

STANDARD TERMS AND CONDITIONS

- “Buyer” refers to CAFOD and Trocaire in Partnership (CTP) or CTP’s partner.
- “Seller” refers to the organisation or company or individual providing the goods and/or services.

1. BASIS OF PURCHASE

1.1 Offer to acquire

The Order constitutes an offer by the Buyer to acquire the Goods/Services subject to these Conditions.

1.2 Application of Conditions

These Conditions shall apply to the purchase by the Buyer of the Goods/Services from the Seller to the exclusion of any other terms and conditions on which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the Seller. The Seller shall neither seek nor accept instructions from any other authority external to the Buyer.

1.3 Variations to an Order

No variation to the Order or these Conditions shall be binding unless agreed in writing between the Authorised Representatives of the Buyer and the Seller.

1.4 Responsibility for Orders

The Buyer will not accept responsibility for any Order/Contract unless it is duly signed by the Authorised Representative of the Buyer.

2. SPECIFICATIONS

2.1 Quantity, quality and description

The quantity, quality and description of Goods/Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification annexed to the Order/Contract.

2.2 Compliance with Specifications

The Seller shall comply with all Specifications (if any) concerning the performance of the Services.

3. PRICE

3.1 Calculation of Price

The Price shall be as stated in the Order/Contract and, unless otherwise expressed in the Order/Contract or agreed in writing, shall be exclusive of any applicable value added tax or any tax of similar effect (which shall be payable by the Buyer subject to receipt of a VAT invoice or an invoice of similar effect).

3.2 Increase in Price/Fee

No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in writing.

4. TERMS OF PAYMENT

4.1 Invoices

The Seller shall be entitled to invoice the Buyer on or at any time after delivery of Goods / performance of the Services (as the case may be) and each invoice shall quote the Order number.

4.2 **Payment**

Unless otherwise expressed in the Order/Contract or agreed in writing, the Buyer shall pay the Price by way of cheque or electronic transfer to the bank account of the Seller within 30 days after the end of the month of receipt by the Buyer of a proper invoice.

The Buyer shall be entitled to set off against the Price any sums owed to the Buyer by the Seller.

4.3 **Instalments**

In the case of Services provided in instalments, each instalment shall be invoiced separately and the period agreed for payment shall begin to run from the date on which each instalment of the Services is provided to the Buyer.

5. **DELIVERY OF SERVICES/GOODS**

5.1 **Date of delivery**

The Services shall be performed at the address specified in the Order/Contract on the date or within the period stated in the Order/Contract.

5.2 **Rejection or acceptance of Services**

The Buyer shall be entitled to reject any Goods/Services provided which are not in accordance with the Order/Contract, and shall not be deemed to have accepted any Goods/Services until the Buyer has had a reasonable time to review the Goods/Services following provision.

5.3 **Buyer's redress**

If the Goods/Services are not provided within the time specified in the Order or (if none) within a reasonable time from the date of the acceptance of the Order then, without prejudice to any other remedy, the Buyer shall be entitled to cancel the Order/Contract without redress subject to Condition 6.2.

6. **COMMITMENTS AND LIABILITY**

6.1 **Seller's commitments as to Goods/Services**

The Seller commits to the Buyer that the Goods/Services will be delivered/performed by appropriately qualified and trained personnel with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in all the circumstances. The Seller further commits that the Goods/Services comply with and shall continue to comply with provisions and requirements applicable to the supply of the Goods/Services (whether expressly or by implication) of any legislative order, directive or regulation or relevant industry standard in force at the time of provision of the Goods/Services.

6.2 **Buyer's remedies**

Without prejudice to any other remedy, if any Services are not supplied in accordance with the Order and/or Specification, then the Buyer shall be entitled:

- (a) to require the Seller to supply replacement Services in accordance with the Order and/or Specification within seven days; or
- (b) at the Buyer's sole option, and whether or not the Buyer has previously required the Seller to supply any replacement Goods/Services, to treat the Order/Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid.

6.3 **Indemnity**

The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs and expense (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:

- (a) breach by the Seller of any of the commitments set out in Condition 7 and/or these Conditions;
- (b) any claim that the Goods/Services infringe, or their use infringes, the patent, copyright, design right, trade mark or other intellectual property right or right of a similar nature, of any other party except to the extent that the claim arises from compliance with any Specification supplied by the Buyer;
- (c) any act or omission of any of the Seller's Personnel in connection with the performance of the Services.

6.4 Force majeure

Subject to the provisions of this Condition 7, and provided each party has complied with the provisions of Condition 7.5, neither the Seller nor the Buyer shall be liable to the other or be deemed to be in breach of the Conditions by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Services, if the delay or failure arose from or was attributable to acts, events, omissions, or accidents beyond that party's control, ("**Force Majeure Event**") including without limitation acts of God, fire, flood, earthquake, storm, epidemic, war or national emergency, acts of terrorism, civil disturbance, explosion, inability to procure or delay in procuring equipment and materials, strike, lock-out or labour dispute.

6.5 Action on occurrence of Force Majeure Event

Any party subject to a Force Majeure Event shall not be in breach of these Conditions provided that:

- (a) it promptly notifies the other party at the email address specified in the Order of the nature and extent of the Force Majeure Event;
- (b) it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
- (c) it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event and to carry out its obligations under these Conditions and the Order in any way that is reasonable practicable.

6.6 Buyer's remedies on occurrence of Force Majeure Event *

Failure on the Seller's part to perform any part of the Order by reason of any event or cause specified or envisaged under Condition 7.4 shall allow the Buyer complete discretion to suspend or cancel the Order without any liability to the Seller for payment.

7. SELLER'S COMMITMENTS

7.1 Labour standards

The Seller commits to the Buyer that the Seller operates its business in accordance with the ethical trading conventions of the International Labour Organisation and, in particular, the Seller commits that:

- (a) employment is freely chosen, and that there is no forced, bonded or involuntary prison labour. Workers are not required to lodge "deposits" or identity papers with the employer and are free to leave employment after reasonable notice;
- (b) workers, without distinction, have the right to join or form trade unions of their own choosing and to bargain collectively;
- (c) working conditions are safe and hygienic, and access will be provided to clean toilet facilities and potable water;
- (d) they will not engage in any practice that is inconsistent with the International Labour Organisation (ILO) Convention on the Rights of the Child;
- (e) the minimum admission for employment or work shall not be less than the age of completion of compulsory schooling;
- (f) all young workers will be protected from performing any work that is likely to be hazardous, or to interfere with the child's education, or that may be harmful to the child's health, physical, mental, social, spiritual or moral development;
- (g) wages and benefits paid for a standard working week meet, at a minimum, national legal standards or industry benchmarks, whichever is higher. All workers shall be provided with written and understandable information about their employment conditions in respect to wages before they enter employment;
- (h) working hours comply with national laws and are not excessive;
- (i) no discrimination is practised and, in particular, there is no discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation;

- (j) regular employment is provided and the work performed is on the basis of a recognised employment relationship established through national law and practice. Obligations to employees under labour or social security laws are not avoided through the use of labour-only contracting, sub-contracting or home-working arrangements;
- (k) no harsh or inhumane treatment is allowed and physical abuse, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation are prohibited.

7.2 Environmental standards

The Seller commits that it operates an efficient system of waste management under which waste is minimised, items are recycled whenever practicable, and effective controls of waste in respect of ground, air and water pollution are adopted. In addition, the Seller commits that unnecessary use of materials is avoided, and recycled materials are used whenever appropriate.

8. STATUS OF SELLER'S PERSONNEL

8.1 No employment relationship

The relationship of the Seller to the Buyer shall be that of independent contractor and nothing in these Conditions or the Order/Contract shall render any of the Seller's Personnel as an employee, worker, agent or partner of the Buyer, and the Seller's Personnel shall not hold themselves out as such.

8.2 Indemnity for Seller's Personnel

These Conditions and the Order/Contract constitute a contract for the provision of services and not a contract of employment and accordingly the Seller shall be fully responsible for and shall indemnify the Buyer for and in respect of:

- (a) in relation to the Supplier's Personnel, any income tax, national insurance or social security contributions, and any other liability, deduction, contribution, assessment or claim. The Seller shall further indemnify the Buyer against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Buyer in connection with or in consequence of any such liability, deduction, contribution, assessment or claim;
- (b) any liability arising from any employment related claim or any claim based on worker status (including reasonable costs and expenses) brought by any Seller Personnel against the Buyer arising out of or in connection with the provision of the Services.

9. TERMINATION

9.1 Termination of Orders

The Buyer shall be entitled to cancel the Order in respect of all or part only of the delivery of Goods/Services by giving notice to the Seller at any time prior to delivery or performance (as the case may be), in which event the Buyer's sole liability shall not exceed the Price less the Seller's net saving of cost arising from cancellation. In addition, the Buyer shall be entitled to terminate the Order without liability to the Seller by giving notice to the Seller at any time if:

- (a) the Seller makes default in or commits a breach of the Order/Contract or of any of its obligations hereunder, or any Conditions thereof are broken or not completed by the Seller, or it is clear the Seller will be unable to complete part or the whole of the Order/Contract;
- (b) the Seller makes any voluntary arrangement with its creditors or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of solvent amalgamation or reconstruction);
- (c) a receiver, administrative receiver or other similar officer is appointed, over any of the property or assets of the Seller;
- (d) the Seller ceases, or threatens to cease, to carry on business;
- (e) the Seller is subject to any other similar event or proceedings as set out in this Condition 10;
- (f) any of the Seller's commitments set out in Condition 8 are or become false;

- (g) the Seller subcontracts the Order without the prior written consent of the Buyer;
- (h) the Seller is or becomes engaged in fraud, corruption or the support of terrorism;
- (i) the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

10. DATA PROTECTION

10.1 Compliance with legislation

The Seller shall comply with the provisions and obligations imposed on it by any applicable data protection legislation.

10.2 Return of Personal Data

All information relating to an identifiable individual or legal person, "**Personal Data**", acquired by the Seller from the Buyer shall be returned or deleted (at the option of the Buyer) on request.

11. CONFIDENTIALITY

11.1 Unless approved by the other party in writing in advance or required by law or professional advisors, both parties shall treat as strictly confidential:

- (a) the existence, provisions or subject matter of the Contract, and any Specification(s);
- (b) the negotiations relating to the Contract;
- (c) all information received or obtained as a result of entering into or performing the Contract which relates to the other party; and
- (d) the other party's know-how;

12. DISPUTES

12.1 How disputes will be handled

Any dispute shall be treated in accordance with the provisions as set out in this Section.

12.2 Authorised Representatives to attempt to resolve Disputes

The Authorised Representatives are and will remain authorised to settle a dispute on behalf of the party they represent. Upon a dispute arising, the Authorised Representatives shall, as soon as reasonably practicable and in any event no later than 7 days after a written request from either party to the other, meet in good faith and use all reasonable endeavours to resolve the dispute.

12.3 Authorised Representatives not available

If an Authorised Representative is unable to attend a meeting held pursuant to Condition 13, the party they represent may nominate a substitute to attend provided the substitute has at least the same level of seniority or managerial or directorial responsibility as the person they are replacing and is authorised to settle the relevant dispute on behalf of the party they represent.

12.4 Compromise agreement after resolution by Authorised Representatives

If the Authorised Representatives reach agreement on the resolution of the relevant dispute, the parties will each procure that the agreement is reduced to writing and signed by their respective duly authorised representative at which time it shall be and remain binding on the parties.

12.5 Initiation of court Proceedings

Neither party may initiate any court proceedings until the provisions of Condition 13 have been complied with and the parties have failed to reach agreement provided that a period of at least 14 days has elapsed since the relevant meeting of Authorised Representatives.

12.6 **Injunctive relief**

Nothing in this Condition 13 shall prevent any party from seeking injunctive or other emergency relief against the other at any time.

13. **GENERAL**

13.1 **Subcontracting**

The Seller may not subcontract the Order without the prior written consent of the Buyer, not to be unreasonably withheld, provided that the Seller guarantees the performance of the obligations of the subcontractor.

13.2 **Entire agreement**

These Conditions and the Order/Contract represent the whole and only agreement between the parties in relation to the subject matter of the Order and Conditions and supersede any previous agreement whether written or oral between all or any of the parties in relation to that subject matter.

13.3 **Governing law**

These Conditions shall be governed by the laws of the Republic of South Sudan, to whose non-exclusive jurisdiction the parties agree to submit.

Signing the Order/Contract with these Standard Terms and Conditions attached indicates acceptance of these terms and conditions.