



TERMS AND CONDITIONS FOR CONTRACTS FOR PROCUREMENT OF GOODS - SELF HELP AFRICA (SHA)

1. SCOPE AND APPLICABILITY

These Terms and Conditions of Contract for Procurement of Goods apply to all deliveries of goods made to SHA notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from the Supplier. No such conflicting, contrary or additional terms and conditions shall be deemed accepted by us unless and until we expressly confirm our acceptance in writing.

2. LEGAL STATUS

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

3. SUB-CONTRACTING

In the event the Supplier requires the services of a sub-contractor, the Supplier shall obtain the prior written approval of SHA 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 omissions of such sub-contractors and suppliers. The approval of SHA of a sub-contractor shall not relieve the Supplier of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

4. OBLIGATIONS

The Supplier shall neither seek nor accept instructions relating to this contract from any authority external to SHA. Suppliers may not communicate at any time to any other person, government or authority external to SHA, any information known to them by reason of their association with SHA which has not been made public, except in the course of their duties or by authorization of SHA: nor shall Suppliers at any time use such information to private advantage. These obligations do not lapse upon termination/expiration of their agreement with SHA.

5. ACCEPTANCE AND ACKNOWLEDGEMENT

Initiation of performance under this contract by the supplier shall constitute acceptance of the contract, including all terms and conditions herein contained or otherwise incorporated by reference.

6. WARRANTY

The Supplier warrants upon delivery and for a period of twelve (12) months from the date of delivery that goods purchased under this Contract will conform in all material aspects to the applicable manufacturer's specifications, government or international standard or contractually agreed standard for such goods and will be free from material defects in workmanship, material and design under normal use. The warranty does not cover damage resulting from misuse, negligent handling, lack of reasonable maintenance and care, accident or abuse by anyone other than the Supplier.

7. CHECKS AND AUDIT

The Supplier shall allow any external auditor authorised by SHA to verify, by examining the documents and to make copies thereof or by means of on-the-spot checks of original documents, the implementation of the contract and conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the project. The Supplier shall ensure that on-the-spot access is available at all reasonable times. The Supplier shall ensure that the information is readily available at the moment of the audit and if so requested, that the data be handed over in an appropriate form. These inspections may take place up to 7 years after the final payment.

Furthermore, the Supplier shall allow any external auditor authorised by SHA carrying out verifications as required to carry out checks and verification on the spot in accordance with the procedures set out by the donor or in the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.

To this end, the Supplier undertakes to give appropriate access to any external auditor authorised by SHA carrying out verifications as required to the sites and locations at which the project is implemented, including its information systems, as well as all documents and databases concerning the technical and financial management of the action and to take all steps to facilitate their work. Access given to agents of any external auditor authorised by SHA carrying out verifications shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the Supplier must inform SHA of their precise location.

The Supplier guarantees that the rights of any external auditor authorised by SHA carrying out verifications as required to carry out audits, checks and verification shall be equally applicable, under the same conditions and according to the same rules as those set out in this Article, to the Supplier's partners, and subcontractors. Where a partner or subcontractor is an international organisation, any verification agreement concluded between such organisation and the donor applies.

8. RULE OF ORIGIN AND NATIONALITY

If any rules of origin and nationality are applicable due to donor requirements, limiting the eligible countries for goods, legal and natural persons, such rules shall be stated or referred to in the contract document. In such instances the Supplier must adhere to these rules and be able to document and certify the origin of goods and nationality of legal and natural persons as required.

Failure to comply with this obligation shall lead, after formal notice, to termination of the contract, and SHA is entitled to recover any loss from the Supplier and is not obliged to make any further payments to the Supplier.

9. INSPECTION & TESTING

The duly accredited representatives of SHA or the donor shall have the right to inspect/test the goods called for under this Contract at Supplier's stores, during manufacture, in the ports or places of shipment, and the Supplier shall facilitate such inspections. SHA may issue a written waiver of inspection at its discretion. Any inspection carried out by representatives of SHA or the donor or any waiver thereof shall not prejudice the implementation of the other relevant provisions of this Contract concerning obligations subscribed by the Supplier, such as warranty or specifications.

10. LICENCE

The Contract is subject to the obtaining or holding of any license or other governmental authorisation that may be required. It shall be the responsibility of the Supplier to obtain such license or authorisation. SHA may, at its discretion, use its best endeavours to assist.

11. FORCE MAJEURE

Force Majeure shall mean Acts of God, strikes, lockouts, discontinuation or termination of donor funding, laws or regulations of operating country, industrial disturbances, acts of the public enemy, civil disturbances, act of war (whether declared or not), explosions, blockades, insurrection, riots, epidemics, landslides, earthquakes, extreme weather events, civil disturbances, and any other similar unforeseeable events which are beyond the parties' control and cannot be overcome by due diligence.

In the event of and as soon as possible and no later than fifteen (15) days after the occurrence of any cause constituting Force Majeure, the Supplier shall give notice and full particulars in writing to SHA 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 Contract. The Supplier shall also notify SHA of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this article, SHA 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 Contract, or termination of the Contract if any delay will force an extension to the delivery schedule.

Notwithstanding anything to the contrary in this Contract, the Supplier recognizes that the work and services may 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 itself, constitute Force Majeure under this contract.

12. DEFAULT

In case the Supplier fails to comply with any term of the Contract, including but not limited to failure or refusal to make deliveries within the time limit specified, they shall be liable for all damages sustained by SHA, and SHA may procure the goods from other sources and hold the Supplier responsible for any excess cost occasioned thereby. SHA may collect damages from the Supplier in lieu of purchasing the goods from other sources. SHA may by written notice terminate the right of the Supplier to proceed with deliveries or such part or parts thereof as to which there has been default, or if any delivery is late, SHA may cancel such delivery or the entire Contract.

13. REJECTION

In the case of goods purchased on the basis of specifications or samples or both, SHA shall have the right to reject the goods or any part thereof if they do not conform with the specifications of the Contract in the opinion of SHA or is not delivered in due time.

SHA shall have the right to reject the goods in the event that the packing is not in accordance with the terms of the Contract.

When the goods or any part thereof have been rejected, SHA shall have the right, without prejudice to the provisions of Article 9, to demand from the Supplier the immediate delivery of acceptable goods in replacement thereof in accordance with the contract or to purchase other similar goods elsewhere and to claim from the Supplier the amount of loss or damages sustained by reason of the default.

Goods or any part thereof in SHA's possession which have been rejected by SHA must be removed at the Supplier's expense within such period as SHA may specify in its notice of rejection.

After such notice has been dispatched to the Supplier, the goods or any part thereof will be held at the latter's risk. Should the Supplier fail to remove the goods as required by the notice of rejection, SHA may dispose of them, without any liability to the Supplier whatsoever, in such manner as it deems fit

14. AMENDMENTS

No change in or modification of this Contract shall be made except by prior agreement between the Responsible Buyer in SHA in Ireland and the Supplier.

15. ASSIGNMENTS & INSOLVENCY

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

Should the Supplier become insolvent or should control of the Supplier change by virtue of insolvency, SHA may without prejudice to any other rights or remedies, terminate this Contract by giving the Supplier written notice of termination.

16. PAYMENT

The Supplier shall invoice SHA who will then internally confirm acceptance of goods and approve the invoice for payment. All legal invoices received and approved by the 20th of a month, will be paid that month.

17. INDEMNIFICATION

The Supplier agrees to indemnify, hold and save SHA harmless and defend at its own expense SHA, its officers, agents and employees from and against all suits, claims, demands and liability of whatever nature or kind, including costs and expenses thereof and liability arising there from, with respect to, arising from or attributable to acts or omissions of the Supplier or its employees or sub-contractors in or relating to the performance of this Contract. This provision shall extend to, but shall not be limited to, product liability claims.

SHA will promptly notify the Supplier of any such suit, claim, proceeding, demand or liability within a reasonable period of time after having received written notice thereof, and will reasonably cooperate with the Supplier, at the Supplier's expense, in the investigation, defence or settlement thereof, subject to the privileges and immunities of SHA.

The Supplier shall not permit any lien, attachment or other encumbrance by any person or entity to remain on file in any public or official office or on file with SHA 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.

18. CONFIDENTIALITY

The Supplier shall not advertise or otherwise make public the fact that he is a Supplier to SHA without specific approval from SHA. Nor shall the Supplier in any manner whatsoever use the name of SHA, or any abbreviation thereof, in connection with his business or otherwise. Non observance of these conditions shall entitle SHA to cancel the Contract, or any part thereof, and to hold the Supplier liable for any damages which SHA has sustained as a result thereof.

19. DISPUTES - ARBITRATION

Any claim or controversy arising out of or relating to this or any contract resulting here from, or to the breach, termination or invalidity thereof, shall be, unless settled amicably through negotiation, submitted to arbitration in accordance with Irish law.

20. SETTLEMENT OF DISPUTES

The parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of or in connection with this Contract including any disputes regarding the existence, validity or termination. 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.

Unless, any such dispute, controversy or claim between the parties arising out of or relating to this Contract or the breach, existence, termination or invalidity thereof is 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, such dispute, controversy or claim shall be referred by either party to arbitration in accordance with the UNCITRAL Arbitration rules as at present in force, including its provision on applicable law. The place of arbitration shall be Ireland and the language to be used in the proceedings shall be English. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in this Contract, the arbitral tribunal shall also have no authority to award interest. The parties shall be bound by any arbitration award rendered as a result of such arbitration and as being the final adjudication of any such dispute, controversy or claim.

21. USE OF NAME, EMBLEM OR OFFICIAL SEAL

Unless authorised in writing by SHA, the Supplier shall not advertise or otherwise make public the fact that he is a Supplier to SHA or use the name, emblem or official seal of SHA or any abbreviation of the name of SHA for advertising purposes or for any other purposes.

22. LIQUIDATED DAMAGES

Late delivery, or dispatch outside the agreed shipping schedule, shall be subject, without notice, to an assessment of liquidated damages equivalent to 1 percent of the Contract value per day or part thereof. The assessment will not exceed 10 percent of the contract value. SHA 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 SHA, including cancellation, for the Supplier's non-performance, breach or violation of any term or condition of the Contract.

Acceptance of goods delivered late shall not be deemed a waiver of SHA's rights to hold the supplier liable for any loss and/or damage resulted from, nor shall it act as a modification of the supplier's obligation to make future deliveries in accordance with the delivery schedule.

23. ANTI-BRIBERY/CORRUPTION

The Supplier shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the UK Bribery Act 2010 and the United States Foreign Corrupt Practices Act 1977 ("Relevant Requirements").

The Supplier shall have and maintain in place throughout the term of any contract with SHA its own policies and procedures to ensure compliance with the Relevant Requirements.

No monies are payable to SHA by the Supplier in association with the execution of this contract if the Supplier is approached by a SHA member of staff or by any person acting on behalf of SHA (third-party representatives include agents, consultants, contractors and partner organisations for a payment, commission, 'kickback' or associated payment or any other advantage of any kind, and they are obliged to report the request or payment directly to SHA's Country Director within thirty-six hours. Failure to report any request for payment by a SHA member or by any person acting on behalf of SHA (third-party representatives include agents, consultants, contractors and partner organisations of staff or actual payment by the Supplier to a SHA member of staff to the SHA Country Director shall result in the immediate termination of any contract and may result in the disqualification of the supplier from participation in future contracts with SHA.

This contract shall be automatically terminated, and the Supplier shall have no right to any form of compensation, if it emerges that the award or execution of the contract has given rise to unusual commercial expenses.

Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main 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 commissions paid to a company which has every appearance of being a front company

24. 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 SHA to terminate this Contract immediately upon notice to the Supplier, at no cost to SHA.

25. ETHICAL PROCUREMENT

The Supplier represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the following code of conduct for suppliers: Employment is freely chosen, freedom of association and the right to collective bargaining are respected, working conditions are safe and hygienic, no child labour/protection of children is ensured, living wages are paid, working hours are not excessive, no discrimination is practiced, regular employment is provided, no harsh or inhumane treatment is allowed, any harm to the

environment shall be avoided or limited. Any breach of this representation and warranty shall entitle SHA to terminate this Contract immediately upon notice to the Supplier, at no cost to SHA.

26. PRIOR NEGOTIATIONS SUPERSEDED BY CONTRACT

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

27. INTELLECTUAL PROPERTY INFRINGEMENT

The Supplier warrants that the use or supply by SHA of the goods sold under this Contract 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 SHA harmless from any actions or claims brought against SHA pertaining to the alleged infringement of a patent, design, trade-name or trade-mark arising in connection with the goods sold under this Contract.

28. TITLE RIGHTS

SHA shall be entitled to all intellectual property rights including but not limited to patents, copyrights and trademarks, with regard to material which bears a direct relation to, or is made in consequence of, the services provided to the organisation by the Supplier. At the request of SHA, the Supplier shall take all necessary steps, execute all necessary documents and generally assist in securing such property rights transferring them to the organisation in compliance with the requirements of the applicable law.

Title to any equipment and supplies which may be furnished by SHA and any such equipment shall be returned to SHA at the conclusion of this Contract or when no longer needed by the Supplier. Such equipment, when returned to SHA, shall be in the same condition as when delivered to the Supplier, subject to normal wear and tear.

29. PACKING

The Supplier shall pack the goods with new, sound materials and with every care, in accordance with the normal commercial standards of export packing for the type of goods specified herein. Such packing materials used must be adequate to safeguard the goods while in transit. The Supplier shall be responsible for any damage or loss that can be shown to have resulted from faulty or inadequate packing.

30. SHIPMENT AND DELIVERY

All goods shall be delivered to the agreed place of delivery as stated in the Contract, at the Supplier's risk of loss of or damage to the goods until delivery, unless otherwise provided for in the Contract.

31. INSURANCE

The Supplier shall provide and thereafter maintain for the duration of this contract and any extension thereof all appropriate workmen's compensation insurance or its equivalent with respect to its employees to cover claims for personal injury and death in connection with this contract. The supplier shall, upon request, furnish proof to the satisfaction of the SHA, of such liability insurance. The supplier shall further provide such health and medical insurance for its agents and employees, as the supplier may consider advisable. The service provider will in all cases ensure they have third party liability cover for the duration of the contract.

32. TERMINATION OF CONTRACT

Either party may cancel this Contract before the expiry date of the Contract by giving notice in writing to the other party. The period of notice shall be five days in the case of contracts (including purchase orders) with a total period of less than two months or fourteen days in the case of contracts with a longer period.

In the event of the Contract being terminated prior to its due expiry date in this way, the Supplier shall be compensated only for the actual supplies delivered to the satisfaction of SHA. Additional costs incurred by SHA resulting from the termination of the Contract by the Supplier may be withheld from any amount otherwise due to the Supplier from SHA.

SHA reserves the right to withhold payments while any investigation is taking place into suspected wrongdoing or breaches of policy. SHA reserves the right to make no payment of sums due (even when goods or services have been supplied), in instances where wrongdoing is present.

33. OVERRIDING CLAUSE

In the event of any conflict or inconsistencies between these Terms and Conditions or any other document which forms part of the Contract, the Contract shall prevail except where they have been amended (by specific reference to the relevant clause and paragraph of these Terms and Conditions) as provided for herein.

34. WITHHOLDING TAX

SHA reserves the right to deduct withholding tax from the Supplier's invoice if so required by law. This will apply unless the Supplier has supplied in advance the required documentation proving its exemption from withholding tax (e.g. withholding tax exemption certificate).

35. GOVERNING LAW AND JURISDICTION

These Terms and Conditions shall be governed by the laws of Ireland and subject to the exclusive jurisdiction of the Irish Courts.

36. BANK GUARANTEE

When specifically requested by SHA, a bank guarantee from a well reputed bank acceptable to SHA in the currency in which the Contract is payable and for an amount to be prescribed by SHA shall be obtained by the Supplier at his expense and deposited with SHA before the start of the Contract. In the event of any loss, damage and/or extra costs incurred by SHA by reason of the Supplier's default, negligence or failure to perform the terms and conditions of the Contract or any part thereof, that part of any such loss, damage and/or extra costs which is represented by the full or by any lesser amount of such guarantee shall be immediately and initially reimbursable to SHA from such guarantee without prejudice to its right to hold the Supplier liable for the full amount of such loss, damage and/or extra cost. The guarantee shall be valid for a period of not less than 30 days after the date of arrival at destination of the last specified delivery.

37. ENVIRONMENTAL STANDARDS

Suppliers should as a minimum, comply with all statutory and other legal requirements relating to environmental impacts of their business. Areas which should be considered are:

- Waste Management
- Packaging and Paper
- Conservation
- Energy Use
- Sustainability
- Sourcing and origin of raw materials
- Supply chain transparency

38. HUMAN TRAFFICKING

SHA does not support trafficking in persons including trafficking-related activities for any purpose, including the use of forced labour. Suppliers and their employees, and agents shall not: —

- Engage in any form of trafficking in persons during the period of performance of the contract;
- Procure commercial sex acts during the period of performance of the contract;
- Use forced labour in the performance of the contract;
- Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;
- Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work

Should the Supplier become aware of, or suspect, human trafficking activities during the execution of the contract the Contractor must immediately inform SHA to enable appropriate action to be taken.

In respect to any contract funded by the UK Government the Supplier is expected to be familiar with the terms of the UK Modern-Slavery Act 2015, and to abide by the conditions of that Act.

Signed:

Print name:

Position:

Company Name:

Date:

Address:

