

GENERAL CONTRACTUAL CONDITIONS FOR THE PROVISION OF SERVICES AND SUPPLIES

Art. 1 – GENERAL OBLIGATIONS OF THE SUPPLIER

1.1. The Supplier undertakes to fulfil their obligations promptly and with the utmost diligence, in compliance with the contractual provisions and applicable legislation, as well as with what is proposed in the offer, immediately informing the Contracting Authority of any circumstance influencing the execution of the contract.

1.2. All obligations and charges necessary for the execution of the contractual services, including costs relating to human resources and equipment, must be understood as fully borne by the Supplier, with the exception of those explicitly indicated in the contract as borne by the Contracting Authority.

1.3. The Supplier undertakes to assume all responsibility, civil and criminal, for cases of accidents and damages caused, by their own personnel or by the personnel of subcontractors, to the personnel or property of the Contracting Authority and to third parties or their property, holding the Contracting Authority harmless from any legal action brought against them.

1.4. The Supplier undertakes to indemnify the Contracting Authority from any claim or action for compensation that any third parties may bring against them for any non-fulfilment of contractual services.

1.5. The Supplier undertakes to comply with all the obligations towards their employees, imposed by the applicable laws and regulations in force regarding job placement, compulsory employment, social and social security insurance, as well as to apply the economic and regulatory treatment established by Territorial and National Collective Labour Agreements in force for the sector and for the area in which the services are carried out.

1.6. The Supplier undertakes to deliver to the Contracting Authority the documentation or the declarations deemed necessary by the latter in order to verify the fulfilment of the obligations relating to work, social security and assistance.

1.7. The obligations of the Supplier towards the Contracting Authority are also towards the subcontractors interested in the acquisition of services and supplies and also apply to any subcontractors.

Art. 2 – CHECKING THE POSSESSION OF GENERAL AND SPECIAL REQUIREMENTS

2.1. The possession of the general and special requirements referred to in Articles 80 and 83 of the Italian Public Contracts Code, communicated by the Supplier to the Contracting Authority through adequate compilation of the ESPD (European Single Procurement Document) or other equivalent declaration, must exist at the time of the stipulation of the contract and must remain for the entire execution of the contract.

2.2. During the execution of the contract, the possession of the general and special requirements is verified by the Contracting Authority by means of suitable checks, including random checks, to be carried out in the manner prescribed by the specific regulations of the Contracting Authority.

Art. 3 – INTERFERENCE RISKS

3.1. Pursuant to art. 26, paragraph 3, Legislative Decree 81/2008, if interference risks are identified, the contract stipulated with the Supplier will be integrated with the DUVRI (Interference Risk Assessment Document) indicating the measures necessary to eliminate or minimise these risks.

3.2. Pursuant to art. 26, paragraph 3-bis, Legislative Decree 81/2008, the aforementioned provision does not apply to services of an intellectual nature, to mere supplies of materials or equipment, or to services whose duration does not exceed five days.

Art. 4 – METHOD OF PAYMENT

4.1. Invoices must show the references of the provision to which they refer (Order/Contract Number, Unique Project Code, Tender Identification Code), in the absence of which the Contracting Authority cannot proceed with the payment.

4.2. The payment of invoices, corresponding to the state of execution of the service or supply, is generally arranged within thirty days from the date of receipt of the invoices or from the date of receipt of the goods or the provision of the services, whichever is later, provided that the goods or services are regular and are approved by the RUP (Sole Project Manager) or by the DEC (Contract Execution Director), if appointed.

4.3. Before proceeding with the payment and where certain conditions are met, the Contracting Authority verifies the non-existence of situations of fiscal default on the part of the Supplier pursuant to art. 48-bis of the Italian Presidential Decree 602/1973 and the non-existence of situations of contribution default, through the ex officio procurement of the DURC (Single Insurance Contribution Payment Certificate) online.

4.4. Compliance with the payment deadline is ensured if the checks certify the Supplier's tax and social security contribution compliance.

4.5. Pursuant to art. 17-ter of Italian Presidential Decree 633/1972, the VAT shown

on the invoice is withheld by the Contracting Authority at the time of payment and subsequently paid directly to the tax authorities.

4.6. If the Supplier is subjected to checks, even on a random basis, on the possession of the general and special requirements referred to in Articles 80 and 83 of the Italian Public Contracts Code, the payment of the contractual amount is suspended until such checks have given a positive outcome.

4.7. Any penalties are deducted from the amount due to the Supplier.

Art. 5 – DEFINITIVE GUARANTEES

5.1. Pursuant to art. 103, paragraph 11 of the Italian Public Contracts Code, the Contracting Authority has the right not to ask the Supplier for the definitive guarantee for the execution of the contract, provided that the exemption from the provision of the guarantee is adequately justified and subject to an improvement in the clearing price.

5.2. Any definitive guarantees (in the form of a deposit or surety) requested by the Contracting Authority must be established and presented before the signing of the contract and the relative amount is determined pursuant to art. 103 of the Italian Public Contracts Code.

Art. 6 – PENALTIES

6.1. Pursuant to art. 113-bis, paragraph 4 of the Italian Public Contracts Code, in the event that there is a delay in the execution of the contractual services by the Supplier, the Contracting Authority applies the penalties, commensurate with the days of delay and proportional to the amount of the contract or contractual services, without prejudice to the right to take action for compensation for greater damage.

6.2. The penalties due for delayed fulfilment are calculated in the contract on a daily basis between 0.3 per thousand and 1 per thousand of the net contractual amount, to be determined in relation to the extent of the consequences related to the delay, and cannot in any case exceed a total of 10% of the net contractual amount.

6.3. The Contracting Authority has the right to proceed with the application of penalties within the limits indicated above in the event of irregular/incorrect execution of the contractual services by the Supplier.

6.4. The application of the penalties is carried out by withholding the payment amount during the settlement of the invoices, after a written complaint to the Supplier has been sent via fax or certified email, with assignment to the Supplier of a maximum of ten days for the transmission of any counter-arguments.

6.5. In the event that, as a result of the cumulation, the amount of the penalties exceeds the maximum value of 10% of the net contractual amount, the Contracting

Authority may proceed with terminating the contract for serious breach pursuant to art. 108 of the Italian Public Contracts Code.

Art. 7 – TERMINATION OF THE CONTRACT

7.1. Regarding the termination of the contract, art. 108 of the Italian Public Contracts Code applies, as well as art. 1453 et seq. of the Italian Civil Code applicable on the matter, without prejudice to the right of the Contracting Authority to expressly provide in the contract for specific cases of contractual termination.

7.2. The DEC (Contract Execution Director), when they ascertain a serious breach in the contractual obligations by the Supplier, such as to compromise the success of the services, conveys the statement of objections to the Supplier, assigning a term of no less than fifteen days for the presentation of their counter-arguments. Having acquired and negatively assessed the aforementioned counter-arguments, or once the term has expired without the Supplier responding, the Contracting Authority on the proposal of the RUP (Sole Project Manager) declares the contract terminated.

7.3. If the execution of the services is delayed due to negligence of the Supplier with respect to the provisions of the contract, the DEC (Contract Execution Director) assigns a term which, except in cases of urgency, cannot be less than ten days, within which the Supplier must carry out the services. Once the assigned term has expired, and the formal report contradictory to the Supplier has been drawn up, if the non-fulfilment persists, the Contracting Authority terminates the contract, without prejudice to the payment of penalties.

7.4. The Contracting Authority terminates the contract in the event that the Supplier no longer meets the general and special requirements referred to in Articles 80 and 83 of the Italian Public Contracts Code, required and possessed at the time of the signing of the contract.

7.5. The Contracting Authority has the right to terminate the contract in the following cases:

- a) violation by the Supplier of the obligations regarding safety in the workplaces;
- b) suspension or interruption of the activity by the Supplier for reasons not dependent on force majeure and not authorised by the Contracting Authority, except for the provisions of art. 107 of the Italian Public Contracts Code;
- c) unauthorised subcontracting;
- d) initiation by the Supplier of bankruptcy or arrangement with creditors procedures;
- e) application of penalties for an amount exceeding 10% of the net contractual

amount;

- f) failure to sign the contract for the appointment of the personal data processing manager in the case indicated in the following art. 15.4.

7.6. In the event of the termination of the contract, the Supplier is only entitled to the payment of the services relating to the services or supplies regularly carried out, minus the additional charges deriving from the termination of the contract.

7.7. In the event of the termination of the contract, the Contracting Authority proceeds to enforce the definitive guarantee if provided within the limits of the damage resulting from the non-fulfilment and the application of any penalties, except in any case for compensation for further damage.

Art. 8 – UNILATERAL WITHDRAWAL FROM THE CONTRACT

8.1. Pursuant to art. 109 of the Italian Public Contracts Code, the Contracting Authority may withdraw from the contract at any time upon payment of the services relating to the services or supplies carried out as well as the value of the useful materials in stock, in addition to one-tenth of the amount of the services or supplies not carried out until four fifths of the contract value is reached.

8.2. The exercise of the right of withdrawal is preceded by a formal communication to the Supplier to be given with notice of no less than twenty days, after which the Contracting Authority takes delivery of the services and supplies and checks their regularity.

8.3. The Contracting Authority recognises the Supplier's right to withdraw from the contract, with adequate notice of thirty days, by written communication by registered letter or certified email, with payment of the services relating to the services or supplies regularly carried out, minus the additional charges deriving from the termination of the contract.

Art. 9 – TRANSFER OF THE CONTRACT

9.1. The contract cannot be transferred under penalty of nullity, without prejudice to the provisions of art. 106, paragraph 1, letter d) of the Italian Public Contracts Code.

Art. 10 – TRANSFER OF CREDIT

10.1. The transfer of credit is allowed, pursuant to and in the manner set out in art. 106, paragraph 13 of the Italian Public Contracts Code, and in any case in compliance with the traceability requirements of financial transactions pursuant to art. 3 of Law 136/2010.

Art. 11 – SUBCONTRACTING

11.1. Subcontracting is referred to in the Letter of Invitation and is permitted under the conditions indicated therein and, in any case, under the conditions laid down by

art. 105 of the Italian Public Contracts Code. In the case of services which by their nature require particular precautions, the Contracting Authority will be able to identify limits within which subcontracting is admissible; however, complete subcontracting of contractual services is prohibited.

11.2. In any case, the Supplier may not subcontract, even in part, the supply or service covered by the contract, without the prior written authorisation of the Contracting Authority.

11.3. The Supplier must deposit the subcontracting contract with the Contracting Authority at least twenty days before the effective start date of the execution of the services. At the time of the depositing of the subcontracting contract, the Supplier must transmit the certification attesting the possession by the subcontractor of the necessary qualification requirements in relation to the subcontracted service and the ESPD (European Single Procurement Document) signed by the subcontractor or other equivalent declaration.

11.4. In the event of subcontracting, the Supplier remains solely responsible towards the Contracting Authority for the fulfilment of the contractual services and the obligations established by mutual agreement between the parties.

11.5. Pursuant to art. 105, paragraph 13 of the Italian Public Contracts Code, the Contracting Authority directly pays the subcontractor the amount due for the services carried out by the same in the following cases:

- a) when the subcontractor is a micro or small enterprise;
- b) in the event of default by the contractor;
- c) at the request of the subcontractor and if the nature of the contract allows it.

Art. 12 – CHANGES TO THE CONTRACT WHEN IT IS VALID

12.1. Any changes to the contract during the period of validity are permitted within the limits set out in art. 106 of the Italian Public Contracts Code.

Art. 13 – DUTY OF CONFIDENTIALITY

13.1. The Supplier undertakes, for themselves and for their employees and auxiliaries, to maintain the utmost confidentiality, not to disclose in any way the subject and services covered by the contractual documentation, the know-how, as well as data or facts relating to the Contracting Authority.

Art. 14 – TRACEABILITY OF FINANCIAL TRANSACTIONS

14.1. The Contracting Authority and the Supplier undertake, in the execution of the contract, to fully comply with the traceability obligations of financial transactions set out in art. 3 of Law 136/2010.

14.2. The Contracting Authority undertakes to include in the contracts signed with

the Supplier, under penalty of absolute nullity, a specific clause with which each of them assumes the traceability obligations of financial transactions set out in art. 3 of Law 136/2010.

14.3. The Supplier undertakes to include in the contracts signed with the subcontractors, under penalty of absolute nullity, a specific clause with which each of them assumes the traceability obligations of financial transactions set out in art. 3 of Law 136/2010.

14.4. Pursuant to art. 3, paragraph 5, Law 136/2010, the payment instruments must report, in relation to each transaction carried out, the Tender Identification Code (CIG) and, where mandatory pursuant to art. 11 of Law 3/2003, the Unique Project Code (CUP).

14.5. Pursuant to art. 3, paragraph 7, Law 136/2010, the Supplier undertakes to communicate to the Contracting Authority, using the specific form provided, the identification details of the bank or postal current account dedicated, even if not exclusively, to public procurement within seven days from its opening or, in the case of an existing current account, from its first use in financial transactions relating to the public contract, as well as the personal details and tax identification number of the persons delegated to use them. The Supplier also communicates any changes relating to the data transmitted.

Art. 15 – PROCESSING OF PERSONAL DATA

15.1. The Contracting Authority is the Data Controller of personal data provided by the Supplier when participating in the selection process, the drawing up of the contract and potentially during the carrying out of the activity.

15.2. Personal data is processed only for the pursuit of the purposes for which it was collected, in compliance with the provisions in force on the subject and EU Regulation 2016/679, as described in detail in the privacy policy included in the Request for Proposal and/or in the declarations accompanying the proposal.

15.3. Any processing that pursues additional and different purposes will be subject to specific consent.

15.4. Should the activity covered by the contract make it necessary to appoint the Supplier as the External Manager of the processing of personal data pursuant to art. 28 of EU Regulation 2016/679, this appointment takes place in a separate written document. In this case, the Supplier undertakes to process the personal data according to the instructions received from the Contracting Authority and in compliance with current legislation on the matter.

15.5. The Contracting Authority is required to publish the information and data requested for the purpose of fulfilling the provisions on transparency (see art. 1, paragraph 32, Law 190/2012; art. 37 of Legislative Decree 33/2013; art. 29 of

Legislative Decree No. 50/2016).

Art. 16 – ORGANISATION, MANAGEMENT AND CONTROL MODEL

16.1. The violation, by the Supplier, of the rules provided for by the MOG 231 (Organisation and Management Model) adopted by the Contracting Authority will represent a serious breach of the contract and the Contracting Authority may terminate the contract, with communication to be sent by registered letter with return receipt or certified mail, and they may also take action for compensation for any damage suffered or which will be suffered.

16.2. The Supplier will communicate in the event of violations of the principles included in the MOG 231, any report, as well as any requests, to the Supervisory Board (pursuant to legislative decree no. 231) of the Contracting Authority, via the email address: odv.promos@promositalia.camcom.it.

Art. 17 – SETTLEMENT OF DISPUTES AND REMEDIES

17.1. For the settlement of all disputes arising from the execution of the service or supply contract, Articles 206 (Amicable Agreement for Services and Supplies) and 208 (Settlement) of the Italian Public Contracts Code apply.

17.2. In the event of failure of the aforementioned remedies for out-of-court resolution, the exclusive jurisdiction of the ordinary Court of Milan is conventionally established for the settlement of all disputes arising from the execution of the contract.

Art. 18 – MODIFICATIONS AND REFERENCE

18.1. Any modification or addition to the contract must result from a written deed, as oral modifications/additions are not admissible.

18.2. For anything not expressly provided for in these General Contractual Conditions, in the Contract and in the Contractual Documents, full reference is made to the applicable and current legislative provisions on the subject, with particular reference to the provisions of the Italian Civil Code and the Italian Public Contracts Code.

Art. 19 – FINAL PROVISIONS

19.1. These General Conditions prevail over any other contractual provision provided for by any General Conditions of the Supplier.

Approved by resolution of the General Manager No. 107 of 5th August 2020