



United Nations Relief and Works Agency

General Conditions of Contract for
Procurement of Goods
(DLA revd 23 Nov 07)

GENERAL CONDITIONS OF CONTRACT FOR THE PROCUREMENT OF GOODS

1. EFFECTIVE DATE

This Purchase Order shall be effective when signed by the Parties. The Purchase Order constitutes a contract between the Parties, the rights and obligations of which shall be governed solely by the terms and conditions of the Purchase Order, including these General Conditions (the "Contract").

2. LEGAL STATUS

The Supplier shall at all times be deemed an independent contractor of UNRWA for purposes of this Contract.

3. SOURCE OF INSTRUCTIONS

The Supplier shall neither seek nor accept instructions from any authority external to UNRWA in connection with the performance of this Contract. The Supplier shall refrain from any action that may adversely affect, and shall fulfill its commitments with fullest regard to the interests of, UNRWA.

4. BANK GUARANTEE

If specifically requested by UNRWA prior to the signature of this Contract, the Supplier shall provide a banker's guarantee on a bank acceptable to UNRWA in the form, amount and manner prescribed by UNRWA.

5. SUPPLIER'S EMPLOYEES

The Supplier's personnel, sub-contractors and other persons providing services in connection with the obligations of the Supplier under this Contract shall in no respect be considered employees or agents of UNRWA.

6. ASSIGNMENT

The Supplier shall not, without the prior written consent of UNRWA, assign, transfer, pledge, sub-contract or make other disposition of this Contract or any part thereof, or any of the Supplier's rights, claims or obligations under this Contract.

7. EXPORT LICENCES

Notwithstanding any INCOTERM 2000 used in the Purchase Order, the Supplier shall obtain all export licenses required for the goods.

8. SHIPMENT AND DELIVERY

8.1 The Supplier warrants that the goods are securely packaged and marked, taking into account the mode(s) of shipment, in a manner as to protect the goods during delivery to their ultimate destination. Containers and packages shall be new, sound and adequate strength, and the Supplier shall be responsible for all damage or loss resulting from faulty or inadequate packing.

8.2 All goods subjected to this Contract shall be delivered or shipped, as the case may be, at the Supplier's risk (including risk of loss, damage to or destruction of the goods until physical delivery of the goods has been completed in accordance with this contract), to the place or places and within the time limits specified in the Purchase Order.

8.3 The Supplier shall take all reasonable steps to provide UNRWA with an original Bill of Lading before the actual arrival of the goods at the place of destination and, in the event that UNRWA takes delivery of the goods before arrival of the Bill of Lading, the Supplier shall hold UNRWA harmless from all claims that may be made upon UNRWA under such Bill of Lading.

9. LATE DELIVERY

Without limiting any other rights or obligations of the Parties hereunder, if the Supplier will be unable to deliver the goods by the delivery date(s) stipulated in the Purchase Order, the Supplier shall (i) immediately consult with UNRWA to determine the most expeditious means for delivering the

goods and (ii) use an expedited means of delivery at the Supplier's cost (unless the delay is due to *Force Majeure*, as defined herein), if requested by UNRWA.

10. INSPECTION

UNRWA and its nominees may inspect the goods during manufacture, at the Supplier's premises in the ports or places of shipment or arrival and in UNRWA installations, and after the delivery of the goods. The Supplier shall provide all facilities for such inspection. UNRWA may issue a written waiver of inspection at its discretion. Any inspection carried out by the representatives of UNRWA or any waiver thereof shall not prejudice the implementation of other relevant provisions of this contract concerning obligations subscribed by the Supplier.

11. REJECTION

11.1 In addition to all other remedies available hereunder, UNRWA may reject all goods that do not conform to the terms and conditions of the Contract, including but not limited to the specifications and with respect to packaging, or, if applicable, samples provided by or on behalf of the Supplier.

11.2 Goods in UNRWA's possession that have been rejected by the UNRWA must be removed at the Supplier's expense within such period as UNRWA may specify in its notice of rejection. Upon such notice to the Supplier, the goods or any part thereof will be held at the latter's risk and expense including, if necessary, the cost of their transfer to and storage at a commercial or bonded warehouse, and no liability shall attach to UNRWA for any loss or damage thereto. The payment of any customs duties which may be required on rejected goods that were imported duty free shall be the Supplier's responsibility. Should the Supplier fail to remove the goods as required by the notice of rejection, UNRWA may dispose of them, without any liability to the Supplier whatsoever, in such manner as it deems fit.

12. WARRANTIES

12.1 The Supplier warrants that the goods, including packaging, conform to the specifications for the goods ordered under this Purchase Order, are fit for the purposes for which such goods are intended and are free from defects in workmanship and materials. All such warranties shall remain in effect for a period as stated on the front of the Purchase Order or otherwise for a period of minimum one year after receipt of the goods by UNRWA (the "Warranty Period"). In addition, the Supplier shall provide or assign to UNRWA all manufacturers' warranties relating to the goods.

12.2 If, during the Warranty Period, the Goods or any part thereof purchased under this Contract are found by UNRWA to be defective or not to conform with the Contract Documents, upon written notification to the Supplier by UNRWA, the Supplier shall, promptly and at its own expense correct all such defects and non-conformities. If the defects and non-conformities cannot be corrected, the Supplier shall, at the choice of UNRWA, either replace the defective Goods or promptly reimburse UNRWA.

13. TITLE TO EQUIPMENT

All right, title and interest in the goods subject to the Purchase Order shall, upon payment, vest exclusively in UNRWA, and the Supplier shall take all such action as may be necessary to vest the same exclusively in UNRWA, free and clear of all liens, claims and encumbrances of any kind.

14. PROPRIETARY RIGHTS

14.1 UNRWA shall be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or



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documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of this Contract. At UNRWA's request, the Supplier shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to UNRWA in compliance with the requirements of the applicable law.

14.2 The Supplier warrants that the use or supply by UNRWA of the goods sold under the Purchase Order does not infringe any intellectual property and other proprietary right of any third party. The Supplier shall, at its sole expense, defend, indemnify and hold harmless UNRWA, its officials, agents, servants and employees, from and against all suits, claims, demands and liability of any kind, including costs and expenses, arising out of any infringement thereof. The obligations under this Article do not lapse upon termination of this Contract.

15. USE OF UN OR UNRWA NAME OR EMBLEM

The Supplier shall not advertise or otherwise make public the fact that it is a Supplier with UNRWA, nor shall the Supplier, in any manner whatsoever use the name, emblem or official seal of UNRWA or the United Nations, or any abbreviation of the name of UNRWA or the United Nations in connection with its business or otherwise.

16. CONFIDENTIALITY

16.1 All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Supplier under this Contract shall be the property of UNRWA, shall be treated as confidential and shall be delivered only to UNRWA authorized officials on completion of work under this Contract.

16.2 The Supplier shall not communicate at any time to any other person, Government or authority external to UNRWA, any information known to it by reason of its association with UNRWA which has not been made public except with the authorization of UNRWA; nor shall the Supplier at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

17. ADDITIONAL WARRANTIES

The Supplier shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract. In addition, the Supplier represents and warrants that:

17.1 Neither it nor any of its suppliers is engaged in any transactions with, and/or the provision of resources and support to, individuals and organizations associated with, receiving any type of training for, or engaged in, any act or offense described in Article 2, Sections 1, 3, 4 or 5 of the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations in Resolution 54/109 of 9 December 1999.

17.2 Neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which requires that a child shall be protected from performing any work that is likely to be hazardous or interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

17.3 Neither it nor any of its suppliers is engaged in the design, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of mines. "Mines" means those devices defined in Article 2, paragraphs 1.4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

17.4 No official of UNRWA has received from or will be offered by the Supplier any direct or indirect benefit arising from this Contract or the award thereof.

17.5 Any breach of any of the representations and warranties contained in this Article 17 shall entitle UNRWA to

terminate this Contract, at no cost to UNRWA, immediately upon notice to the Supplier.

18. PAYMENT

18.1 UNRWA shall, on fulfilment of the delivery terms, unless otherwise provided in the Purchase Order, make payment within 45 days of receipt of the Supplier's invoice in the English language for the goods and the Shipping Documents as specified in the Purchase Order.

18.2 Payment against invoice referred to above will reflect any discount shown under the payment terms of the Purchase Order, provided payment is made within the period required by such payment terms. Time in connection with any cash discount offered will be computed from the date of receipt by the UNRWA's Procurement and Logistics Office of full documentation as specified in the Purchase Order.

18.3 Unless otherwise authorized by UNRWA, the Supplier shall submit one invoice in respect of the Purchase Order, and such invoice shall indicate the Purchase Order number and the Supplier's detailed payment instructions.

19. TAX EXEMPTION

19.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, *inter alia*, that the United Nations, including its subsidiary organs (including UNRWA), is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize UNRWA's exemption from such taxes, duties or charges, the Supplier shall immediately consult with UNRWA to determine a mutually acceptable procedure.

19.2 The Supplier expressly authorizes UNRWA to deduct from the Supplier's invoice any amount representing such taxes, duties or charges, unless the Supplier has consulted with UNRWA before the payment thereof and UNRWA has, in each instance, specifically authorized the Supplier to pay such taxes, duties or charges under protest. In that event, the Supplier shall provide UNRWA with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

20. RIGHTS OF UNRWA

20.1 In case the Supplier fails to comply with any term of this Contract, the Supplier shall be liable for all damages sustained by UNRWA, and UNRWA may, after giving the Supplier reasonable notice to perform and without prejudice to any other rights or remedies, exercise one or more of the following rights:

- (i) procure all or part of the goods from other sources;
- (ii) refuse to accept delivery of all or part of the goods; or
- (iii) terminate this Contract,

and the Supplier shall be liable by reason of default for any loss or damage sustained and additional costs incurred by UNRWA, including without limitation any increase in the price payable by UNRWA resulting from the procurement of the goods from other sources. UNRWA may, without notice to the Supplier, apply to the payment of any such loss, damage or additional costs, by setoff or otherwise, all credits, claims or other amounts, whether or not related to this Purchase Order, at any time owing by UNRWA to the Supplier. No grant of time to the Supplier to cure a default hereunder, nor any delay or failure by UNRWA to exercise any other right or remedy available to UNRWA under this Contract, shall prejudice any rights or remedies available to UNRWA under this Contract or be deemed a waiver thereof. The rights and remedies herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

20.2 The Supplier shall indemnify, hold and save harmless, and defend, at its own expense, UNRWA, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Supplier, or the Supplier's employees, officers, agents or sub-contractors, in the performance of this Contract. This



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provision includes, but is not limited to, claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Supplier, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

21. TERMINATION

21.1 Either party may terminate this Contract for cause, in whole or in part, upon 30 days' notice, in writing, to the other party. The initiation of proceedings in accordance with Article 23 shall not be deemed a termination of this Contract.

21.2 UNRWA may terminate this Contract upon notice at any time should the mandate or the funding of UNRWA be curtailed or terminated, in which case the Supplier shall be reimbursed by UNRWA for all reasonable costs incurred by the Supplier prior to receipt of the notice of termination.

21.3 In the event of any termination by UNRWA under this Article, no payment shall be due from UNRWA to the Supplier except for goods satisfactorily delivered, and related services satisfactorily performed, in conformity with the express terms of this Contract. The Supplier shall take immediate steps to terminate the work and services in a prompt and orderly manner and to minimize losses and further expenditures.

21.4 Should the Supplier be adjudged bankrupt, or be liquidated or become insolvent, or should the Supplier make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Supplier, UNRWA may, without prejudice to any other right or remedy it may have under these conditions, terminate this Contract upon notice. The Supplier shall immediately inform UNRWA of the occurrence of any of the above events.

22. FORCE MAJEURE

22.1 *Force Majeure*, as used in this Article means an act of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.

22.2 In the event of and as soon as possible after the occurrence of any cause constituting *Force Majeure*, the Supplier shall give notice and full particulars in writing to UNRWA, of such occurrence or change if the Supplier is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Supplier shall also notify UNRWA of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, UNRWA shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Supplier of a reasonable extension of time in which to perform its obligations under this Contract.

22.3 If the Supplier is rendered permanently unable, wholly or in part, by reason of *Force Majeure* to perform its obligations and meet its responsibilities under this Contract, UNRWA shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 21, except that the period of notice shall be 7 days instead of 30 days.

22.4 Notwithstanding anything to the contrary in this Contract, the Supplier recognizes that the work and services will be performed under harsh or hostile conditions caused by civil unrest. Consequently, delays or failure to perform caused by events arising out of, or in connection with, such civil unrest shall not, in and of itself, constitute *Force Majeure* under this Contract.

23. SETTLEMENT OF DISPUTES

23.1 The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Optional Conciliation Rules of the Permanent Court of Arbitration then prevailing or according to such other procedure as may be agreed between the parties.

23.2 Unless any such dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof is settled amicably under the preceding paragraph within 60 days after receipt by one Party of the other Party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either Party to arbitration before the Permanent Court of Arbitration in accordance with its Optional Rules for Arbitration between International Organizations and Private Parties in force on the date of this Contract. The appointing authority shall be the Secretary General of the Permanent Court of Arbitration following a written request submitted by either party. The arbitration proceedings shall be held in Amman, Jordan and shall be conducted in the English language, applying general principles of international commercial law. The Arbitrator's decision shall be binding on the Parties, provided the Arbitrator shall have no authority to award interest or punitive damages, and there shall be no appeal. These provisions for arbitration shall be in lieu of any other procedure for the settlement of disputes among or between the Parties.

24. PRIVILEGES AND IMMUNITIES

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities accorded to UNRWA in international law.

25. NOTICE AND OTHER FORMALITIES

25.1 Service of any Notice referred to in this Contract or arising therefrom shall be deemed to be valid if sent by registered mail, or by cable, or by hand against authorized signature on receipt, to the address of the party concerned as set forth in this Contract.

25.2 It is expressly agreed that UNRWA shall have the right to enforce these General Conditions without the necessity of resorting to service of summons, *mise en demeure*, notarial notice, and without any legal formalities or court proceedings of any kind whatsoever; it being further agreed that the Notice provided for in the preceding paragraph is adequate for all purposes notwithstanding any provisions of applicable law to the contrary.

26. WAIVER

No waiver of any breach of this Contract shall be held to be a waiver of any other breach. All remedies afforded in this Contract shall be taken and construed as cumulative, i.e. in addition to every other remedy provided by law.

27. AMENDMENT

No amendment to this Contract shall be valid unless confirmed in writing by the Parties. Only the Chief Procurement and Logistics Division or, for local contracts, the Field Procurement and Logistics Officer in each of UNRWA's Fields of Operation has authority on behalf of UNRWA to modify or change this Contract or to waive any of its provisions. Accordingly, no modification or change in this Contract shall be valid and enforceable against UNRWA unless provided by an amendment to this Contract signed by the Supplier and the Chief Procurement and Logistics Division or the Field Procurement and Logistics Officer (for local contracts).

