

ANNEX B: GENERAL CONDITIONS FOR SERVICES

General Conditions for the Purchase of Goods

1. ACCEPTANCE OF THE PURCHASE ORDER

This Purchase Order may only be accepted by the Supplier signing and returning an acknowledgement copy of it or by timely delivery of the goods in accordance with the terms of this Purchase Order as herein specified. Acceptance of this Purchase Order shall effect a contract between the Parties under which the rights and Obligations of the Parties shall be governed solely by the terms and conditions of this Purchase Order including these General Conditions. No additional or inconsistent provision proposed by the Supplier shall bind (WIU) unless agreed to in writing by a duly authorized (WIU) official.

2. LEGAL STATUS

The Supplier shall be considered as having the legal status of an independent contractor vis-à-vis (WIU). The Supplier, its personnel and sub-contractors shall not be considered in any respect as being the employees of (WIU). The Supplier shall be fully responsible for all work and services performed by its employees, and for all acts and omissions of such employees.

3. SOURCE OF INSTRUCTIONS

The Supplier shall neither seek nor accept instructions from any authority external to (WIU) in connection with the performance under this Contract. The Supplier shall refrain from any action which may adversely affect (WIU) and shall fulfil its commitments with the fullest regard to the interests of (WIU).

4. EXPLOITATION AND ABUSE OF REFUGEES AND OTHER PERSONS OF CONCERN TO (WIU)

The Supplier warrants that it has instructed its personnel to refrain from any conduct that would adversely reflect on (WIU) and/or the United Nations and from any activity which is incompatible with the aims and objectives of the United Nations or the mandate of (WIU) to ensure the protection of refugees and other persons of concern to (WIU). The Supplier hereby undertakes all possible measures to prevent its personnel from exploiting and abusing refugees and other persons of concern to (WIU). The failure of the Supplier to investigate allegations of exploitation and abuse against its personnel or related to its activities or to take corrective action when exploitation or abuse has occurred, shall entitle

(WIU) to terminate this Purchase Order immediately upon notice to the Supplier, at no cost to (WIU).

5. ANTI-PERSONNEL MINES

The Supplier guarantees that it is not engaged in the sale or manufacture, either directly or indirectly, of anti-personnel mines or any components produced primarily for the operation thereof. Any breach of this representation and warranty shall entitle (WIU) to terminate this Purchase Order immediately upon notice to the Supplier, at no cost to (WIU).

6. CHILD LABOUR

The Supplier represents and warrants that neither it, nor any of its suppliers, is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, *inter alia*, required that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health and physical, mental, spiritual, moral or social development. Any breach of this representation and warranty shall entitle (WIU) to terminate this Purchase Order immediately upon notice to the Supplier, at no cost to (WIU).

7. SUB-CONTRACTING

In the event the Supplier requires the services of a sub-contractor, the Supplier shall obtain the prior written approval of (WIU) for all sub-contractors. The Supplier shall be fully responsible for all work and services performed by its sub-contractors and suppliers, and for all acts and/or omissions of such sub-contractors and suppliers and their personnel. The approval of (WIU) of a sub-contractor shall not relieve the Supplier of any of its obligations under this Purchase Order. The terms of any sub-contract shall be subject to and conform with the provisions of this Purchase Order.

8. ASSIGNMENTS

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

9. OFFICIALS NOT TO BENEFIT

The Supplier represents and warrants that no official of (WIU) has been, or shall be, offered by the Supplier any direct or indirect benefit arising from this Purchase Order or the award thereof. The Supplier agrees that breach of this provision is breach of an essential term of this Purchase Order.

10. ENCUMBRANCES/LIENS

The Supplier shall not cause or permit any lien, attachment or other encumbrance by any person or entity to be placed or to remain in any public office or with (WIU) against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Supplier.

11. EXPORT LICENCE

The Purchase Order is subject to the obtaining of any export license or other governmental authorization that may be required. It shall be the responsibility of the Supplier to obtain such license or authorization. Should the Supplier encounter difficulties in obtaining the required export license or governmental authorization, it shall immediately bring this to the attention of (WIU). (WIU) will, at its discretion, use its best endeavors to assist.

12. WARRANTY

The Supplier warrants the goods, including the packaging, furnished under this Purchase Order conforms to the specifications of the Purchase Order and is free from damage and defects in workmanship WIU or materials. This warranty is without prejudice to any further guarantees that the Supplier provides to purchasers. Such guarantees shall apply to the goods subject to this Purchase Order.

13. LIQUIDATED DAMAGES

Late delivery, or dispatch outside the agreed schedule, shall be subject, without notice, to an assessment of liquidated damages equivalent to 0.1 percent of the Purchase Order value per day or part thereof. The assessment will not exceed 10 percent of the Purchase Order value. (WIU) has the right to deduct this amount from the Supplier's outstanding invoices, if any. This remedy is without prejudice to any others that may be available to (WIU), including cancellation, for the Supplier's non-performance, breach and/or violation of any term or condition of the Purchase Order. Acceptance of goods delivered late shall not be deemed a waiver of (WIU)'s rights to hold the Supplier liable for any loss and/or damage

resulted therefrom, nor shall it act as a modification of the Supplier's obligation to make future deliveries in accordance with the delivery schedule.

14. REJECTION

Under the Purchase Order, (WIU) shall have the right to reject the goods or any part thereof if they do not conform to specifications.

15. INSPECTION

(WIU) or its duly accredited representatives shall have the right to inspect the goods ordered for under this Purchase Order at Supplier's stores, during manufacture, in the ports or places of shipment, and the Supplier shall provide all facilities for such inspection. (WIU) may issue a written waiver of inspection at its discretion. Any inspection carried out by representatives of (WIU) or any waiver thereof shall not prejudice the implementation of the other relevant provisions of this Purchase Order concerning obligations subscribed by the Supplier, such as warranty or specifications. Inspection prior to shipment does not relieve the Supplier from any of its contractual obligations.

16. INTELLECTUAL PROPERTY INFRINGEMENT

The Supplier warrants that the use or supply by (WIU) of the goods sold under this Purchase order does not infringe on any patent, design, trade-name or trade-mark. In addition, the Supplier shall, pursuant to this warranty, indemnify, defend and hold (WIU) and the United Nations harmless from any actions or claims brought against (WIU) and/or the United Nations pertaining to the alleged infringement of a patent, design, trade-name or trade-mark arising in connection with the goods sold under this Purchase Order.

17. TITLE TO EQUIPMENT

Title to any equipment and supplies that may be furnished by (WIU) shall rest with (WIU) and any such equipment shall be returned to the (WIU) at the conclusion of this Contract or when no longer needed by the Supplier. Such equipment, when returned to (WIU), shall be in the same condition as when delivered to the Supplier, subject to normal wear and tear. The Supplier shall be liable to compensate (WIU) for equipment determined to be damaged or degraded beyond normal wear and tear.

18. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF (WIU) OR THE UNITED NATIONS

Unless authorized in writing by (WIU), the Supplier shall not advertise or otherwise make public the fact that it is a Supplier to (WIU) and/or the United Nations, or use in any manner whatsoever the name, emblem or official seal of (WIU) and/or the United Nations or any abbreviation of the name of (WIU) and/or United Nations for in connection with its business or otherwise.

19. PRIVILEGES AND IMMUNITIES

Nothing contained in this Purchase Order shall be deemed a waiver, express or implied, of any privilege or immunity which (WIU) may enjoy, whether pursuant to the Convention on the Privileges and Immunities of the United Nations, or any other convention or agreement.

20. TAX EXEMPTION

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

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

21. PRIOR NEGOTIATIONS SUPERSEDED BY PURCHASE ORDER

This Purchase Order supersedes all communications, representations, arrangements, negotiations, requests for proposals and proposals related to the subject matter of this Purchase Order.

22. OVERRIDING CLAUSE

In the event of any conflict or inconsistencies between these –General Terms and Conditions for Goods or any other document which forms part of the Purchase Order these

Conditions shall prevail except where they have been amended (by specific reference to the relevant clause and paragraph of these Conditions) as provided for herein.

23. AUTHORITY TO MODIFY

Pursuant to the Financial Regulations and Rules of the United Nations, only the Head of Supply Management Service possesses the authority to agree on behalf of (WIU) to any modification of or change in this Purchase Order, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Supplier. Accordingly, no modification or change in this Purchase Order shall be valid and enforceable against (WIU) unless provided by an amendment to this Purchase Order signed by the Supplier and the Head of the Supply Management Service.

24. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

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

If the Supplier is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Purchase Order, (WIU) shall have the right to suspend or terminate this Purchase Order on the same terms and conditions as are provided for in Article 26, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

Force majeure as used in this provision means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force. Notwithstanding anything to the contrary in this Purchase Order, the Supplier recognizes that the work and services will be performed under harsh or hostile conditions caused by civil unrest. Consequently, delays or failure to perform caused by events arising out of, or in connection with, such civil unrest shall not, in and of itself, constitute force majeure under this Purchase Order.

25. DISPUTES – ARBITRATION

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

Arbitration Any dispute, controversy or claim between the Parties arising out of this Purchase Order or the breach, termination or invalidity thereof, unless settled amicably under the preceding paragraph of this Article within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. *The place of arbitration shall be Geneva (The place of arbitration shall be Kampala –Uganda).* The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in this Purchase Order, the arbitral tribunal shall have no authority to award interest. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

26. TERMINATION OF PURCHASE ORDER

In the case of failure by the Supplier to fulfil its obligations under the terms and conditions of this Purchase Order including but not limited to failure to obtain necessary export licenses, or failure or refusal to make delivery of all or part of the goods by the agreed delivery date or dates, (WIU) may, after giving the Supplier reasonable notice to perform without prejudice to any other rights or remedies, exercise on or more of the following rights:

Procure all or part of the goods from other sources, in which event (WIU) may hold the Supplier responsible for any excess cost occasioned thereby,

Refuse to accept delivery of all or part of the goods,

Cancel this Purchase Order without any liability for termination charges or any other liability of any kind to (WIU).

(WIU) may terminate forthwith this Purchase Order at any time should the mandate or the funding of (WIU) be curtailed or terminated, in which case the Supplier shall be reimbursed

by (WIU) for all reasonable costs incurred by the Supplier prior to receipt of the notice of termination.

27. INSOLVENCY AND BANKRUPTCY

Should the Supplier become insolvent or should control of the Supplier change by virtue of insolvency, (WIU) may, without prejudice to any other rights and remedies, terminate this Purchase Order by giving the Supplier written notice of termination. Should the Supplier be adjudged bankrupt, or should the Supplier make a general assignment for the benefit of its creditors, or should a receiver be appointed on account of the Supplier's insolvency, (WIU) may under the terms of this Purchase Order, terminate this Purchase Order forthwith by giving the Supplier written notice of termination.

28. PAYMENT INSTRUCTIONS

(WIU) shall, on the fulfilment of the Delivery Terms, unless otherwise provided in this Purchase Order, make payment by bank transfer within thirty days of receipt of the Suppliers invoice for the goods and copies of any other documentation specified in the Purchase Order. Payment against the invoice referred to above will reflect any discount shown under the payment terms of this Purchase Order, provided payment is made within the period required by such payment terms. The prices shown in this Purchase Order may not be increased except by express written agreement of (WIU).

