

General Terms and Conditions

1. CONTRACT TERMS AND CONDITIONS

This Purchase Order, once accepted by the Vendor by signing and returning the Acknowledgement Document or delivering the goods specified herein, shall form a binding contract between the World Health Organization (WHO) and the Vendor. The contract between the parties is subject exclusively to the terms and conditions detailed below. Any contractual terms and conditions of the Vendor, whether included in the offer, invoices or any other document, are hereby excluded. In the event this Purchase Order contains any provisions, which are contrary to the provisions contained in the Vendor's offer, the provisions of this Purchase Order shall take precedence.

2. DELIVERY DATE

The Delivery Date shall mean the date on which the goods are required to be available at the location indicated in the Purchase Order under "Delivery Terms".

3. PAYMENT TERMS

- (a) WHO shall, on fulfilment of the Delivery Terms, unless otherwise specified in the Purchase Order, make payment within 30 days of receipt of the Vendor's invoice for the goods and copies of the customary shipping documents specified in the Purchase Order.
- (b) Payment against the invoice referred to above will reflect any discount shown under the payment terms provided payment is made within the period shown in the payment terms of the Purchase Order.
- (c) Unless authorized by WHO, a separate invoice must be submitted in respect of each Purchase Order. Each invoice shall indicate the identification number of the corresponding Purchase Order.
- (d) The prices shown in the Purchase Order may not be increased, except with the express written agreement of WHO.
- (e) Inspection prior to shipment does not relieve the Vendor from its contractual obligations.
- (f) WHO shall have a reasonable time after delivery of the goods to inspect them and to reject and refuse acceptance of goods not conforming to the Purchase order; payment for goods pursuant to the Purchase Order shall not be deemed to constitute acceptance by WHO of the goods.

4. TAX EXEMPTION

The price shall reflect any tax exemption to which WHO may be entitled by reason of the immunity it enjoys. WHO is, as a general rule, exempt from all direct taxes, custom duties and the like, and the Vendor will consult with WHO so as to avoid the imposition of such charges with respect to this contract and the goods supplied hereunder. As regards excise duties and other taxes imposed on the sale of goods (e.g. VAT), the Vendor agrees to verify in consultation with WHO whether in the country where the VAT would be payable, WHO is exempt from such VAT at the source, or entitled to claim reimbursement thereof. If WHO is exempt from VAT, this shall be indicated on the invoice, whereas if WHO can claim reimbursement thereof, the Vendor agrees to list such charges on its invoices as a separate item and, to the extent required, cooperate with WHO to enable reimbursement thereof.

5. EXPORT LICENCE

The Purchase Order is subject to the Vendor obtaining any export licence or other governmental authorization which may be necessary. It will be the responsibility of the Vendor to obtain such licence or authorization, however, WHO will provide such assistance within its power as the Vendor may reasonably request. In the event of refusal of any necessary export licence or other governmental authorization, the Purchase Order will be cancelled and all claims between the parties automatically waived. For export licence application and Exchange Control purposes, the source of funds or type of account from which payment for this order will be made is named overleaf.

6. RISK OF LOSS, DAMAGE OR DESTRUCTION

Risk of loss or damage to, or destruction of the goods shall be borne by the Vendor until physical delivery of the goods has been completed in accordance with the Purchase Order.

7. FITNESS OF GOODS/PACKING

The Vendor warrants that the goods, including adequate packaging, conform to the specifications and are fit for the purposes for which such goods are ordinarily used and for purposes expressly made known to the Vendor by WHO, and are free from defects in workmanship and materials. The Vendor also warrants that the goods are contained or packaged adequately to protect them.

8. WARRANTY

The Vendor warrants that the use or supply by WHO of the goods delivered under the Purchase Order do not infringe any patent, trade name, trademark or other third party right. In addition, the Vendor shall pursuant to this warranty indemnify, defend and hold harmless WHO from any actions or claims brought against WHO pertaining to the alleged infringement of a patent, design, trade name, trademark or other third party right.

9. FORCE MAJEURE

14. COMPLIANCE WITH WHO CODES AND POLICIES

By entering into this Purchase Order, the Vendor acknowledges that it has read, and hereby accepts and agrees to comply with, the WHO Policies (as defined below). In connection with the foregoing, the Vendor shall take appropriate measures to prevent and respond to any violations of the standards of conduct, as described in the WHO Policies, by its employees and any other natural or legal persons engaged or otherwise utilized in connection with the supply and delivery of the goods under the Purchase Order.

Without limiting the foregoing, the Vendor shall promptly report to WHO, in accordance with the terms of the applicable WHO Policies, any actual or suspected violations of any WHO Policies of which the Vendor becomes aware.

For purposes of the Purchase Order, the term "WHO Policies" means collectively:

- (a) the WHO Code of Ethics;
- (b) the WHO Policy on Preventing and Addressing Sexual Misconduct;
- (c) the WHO Policy on Preventing and Addressing Abusive Conduct;
- (d) the WHO Code of Conduct for responsible Research;
- (e) the WHO Policy on Preventing and Addressing Retaliation;
- (f) the WHO Policy on Prevention, Detection and Response to Fraud and Corruption, and
- (g) the UN Supplier Code of Conduct, in each case, as amended from time to time and which are publicly available on the WHO website at the following links: <http://www.who.int/about/finances-accountability/procurement/en/> for the UN Supplier Code of Conduct and at <http://www.who.int/about/ethics/en/> for the other WHO Policies.

15. ZERO TOLERANCE FOR SEXUAL MISCONDUCT, HARASSMENT AND OTHER TYPES OF ABUSIVE CONDUCT

WHO has zero tolerance towards any form of sexual misconduct (an all-inclusive term which includes sexual exploitation, sexual abuse, sexual harassment, and all forms of prohibited sexual behaviour), harassment and other types of abusive conduct. In this regard, and without limiting any other provisions contained herein, the Vendor warrants that it shall

- (a) take all reasonable and appropriate measures to prevent any form of sexual misconduct, as described in the WHO Policy on Preventing and Addressing Sexual Misconduct, harassment and other types of abusive conduct, as described in the WHO Policy on Preventing and Addressing Abusive Conduct, by any of its employees and any other natural or legal persons engaged or otherwise utilized in connection with the supply and delivery of the goods under the Purchase Order;
- (b) promptly report to WHO, through the WHO Office of Internal Oversight Services (investigation@who.int) or through the WHO Integrity Hotline, which can be accessed via <https://www.who.int/about/ethics/integrity-hotline>, and respond to and take corrective measures, in accordance with the terms of the respective Policies, any actual or suspected violations of either Policy of which the Vendor becomes aware and
- (c) cooperate with WHO in relation to the response to such actual or suspected violations.

16. TOBACCO/ARMS RELATED DISCLOSURE STATEMENT

Vendors may be required to disclose relationships they may have with the tobacco and/or arms industry through completion of the WHO Tobacco/Arms Disclosure Statement. In the event WHO requires completion of this Statement, the Vendor undertakes not to permit the goods to be supplied, until WHO has assessed the disclosed information and confirmed to the Vendor in writing that the goods can be supplied.

17. ANTI-TERRORISM AND UN SANCTIONS; FRAUD AND CORRUPTION

The Vendor warrants for the entire duration of the Purchase Order that:

- (a) it is not and shall not be involved in, or associated with, any person or entity associated with terrorism, as designated by any UN Security Council sanctions regime, that it shall not make any payment or provide any other support to any such person or entity and that it shall not enter into any employment or other contractual relationship with any such person or entity;
- (b) it shall not engage in any fraudulent or corrupt practices, as defined in the WHO Policy on Prevention, Detection and Response to Fraud and Corruption, in connection with the execution of the Purchase Order;
- (c) it has taken all reasonable and appropriate measures to inform any natural and/or legal persons engaged or otherwise utilized in connection with the execution of the Purchase Order of the WHO Policy on Prevention, Detection and Response to Fraud and Corruption and their duty to comply with the standards of conduct set out in the aforementioned Policy;
- (d) it shall take all the necessary measures to prevent the financing of terrorism and/or any fraudulent or corrupt practices as referred to above in connection with the execution of the Purchase Order; and
- (e) it shall promptly report to WHO, through the WHO Integrity Hotline or directly to the WHO Office of Internal Oversight Services (investigation@who.int), any credible allegations of actual or suspected fraudulent or corrupt practices (as defined in the WHO Policy on Prevention, Detection and Response to Fraud and Corruption) in connection with the execution of the Purchase Order of which the Vendor becomes aware and respond to such allegations in an appropriate

Neither party to the Purchase Order shall be held responsible for delay in the fulfillment thereof due to force majeure, strikes, lock out, war, civil unrest, or other factors outside its control

10. RIGHTS OF WHO

In case of failure by the Vendor to comply with the terms and conditions of the Purchase Order, including but not limited to failure to obtain necessary export licences, or to make delivery of all or part of the goods by the agreed Delivery Date(s), WHO may, after giving the Vendor reasonable notice to perform and without prejudice to any other rights or remedies, exercise one or more of the following rights:

- (a) Procure all or part of the goods from other sources, in which event WHO may hold the Vendor responsible for any additional cost occasioned thereby.
- (b) Refuse to accept delivery of all or part of the goods; and/or
- (c) Terminate the Purchase Order.

WHO may terminate the Purchase Order at any time by providing written notice to the Vendor in any case in which the mandate of WHO applicable to the performance of the Purchase Order or the funding of WHO applicable to the Purchase Order is curtailed or terminated, whether in whole or in part. In addition, unless otherwise provided by the Purchase Order, upon sixty (60) day's advance written notice to the Vendor, WHO may terminate the Purchase Order without having to provide any justification therefor. The Vendor shall be entitled to be paid for the goods supplied and delivered by the Vendor in accordance with the terms of the Purchase Order prior to the effective date of termination.

11. INDEMNIFICATION

The Vendor shall indemnify and save harmless WHO, the Government and any other party who receives the goods delivered hereunder from and against all claims, damages, losses, costs and expenses arising out of any injury, sickness or death to persons or any loss of or damage to property, caused by the fault or negligence of the Vendor. WHO shall promptly give notice to the Vendor of any claims, damages, losses, costs and expenses and shall cooperate in a reasonable manner with the Vendor.

12. ASSIGNMENT AND INSOLVENCY

(a) The Vendor shall not assign, transfer, pledge or make other disposition of this Purchase Order or any part thereof, or any of the Vendor's rights, claims or obligations under this Purchase Order except with the prior written consent of WHO.

(b) Should the Vendor be adjudicated bankrupt, or be liquidated or become insolvent, or should the Vendor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Vendor, WHO may, without prejudice to any other right or remedy it may have under these General Terms and Conditions, terminate this Purchase Order forthwith. The Vendor shall immediately inform WHO of the occurrence of any of the above events.

13. USE OF WHO NAME AND EMBLEM

Without WHO's prior written approval, the Vendor shall not, in any statement or material of an advertising or promotional nature, refer to this Purchase Order or the Vendor's relationship with WHO, or otherwise use the name (or any abbreviation thereof) and/or emblem of WHO.

and timely manner in accordance with its respective rules, regulations, policies and procedures. Furthermore, the Vendor agrees to cooperate with WHO and/or parties authorized by WHO in relation to the response. Relevant information on the nature of any credible allegations of such actual or suspected violations, as well as the details of the intended response, the outcome of any such response, and any corrective measures implemented, should be communicated and coordinated with WHO, with the understanding that, subject to the terms of the WHO Policy on Prevention, Detection and Response to Fraud and Corruption, confidentiality and the due process rights of those involved will be respected.

In the event that any resources, assets and/or funds provided to or acquired by the Vendor under the Purchase Order are found to have been used by the Vendor, its employees or any other natural or legal persons engaged or otherwise utilized for the supply and/or deliver of the goods under the Purchase Order, to finance, support or conduct any terrorist activity or any fraudulent or corrupt practices, the Vendor shall promptly reimburse and indemnify WHO for such resources, assets and/or funds (including any liability arising from such use).

18. BREACH OF ESSENTIAL TERMS

The Vendor acknowledges and agrees that each of the provisions of Paragraphs 14, 15, 16 and 17 hereof constitutes an essential term of the Purchase Order, and that in case of breach of any of these provisions, WHO may, in its sole discretion, decide to:

- (a) terminate this Purchase Order, and/or any other contract concluded by WHO with the Vendor, immediately upon written notice to the Vendor, without any liability for termination charges or any other liability of any kind; and/or
- (b) exclude the Vendor from participating in any ongoing or future tenders and/or entering into any future contractual or collaborative relationships with WHO.

WHO shall be entitled to report any violation of any of such provisions to WHO's governing bodies, other UN agencies, and/or donors.

19. PUBLICATION OF AGREEMENTS

Subject to considerations of confidentiality, WHO may acknowledge the existence of this Purchase Order to the public and publish and/or otherwise publicly disclose the Vendor's name and country of incorporation, general information with respect to the goods supplied hereunder and the Purchase Order value. Such disclosure will be made in accordance with WHO's Information Disclosure Policy and shall be consistent with the terms of this Purchase Order.

20. AUDIT AND INVESTIGATIONS

WHO may request a financial and operational review or audit of the goods supplied by the Vendor under this Purchase Order, to be conducted by WHO and/or parties authorized by WHO, and the Vendor undertakes to facilitate such review or audit. This review or audit may be carried out at any time during the period of the supply of the goods under this Purchase Order, or within five years of the supply of the goods. In order to facilitate such financial and operational review or audit, the Vendor shall keep accurate and systematic accounts and records in respect of the goods supplied under this Purchase Order. Similarly, WHO may initiate an investigation, to be conducted by WHO and/or parties authorized by WHO, into credible allegations of fraudulent and corrupt practices and other forms of misconduct (including, but not limited to, sexual misconduct, harassment and other types of abusive conduct) based on information received in accordance with its respective policies, procedures and rules. In this context, the Vendor shall make available, without restriction, to WHO and/or parties authorized by WHO:

- (a) the Vendor's books, records and systems (including all relevant financial and operational information) relating to this Purchase Order; and
- (b) reasonable access to the Vendor's premises and personnel.

The Vendor shall provide satisfactory explanations to all queries arising in connection with the aforementioned audit, investigations and access rights. WHO may request the Vendor to provide complementary information about the goods supplied under this Purchase Order that is reasonably available, including the findings and results of an audit (internal or external) conducted by the Vendor and related to the goods supplied hereunder.

21. SURVIVING PROVISIONS

Those provisions of this Purchase Order that are intended by their nature to survive its expiration or earlier termination shall continue to apply.

22. SETTLEMENT OF DISPUTES

Notwithstanding any specific provision herein, this Purchase Order and any dispute arising therefrom or relating thereto shall be governed by general principles of law, to the exclusion of any single national system of law. Any dispute arising from or relating to the Purchase Order, including its validity, interpretation or application, shall, unless amicably settled, be subject to conciliation. In the event the dispute is not resolved by conciliation within thirty (30) days, the dispute shall be settled by arbitration. The arbitration shall be conducted in accordance with the modalities to be agreed upon by the parties or, in the absence of agreement within thirty (30) days of written communication of the intent to commence arbitration, with the rules of arbitration of the International Chamber of Commerce. The parties shall accept the arbitral award as final.

23. PRIVILEGES AND IMMUNITIES

Nothing in this Purchase Order shall constitute, or be deemed to constitute a waiver of any of the privileges and immunities enjoyed by WHO and its officials under any source of law, or as a submission to the jurisdiction of any national court or tribunal.

