

## **INVITATION TO TENDER FOR AIR TICKETING SERVICES UNDER FRAMEWORK AGREEMENT FOR TWELVE (12) MONTHS**

Dear Sir/Madam,

Further to your enquiry regarding the publication of the above-mentioned Invitation to Tender, please see below and enclosed the list of documents which constitute the procurement documents. Electronic copy of these documents can be sent in PDF format via email upon request.

**A – Tender Information table**

**B – Instructions to tenderers**

**C – Draft Contract & Annexes:**

**Annex 1: General Terms and Conditions for Service Contracts**

**Annex 2: FCA Code of Conduct for Contractors and Service Providers**

**Annex 3: Tender Submission form (to be completed by the tenderer)**

**Annex 4: Terms of Reference**

It is strictly forbidden to make alterations in the printed text. The tenderer will be bound to the original text in accordance with the document forwarded in PDF format.

## A. Tender Information Table

1.	General Information		
1.1.	Contracting Authority	Finn Church Aid – South Sudan Country Office	
1.2.	Invitation to tender reference no	FCA/SSUCO006/2025	
1.3.	Procurement Method	Open Tender	
1.4.	Contract Title	Air Ticketing Services	
1.5.	Contact Info	Name/Position:	Rita Gire
		Email:	<a href="mailto:Procurement.Ssuco@kua.fi">Procurement.Ssuco@kua.fi</a>
		Physical Address:	Juba Na Bari, American Embassy residence Road, Opposite Nile Fortune Hotel
2.	Timeline, tender submission & opening (dates & hours are as per contracting authority time zone)		
2.1.	Date of issue of the Invitation to tender	04/28/2025	
2.2.	Deadline for submission of tenders (Date & Hour)	06/02/2025 11:00 AM	
2.3.	Deadline for sending questions to contracting authority	3 days - (05/27/2025 16:00 HRS)	
2.4.	How to send questions to the contracting authority	Questions should be sent to the contact person via the email above.	
2.5.	Last date on which clarifications are issued by the Contracting Authority	05/28/2025 16:00 HRS	
2.6.	Tender submission procedure	<p>Tenders must be received at the address mentioned below by hand no later than the tender submission deadline (2.2). Any tenders received after the deadline will not be considered.</p> <p>Tenders shall be submitted in a sealed envelope bearing the following information:</p> <p>Procurement Committee Finn Church Aid (FCA) Juba Na Bari, American Embassy Residence- Turkish Embassy – UNESCO Road Plot # 536, Block 3k-South, Juba Na Bari Opposite Nile Fortune Hotel. Tender no.: FCA/SSUCO006/2025 <i>Invitation to Tender no.: Provision Air Ticketing Services</i> <i>Tender receipt: 02 May 2025 – 02 June 2025</i></p> <p><b>NOT TO BE OPENED BEFORE THE TENDER OPENING SESSION.</b></p> <p>All tenders must be submitted in one original, marked “original”.</p>	
2.7.	Tender opening session date, hour & location	<p>06/02/2025 11:10 AM FCA office at Juba Na Bari, opposite Nile Fortune Hotel</p> <p>Tender opening will be conducted only by Ssuco Procurement Committee.</p>	
3.	Content		
3.1.	Category of procurement	Services	
3.2.	Scope of related services	The subject of the contract is the provision of Air Ticketing Services	
3.3.	Is the tender divided into lots?	Yes	

3.4.	Delivery Location	South Sudan
3.5.	Delivery Deadline	Contract award date
4.	Price and Validity of Tenders	
4.1.	Currency of Price	USD
4.2.	Validity period of the tender (offer)	12 months
4.3.	Taxation	FCA shall not assume any liability for taxes and/or other contributions payable by the Service Provider on income earned and/or work performed under this Contract. The Service Provider agrees to accept exclusive liability for the payment of taxes due on any amounts paid under this Agreement. The invoice must include VAT.
5.	Eligibility Criteria imposed on the tenderer	
Please see the Annex 4 - Terms of Reference for eligibility criteria.		
6.	Contract Award Criteria	
Please see the Annex 4 - Terms of Reference for contract award criteria.		
7.	Legal	
7.1.	Language of the offers	English
7.2.	The law of the country governing the contract	South Sudan
8.	Contract Awarding	
8.1.	Type of contract	Framework
8.2.	Contract start date (estimate)	06/16/2025
8.3.	Contract end date (estimate)	06/16/2026 This contract is renewable for three (3) additional 12-month terms, totaling 48 months subject to satisfactory service delivery and performance. FCA reserves the right to terminate the contract in case of poor delivery service and poor performance.
8.4.	Language of the contract	English

## B. INSTRUCTIONS TO TENDERERS

In submitting a tender, the tenderer accepts in full and without restriction the special and general conditions governing the procurement contract as the sole basis of this tendering procedure, whatever his own conditions of sale may be, which he hereby waives.

Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier.

Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender.

No account can be taken of any reservation in the tender as regards the tender dossier; any reservation will result in the immediate rejection of the tender without further evaluation.

### B.1. Scope services

The subject of the contract is the provision of Air Ticketing Services as listed in **A. Tender Information Table**

**/ Section 3. Please see Annex 4 – Terms of Reference for detailed information on the required services.**

#### a) Delivery:

The services requested shall be delivered to the location and on the dates as listed in **A. Tender Information Table / Section 3.**

### B.2. General

The services to be purchased are for use by the Contracting Authority in its programme country as listed in **A. Tender Information Table / Section 1.**

### B.3. Cost of Tender

The tenderer shall bear all costs associated with the preparation and submission of his tender and the Contracting Authority will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the tender process.

### B.4. Questions, clarification of tender documents and additional information

Tenderers may submit questions in writing to the Contracting Authority as per instructions and deadlines listed in **A – Tender Information Table / Section 2.**

Any clarification of the Invitation to Tender documents given by the Contracting Authority will be submitted to all tenderers at the same time (and prospective tenderers) at the latest on the date specified in the timetable in **A – Tender Information Table / Section 2.**

Tenderers are not allowed to approach the Contracting Authority for oral clarification. Any (prospective) tenderer seeking to arrange individual meetings during the tender period with either the Contracting Authority and/or associated organization may be excluded from the tender procedure.

### B.5. Planned timetable

The Contracting Authority reserves the right to alter the dates and time, in which case all tenderers will be informed in writing and a new timetable will be provided.

The timetable can be found in **A. Tender Information Table / Section 2.**

The hours in the timetable are as per time-zone of the country where the Contracting Authority is located.

### B.6. Language of Tenders

The tenders, all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority must be written in English. Supporting documents and printed literature furnished by the tenderer may be in local language.

### B.7. Evaluation Process

Prior to the tenderer eligibility verification (as specified in **B.8 Exclusion from award of contracts** & **B.9 Eligibility Criteria imposed on the tenderer** Eligibility Criteria) and detailed evaluation (as specified in **B.10 Contract Award Criteria** **Error! Reference source not found.**) of the tenders, the procurement committee, (established by the Contracting Authority for the purposes of this tender procedure), shall ascertain whether the tenders;

- were submitted prior to tender submission deadline (Closing Date);
- have been properly signed;
- have been submitted according to the submission procedure in **A. Tender Information Table / Section 2**;
- and are otherwise generally in order.

If a tender is not substantially responsive i.e. it contains more than irrelevant deviations from or reservations to the terms, conditions and specifications in the tender dossier, it shall not be considered further.

Then the procurement committee will examine the technical admissibility of each tender, classifying it as technically compliant or non-compliant.

Tenders determined to be substantially responsive and technically compliant will be checked by the procurement committee for any arithmetic errors. Where there is a discrepancy between the amounts in the figures and words, the amount in words will govern. Where there are discrepancies between the unit price and the line-item total, derived from multiplying the unit rate by the quantity, the unit rate as quoted will govern. If a tenderer refuses to accept the correction, his tender will be rejected.

### B.8. Exclusion from award of contracts

Tenderers are excluded if they are in one of the situations listed in article 16. of the **Annex 1: General Terms & Conditions for Service Contracts**.

Tenderers shall also comply with article 13. "Child Labour & Forced Labour" and article 14. "Mines" and article 15. "Anti-money laundering and combating the financing of terrorism" and article 17. Corrupt practices of the General Terms and Conditions for Service Contracts.

Tenderers are also excluded if any of the exclusion criteria here below applies to them:

- a) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA (1);
- b) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (2) and Article 2(1) of Council Framework Decision 2003/568/JHA (3) as well as corruption as defined in the national law of the contracting authority or the economic operator;
- c) fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests (4);
- d) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA (5) respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision;
- e) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council (6);
- f) child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;
- g) Also a tenderer shall be excluded from participation in a procurement procedure where the contracting authority is aware that the tenderer is in breach of its obligations relating to the payment of taxes or social security contributions and where this has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of the contracting authority.

Tenderers shall, in the **Annex 2: Tender Submission Form**, attest that they meet the above requirements. If required by the Contracting Authority, the Tenderer whose tender is accepted shall further provide evidence satisfactory to the Contracting Authority of its eligibility through certificates issued by competent authorities in its country of establishment or operation, or, if such certificates are not available, through a sworn statement.

If the tenderer was selected through prequalification, the tenderer must only declare that he still conforms with the eligibility and qualification (selection) criteria applied in the course of that prequalification.

**Contracts may not be awarded to tenderers who:**

- (a) are subject to conflict of interest
- (b) Are guilty of misrepresentation in supplying the information required as a condition of participation and eligibility in the tender procedure or fail to supply this information.
- (c) Perform, condone or tolerate corrupt, fraudulent, collusive or coercive practices, regardless of whether such practices can be attributed to this tender procedure;
- (d) Attempt to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the Contracting Authority in its decision concerning the award of the contract.

**B.9. Eligibility Criteria imposed on the tenderer**

Tenderers will initially be verified for eligibility according to eligibility criteria in **A. Tender Information Table / Section 5 and 6**. The listed documents must be submitted with the bid.

Tenderers which do not fulfill the eligibility criteria and/or do not provide the required documents will not be qualified for the tender evaluation.

**B.10. Contract Award Criteria**

The tenders which have qualified the eligibility criteria will be evaluated according to the contract award criteria in **A. Tender Information Table / Section 7**.

**B.11. Documents comprising the Tender:**

The Tenderer shall complete and submit the following documents with its tender:

- a) **Annex 3: Tender submission form** with supporting documents
- b) **Documentation regarding** B.8 Exclusion from award of contracts
- c) **Documentation regarding** B.9 Eligibility Criteria imposed on the tenderer
- d) **Documentation regarding** B.10 Contract Award Criteria
- e) all other relevant information that is required and that should be made known to the Contracting Authority

**B.12. Price:**

The price must be quoted in the currency as indicated in **A. Tender Information Table / Section 4**.

The price must be quoted in Annex 3: Tender Submission Form by the tenderer and it shall not be subject to adjustments on any account except as otherwise provided in the conditions of the contract.

The Price must include all costs related to the delivery of the services and no supplementary invoicing or other costs are accepted.

**B.13. Validity period of the tenders**

Tenders shall remain valid and open for acceptance for the period as indicated in **A. Tender Information Table / Section 4** after the Closing Date for the submission of tenders.

Prior to the expiry of the original tender validity period, the Contracting Authority may ask for objective reasons tenderers in writing to extend this period. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the tender procedure will be terminated.

**B.14. Submission of tenders and Closing Date**

Tenders must be submitted as indicated in **A. Tender Information Table / Section 2**.

No tender may be changed or withdrawn after the deadline has passed.

**B.15. Tender opening session**

Tender opening information is indicated in **A. Tender Information Table / Section 2.**

If the tenderers are invited to the tender opening session, tenderers are requested to contact the contact person, at least one day in advance of the tender opening if they will attend.

Tenderer's representatives who are present shall sign a register indicating their attendance.

At the tender opening, only the tenderers' names and the total amount of the tenders will be read aloud and recorded.

**B.16. Award of Contract**

The Contracting Authority will award the contract to the tenderer whose tender has been determined to be substantially responsive to the tender dossier and technically compliant, and who has received the highest scoring in the tender evaluation.

**B.17. Signature of Contract**

- a) The Contracting Authority will inform the successful tenderer(s) in writing that its tender has been accepted and inform the non-successful tenderers in writing about the result of the evaluation process.
- b) The Contracting Authority reserves the right to adjust the scope of procurement within a range of +/- 25% to remain within the available funds.
- c) Within **seven (7)** days of receipt of the contract already signed by the Contracting Authority, the successful tenderer must sign and date the contract and return it, to the Contracting Authority. On signing the contract, the successful tenderer will become the Contractor, and the contract will enter into force. Contract, terms & conditions are sent in original hard copy or via email; and must be returned the same way.
- d) If the successful tenderer fails to sign and return the contract and within seven (7) days after receipt of the contract signed by the Contracting Authority, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting Authority's, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.

**B.18. Cancellation for convenience**

The Contracting authority may for its own convenience and without charge or liability cancel the tender process at any stage.

## C. Draft Contract

**CONTRACT TITLE: Provision of Air Ticketing Services**

**Invitation to Tender no.: FCA/SSUCO006/2025**

Finn Church Aid – South Sudan Country Office  
Represented by Country Director Seme Nelson  
Juba Na Bari, Opposite Nile Fortune Hotel  
("The Contracting Authority"),

and

of the one part,

<insert name and address of supplier>  
("the Contractor")

of the other part,

have agreed as follows:

### Special Conditions

#### **Article 1      Scope of Air Ticketing Service Agreement**

The subject of the contract is the provision of the following services (hereinafter "service") by the Contractor:

#### **Article 2      Specifications**

The service must correspond to the required specifications throughout the entire contract period. The service must also correspond to the information provided for the customer regarding the content, performance or other issues related to service quality.

The service must suit the purpose for which such service is usually employed. The quality of the service shall at least correspond to any sample and demonstration of it provided for the customer in advance.

The service must fulfil the regulations of the South Sudan authorities.

The Contractor shall provide the service prudently, with care and with such expertise that can reasonably be assumed from an expert service provider.

#### **Article 3      Language**

The service shall be provided in the **English**, unless otherwise agreed. The persons providing the service must have the language skills required for performing the duties.

#### **Article 4      Monitoring service quality**

The Contractor shall monitor the implementation of the service and service quality and shall report to the Contracting Authority on factors relating to the provision of the service in the agreed manner. The Contractor undertakes to develop its operations during the contract period in order to improve service quality.



The Contracting Authority shall perform quality monitoring in accordance with its own needs. The Contractor must supply the information requested by the Contracting Authority for quality monitoring purposes by the agreed deadline.

#### **Article 5 Subcontracting**

The Contractor bears overall responsibility for meeting the obligations under the procurement contract, regardless of whether the service provider is using subcontractors.

#### **Article 6 Price**

The service fees on this contract are fixed as Annex 3-Tender Submission Form of the tender dossier. It shall be the sole remuneration owed by the Contracting Authority to the Contractor under the contract.

For the second and following policy years, the Contractor holds the right to submit a price change proposal to the Contracting Authority with a breakdown of changes in the costs and reasons. Proposals for price changes must be submitted to the Contracting Authority, in written, at least four (4) months prior to the change proposed, only after the period stated above. Contractor can request price revision only once for each policy year after the initial year.

The Contracting Authority holds the right to accept or reject the price change proposal and can only come into force if it is approved, in written, by the Contracting Authority.

If the Contracting Authority doesn't approve the adjusted prices or pricing methods and no unanimous decision can be reached in two (2) months after the written proposal for adjustments, either Party has right to terminate the contract. The termination will take effect on the same day as the prices would be subject to adjustment.

#### **Article 7 Payment terms:**

Payment shall be made in USD, to the following account:

<Insert provider's bank account details>

#### **Article 8 Contract documents and their order of presence**

The contract is made up of the following documents, in order of precedence:

1. this Service Contract
2. Invitation to Tender documentation including the General Terms & Conditions for Service Contracts
3. Annex 4: Terms of Reference
4. Annex 3: Tender Submission Form and related and required documentation
5. the Tender's technical offer

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

#### **Article 9 Entry into force / Duration**

The contract shall enter into force and effect after signature by both parties of this service contract.

The Contract shall remain into force and effect until the end of the liability period as defined in the Annex 1 - General Terms and Conditions for Service Contracts.

**Article 10 Law and Disputes**

The Law of the Country of the Contracting Authority shall govern all matters of the contract.

Any dispute or breach of contract arising under this contract which cannot be settled amicably, shall be finally settled by South Sudan Courts in accordance with the laws of South Sudan.

**Article 11 Assigning of the contract**

The Contractor has no right to assign this contract to a third party without a prior consent from the Contracting Authority.

Done in English in **three originals, two originals** being for the Contracting Authority and one original being for the Contractor.

**For the Contractor**

Name:

Title:

Signature:

Date:

Seal:

**For the Contracting Authority**

Name:

Title:

Signature:

Date:

Seal:

## ANNEX 1: GENERAL TERMS AND CONDITIONS FOR SERVICE CONTRACTS

### 1. Definitions

In these general terms and conditions:

- a) "contract" is the agreement entered into by the Contracting Authority and the Service Provider for the performance of the services, to which these general terms and conditions are made applicable; the contract is constituted of the documents listed in the Service Contract.
- b) The Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked;
- c) "personnel" is any person assigned by the Service Provider to the performance of the services or any part hereof, whether through employment, sub-contracting or any other agreement; and "key experts" are those members of the personnel whose involvement is considered instrumental in the achievement of the contract objectives;
- d) "beneficiary country" is the country where the services are to be performed, or where the project to which the services relate is located.

### 2. Relations between the parties

Nothing contained in the contract shall be construed as establishing a relation of master and servant or of agent and principal as between the Contracting Authority and the Service Provider. Except if otherwise provided in the contract, the Service Provider shall under no circumstances act as the representative of the Contracting Authority or give the impression that the Service Provider has been given such authority. The Service Provider has complete charge of the personnel and shall be fully responsible for the services performed by them.

### 3. Scope of Services

The scope of the services including the methods and means to be used by the Service Provider, the results to be achieved by its and the verifiable indicators are specified in the Contract and its annexes. The Service Provider shall be responsible for everything which is required for the performance of the services in accordance with what is specified in the contract, or which must otherwise be regarded as forming part of the services.

### 4. Compliance with laws and respect of traditions

The Service Provider shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Service Provider shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement by the Service Provider, its personnel and their dependants of such laws and regulations.

The Service Provider, its personnel and their dependants shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country.

### 5. Code of conduct

The Service Provider shall at all times act loyally and impartially and as a faithful adviser to the Contracting Authority and shall perform the services with due care, efficiency and diligence, in accordance with the best professional practice.

### 6. Discretion and confidentiality

The Service Provider shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority. It shall, in particular, refrain from making any public statements concerning the project or the services without the prior approval of the Contracting Authority,

### 7. Conflict of interest

The Service Provider shall refrain from engaging in any activity which conflicts with its obligations towards the Contracting Authority under the contract.

The Service Provider shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified in writing to the Contracting Authority without delay. The Service Provider shall replace, immediately and without compensation from the Contracting Authority, any member of its personnel exposed to such a situation.

### 8. Corrupt practices

The Service Provider and the personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the contract or any other contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the contract or any other contract with the Contracting Authority.

The payments to the Service Provider under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.

The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

The Service Provider further warrants that no official of the Contracting Authority and/or their partner has received or will be offered by the Service Provider any direct or indirect benefit arising from this contract.

### 9. Joint venture or consortium

If the Service Provider is a joint venture or a consortium of two or more legal persons, all such persons shall be jointly and severally bound to fulfil the terms of the contract. The person designated by the joint venture or consortium to act on its behalf for the purposes of this contract shall have the authority to bind the joint venture or consortium.

For the purposes of performance of the contract, the joint venture or consortium shall act as, and be considered, a single person and, in particular, shall have bank account opened in its name, shall submit to the Contracting Authority single guarantees if required, and shall submit single invoices and single reports.

The composition of the joint venture or a consortium shall not be altered without the prior written consent of the Contracting Authority.

### 10. Specifications and designs

The Service Provider shall prepare all specifications and designs using accepted and generally recognised systems acceptable to the Contracting Authority and taking into account the latest design criteria.

### 11. Information

The Service Provider shall furnish the Contracting Authority or any person authorised by the Contracting Authority with any information relating to the services and the project as the Contracting Authority may at any time request.

### 12. Reports

The frequency, deadlines, format and contents of the reports to be drawn up by the Service Provider in relation to the performance of the contract shall be described in the Contract and its annexes.

### 13. Service Provider's personnel

13.1 The Service Provider shall employ and provide such qualified and experienced personnel as are required to carry out the services, and the Service Provider shall be responsible for the quality of the personnel.

The Service Provider must inform the Contracting Authority of all non-expert personnel it intends to use for the implementation of the contract. The Contracting Authority shall have the right to oppose the Service Provider's choice of personnel.

13.2 The Service Provider shall provide a replacement of personnel with at least equivalent qualifications and experience.

13.3. If the personnel is nominated in the Contract, no changes shall be made in the personnel without the prior consent of the Contracting Authority. The Service Provider shall provide a replacement with at least equivalent qualifications and experience and acceptable to the Contracting Authority if:

- a) on account of death, sickness or accident, a member of the Personnel is unable to continue providing his services,
- b) any member of the personnel is found by the Contracting Authority to be incompetent in discharging or unsuitable for the performance of his duties under the Contract,
- c) for any reasons beyond the control of the Service Provider, it becomes necessary to replace any member of the Personnel.

The request for replacement must be made in writing and state the reasons therefore. The Service Provider shall proceed swiftly with the request and propose a replacement with at least equivalent qualifications and experience. The remuneration to be paid to the replacement cannot exceed that received by the replaced member of the personnel.

Failure by the Service Provider to propose a replacement for a key expert satisfactory to the Contracting Authority, shall give the right to the Contracting Authority to terminate the contract.

13.1 Additional costs arising out of a replacement shall be borne by the Service Provider.

13.5. If it is agreed on the remuneration on an hourly/daily/weekly/monthly rate basis, and if not otherwise stated in the special conditions, the days and hours of work of the Service Provider or/and its personnel in the beneficiary country shall be fixed on the basis of the laws, regulations and customs of the beneficiary country and the requirements of the services.

13.6. Any taking of holiday leave by the personnel during the period of implementation of the contract must be at a time approved by the Contracting Authority.

Overtime, sick leave pay and holidays leave pay are deemed to be covered by the Service Provider's remuneration.

#### 14. Sub-Contracting

Except from the Sub-Service Providers listed in the contract, the Service Provider shall not sub-contract to nor engage another independent Service Provider to perform any part of the services without the prior written consent of the Contracting Authority. Sub-Service Providers must satisfy the eligibility criteria applicable for the award of the contract.

The Contracting Authority shall have no contractual relations with the sub-Service Providers. The provisions of the contract, including these general terms and conditions, and in particular article 0 shall, where practicable, apply to the sub-Service Providers and their personnel.

#### 15. Liability

At its own expense, the Service Provider shall indemnify, protect and defend, the Contracting Authority, its agents and employees, from and against all actions, claims, losses or damages arising from any act or omission by the Service Provider in the performance of the services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

Approval by the Contracting Authority of the Service Provider's reports and issue of Completion Certificate shall not relieve the Service Provider of its liability and shall not prevent the Contracting Authority from claiming damages.

The Service Provider shall remain liable for any breach of its obligations under the contract for such period after the services have been performed as may be determined by the law governing the contract (the "liability period"). This time limit does not however apply when the damage arises from gross negligence or wilful misconduct of the Service Provider.

During the liability period, or as soon as practicable after its expiration, the Service Provider shall, at its expense, upon instruction of the Contracting Authority, remedy any deficiencies in the performance of these services. In case of default on the part of the Service Provider to carry out such instructions, the Contracting Authority shall be entitled to hire another Service Provider to carry out the same, at the Service Provider's expense.

#### 16. Insurance

Within 20 days of signing the contract, the Service Provider shall take out and maintain, at its own cost, a full indemnity insurance policy covering its professional liability under the contract and **article 15**, from the commencement date and until the end of the liability period.

Within 20 days of signing the contract, the Service Provider shall take out and maintain a full indemnity insurance policy for a sum up to the higher of the maximum amount foreseen by the legislation of the country of the Contracting Authority and the amount foreseen by the legislation of the country in which the Service Provider has its headquarters and covering, during the period of implementation of the contract, the following risks:

- a) loss of or damage to property purchased with funds provided under the contract, or produced by the Service Provider;
- b) loss or damage to equipment, material and office facilities made available to the Service Provider by the Contracting Authority;
- c) civil liability for accidents caused to third parties arising out of acts performed by the Service Provider, its personnel and their dependents;
- d) employer's liability and workers' compensation in respect of the personnel as well as sickness, accident or death affecting the personnel and their dependents, including the cost of repatriation on health grounds;
- e) such other insurance as required by the laws in force in the beneficiary country.

Prior to the commencement date, the Service Provider shall provide evidence to the Contracting Authority that the above insurances have been effected. During execution of the contract, the Service Provider shall, when required, provide the Contracting Authority with copies of the insurance policies and the receipts for payment of premiums.

#### 17. Intellectual and industrial property rights

Unless otherwise stated in the special conditions, all reports and data such as maps, diagrams, drawings, specifications, plans, statistics, calculations, databases, software and supporting records or materials acquired, compiled or prepared by the Service Provider in the performance of the contract shall, with the copyright thereto, be the absolute property of the Contracting Authority. The Service Provider shall, upon completion of the contract, deliver all such documents and data to the Contracting Authority. The Service Provider may not retain copies of such documents and data and shall not use them for purposes unrelated to the contract without the prior written consent of the Contracting Authority.

The Service Provider shall not publish articles relating to the services or refer to them when carrying out any services for others, or divulge information obtained from the Contracting Authority, without the prior written consent of the Contracting Authority.

#### 18. Records

18.1. The Service Provider shall keep separate, accurate and systematic records and accounts in respect of the services in such form and detail as is customary in the profession and sufficient to establish accurately that the actual reimbursable expenditure identified in the Service Provider's invoice(s) have been duly incurred for the performance of the services.

18.2. For a fee-based contract, timesheets recording the days worked by the Service Provider's personnel must be maintained by the Service Provider. The timesheets must be approved by the Contracting Authority or any person authorised by the Contracting Authority or the Contracting Authority itself on a monthly basis. The amounts invoiced by the Service Provider must correspond to these timesheets. In the case of long-term experts, these timesheets must record the number of days worked. In the case of short-term experts, these timesheets must record the number of hours worked. Time spent travelling exclusively and necessarily for the purpose of the Contract may be included in the numbers of days or hours, as appropriate, recorded in these timesheets.

18.3. Above-mentioned records or any other records agreed in the specific terms must be kept for a 10-year period after the final payment made under the contract. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for reimbursable expenditure. Failure to maintain such records constitutes a breach of contract and will result in the termination of the contract.

18.4. Failure to maintain above-mentioned records or any other records agreed in the specific terms constitutes a breach of contract and will result in the termination of the contract.

#### 19. Obligations of Contracting Authority

The Contracting Authority shall provide the Service Provider as soon as possible with any information and/or documentation at its disposal which may be relevant to the performance of the contract.

On all matters properly referred to it in writing by the Service Provider, the Contracting Authority shall give its decisions so as not to delay the services, and within a reasonable time.

It shall be stated in the special conditions if the Contracting Authority is to provide the Service Provider with equipment, facilities, counterpart personnel or specific assistance and under which conditions. If the provision of such agreed counterpart personnel, equipment, facilities and assistance is delayed or not forthcoming, the Service Provider shall endeavor to perform the Services as far as is possible. The parties shall agree on how the affected parts of the services shall be carried out, and the additional payments, if any is due, to be made by the Contracting Authority to the Service Provider as a result of additional expenditures.

## **20. Contract Price and Payments**

20.1. In consideration of the services performed by the Service Provider under the contract, the Contracting Authority shall make to the Service Provider such payments and reimbursement of costs as provided in the contract. Costs and expenses must be actually and reasonably incurred in the performance of the services.

20.2. In case of fee-based contract, fees shall be determined on the basis of time actually spent by the key experts in the performance of services at the fee rates specified in the contract. Fee rates are deemed to remunerate all the activities of the Service Provider in the performance of the services and to cover all expenses and costs incurred by the Service Provider which are not included in the agreed reimbursable costs.

20.3. In case of global price contract, the global price covers both the Service Provider's and its personnel's fees and all expenses to be incurred for the performance of the contract. The global price is in consideration for all obligations of the Service Provider under the contract and all matters and things necessary for the proper execution and completion of the services and the remedying of any deficiencies therein.

20.4. Costs, fees and expenses which are not mentioned in the contract shall be deemed to be included in the costs, fees and expenses mentioned in the contract.

20.5. The currency of payments and reimbursable costs are set out in the contract.

20.6. Unless otherwise stipulated in the contract, the costs, fees and expenses shall not be revised.

### **20.7. Guarantees**

In the case an advance payment for fees and for reimbursable costs (fee-based contract) or a pre-financing payment (global price contract) is agreed in the contract, its payment by the Contracting Authority shall be subject to the prior presentation by the Service Provider to the Contracting Authority of an approved performance security, advance payment or pre-financing guarantee, if so agreed and under the conditions specified in the Service Contract.

### **20.8. Conditions of Payment**

Payments will be made by the Contracting Authority with the frequency, instalments, time limits, amounts and currencies, and under the conditions, in particular on the contents of invoices, specified in the special conditions of the contract.

If the contract includes completion of a certain work or service, payment of the final balance shall be subject to performance by the Service Provider of all its obligations under the contract and the issue by the Contracting Authority of the completion certificate described in article 25.

### **20.9. Late payment**

If the time periods laid down for payments by the Contracting Authority have been exceeded by more than two months and where the Contracting Authority cannot invoke a case of suspension or withholding of payments provided for in these terms and conditions, the Service Provider may claim interest calculated on any amount due, prorata on the number of days of delay at the official bank rate of the beneficiary country (if amounts due are in the currency of that country), or at the rate applied by the European central bank (where amounts due are in Euro), plus 2% per year.

## **21. Delays in performance**

21.1. If not otherwise stated in the special conditions of the contract, if the Service Provider does not perform the services within the period of implementation/performance specified in the contract or its annexes, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day, or part thereof, which shall elapse between the end of the period of

implementation/performance specified in the contract and the actual end of the period of implementation/performance as follows:

21.2. In case it's mutually agreed upon total amount that the Contracting Authority pays to a contractor on completion of the contract (contract price), the daily rate for liquidated damages is calculated by dividing the contract value by the number of days of the period of implementation.

If these liquidated damages exceed more than 15% of the contract value, the Contracting Authority may, after giving notice to the Service Provider:

- a) terminate the contract; and
- b) complete the services at the Service Provider's own expense.

21.3. In case of framework agreement, the daily rate for liquidated damages is 10 % of the value of the delayed order of service/delivery/other performance. If the delay is more than 5 days, the Contracting Authority has right to cancel the order with no expense and order the performance from a third service provider. If the delays in performance are frequent, the Contracting Authority has right to terminate the contract.

## **22. Breach of contract**

Either party commits a breach of contract where it fails to discharge any of its obligations under the contract.

Where a breach of contract occurs, the party injured by the breach shall be entitled to the following remedies:

- a) liquidated damages; and/or
- b) termination of the contract.

In any case where the Contracting Authority is entitled to damages, it may deduct such damages from any sums due to the Service Provider or call on the appropriate guarantee.

The Contracting Authority shall be entitled to compensation for any damage which comes to light after the contract is completed in accordance with the law governing the contract.

## **23. Amendment of the contract**

Substantial modifications to the contract, including modifications to the total contract amount, must be made by means of an addendum.

## **24. Completion certificate**

If the contract includes deadline for completion of services, upon completion and once (a) the Contracting Authority has approved the Service Provider's completion report, (b) the Contracting Authority has approved the Service Provider's final invoice and final audited statement, the Contracting Authority shall deliver a completion certificate to the Service Provider.

## **25. Termination by the Contracting Authority**

25.1. The Contracting Authority may terminate the contract after giving a 7 days' notice to the Service Provider in any of the following cases:

- a) the Service Provider is in breach of its obligations under the contract and/or fails to carry out the services substantially in accordance with the contract;
- b) the Service Provider fails to comply within a reasonable time with the notice given by the Contracting Authority requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely performance of the services;
- c) the Service Provider refuses or neglects to carry out instructions given by the Contracting Authority;
- d) the Service Provider's declarations in respect of its eligibility (**article 32**) and/or in respect of **article 30, article 31 and article 32**, appear to have been untrue, or cease to be true;
- e) the Service Provider takes some action without requesting or obtaining the prior consent of the Contracting Authority in any case where such consent is required under the contract;
- f) any organisational modification occurs involving a change in the legal personality, nature or control of the Service Provider or the joint venture or consortium, unless such modification is recorded in an addendum to the contract;
- g) the Service Provider fails to provide the required guarantees or insurance, or the person providing the underlying guarantee or insurance is not able to abide by its commitments.

25.2. Termination by Contracting Authority for convenience

Unless otherwise stated in the special conditions, the Contracting Authority may terminate the contract in whole or in part for its convenience, upon not less than 14 days' notice. The Contracting Authority shall not use this right of termination in order to arrange for the services to be executed by another Service Provider, or to avoid a termination of the contract by the Service Provider.

#### **26. Termination by the Service Provider**

The Service Provider may terminate the contract after giving a 7 days' notice to the Contracting Authority in any of the following cases:

- a) the Service Provider has not received payment of that part of any invoice which is not contested by the Contracting Authority, within 90 days of the due payment date,
- b) the Contracting Authority is in material breach of its obligations under the Contract and has not taken any actions to remedy the same within 30 days following the receipt by the Contracting Authority of the Service Provider's notice specifying such breach.

If the Service Provider is a natural person, the contract shall be automatically terminated if that person dies.

#### **27. Rights and obligations upon termination**

27.1. Upon termination of the contract by notice of either party to the other, the Service Provider shall take immediate steps to bring the services to a close in a prompt and orderly manner and in such a way as to keep costs to a minimum.

27.2. If the Contracting Authority terminates the contract in accordance with **article 0** it may, thereafter, complete the services itself, or conclude any other contract with a third party.

27.3. The Contracting Authority shall, as soon as is possible after termination, certify the value of the services and all sums due to the Service Provider as at the date of termination.

27.4. In case of termination of the contract for any reason whatsoever, any pre-financing guarantee which might have been granted to the Contracting Authority under article 20.7, may be invoked forthwith by the Contracting Authority in order to repay any balance still owed to the Contracting Authority by the Service Provider, and the guarantor shall not delay payment or raise objection for any reason whatever.

27.5. If the Contracting Authority terminates the contract under article 25.1, it shall be entitled to recover from the Service Provider any loss it has suffered up to that part of the contract value which corresponds to that part of the services which has not, by reason of the Service Provider's default, been satisfactorily completed.

#### **28. Force Majeure**

Neither party shall be considered to be in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of signature of the contract by both parties.

The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome. A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Contracting Authority in writing, the Service Provider shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The Service Provider shall not put into effect such alternative means unless directed so to do by the Contracting Authority.

#### **29. Applicable law & disputes**

The contract is governed by, and shall be construed in accordance with the laws of the Contracting Authority's country.

Any dispute or breach of contract arising under this contract shall be solved amicably if at all possible. If not possible and unless provided in the Service Contract, dispute shall be finally settled by competent court in Contracting Authority's country in accordance with the laws of Contracting Authority's country.

#### **30. Child Labour and Forced Labour**

The Service Provider (and each member of a joint venture or a consortium) warrants that it and its affiliates comply with the UN *Convention on the Rights of the Child* - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labor as described in the *Forced labor Convention* and in the *Abolition of Forced Labor Convention 105* of the International Labor Organization. Furthermore the Service Provider warrants that it, and its affiliates, respect and uphold basic social rights and working conditions for its employees. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Service Provider, at no cost or liability for the Contracting Authority.

#### **31. Mines**

The Service Provider and each member of the joint venture or a consortium warrants that it and its affiliates is NOT engaged in any development, sale or manufacture of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs. Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

#### **32. Ineligibility**

By signing the purchase order, the Service Provider (or, if a joint venture or a consortium, any member thereof) certifies that they are NOT in one of the situations listed below:

- a) They are bankrupt or being wound up, are having their affairs administrated by courts, have entered into an agreement with creditors, have suspended business activities, are the subject of proceedings concerning house matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) They have been convicted of an offence concerning their professional conduct by a judgement that has the force of res judicata;
- c) They have been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- d) They have not fulfilled obligations relating to the payment of social security contributions or payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the contract is to be performed;
- e) They have been the subject of a judgement that has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Contracting Authority or the European Union's financial interests;
- f) Following another procurement procedure or grant award procedure financed by the European Union budget or other donor or following another procurement procedure carried out by the Contracting Authority or one of their partners, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

#### **33. Anti-money laundering and combating the financing of terrorism**

33.1. The Service Provider/s and any sub-Service Provider/s certifies/certify none of the funds provided under this contract are used directly or indirectly to assist in, sponsor, or provide support for acts of terrorism or to support organizations or persons listed as terrorists on lists maintained by the United States government, the United Nations, the European Union, and other entities.

33.2. The Service Provider/s and any sub-Service Provider/s authorize the verification of their company identity, whether through third parties or official government databases or by any other means considered by the Contracting Authority as appropriate for the compliance of its duties with anti-money laundering and combating the financing of terrorism (AML/CFT) policies and any requirements imposed by applicable laws.

33.3. Natural persons authorize the verification by submitting an informed consent form as requested by the Contracting Authority.

#### **34. Checks and Audits**

The Service Provider shall permit the Contracting Authority or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit the Contracting Authority or any person authorized by it, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the contract is financed by the European Union budget, at any time, to have access to its financial accounting documents and to audit such records and accounts both during and after the provision of the services. In particular, it may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses

If the Service includes purchases that are financed by backdonor funds, and FCA has agreed with the backdonor about conducting tests on FCA's Service Providers, the Service Provider shall allow the backdonor to conduct tests on them according to the terms and conditions of the grant agreement.

#### **35. Settlement of disputes**

35.1. The parties shall make every effort to settle amicably any dispute, which may arise between them. Once a dispute has arisen, the parties shall notify each other in writing of their positions on the dispute and any solution, which they consider possible. If either party deems it useful, the Parties shall meet and try and settle the dispute. A party shall respond to a request for amicable settlement within 30 days of such a request. The maximum period laid down for reaching such a settlement shall be 120 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a party fail to respond in time to requests for a settlement, either party shall be free to proceed to the next stage of the dispute-settlement procedure by notifying the other.

35.2. Unless otherwise stated in the special conditions of the contract, any dispute or breach of contract arising under this contract which cannot be settled amicably, shall be finally settled by competent court in Contracting Authority's country in accordance with the laws of Contracting Authority's country.

