

# INTERNATIONAL COMMITTEE OF THE RED CROSS

## GENERAL CONDITIONS FOR WORK CONTRACTS

### 1. DEFINITION

A contract for work is an agreement whereby the Contractor<sup>1</sup> obligates himself to produce a work, and the client to pay the price.

### 2. OBLIGATION OF THE CONTRACTOR

#### 2.1 General

The Contractor shall protect the interests of the Client and perform the work and have them performed in accordance with the documents referred to in the contract and shall draw up any other supplementary or detailed plans which may be necessary for the performance of the contract.

He is obligated to carry out the work personally or to have it carried out under his personal direction.

#### 2.2 Certification

The Contractor certifies that it has:

- Visited and inspected the site and location of the works
- Taken full and entire note of the plans and descriptions
- Verified the plans and the preliminary bills of quantities
- Asked for all and any necessary or relevant information, pertaining to and for the calculation of its all-included price.

#### 2.3 Compliance with professional standards

The Contractor must apply the same care and knowledge one may expect from a professional and diligent Contractor in the same line of work taking all necessary precautions.

In the absence of an agreement to the contrary or custom, he shall himself provide for such accessories, instruments and equipment as shall be necessary for the carrying out of the work.

The Client has the right to reject any material, equipment or work performed not meeting the standards as stated in the contract.

In particular the Contractor shall:

- 2.3.1** ensure a high quality level of work in accordance with the national standards for civil and mechanical work. The Contractor will have the work executed only by an experienced labour force.
- 2.3.2** ensure a close supervision of the work quality with a qualified engineer as supervisor where necessary during the entire duration of the work.
- 2.3.3** bear full responsibility for implementing all safety procedures in compliance with all applicable safety and labour laws, and bear full responsibility for any accidents arising from the normal execution of the work.
- 2.3.4** ensure that local services are disrupted for the minimum duration of time during the work, and coordinate with the relevant authorities in order to

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<sup>1</sup> The term "Contractor" stands for both men and women.

warn any potentially affected people of any necessary shutdowns.

**2.3.5** clean the site and take good care of it during the work. All debris, garbage, waste materials and construction equipment, used during the project must be taken out of the work site on termination or completion of the contract.

**2.3.6** keep, of its own volition, the Client informed of unforeseen or significant occurrences or difficulties, particularly in the event of a delay in the work and supply the Client with the information the latter requests.

### **3. MATERIALS**

To the extent that the Contractor has undertaken to supply the material, he is liable to the client for the quality and is bound by a warranty in the same manner as a seller.

If, during the carrying out of the work, defects become evident in the material supplied by the client or with regard to the designated construction site, or other conditions develop which endanger a due and timely carrying out of the work, the Contractor shall without delay notify the client thereof, otherwise he will be responsible for any adverse consequences.

### **4. SAMPLES**

The Contractor shall without additional charge whenever requested by the Client supply samples for selection or quality control purposes. Such supply and the selection by the Client shall be effected in good time to ensure that no delay results.

**4.1.** All workShop or laboratory tests will be at the Contractor's expenses. The Contractor will provide the results for acceptance by the Client within 3 days after the testing.

**4.2.** The Contractor must submit any pumping equipment for testing one week prior to its use on-site to an agreed workshop specified by the Client.

### **5. CONCEALED WORKS**

All parts of the work that will be hidden from view are to be inspected by the Client prior to their covering. At the Client's request, the Contractor must uncover any hidden work for further inspection or testing.

### **6. INFORMATION**

#### **6.1 Right of inspection**

The Client shall have the right to inspect the progress and performance of the work, as well as its quality and that of the materials being used.

The Client's right of inspection shall not in any way relieve the Contractor of its responsibilities for the performance of the work.

#### **6.2 Site meeting reports**

The Contractor shall hold regular site meetings, to which the Client shall be invited. In any event, the minutes of the meetings shall be sent to the Client.

#### **6.3 Final report**

When the work is concluded, the Contractor shall deliver to the Client, free of charge, the file certified by the Contractor containing the operating instructions, together with all the necessary plans, duly updated and certified, where necessary, by the Contractor's architects and engineers. These shall include in particular:

- a) Paper or electronic drawings of the plans implemented
- b) Diagrams and operating instructions for all installations
- c) A list of the subcontractors and their contact details.

## **7. MODIFICATIONS: ADDITIONAL AND / OR ELIMINATED WORKS**

### **7.1 Principles**

If the Client wishes to change, amend or improve the work it must provide the Contractor with a written request in good time.

To determine the feasibility, the increase or reduction in prices and the impact on delivery dates, the Contractor will have a period of fifteen days from receipt of the request to draw up a detailed written offer showing whatever effect the modification might have on the work.

The desired modification will be carried out and paid for only if the Client has accepted the conditions, delivery dates and impacts on the initial work in writing.

If the Contractor refuses the modifications for feasibility or deadline reasons in spite of the Client assuming responsibility for all consequences in connection with the modifications, the Client may have the modifications executed by a third party.

### **7.2 Price**

The additional work necessitated by the modifications or improvements referred to above will be calculated on the basis of the unit prices taken into consideration for fixing the price of the work, including any discounts.

Work, which will be eliminated, will be deducted from the price, on the basis of the unit prices used when calculating and fixing the price of the work.

If the parties cannot agree on the cost of any additional work, the Client shall have the right to invite competing tenders and, if necessary, impose the resulting prices on the Contractor.

## **8. SUBCONTRACTING**

### **8.1 Principle**

The Contractor may sign contracts for work with tradesmen, Contractors and suppliers (hereinafter referred to as "Subcontractors"), as well as with any other agents taking part in the work.

The Contractor will make such contracts in its own name and for its own account. Vis-à-vis the Subcontractors and agents, the Contractor shall have all the rights and prerogatives of a client. Towards the Client, the Contractor remains entirely liable for any work executed by such third parties as if he had executed the work himself.

The Contractor does not have the right to hire any employee of a relevant ministerial authorities, ministerial sub-directorates, or of relevant municipal agencies, nor any member of any governmental agency or institution.

The Contractor must provide the Client with the business name of any Subcontractor or agent to whom it is intended to award a job so as to enable the Client, where applicable, to state its reservations. The Client may object to them only on reasonable grounds.

The fact that the Contractor awards a job to a subcontractor proposed but not imposed by the Client shall not relieve the Contractor of any of its obligations, responsibilities or liabilities.

## **8.2 Payment of Subcontractors**

The Contractor undertakes

- 8.2.1** to use the Client payments only for invoices in relation to the construction of the work
- 8.2.2** to pay the Subcontractors punctually for the amounts due to them
- 8.2.3** to produce a statement of its payments to the Subcontractor at any time upon simple request.

To permit compliance with this obligation to be checked, the Contractor may be requested to open a special account with a banking institution designated by the Client.

The Client shall have the right to make full and final payment directly to the Subcontractor of the amount agreed between the Contractor and the Subcontractor. The amount thus paid will be charged by the Client to the remuneration owed by him to the Contractor. In the event of a dispute over an amount between the Contractor and the Subcontractor, the Client shall be entitled to have the amount placed on deposit with the effect of full and final settlement vis-à-vis the Contractor.

## **8.3 Obligations of the Subcontractors**

The Contractor will ensure that the following provisions are included in all contracts concluded with its subcontractors:

- 8.3.1** The Subcontractor undertakes to carry out the work personally using its own resources such that, as a rule, further subcontracting is excluded.
- 8.3.2** The Subcontractor guarantees the same high quality of work as the main Contractor, respecting laws and professional standards one might expect from a professional in the same line of work.
- 8.3.3** Exceptionally, the Subcontractor may be permitted by the Contractor to sub-subcontract a part of the work, on condition that written authorisation has been sought and granted by the Client.
- 8.3.4** If, by way of exception, the authorization to sub-subcontract is granted, the Subcontractor shall remain as liable for the work of its Sub-Subcontractor as it is for its own.

## **9. ASSIGNMENT**

The Contractor may not assign all or any part of its rights and obligations under this contract to a third party, save with the written consent of the Client given expressly and in advance.

## **10. ACCEPTANCE PROCEDURE / GUARANTEE FOR DEFECTS**

### **10.1 Notice of completion of work**

The Contractor will inform the Client that the work has been completed and call a meeting for the examination and provisional acceptance of the work. The parties will draw up a report noting the result of the examination.

In any case, the Client shall, as soon as appropriate according to usual business practice, examine the quality of the work and immediately notify the Contractor of defects, if any.

### **10.2 Defects**

If defects are noted, the Client will set a time limit for the Contractor to remedy them. A defect is the absence of a quality promised by the contractor or which the Client was entitled to expect under the rules of good faith.

If the defects are not remedied within the said time limit, the Client may:

- either make a corresponding reduction of the price
- or have the defects remedied by a third party at the Contractor's costs and deduct the costs from the letter of guarantee.

Where the work suffers from defects which are so substantial, or deviates from the contractual specifications to such an extent, that it is unusable for the Client or that its acceptance cannot reasonably be expected of him, the Client is entitled to refuse acceptance and to cancel the contract (art. 18.3 "Consequences of cancellation" applies).

### **10.3 Repairs**

The defects repaired must be accepted in accordance with the above procedure.

### **10.4 Provisional acceptance**

- If the completion of work report does not note any defects, or
- If the Client has accepted the work in the completion of work report or by omitting to examine and notify defects in due time, or
- If a report confirms that the repairs have been properly carried out,

the work will be provisionally accepted.

## **11. FINAL ACCEPTANCE / WARRANTY**

Final acceptance of the work will be pronounced after the completion of the Warranty period, provided that no defect is discovered. The discovery of minor faults will not prevent final acceptance but will give rise to a new notice of completion for the part of the work concerned. The discovery of major faults will prevent final acceptance and will give rise to a new notice of completion.

The warranty does not cover damages due to misuse, user's negligence, wear and tear or any other damages due to risks to be borne by the client according to normal business practices.

Irrespective of final acceptance, the Contractor shall remain liable for a period of five years for defects which during the reception and proper examination were not perceptible or were intentionally concealed by the Contractor.

## **12. FIXED PRICE CONTRACTS**

If the compensation has been precisely stipulated in advance (fixed price), the Contractor is obligated to complete the work for this sum and may not claim an increase even if he had more labour or larger expenditures than had been foreseen.

If, however, extraordinary circumstances which could not have been foreseen or which were excluded from the assumptions made by both parties, impede the completion or render it exceedingly difficult, a judge/arbitrator may, at his discretion, authorize an increase of the price or dissolution of the contract.

The Client shall also pay the full price if the completion of the work has caused less labour than had been foreseen.

## **13. PENALITIES**

The penalty clause, if any, will be imposed for late completion of the contract unless due to Force Majeure without prejudice to other measures stipulated in the contract such as early termination. Nevertheless, the Main Contractor must inform the Client immediately

in the case of possible delays or Force Majeure in order to enable the Client to take any appropriate measures.

The Client has the right to deduct the penalty without further process either from any outstanding bills or from the retention to be returned or use it to compensate any claims the Contractor might have against him.

Even if the penalty clause is applied, the Client may still choose to cancel the contract according to these General Conditions.

#### **14. INSURANCE**

Nothing in the parties relations shall be construed as an employment relationship. The Contractor therefore bears sole responsibility for insurance (old-age, invalidity, unemployment, accident, sickness, loss of earnings, third-party liability), for which he shall take out adequate coverage for himself and his employees.

#### **15. PLEDGE OF DISCRETION / ICRC NAME AND LOGO**

The objective of the ICRC is to provide protection and assistance for victims of war, civil war or internal disturbances and for other victims on whose behalf the ICRC is called upon to take action. To attain this objective as effectively as possible, the ICRC must at all times enjoy the confidence of governments and of the victims.

This confidence is largely based on the neutrality of the ICRC and on the discretion with which it conducts its activities. Accordingly, anybody active for the ICRC is duty bound to observe absolute discretion with regard to the confidential ICRC activities in which he participates or which come to his knowledge in the performance of his work.

The undersigned therefore undertakes to observe the utmost discretion concerning matters with which he shall be called upon to deal or which may come to his knowledge and to consider himself bound by professional secrecy in this regard.

This duty shall remain in effect even after the work for the ICRC is terminated.

The use of the name and/or logo of the ICRC in any way is prohibited unless expressly authorised in writing in advance.

#### **16. INTELLECTUAL PROPERTY RIGHTS**

The undersigned herewith automatically cedes to the ICRC all transferable intellectual property rights to the results of his work for the ICRC. These rights include, but are not limited to, the exclusive right to use, publish, sell, modify or distribute any material prepared for or on behalf of the ICRC.

#### **17. PAYMENT**

The conformity of the scheduled payments to the real progress must be certified by the Contractor. This certification must be attached to each invoice so that the Client can verify the situation.

The Client may require that the payment be made into a special construction account with a specific bank, so as to ensure that the money is properly used and, particularly that payment is received by the various subcontractors.

By way of guarantee, the Client may retain an agreed percentage of the value of each invoice.

No adjustment to the price of the Contract will be made due to variations of the exchange rates.

## **18. CANCELLATION OF THE CONTRACT**

### **18.1 In general**

If, during the carrying out of the work, the performance of either party can definitely be anticipated to be faulty or otherwise in breach of the contract, then the innocent party may set an appropriate time limit for a remedy, with the warning that, in the event of the other party's failure to perform the correction or continuation of the work, the contract may be cancelled. The Client has also the choice to give the work to a third party at the Contractor's risk and cost. Either party may cancel this contract if the other party becomes insolvent.

### **18.2 For exceeding of estimates**

If an approximate estimate of the price or the time frame for the completion of the work agreed upon with the Contractor is exceeded disproportionately without interference of the Client, the latter is entitled, during as well as after completion of the work, to cancel the contract.

### **18.3 Consequences of the cancellation**

- a) In the event that the contract is terminated, the parties return to each other what they have already received. If the work or part of it can not be returned and if it is of value to the Client, the latter shall pay an equitable compensation. The same applies where constructions on real property could only be removed at a disproportionate disadvantage for the Contractor.
- b) Claims for damages and/or interests are reserved.

## **19. CANCELLATION AGAINST INDEMNIFICATION**

As long as the work is incomplete, the Client may withdraw at any time from the contract, against compensation for the work already performed according to implemented items in the priced BoQ.

## **20. FORCE MAJEURE**

Neither of the parties shall be held liable for a delay or any other failure to perform brought about by unforeseeable natural disaster, civilian unrest, strike or government restriction/constraint independent of the will of the party invoking it, provided that said party:

- informs the other party immediately of the existence of the cause and potential delay, and
- does all it can to discharge its obligations in spite of that cause.

If the cause persists for seven (7) days, either of the parties may cancel the contract by informing the other party in writing (art. 18.3 "Consequences of cancellation" applies).

## **21. RESPECT FOR HUMANITARIAN VALUES**

For the duration of the contract, the Contractor may be considered to "represent" the ICRC. He therefore undertakes to comply with the relevant ICRC rules of conduct and to adopt an attitude compatible with the purely humanitarian nature of the organization's work, in accordance with the attached "Rules to be observed by ICRC staff". This does not mean, however, that the Contractor, who remains self-employed, thus establishes an employment relationship with the Client.

## **22. WORKING CONDITIONS AND CHILD LABOUR**

**22.1** By virtue of the Universal Declaration of Human Rights, the Convention on the Rights of the Child and the ILO's Declaration on Fundamental Principles and Rights at Work, the Contractor must respect the following:

- Ø prohibition on the use of child labour;
- Ø prohibition on the use of forced labour;
- Ø national laws regarding hygiene, safety and labour rights.

**22.2** The application of these principles shall be based on the laws of the country in which the work is located.

**22.3** Should those laws fail to be observed by the Contractor and/or its Subcontractors or suppliers, the Client may make recommendations. If these are not followed, the Client shall be entitled to suspend or cancel the contract (art. 18.3 "Consequences of cancellation" applies).

### **23. RESPECT FOR THE LAW**

The Contractor undertakes to comply with the law. Should he nevertheless fail to do so, the Client shall be entitled – depending on the seriousness of the breaches and the significance which he judges those breaches to have had regarding the Client's operations – to cancel the contract (art. 18.3 "Consequences of cancellation" applies).

### **24. MINES AND OTHER WEAPONS**

The Contractor hereby certifies not to be involved in any manner whatsoever in the transport, sale and/or production of mines or any other weapons. Should the Main Contractor make a false certification in this respect, the Client shall be entitled to cancel the contract with immediate effect (art. 18.3 "Consequences of cancellation" applies).

### **25. SECURITY WARNING**

The nature of the ICRC's work and of armed conflicts can make working for the ICRC highly dangerous. Risks include injury, kidnapping and death. Contractors must be aware of these risks and know that in case of a kidnapping it is ICRC policy not to pay any ransom and that no insurance has been concluded for that purpose. The contractor confirms that he has been informed of and accepts these risks. In any case, the ICRC's and its employees' liability is expressly excluded.

The contractor must be thoroughly familiar with any specific instructions that apply at the delegation and comply with them at all times.

### **26. MODIFICATIONS OF GENERAL CONDITIONS AND/OR CONTRACT**

No modification of the clauses of these General Conditions or of the Client's standard contract may be effected without the express written agreement of both parties.

### **27. ENFORCEABILITY / VALIDITY**

Any provision of the contract prohibited by or unlawful or unenforceable under any applicable law shall to the extent required by such law be ineffective without modifying the remaining provisions of the contract.

Where however the provisions of any such applicable law may be waived they are hereby waived by the parties hereto to the full extent permitted by such law to the end that the contract shall be a valid and binding agreement enforceable in accordance with its terms.

### **28. ARBITRATION**

Any dispute, controversy or claim arising out of or in relation to the contract, including the validity, invalidity, breach or termination thereof, shall be finally and exclusively settled by arbitration in accordance with the UNCITRAL (United Nations Commission on International Trade Law) arbitration rules in force on the date when the Notice of arbitration is submitted in accordance with these Rules.

Appointing authority shall be the Chamber of Commerce and Industry of Geneva, Switzerland.



The arbitral proceedings shall be conducted in English.

**29. IMMUNITY**

Nothing in this contract shall be directly or indirectly interpreted as a waiver on the part of the ICRC of its privileges and immunities as an international organization.

**Read and accepted**

Place: \_\_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

\_\_\_\_\_  
Signature of the Contractor: