



ICC GENERAL CONDITIONS

1. DESCRIPTION OF THE ICC

- (a) The International Computing Centre (ICC) is an inter-organizational facility, hosted and administered by the World Health Organization, which provides Information and Communication Technology (ICT) and related services to the United Nations, its Programmes and Funds as well as to its Specialised Agencies (ICC Partners). At present, the fifty UN Organizations and Specialized Agencies participating in ICC are as follows:

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) – Geneva, Switzerland

Food and Agriculture Organization (FAO) – Rome, Italy

International Atomic Energy Agency (IAEA) – Vienna, Austria

International Civil Aviation Organization (ICAO) – Montreal, Canada

International Civil Service Commission (ICSC) – New York, USA

International Court of Justice (ICJ) – The Hague, Netherlands

International Criminal Court (ICC) – The Hague, Netherlands

International Fund for Agricultural Development (IFAD) – Rome, Italy

International Labour Organization (ILO) – Geneva, Switzerland

International Maritime Organization (IMO) – London, United Kingdom

International Monetary Fund (IMF) – Washington, USA

International Organization for Migration (IOM) – Geneva, Switzerland

International Telecommunication Union (ITU) – Geneva, Switzerland

International Trade Centre (ITC) – Geneva, Switzerland

Joint United Nations Programme on HIV/AIDS (UNAIDS) – Geneva, Switzerland

Office for the Coordination of Humanitarian Affairs (OCHA) – Geneva, Switzerland

Office of the United Nations High Commissioner for Human Rights (OHCHR) – Geneva, Switzerland

Organisation for the Prohibition of Chemical Weapons (OPCW) – The Hague, Netherlands

Pan American Health Organization (PAHO) – Washington, USA

Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) – Vienna, Austria

United Nations Children's Fund (UNICEF) – New York, USA

United Nations Conference on Trade and Development (UNCTAD) – Geneva, Switzerland

United Nations Convention to Combat Desertification (UNCCD) – Bonn, Germany

United Nations Development Programme (UNDP) – New York, USA

United Nations Economic Commission for Africa (UNECA) – Addis Ababa, Ethiopia

United Nations Economic Commission for Europe (UNECE) – Geneva, Switzerland

United Nations Educational, Scientific and Cultural Organization (UNESCO) – Paris, France

United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) – New York, USA

United Nations Environment Programme (UNEP) – Nairobi, Kenya

United Nations Framework Convention on Climate Change (UNFCCC) – Bonn, Germany

United Nations Office of Information and Communications Technology (UN OICT) – New York, USA

United Nations High Commissioner for Refugees (UNHCR) – Geneva, Switzerland

United Nations Industrial Development Organization (UNIDO) – Vienna, Austria

United Nations Institute for Training and Research (UNITAR) – Geneva, Switzerland

United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) – Baghdad, Iraq

United Nations Joint Staff Pension Fund (UNJSPF) – New York, USA

United Nations Office at Geneva (UNOG) – Geneva, Switzerland
United Nations Office for Project Services (UNOPS) – Copenhagen, Denmark
United Nations Population Fund (UNFPA) – New York, USA
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) – Amman, Jordan
United Nations System Chief Executive Board for Coordination (CEB) – Geneva, Switzerland
United Nations Volunteers (UNV) - Bonn, Germany
United Nations World Tourism Organization (UNWTO) – Madrid, Spain
Universal Postal Union (UPU) – Bern, Switzerland
World Bank (IBRD) – Washington, USA
World Food Programme (WFP) – Rome, Italy
World Health Organization (WHO) – Geneva, Switzerland
World Intellectual Property Organization (WIPO) – Geneva, Switzerland
World Meteorological Organization (WMO) – Geneva, Switzerland
World Trade Organization (WTO) – Geneva, Switzerland

- (b) ICC also provides such services to National Governments, Nongovernmental or Intergovernmental Organizations, with Consultative Status with the United Nations or one of its Specialised Agencies and other educational and research organizations (ICC Users).
- (c) All users of ICC services, i.e. Partners and Users, are hereinafter referred to as "ICC Users".
- (d) ICC is headquartered in Geneva, Switzerland, and currently also has offices in New York, USA, Rome, Italy, Brindisi, Italy and Valencia, Spain. ICC shall notify the Supplier of any change in its offices.

2. SCOPE

These ICC General Conditions apply to any and all orders placed and contracts concluded by ICC with a Supplier of hardware, licensed programmes, related materials, and/or corresponding support services. ICC may also refer to these General Conditions in relation to other orders and/or contracts. In such event, these General Conditions shall also apply to such other orders and/or contracts, and the provisions hereof shall - to the greatest extent possible - be interpreted so as to cover the subject matter of the orders and/or contracts in question.

3. HARDWARE AND SOFTWARE CLAUSE

- (a) The Supplier, in executing a contract with ICC, entitles the ICC Users, including any new ICC Users not specifically mentioned above:
 - i) to use the hardware supplied to ICC under such contract; and
 - ii) to access and use any licensed programmes and related materials supplied to ICC under such contract, either through ICC's computers or through its networks, or in the event of an emergency, through ICC's off-site back-up computers, whether or not maintained and operated by ICC or by a third party contracted by ICC (disaster recovery centre).
- (b) In connection with the above, the Supplier shall, at no additional cost provide any passwords, licensing keys or the like required to activate the licensed programmes and related materials, for the ICC on-site systems and networks, and for ICC's disaster recovery centre.
- (c) For the avoidance of doubt, the Supplier explicitly agrees that ICC shall be entitled to provide the ICC Users access to, and use of, any and all products and/or services supplied to ICC under the contract, in accordance with the terms of these General Conditions.

- (d) The ICC shall notify the Supplier of any new ICC User. The Supplier acknowledges that ICC procures hardware and software specifically to provide services to the ICC Users. In the event that one or more ICC Users withdraw from any services provided by ICC, ICC shall be entitled to cancel any contract with the Supplier, i.e. to the extent and insofar as such contract relates to the services from which the aforesaid ICC Users are withdrawing. If applicable, the ICC and the Supplier shall identify and agree service continuity and availability requirements such as access rights to the services, service response times, end to end availability of services.
- (e) The Supplier shall deliver, and whenever agreed, install, the hardware and/or the licensed programmes and related materials, including any new versions of such programmes and materials, at ICC headquarters and/or any other ICC offices, as designated by ICC. The Supplier shall furthermore provide ICC, and - in accordance with the identification procedures of ICC - any ICC User, with the corresponding agreed upon support services. Whenever agreed, such support services shall be provided on site at ICC headquarters and/or any other ICC offices. The Supplier undertakes to provide the agreed upon support for the most recent version of the licensed programme and related materials. In the absence of such support, ICC shall be entitled to terminate the contract for the licensed programmes and related materials in question, with immediate effect.

4. TAX STATUS

The price shall reflect any tax exemption to which ICC is entitled by reason of the immunity it enjoys. ICC is exempt from all direct taxes, customs duties and the like, except as hereinafter provided, and the Supplier shall consult with ICC so as to avoid the imposition of such charges with respect to any contract concluded with ICC and all products supplied and/or services rendered thereunder. As regards excise duties and other direct taxes imposed on the sale of goods, however, the parties agree that the Supplier shall list such charges on invoices as a separate item and, to the extent required, cooperate with ICC to enable reimbursement thereof.

5. PAYMENT AND INCREASES IN PRICES AND FEES

Any amounts due to the Supplier shall be paid by ICC within 30 (thirty) days from the date of receipt of Supplier's corresponding invoice and upon Supplier's successful delivery of goods or services unless otherwise specified in the Purchase Order. Without prejudice to the remedies available to the Supplier by law, ICC shall not - in case of late payment - be held liable for the payment of any interest provided for in the Supplier's general and/or special conditions of contract. In the event the Supplier increases its prices and/or fees for any products and/or services supplied to or ordered by ICC, ICC shall be entitled to cancel or terminate the contract for the products and/or services in question as from the effective date of the increase, unless such increase has previously been agreed with ICC (as confirmed by ICC in writing).

6. INSPECTION AND AUDIT

ICC reserves the right to inspect the supplies called for under its request for offer at any time and the Supplier will afford every facility for such inspection. ICC reserves the right to review the Supplier processes and controls related to any and all orders placed and contracts concluded by ICC with a Supplier, at an agreed and convenient time to ensure that any information and materials of ICC and any ICC User has the appropriate level of security protection. This security protection will include measures relating to technical, physical, procedural and people measures and controls. The Supplier shall facilitate the operational audit related to the execution of the work and the compliance with the obligations set forth in the contract, by persons designated by ICC. In this regard, the Supplier shall make all relevant operational information, without restriction, available to persons so designated by ICC and provide satisfactory explanations to all queries in connection therewith.

7. EXPORT LICENCE

The contract between the parties is subject to the obtaining of any and all export licences or other governmental authorizations which may be required for the delivery of the products to ICC. It shall be the responsibility of the Supplier to obtain such export licences and other Governmental authorizations, it being agreed, however, that at the Supplier's reasonable request, ICC shall cooperate with the Supplier in obtaining such licences and authorizations. In the event that any of the aforesaid licences or authorizations are refused, the contract between the parties shall be considered null and void ab initio, without either party having the right to claim damages.

8. RE-EXPORTATION

The acceptance by ICC of any restriction on the re-exportation of the products supplied to ICC shall not be deemed to constitute a waiver of ICC's privileges and immunities and is given only to the extent such engagement does not imply any discrimination of one or more Member States of an ICC User.

9. CONFIDENTIALITY, INTEGRITY AND AVAILABILITY OF INFORMATION AND MATERIALS

- (a) The Supplier will implement, maintain and use administrative, technical, physical, procedural and security infrastructures, facilities, tools, technologies, practices and other measures (collectively "Protective measures"), including without limitation, data encryption, anti-virus and anti-malware protections, intrusion detection and reporting methods, which are necessary and sufficient:
 - (i) To protect the confidentiality and integrity of all information of ICC and ICC User that is electronically maintained, stored, processed and/or transmitted;
 - (ii) To protect all information of ICC and ICC User from unauthorized access, destruction, use, modification or disclosure; and
 - (ii) To protect all information of ICC and ICC User against deterioration or degradation of its quality and authenticity.
- (b) Such Protective Measures shall be no less than reasonable in view of the nature and type of information and materials involved. The Supplier shall ensure that information and materials of ICC and ICC User are accessible and usable upon reasonable request by ICC.
- (c) The Supplier agrees to take appropriate measures to treat any information and materials of ICC and any ICC User, to which the Supplier may gain access in the course or as a result of the tender for, or performance of, a contract with ICC, hereinafter referred to as "the Information", at a similar or higher sensitivity or classification level as deemed by ICC or the ICC User, as the case may be, regardless of whether such Information is in written or oral, tangible or intangible, machine readable or other format. Information shall include, but not be limited to, documents, data, computer programs, process descriptions and all other materials or information relating to or dealing with the operations or activities of ICC and the ICC Users.
- (d) The Supplier shall use such Information only for the purpose of preparing an offer to ICC and/or fulfilling Supplier's contractual obligations ("the Purpose"). In this regard, the Supplier agrees to disclose the aforesaid information only to persons who have a need to know for the Purpose and are bound to similar obligations of confidentiality and restrictions on use as those imposed on the Supplier hereunder. The supplier agrees to take appropriate measures to authorise, control, grant or remove access to any information of ICC during the course of the order or contract. However, there shall be no obligations of

confidentiality and restrictions on use, if and to the extent Information is or becomes generally available to the public through no fault of the Supplier (or any persons to whom Supplier shall have disclosed such Information).

- (e) When information provided in the context of the tender for, or performance of, a contract is described by the Supplier as confidential, ICC shall take appropriate measures to keep such information confidential and shall only use the information for the purpose for which it was provided. In this regard, ICC shall disclose the aforesaid information only to persons who are bound to similar obligations of confidentiality and restrictions on use as those imposed on ICC hereunder. However, there shall be no obligation of confidentiality or restriction on use where:
 - i. the information is publicly available, or becomes publicly available through no fault of ICC (or any persons to whom ICC shall have disclosed such information); or
 - ii. the information was already known to ICC (as evidenced by its written records) prior to its receipt; or
 - iii. the information was received from a third party not in breach of any obligation of confidentiality owed to the Supplier.
- (f) For the avoidance of doubt, ICC shall always be entitled to disclose confidential information of the Supplier to ICC Users, provided that such ICC Users have been bound by similar obligations of confidentiality and restrictions on use as contained herein.
- (g) The abovementioned obligations of confidentiality, integrity and availability of information and materials and restrictions on use shall survive the expiration or termination of the contract.
- (h) The Supplier acknowledges that Information Assets of ICC and ICC Users are the property of ICC or the specific ICC User respectively and is subject to the privileges and immunities accorded to ICC and/or that specific ICC User. As a result of these privileges and immunities, any such data and information is inviolable and cannot be disclosed, provided or otherwise made available to, or searched, confiscated or otherwise be interfered with by any party, unless such immunity is expressly waived in writing by ICC.

To ensure compliance with the privileges and immunities pertaining to ICC, the Supplier shall segregate Information Assets belonging to, originating from or in any way associated with ICC or ICC Users from the information of any other person or entity.

In the event that any local, national or international governmental, regulatory or law enforcement body or other authority, any court or other tribunal, and any arbitrator (hereinafter “Governmental Body”) requests or demands the Supplier to provide access to any ICC or ICC User Information Assets, the Supplier shall:

- (i) promptly transmit the request or demand to ICC;
- (ii) inform such Governmental Body that it understands that such Information and Information Assets are privileged under the Specialized Agency Convention and request such Governmental Body to redirect the relevant request for disclosure directly to ICC;
- (iii) take all commercially reasonable efforts to resist such request or demand;
- (iv) consult with ICC regarding the Supplier’s response to the demand or request;
- (v) cooperate with ICC’s reasonable requests in connection with efforts by ICC to ensure that its privileges and immunities are upheld.

In the event that such Governmental Body still seeks such information and Information Assets, the Supplier shall:

- (i) request such Governmental Body that ICC be given the opportunity to present before such Governmental Body ICC's position regarding the confidentiality of such Information Assets or information;
- (ii) to the extent the Supplier may be required to disclose or provide access to such Information Assets, notify ICC of such requirement prior to disclosure or access;
- (iii) to the extent permissible by law, seek to contest or challenge the demand or request based on, inter alia, ICC's status, including its privileges and immunities, contractual arrangements, etc.;
- (iv) upon ICC's request, provide ICC a true, correct and complete copy the Supplier's response to such demand or request, and keep ICC informed of all developments and communications with the Governmental Body.

To the extent the Supplier is prohibited by applicable law or governmental order from notifying ICC of such request, the Supplier shall notify ICC promptly upon the lapse, termination, removal or modification of such prohibition.

10. WARRANTIES BY THE SUPPLIER

- (a) The Supplier warrants and represents that to the best of Supplier's knowledge, the agreed upon use of any hardware, licensed programmes and related materials supplied to ICC shall not infringe on the proprietary rights of any third party and that relevant legal and regulatory requirements, including data protection, intellectual property rights and copyright, are respected.
- (b) The Supplier shall ensure that, as far as applicable, all duties and obligations under this Contract shall be included in any contract that it enters into with any sub-Contractual Partner. The Supplier shall not assign or otherwise dispose of all or any of its rights and responsibilities under this contract without prior written consent of ICC. The Supplier shall take appropriate measures to ensure relevant training and awareness for the Supplier's personnel involved in the provision of services to ICC.
- (c) As needed, the Supplier shall provide contact details available in case of a major incident or emergency and to allow for the notification of incidents affecting ICC and for collaboration with ICC during remediation.

11. INFRINGEMENT CLAIMS

- (a) Any (defence) action against or negotiation with a third party by the Supplier concerning claims for the infringement of proprietary rights, which might imply the submission of ICC to a national court jurisdiction, shall be subject to ICC's prior written approval.
- (b) If and as soon as the Supplier becomes aware that any product(s) supplied by it to ICC may - in the reasonable opinion of the Supplier - infringe on the proprietary rights of a third party, the Supplier shall - at its expense: (i) obtain the right for ICC and the ICC Users to continue using the infringing product(s) in the same manner as originally agreed between the parties; or (ii) modify or replace the infringing product(s) with one or more compatible and equivalent substitutes. If, despite diligent efforts of the Supplier, neither (i) nor (ii) are possible, the Supplier shall promptly notify ICC thereof in writing. In such event ICC's right to use the infringing product(s) shall terminate and the Supplier shall immediately reimburse ICC for any amounts already paid by ICC to the Supplier for the use by ICC of such product(s), and the provision by the Supplier of the related support services, in respect of any period after the effective date of termination.

12. LIABILITY

- (a) In no event shall Supplier's liability for direct damages be limited to an amount habitually obtained by suppliers of hardware, software and/or corresponding support services, as insurance coverage for third party liability claims.
- (b) In case of gross negligence or wilful misconduct on the part of the Supplier, the Supplier shall furthermore remain liable for any indirect, incidental and/or consequential damages that may arise therefrom.

13. FORCE MAJEURE

Neither Party shall be liable for damages for any delay or failure to perform its obligations hereunder, if such delay or failure is due to causes beyond its control or without its fault or negligence, including, without limitation, strikes, riots, wars, fires, epidemics, lack of human or material resources, quarantine restrictions, unusually severe weather, earthquakes, explosions, acts of God or state or any public enemy, or acts mandated by any applicable laws, regulation or order (whether valid or invalid) of any governmental body. If a Force Majeure event occurs the affected Party shall inform the other Party promptly and will use reasonable efforts to mitigate adverse effects and to resume performance as soon as practicable. Should the Force Majeure event extend beyond fifteen (15) days, either Party shall have the right to terminate the Contract or applicable work order upon immediate written notice without any penalty or liability. However, ICC's payment obligations for services actually performed by the Consultant/Contractor until the occurrence of the Force Majeure event, or until termination of this Contract under this Article 13, shall remain and not be affected by the Force Majeure event.

14. PRIVILEGES AND IMMUNITIES

Nothing in or relating to the contract shall be construed as a waiver of any of the privileges and immunities enjoyed by ICC and/or any ICC User in conformity with the Convention on the Privileges and Immunities of the United Nations or the Convention on the Privileges and Immunities of the Specialized Agencies as applicable, or as submitting ICC or any ICC User to any national or regional legislation or jurisdiction. In connection with the foregoing, any provision in the contract regarding the verification or audit of the records, assets and/or property held by ICC or the ICC Users, shall be null and void.

15. SETTLEMENT OF DISPUTES

Any matter relating to the interpretation or execution of the contract which is not covered by its terms, shall be resolved by reference to the laws of Switzerland. Any dispute relating to the interpretation or execution of the contract shall, unless amicably settled, be subject to conciliation. In the event of failure of the latter, the dispute shall be settled by arbitration. The arbitration shall be conducted in accordance with the modalities to be agreed upon by the parties, or in the absence of agreement, with the rules of arbitration of the International Chamber of Commerce (including in regard to the payment of arbitration costs, recovery of attorney's fees, etc.). The parties shall accept the arbitral award as final. Any provision in the contract on governing law, settlement of disputes, injunctive relief and jurisdiction, shall be null and void.

16. USE OF THE NAME, ACRONYM AND/OR EMBLEM OF ICC AND THE ICC USERS

ICC agrees that the Supplier may internally refer to ICC as a customer of the Supplier, and may list ICC as a reference (by name and/or acronym only) in non-public offers to potential new customers. Except as explicitly provided hereinbefore, the Supplier shall not, in any statement or

material of an advertising or promotional nature, refer to the contract between the parties, or to the relationship of ICC and/or (any of) the ICC Users to any products or services supplied hereunder.

17. PREVAILING CONDITIONS

Any and all orders placed, and contracts concluded by ICC with the Supplier shall be subject to the present General Conditions. To the extent the Supplier's general or special conditions of contract are contrary to or conflict with these ICC General Conditions, the ICC General Conditions shall prevail.