as the generally accepted professional, administrative, and financial practices;
- b. act at all times in such a way as to protect, and not thwart, the interests of the WTO;
- c. in performing the Contract, comply, and take all appropriate steps to ensure that its Personnel comply with all norms, laws, ordinances, rules, and regulations bearing upon the performance of the Contractor's obligations under the Contract. In particular, the Contractor shall be responsible for obtaining the visas, authorizations, or permits needed for its Personnel to enter, reside and work in the territory within which the Contract is to be performed. The Contractor undertakes to make due payments to its Personnel, including, where appropriate, wages, social security contributions, and occupational insurance contributions; and
- d. follow the orders, directives, and instructions of the WTO, and neither seek nor accept instructions from any authority external to the WTO in connection with the Contract. Should any entity external to the WTO seek to impose any instructions concerning the Contractor's performance under the Contract, the Contractor shall promptly notify the WTO and provide all reasonable assistance required by the WTO. Also, it shall be for the WTO to judge and determine, in each set of circumstances, how and for how long any or all Personnel assigned by the Contractor to the performance of the Contract may be deployed on the WTO premises.

5.4. The Contractor shall be liable for the additional costs and expenses incurred by the WTO as a result of any failure or delay, imputable to the Contractor or its Personnel, in the fulfilment of the obligations under the Contract, including any failure or delay resulting from an interruption in supplies to the Contractor or from industrial action by the Contractor's Personnel. In this respect, at the request of the WTO, the Contractor shall draw up and, if necessary, regularly update, in cooperation with the WTO, an emergency plan that enables the Contractor to continue to meet the Contractor's obligations under the Contract in full, without interruption or with the minimum of disruption, in the event of industrial action by the Contractor's Personnel or any other contingency



that might affect the availability of the Personnel normally assigned by the Contractor to the performance of the Contract.

5.5. The Contractor shall indemnify and hold harmless the WTO, WTO Members, and WTO officials, staff members, and agents for any cost, expense, damage, loss or liability of any kind or nature (including relating to litigation and lawyers) based on, arising from, or in connection with an act or omission of the Contractor or its Personnel in relation to the obligations in the Contract. In addition, the Contractor shall, at the Contractor's sole expense, defend the WTO, WTO Members, and WTO officials, staff members, and agents, regardless of whether any actions, claims, suits, proceedings, or demands actually give rise to or otherwise result in any loss or liability to the WTO, WTO Members, or WTO officials, staff members, or agents.

### 5.3 Exemption of the Contractor from liability

5.6. The Contractor shall not be rendered liable if the act or omission that could render it liable within the meaning of Paragraph 5.2. of the WTO General Terms and Conditions is due to:

- a. causes exclusively imputable to the WTO; or
- b. a case of *force majeure*, as defined in Paragraph 12.1. of the WTO General Terms and Conditions, unless the purpose of the Contract is to prevent, reduce the effect of, or respond to the consequences of such cases of *force majeure*.

### 5.4 Liability of the WTO

5.7. The maximum amount of any damages and compensation payable by the WTO to the Contractor in respect of any and all liability, including liability arising from negligence or otherwise, under or in connection with the Contract shall not exceed, when added to any amount already paid by the WTO under the Contract, the full price payable by the WTO under the Contract for the Goods and/or Services.

### 5.5 Insurance

5.8. The Contractor shall take out and maintain for the entire term of the Contract, as extended where appropriate, and for a reasonably adequate period following any termination or expiration of the Contract:

- a. insurance against all risks in respect of its Personnel, property, and the equipment used for the performance of the Contract;
- b. workers' compensation insurance, or its equivalent, or employer's liability insurance, or its equivalent, with respect to the Contractor's Personnel sufficient to cover all claims for illness, injury, death, and disability, or other benefits required to be paid by applicable law, in connection with the performance of the Contract; and
- c. liability insurance in an adequate amount to cover all claims, including claims for illness, bodily injury, death, or disability, products and completed operations liability, loss of or damage to property, and personal injury, arising from or in connection with the Contractor's performance under the Contract, including liability arising out of or in connection with the acts or omissions of the Contractor, its Personnel or invitees, or the use, during the performance of the Contract, of any vehicles.

5.9. The WTO accepts no responsibility for providing any coverage or insurance coverage in relation to the areas covered in Paragraph 5.8. of the WTO General Terms and Conditions.

5.10. At the request of the WTO, the Contractor shall supply a copy of the Contractor's insurance policies. The Contractor authorizes the WTO to contact the Contractor's insurers at any time for the purpose of verifying that insurance premiums are regularly paid. In the event of delay in the payment of insurance premiums, the WTO may substitute itself for the Contractor. The overdue premiums paid by the WTO shall then be deducted from any remuneration owed by the WTO to the Contractor.

5.11. The Contractor shall promptly notify the WTO concerning a cancellation or material change of insurance coverage required under the Contract.

5.12. If so required by a change in circumstances, the WTO and the Contractor agree to consider any other form of insurance cover on a mutually acceptable basis.

## **5.6 Audits and investigations**

5.13. The Contract and its implementation may be the subject of audit procedures or investigations carried out by the competent authorities of the WTO or by external authorities. At the request of the WTO, the Contractor shall cooperate fully with these procedures or investigations.

## **6 CONFLICT OF INTEREST**

6.1. The Contractor shall refrain from any action that may generate a conflict of interest or any appearance of conflict of interest. The Contractor shall immediately notify the WTO of any cause or risk of conflict of interest or appearance of conflict of interest it may become aware of in the course of the Contract.

6.2. If the WTO informs the Contractor that a risk of conflict of interest or appearance of conflict of interest exists on the part of the Contractor, the Contractor shall immediately take any action necessary to prevent the conflict or mitigate such risk, failing which the WTO may terminate the Contract, without prejudice to any other rights or remedies of the WTO under the Contract.

## **7 INTELLECTUAL PROPERTY RIGHTS AND OTHER PROPRIETARY RIGHTS**

7.1. Title in and to any goods, Goods, services, Services, products, inventions, processes, know-how, documents, or other materials that the Contractor develops under the Contract bearing a direct relation to or produced, prepared, or collected in consequence of the performance of the Contract ("Deliverables") shall pass from the Contractor to the WTO upon delivery to and acceptance by the WTO in accordance with the Contract. The Contractor acknowledges and agrees that such Deliverables constitute "works made for hire" for the WTO. The Contractor assumes all liabilities associated with any delay, damage (regardless of cause), depreciation, loss, or theft of the Deliverables until title in and to the Deliverables has passed to the WTO.

7.2. Notwithstanding the above, in case of termination of the Contract for any cause, the WTO shall, from the date of any payment made under the Contract, own any Deliverables produced by the Contractor at that date and paid for by the WTO, whether delivered to the WTO or not.

7.3. Unless otherwise arranged between the WTO and the Contractor in writing, all intellectual property and other proprietary rights, including but not limited to patents, copyrights, industrial designs, and trademarks, with regard to Deliverables shall be the sole property of the WTO.

7.4. To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor:

- a. that pre-existed the Contract; or
- b. that the Contractor develops or acquires, or has developed or acquired, independently of the performance of its obligations under the Contract,

the WTO does not and shall not claim any ownership interest thereto, and the Contractor grants to the WTO a perpetual, non-exclusive, world-wide, irrevocable, royalty-free, and fully paid-up license to use such intellectual property or other proprietary right solely for the purposes of the WTO making full and unrestricted use of the Goods and/or Services in accordance with the Contract.

7.5. At the request of the WTO, the Contractor shall take all necessary steps, execute all necessary documents, and generally assist in securing such intellectual property or other proprietary rights, and transferring or licensing them to the WTO in accordance with the Contract.

## 8 NECESSARY LICENSES

8.1. The Contractor shall be responsible for obtaining, at the Contractor's sole expense, all licenses (including export licenses), permits, certifications, registrations, approvals, or authorizations from governmental or other authorities necessary for the performance of the Contract.

## 9 CONFIDENTIALITY

9.1. All information, including data, knowledge, know-how, works, ideas, drawings, photographs, plans, manuscripts, files, reports, recommendations, notes, documents, and any other data, that is disclosed to the Contractor in whatever form, whether directly or indirectly, or that the Contractor learns about, discovers, develops, creates, prepares or discusses jointly with the WTO or any of the WTO's staff members or affiliated persons, that are not in the public domain at the time that the Contract is concluded ("Confidential Information") shall be treated with the utmost confidentiality by the Contractor and its Personnel. The Contractor and its Personnel undertake to:

- a. use Confidential Information only in connection with the performance of the obligations in the Contract, except as may otherwise be authorized by the WTO in writing;
- b. hold Confidential Information in strict confidence, using the highest standard of care; and
- c. immediately notify the WTO in the event of any unauthorized use or disclosure of Confidential Information.

9.2. The Contractor may disclose Confidential Information to Personnel who are directly involved in the performance of the Contract, and only insofar as absolutely necessary to perform the relevant Contractor's obligation in the Contract. At the request of the WTO, the Contractor shall promptly communicate in writing the names of the Contractor's Personnel with access to Confidential Information. The Contractor shall take the measures necessary to ensure that Personnel having any access to Confidential Information fully comply with the Contractor's confidentiality obligations in the Contract, even after such Personnel ceases to be employed by or have a contractual relationship with the Contractor. At the WTO's written request, the Contractor shall immediately share copies of the measures taken to ensure that Personnel having any access to Confidential Information fully comply with the Contractor's confidentiality obligations in the Contract. The Contractor undertakes to: (i) enforce diligently the confidentiality obligations; and (ii) seek compensation for any breach of the confidentiality obligations by any legal means at the Contractor's disposal, whether or not so requested by the WTO.

9.3. The Contractor and its Personnel shall not disclose Confidential Information to another person without the WTO's prior written consent. The Contractor may disclose Confidential Information to the extent required by law, without any waiver whatsoever of the privileges and immunities of the WTO, its officials, staff members, or agents, provided that the Contractor gives the WTO sufficient prior notice of a request for disclosure of Confidential Information to allow the WTO to have a reasonable opportunity to take appropriate measures before such disclosure is made.

9.4. The WTO may disclose any information relating to the Contract or the Contractor to the extent that it is required pursuant to the norms applicable to the WTO or by WTO Members.

9.5. Confidential Information in the possession of the Contractor shall be and remain the property of the WTO. The Contractor undertakes to return to the WTO, upon request, at the expiry, annulment, or termination for any reason of the Contract, all Confidential Information in whatever form. If so requested by the WTO, the Contractor shall effectively destroy all Confidential Information in the Contractor's possession, without retaining any of them, in whatever form. Subject to the obligations in this Clause, the Contractor may retain documents it has produced under the Contract that do not form part of or contain Confidential Information.

9.6. The Contractor shall immediately notify the WTO in writing of any incident that involves, or that the Contractor reasonably believes may involve, an unauthorized access, use, storage, disclosure, modification, destruction, or loss of Confidential Information.

9.7. These confidentiality obligations in the Contract shall be effective and valid until such time as all Confidential Information disclosed in relation to the Contract becomes publicly known and made generally available through no action or inaction of the Contractor or its Personnel.

## **10 USE OF THE NAME, LOGO, OR OFFICIAL SEAL OF THE WTO**

10.1. The Contractor and its Personnel may not make public or use for any purpose, including advertising, the fact that they are performing or have performed the Contract, except with the WTO's prior specific authorization in writing in each instance. The Contractor and its Personnel shall not use the name, logo, or official seal of the WTO or the acronym "WTO" for any purpose, except with the WTO's prior specific authorization in writing in each instance.

10.2. In reporting the WTO's procurement activities, the WTO may report the Contractor's name, date of the Contract, nature of Goods and/or Services, and amount of the Contract.

## **11 CPAG MEMBERS AND MOST FAVOURED TREATMENT**

11.1. Members of the Common Procurement Activities Group (CPAG) requiring the same Goods and/or Services of the Contract may benefit from the same terms and conditions of the Contract. CPAG members are listed in the following link: <https://www.ungeneva.org/en/procurement/CPAG>.

11.2. The WTO reserves the right to share a copy of the Contract with CPAG members upon request by those members.

11.3. If the Contractor grants, during the term of the Contract, more favourable conditions to any other CPAG member, the Contractor shall notify immediately the WTO in writing. At the request of the WTO, the Contractor shall then accord to the WTO in the Contract those more favourable conditions granted by the Contractor to any other CPAG member.

## **12 FORCE MAJEURE AND WTO BUDGET**

12.1. *Force majeure* refers to any failure by the WTO or the Contractor to perform obligations under the Contract caused by an impediment beyond its control that the relevant party could not have taken into account at the time of the signing of the Contract, and the consequences of which could not reasonably have been avoided or overcome by the relevant party.

12.2. In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the affected party shall give notice and full particulars in writing to the other party. The WTO shall then take such action as it, in the WTO's sole discretion, considers to be appropriate or necessary in the circumstances, including: (i) the temporary suspension of the obligations in the Contract; (ii) the granting to the Contractor of a reasonable extension of time to perform its obligations under the Contract; and/or (iii) the termination of the Contract.

12.3. Any suspension or termination under Paragraph 12.2. of the WTO General Terms and Conditions shall take effect from the day following the date of receipt of the WTO's written notification suspending or terminating the Contract. The WTO shall not be liable for any direct or indirect consequence of any suspension or termination of the Contract, pursuant to this Clause, and no compensation or indemnity may be claimed by the Contractor.

12.4. Clause 12 of the WTO General Terms and Conditions also applies if the WTO budget is not approved by WTO Members for a given year.

## **13 TERMINATION**

### **13.1 For any reason**

13.1. The WTO or the Contractor may terminate the Contract, for any reason whatsoever, without having to indemnify the other party, by giving the other party, a written notice complying with the advanced notice period defined in the Contract.

### **13.2 For serious failure by the Contractor**

13.2. Notwithstanding Paragraph 13.1. of the WTO General Terms and Conditions, in the event of a serious failure by the Contractor to fulfil the obligations in the Contract, the WTO may terminate the Contract with immediate effect, without having to indemnify the Contractor, and without notice or with a notice that the WTO alone will deem appropriate under the circumstances.

13.3. In the event of termination based on a serious failure by the Contractor, the Contractor shall be liable to the WTO for any damage to the WTO in connection with the Contract.

### **13.3 For bankruptcy of the Contractor**

13.4. The WTO may terminate the Contract with immediate effect, without having to indemnify the Contractor, by notifying in writing the Contractor if:

- a. the Contractor is declared bankrupt, becomes insolvent, or forms the subject of a stay of bankruptcy, a winding-up procedure, or any other similar proceedings;
- b. the Contractor's management changes as a result of the financial difficulties of the Contractor;
- c. the Contractor is taken over by or merges with another enterprise; or
- d. the WTO reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to affect substantially the ability of the Contractor to perform any of its obligations under the Contract.

13.5. Absent a termination initiated by the WTO, the Contract shall be binding on any successor to the Contractor that assumes its rights and obligations.

### **13.4 Obligations upon termination**

13.6. In the event the Contract is terminated:

- a. the Contractor shall take immediate steps to bring the performance of the obligations under the Contract to a close in a prompt and orderly manner; reduce expenses to a minimum; and take all appropriate measures to prevent the loss or deterioration of Goods and/or Services, or any other damage to the WTO;
- b. the Contractor shall deliver all completed or partially completed Goods and/or Services that, if the Contract had been completed, would be required to be provided to the WTO under the Contract;
- c. the WTO shall pay the Contractor on a *pro rata* basis for the Goods and/or Services provided to the satisfaction of the WTO in accordance with the Contract. In case of any breach of the Contract by the Contractor, the WTO shall reduce from this payment any diminution in value of the Goods and/or Services or any other Deliverables, or, in case of a breach of the Contract by the Contractor, the damage caused to the WTO;
- d. the Contractor shall collaborate fully with the WTO to enable the Contract to be taken over efficiently by another provider of Goods and/or Services, if necessary; and
- e. the Contractor shall refrain from undertaking any further or additional commitments under the Contract as of the date of receipt of the notice of termination or the date of immediate termination.

13.7. Clause 13 of the WTO General Terms and Conditions is without prejudice to any other rights or remedies of the WTO under the Contract. The WTO shall not be liable for any direct or indirect consequence of any termination of the Contract, and no compensation or indemnity from the WTO may be claimed by the Contractor.

## **14 TAX-EXEMPT STATUS**

14.1. Pursuant to Article 9 of the Headquarters Agreement between the WTO and the Swiss Confederation, the WTO is exempt from direct and indirect federal, cantonal, and communal taxes in Switzerland and, in particular, from value added tax (VAT) with respect to all purchases of Goods and/or Services for its official use. Moreover, by virtue of Article VIII:4 of the Marrakesh Agreement Establishing the World Trade Organization, in the territory of all Members of the WTO, the WTO benefits from a tax exemption similar to that stipulated in the 1947 United Nations Convention on the Privileges and Immunities of the Specialized Agencies. Consequently, any invoice by the Contractor under the Contract shall be net of any tax and excise duty. By paying the amount, exclusive of tax and excise duty, invoiced by the Contractor relating to the price agreed in the Contract, the WTO will discharge in full the WTO's obligations under the Contract.

14.2. If the tax authorities refuse to recognize the tax-exempt status of the WTO, the Contractor shall immediately consult the WTO to find a mutually acceptable solution.

## **15 PRIVILEGES AND IMMUNITIES**

15.1. None of the provisions of the Contract, any of its annexes, or any related documents shall imply or be construed to imply a waiver by the WTO, even temporary, partial or implicit, of the privileges and immunities of the WTO, its officials, staff members, or agents, under the Marrakesh Agreement Establishing the World Trade Organization, the Headquarters Agreement between the WTO and the Swiss Confederation, or any other legal basis. All privileges and immunities of the WTO are fully reserved by the WTO.

15.2. In applying the Contract, the Contractor and its Personnel shall not invoke an employment or principal-agent relationship with the WTO or the status of WTO official. In the performance of the Contract, the Contractor and its Personnel shall not enjoy any of the privileges or immunities of the WTO or WTO officials.

## **16 GOVERNING LAW AND DISPUTE SETTLEMENT**

16.1. The terms of the Contract shall be interpreted on the basis of their ordinary meaning, irrespective of any reference to a domestic legal system, having regard to the international legal personality of the WTO and the privileges and immunities it enjoys under the Marrakesh Agreement Establishing the World Trade Organization, the Headquarters Agreement between the WTO and the Swiss Confederation, and any other legal basis. Reference shall be made to the law of the place of performance of the Contract only if and strictly to the extent that: (i) the terms of the Contract are ambiguous or unintelligible; or (ii) the sole arbitrator establishes the existence of a gap or omission in the Contract.

16.2. The WTO and the Contractor shall attempt to settle amicably any dispute, difference of opinion, or complaint relating to the Contract, its performance, or its termination, annulment, or invalidity. Any such dispute, difference of opinion, or complaint not resolved amicably within thirty (30) days shall be settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) in force as of the date of the Contract. The arbitral tribunal shall be composed of a sole arbitrator. The sole arbitrator shall be appointed by the Secretary-General of the Permanent Court of Arbitration unless the WTO and the Contractor agree on the name of an arbitrator within one month of resorting to arbitration. The arbitration shall take place in Geneva (Switzerland) and the language of the procedure shall be English. The arbitral award shall be final and may not be appealed before national courts for any reason whatsoever.

## **17 FINAL PROVISIONS**

### **17.1 Singular and Plural**

17.1. The definition of terms in the plural in the WTO General Terms and Conditions shall apply to such words when used in the singular, where the context so requires, and *vice versa*.

## **17.2 Languages to be used in communications**

17.2. The Contractor undertakes to use only French or English in all its communications with the WTO in connection with the Contract, as well as for all documents that it delivers or prepares within the context of its obligations under the Contract.

## **17.3 Amendment of the Contract**

17.3. The Contract may be amended by the WTO and the Contractor at any time by mutual agreement in writing.

17.4. Any amendment to the Contract shall be valid only for the future, unless otherwise agreed by the WTO and the Contractor.

## **17.4 Severability**

17.5. If the enforcement or operation of any part of a provision of the Contract is rendered void, null, invalid, or unenforceable, such event shall not affect the validity and enforceability of the rest of that provision and/or any other provisions of the Contract.

## **17.5 Non-Waiver of Rights**

17.6. The failure by either the WTO or the Contractor to exercise any rights available to it, whether under the Contract or otherwise, shall not be deemed for any purposes to constitute a waiver of any such right or any remedy associated therewith, and shall not relieve the WTO or the Contractor of any of their obligations under the Contract.

## **17.6 Non-Exclusivity**

17.7. Unless otherwise specified in the Contract, the WTO is not obliged to purchase or request a minimum quantity of Goods and/or Services from the Contractor. Also, unless otherwise specified in the Contract, there shall be no limitation, at any time, for the WTO to obtain Goods and/or Services of the same or similar kind, quality, or quantity as described in the Contract from sources other than the Contractor.

## **17.7 Consequences of the suspension, annulment, termination, or expiry of the Contract**

17.8. The obligations in the Contract relating to the following matters shall continue to apply notwithstanding the suspension, annulment, termination, or expiry of the remaining obligations of the Contract for any reason: Confidentiality; Use of the name, logo, or official seal of the WTO; Liability of the Contractor; Privileges and Immunities; and Governing Law and Dispute Settlement.

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