

ICC GENERAL CONDITIONS

The International Computing Centre (ICC) is an inter-organizational facility, hosted and administered by the World Health Organization, which provides trusted services and digital business solutions to the United Nations, its Programmes and Funds as well as to its Specialised Agencies (ICC Partners).

At present, UN Organizations and Specialized Agencies participating in ICC are shown in <https://www.unicc.org/who-we-are/client-and-partner-organizations/>

ICC also provides such services to National Governments, Nongovernmental or Intergovernmental Organizations, with Consultative Status with the United Nations or one of its Specialised Agencies and other educational and research organizations (ICC Users).

All users of ICC services, i.e. Partners and Users, are hereinafter referred to as "ICC Users".

ICC is headquartered in Geneva, Switzerland, and currently also has offices in New York, USA, Rome, Italy, Brindisi, Italy and Valencia, Spain. ICC shall notify the Supplier of any change in its offices.

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 International Computing Centre (ICC) 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. HARDWARE AND SOFTWARE CLAUSE

(a) The Vendor, in executing a contract with ICC, entitles the ICC Users, including any new ICC Users:

- i) to use the hardware supplied to ICC under such contract; and
- ii) to access and use any licensed programmes and related materials supplied to ICC under such contract, either through ICC's computers or through its networks, or in the event of an emergency, through ICC's off-site back-up computers, whether or not maintained and operated by ICC or by a third party contracted by ICC (disaster recovery centre).

(b) In connection with the above, the Vendor shall, at no additional cost provide any passwords, licensing keys or the like required to activate the licensed programmes and related materials, for the ICC on-site systems and networks, and for ICC's disaster recovery centre.

(c) For the avoidance of doubt, the Vendor explicitly agrees that ICC shall be entitled to provide the ICC Users access to, and use of, any and all products and/or services supplied to ICC under the contract, in accordance with the terms of these General Conditions.

- (d) The ICC shall notify the Vendor of any new ICC User. The Vendor acknowledges that ICC procures hardware and software specifically to provide services to the ICC Users. In the event that one or more ICC Users withdraw from any services provided by ICC, ICC shall be entitled to cancel any contract with the Vendor, i.e. to the extent and insofar as such contract relates to the services from which the aforesaid ICC Users are withdrawing. If applicable, the ICC and the Vendor shall identify and agree service continuity and availability requirements such as access rights to the services, service response times, end to end availability of services.
- (e) The Vendor shall deliver, and whenever agreed, install, the hardware and/or the licensed programmes and related materials, including any new versions of such programmes and materials, at ICC headquarters and/or any other ICC offices, as designated by ICC. The Vendor shall furthermore provide ICC, and - in accordance with the identification procedures of ICC - any ICC User, with the corresponding agreed upon support services. Whenever agreed, such support services shall be provided on site at ICC headquarters and/or any other ICC offices. The Vendor undertakes to provide the agreed upon support for the most recent version of the licensed programme and related materials. In the absence of such support, ICC shall be entitled to terminate the contract for the licensed programmes and related materials in question, with immediate effect.

3. 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".

4. PAYMENT TERMS

- (a) ICC 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 ICC, 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 ICC.
- (e) Inspection prior to shipment does not relieve the Vendor from its contractual obligations.
- (f) ICC 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 ICC of the goods.

5. TAX STATUS

The price shall reflect any tax exemption to which ICC is entitled by reason of the immunity it enjoys. ICC is, as a general rule, exempt from all direct taxes, customs duties and the like, and the Vendor shall consult with ICC so as to avoid the imposition of such charges with respect to all products supplied thereunder. As regards excise duties and other taxes imposed on the sale of goods, (e.g. VAT) the Vendor agrees to verify in consultation with ICC whether in the country

where the VAT would be payable, ICC is exempt from such VAT at the source, or entitled to claim reimbursement thereof. If ICC is exempt from VAT, this shall be indicated on the invoice, whereas if ICC 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 ICC to enable reimbursement thereof.

6. EXPORT LICENCE

The Purchase Order is subject to the Vendor obtaining of any and all export licences or other governmental authorizations which may be required for the delivery of the products to ICC. It shall be the responsibility of the Vendor to obtain such export licences or other Governmental authorizations, it being agreed, however, that at the Vendor's reasonable request, ICC shall provide such assistance within its power to the Vendor. In the event that any of the aforesaid licences or authorizations are refused, the Purchase Order shall be considered null and void ab initio, without either party having the right to claim damages.

7. 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.

8. 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 ICC, and are free from defects in workmanship and materials. The Vendor also warrants that the goods are contained or packaged adequately to protect them.

9. WARRANTIES BY THE VENDOR

The Vendor warrants and represents that the agreed upon use of any hardware, licensed programmes and related materials supplied to ICC shall not infringe on the proprietary rights of any third party and that relevant legal and regulatory requirements, including data protection, intellectual property rights and copyright, are respected.

The Vendor shall ensure that, as far as applicable, all duties and obligations under this Purchase Order shall be included in any contract that it enters into with any sub-Contractual Partner. The Vendor shall not assign or otherwise dispose of all or any of its rights and responsibilities under this contract without prior written consent of ICC. The Vendor shall take appropriate measures to ensure relevant training and awareness for the Vendor's personnel involved in the provision of services to ICC.

As needed, the Vendor shall provide contact details available in case of a major incident or emergency and to allow for the notification of incidents affecting ICC and for collaboration with ICC during remediation.

10. INFRINGEMENT CLAIMS

Any (defence) action against or negotiation with a third party by the Vendor concerning claims for the infringement of proprietary rights, which might imply the submission of ICC to a national court jurisdiction, shall be subject to ICC's prior written approval.

If and as soon as the Vendor becomes aware that any product(s) supplied by it to ICC may - in the reasonable opinion of the Vendor - infringe on the proprietary rights of a third party, the Vendor shall - at its expense: (i) obtain the right for ICC and the ICC Users to continue using the infringing product(s) in the same manner as originally agreed between the parties; or (ii) modify or replace the infringing product(s) with one or more compatible and equivalent substitutes. If, despite diligent efforts of the Vendor, neither (i) nor (ii) are possible, the Vendor shall promptly notify ICC thereof in writing. In such event ICC's right to use the infringing product(s) shall terminate and the Vendor shall immediately reimburse ICC for any amounts already paid by ICC to the Vendor for the use by ICC of such product(s), and the provision by the Vendor of the related support services, in respect of any period after the effective date of termination.

11. INDEMNIFICATION

The Vendor shall indemnify and save harmless ICC, or any ICC User 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. ICC 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. INSPECTION AND AUDIT

The Vendor shall have in place appropriate level of security protection, which include measures relating to technical, physical, procedural and people measures and controls. ICC may request a financial and operational review or audit of the goods supplied by the Vendor under this Purchase Order, to be conducted by ICC and/or parties authorized by ICC, 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. The Vendor shall make available, without restriction, to ICC and/or parties authorized by ICC:

- i) the Vendor's books, records and systems (including all relevant financial and operational information) relating to this Purchase Order; and
- ii) 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 and access rights.

ICC 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.

13. RE-EXPORTATION

The acceptance by ICC of any restriction on the re-exportation of the products supplied to ICC shall not be deemed to constitute a waiver of ICC's privileges and immunities and is given only to the extent such engagement does not imply any discrimination of one or more Member States of an ICC User.

14. CONFIDENTIALITY, INTEGRITY AND AVAILABILITY OF INFORMATION AND MATERIALS

The Vendor will implement, maintain and use administrative, technical, physical, procedural and security infrastructures, facilities, tools, technologies, practices and other measures (collectively "Protective measures"), including without limitation, data encryption, anti-virus and anti-malware protections, intrusion detection and reporting methods, which are necessary and sufficient:

- To protect the confidentiality and integrity of all information of ICC and ICC User that is electronically maintained, stored, processed and/or transmitted,
- To protect all information of ICC and ICC User from unauthorized access, destruction, use, modification or disclosure; and
- To protect all information of ICC and ICC User against deterioration or degradation of its quality and authenticity.

Such Protective Measures shall be no less than reasonable in view of the nature and type of information and materials involved. The Vendor shall ensure that information and materials of ICC and ICC User are accessible and usable upon reasonable request by ICC.

The Vendor agrees to take appropriate measures to treat any information and materials of ICC and any ICC User, to which the Vendor may gain access in the course or as a result of the tender for, or performance of, a contract with ICC, hereinafter referred to as "the Information", at a similar or higher sensitivity or classification level as deemed by ICC or the ICC User, as the case may be, regardless of whether such Information is in written or oral, tangible or intangible, machine readable or other format. Information shall include, but not be limited to, documents, data, computer programs, process descriptions and all other materials or information relating to or dealing with the operations or activities of ICC and the ICC Users.

The Vendor shall use such Information only for the purpose of preparing an offer to ICC and/or fulfilling Vendor's contractual obligations ("the Purpose"). In this regard, the Vendor agrees to disclose the aforesaid information only to persons who have a need to know for the Purpose and are bound to similar obligations of confidentiality and restrictions on use as those imposed on the Vendor hereunder. The Vendor agrees to take appropriate measures to authorize, control, grant or remove access to any information of ICC during the course of the order or contract. However, there shall be no obligations of confidentiality and restrictions on use, if and to the extent Information is or becomes generally available to the public through no fault of the Vendor (or any persons to whom Vendor shall have disclosed such Information).

When information provided in the context of the tender for, or performance of, a contract is described by the Vendor as confidential, ICC shall take appropriate measures to keep such information confidential and shall only use the information for the purpose for which it was provided. In this regard, ICC shall disclose the aforesaid information only to persons who are bound to similar obligations of confidentiality and restrictions on use as those imposed on ICC hereunder. However, there shall be no obligation of confidentiality or restriction on use where:

- the information is publicly available or becomes publicly available through no fault of ICC (or any persons to whom ICC shall have disclosed such information),
or
- the information was already known to ICC (as evidenced by its written records) prior to its receipt,
or
- the information was received from a third party not in breach of any obligation of confidentiality owed to the Vendor.

For the avoidance of doubt, ICC shall always be entitled to disclose confidential information of the Vendor to ICC Users, provided that such ICC Users have been bound by similar obligations of confidentiality and restrictions on use as contained herein.

The abovementioned obligations of confidentiality, integrity and availability of information and materials and restrictions on use shall survive the expiration or termination of the contract.

The Vendor acknowledges that Information Assets of ICC and ICC Users are the property of ICC or the specific ICC User respectively and is subject to the privileges and immunities accorded to ICC and/or that specific ICC User.

As a result of these privileges and immunities, any such data and information is inviolable and cannot be disclosed, provided or otherwise made available to, or searched, confiscated or otherwise be interfered with by any party, unless such immunity is expressly waived in writing by ICC.

To ensure compliance with the privileges and immunities pertaining to ICC, the Vendor shall segregate Information Assets belonging to, originating from or in any way associated with ICC or ICC Users from the information of any other person or entity.

In the event that any local, national or international governmental, regulatory or law enforcement body or other authority, any court or other tribunal, and any arbitrator (hereinafter "Governmental Body") requests or demands the Vendor to provide access to any ICC or ICC User Information Assets, the Vendor shall: promptly transmit the request or demand to ICC; inform such Governmental Body that it understands that such Information and Information Assets are privileged under the Specialized Agency Convention and request such Governmental Body to redirect the relevant request for disclosure directly to ICC; take all commercially reasonable efforts to resist such request or demand; consult with ICC regarding the Vendor's response to the demand or request; cooperate with ICC's reasonable requests in connection with efforts by ICC to ensure that its privileges and immunities are upheld.

In the event that such Governmental Body still seeks such information and Information Assets, the Vendor shall: request such Governmental Body that ICC be given the opportunity to present before such Governmental Body ICC's position regarding the confidentiality of such Information Assets or information; to the extent the Vendor may be required to disclose or provide access to such Information Assets, notify ICC of such requirement prior to disclosure or access; to the extent permissible by law, seek to contest or challenge the demand or request based on, inter alia, ICC's status, including its privileges and immunities, contractual arrangements, etc.; upon ICC's request, provide ICC a true, correct and complete copy the Vendor's response to such demand or request, and keep ICC informed of all developments and communications with the Governmental Body.

To the extent the Vendor is prohibited by applicable law or governmental order from notifying ICC of such request, the Vendor shall notify ICC promptly upon the lapse, termination, removal or modification of such prohibition.

15. LIABILITY

In no event shall Vendor's liability for direct damages be limited to an amount habitually obtained by Vendors of hardware, software and/or corresponding support services, as insurance coverage for third party liability claims.

In case of gross negligence or wilful misconduct on the part of the Vendor, the Vendor shall furthermore remain liable for any indirect, incidental and/or consequential damages that may arise therefrom.

16. RIGHTS OF ICC

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), ICC 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 ICC 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.

17. 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 ICC.
- (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, ICC 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 ICC of the occurrence of any of the above events.

18. USE OF ICC NAME AND EMBLEM

Without ICC'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 ICC, or otherwise use the name (or any abbreviation thereof) and/or emblem of ICC.

19. BREACH OF ESSENTIAL TERMS

The Vendor acknowledges and agrees that each of the provisions of Paragraphs 20,21,22 and 23 hereof constitutes an essential term of the Purchase Order, and that in case of breach of any of these provisions, ICC may, in its sole discretion, decide to:

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

ICC shall be entitled to report any violation of such provisions to ICC's governing bodies, other UN agencies.

20. 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 persons engaged by the Vendor to perform any services 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 this Purchase Order, the term "WHO Policies" means collectively:

- i) the WHO Code of Ethics and Professional Conduct;
- ii) the WHO Policy on Sexual Exploitation and Abuse Prevention and Response;
- iii) the WHO Code of Conduct for responsible Research;
- iv) the WHO Policy on Whistleblowing and Protection Against Retaliation; and
- v) 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.

21. ZERO TOLERANCE FOR SEXUAL EXPLOITATION AND ABUSE

ICC has zero tolerance towards sexual exploitation and abuse. In this regard, and without limiting any other provisions contained herein, the Vendor warrants that it will: (i) take all reasonable and appropriate measures to prevent sexual exploitation or abuse as described in the WHO Policy on Sexual Exploitation and Abuse Prevention and Response by any of its employees and any other persons engaged by it to perform any services under the Purchase Order; and (ii) promptly report to WHO and respond to, in accordance with the terms of the Policy, any actual or suspected violations of the Policy of which the Vendor becomes aware.

22. 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 ICC Tobacco/Arms Disclosure Statement. In the event ICC requires completion of this Statement, the Vendor undertakes not to permit the goods to be supplied, until ICC has assessed the disclosed information and confirmed to the Vendor in writing that the goods can be supplied.

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

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

- i) it is not and will 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 will not make any payment or provide any other support to any such person or entity and that it will not enter into any employment or subcontracting relationship with any such person or entity;
- ii) it shall not engage in any illegal, corrupt, fraudulent, collusive or coercive practices (including bribery, theft and other misuse of funds) in connection with the execution of the Purchase Order; and
- iii) the Vendor shall take all necessary precautions to prevent the financing of terrorism and/or any illegal corrupt, fraudulent, collusive or coercive practices (including bribery, theft and other misuse of funds) in connection with the execution of the Purchase Order.

Any payments used by the Vendor for the promotion of any terrorist activity or any illegal, corrupt, fraudulent, collusive or coercive practice shall be repaid to ICC without delay.

24. PUBLICATION OF AGREEMENTS

Subject to considerations of confidentiality, ICC 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.

25. 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.

26. FORCE MAJEURE

Neither Party to the Purchase Order shall be liable for damages for any delay or failure to perform its obligations hereunder, if such delay or failure is due to causes outside its control or without its fault or negligence, including, without limitation, strikes, riots, wars, fires, epidemics, quarantine restrictions, unusually severe weather, earthquakes, explosions, acts of God or state or any public enemy, or acts mandated by any applicable laws, regulation or order (whether valid or invalid) of any governmental body. If a Force Majeure event occurs the affected Party shall inform the other Party promptly and will use reasonable efforts to mitigate adverse effects and to resume performance as soon as practicable. Should the Force Majeure event extend beyond fifteen (15) days, either Party shall have the right to terminate the Contract or applicable work order upon immediate written notice without any penalty or liability.

27. PRIVILEGES AND IMMUNITIES

Nothing in or relating to the contract shall be construed as a waiver of any of the privileges and immunities enjoyed by ICC and/or any ICC User in conformity with the Convention on the Privileges and Immunities of the United Nations or the Convention on the Privileges and Immunities of the Specialized Agencies as applicable, or as submitting ICC or any ICC User to any national or regional legislation or jurisdiction.

28. SETTLEMENT OF DISPUTES

Any matter relating to the interpretation or execution of this Purchase Order, which is not covered by its terms, shall be resolved by reference to the laws of Switzerland. Any dispute relating to the interpretation or execution of this Purchase Order shall, unless amicably settled, be subject to conciliation. In the event of failure of the latter, 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, with the rules of arbitration of the International Chamber of Commerce (including in regard to the payment of arbitration costs, recovery of attorney's fees, etc.). The parties shall accept the arbitral award as final.