



CARE DE Terms and Conditions for Procurement of Goods and Services

Preamble

CARE Deutschland e.V. was established in 1980 in Germany and is working in the area of development cooperation and humanitarian aid. CARE Deutschland e.V. and its Country Offices (hereinafter referred to as "CARE DE CO") work around the globe to save lives, defeat poverty and achieve social justice.

Since CARE Deutschland e.V. is committed towards its private and institutional donors to use its funds as efficiently as possible, contracts for the supply of Goods and Services will be awarded only following a competitive procurement procedure. CARE DE CO therefore asks for your understanding that not every offer can lead to an order.

To achieve a maximum of transparency, accountability, equality and fair competition CARE DE CO requires from its contractors' consent to and strict compliance with the following Terms and Conditions for Procurement of Goods and Services of CARE Deutschland e.V. (hereafter „Terms and Conditions“).

1 DEFINITIONS

In this Terms and Conditions

"Contract" means the applicable CARE DE CO purchase order accepted by the Contractor. Any amendment to the Contract, once agreed between CARE DE CO and the Contractor in accordance with Article 4 below, shall also form a part of the Contract.

„Purchase Order“ means any written/formal purchase offer of CARE including any exhibits thereto, any communication by CARE DE CO under Article 6 below, and these Terms and Conditions.

"Contractor" means the party respective vendor set out in CARE DE CO's purchase order with whom CARE DE CO is entering into an agreement for the supply of Goods and/or Services. This Terms and Conditions apply exclusively to Contractors who are companies within the meaning of Section 14 BGB [German Civil Code] i.e. natural persons or legal entities which, in respect of the supply of Goods and Services, are acting in the performance of their commercial or independent professional activities.

"CARE DE CO" means CARE Deutschland e.V. Country Office in this contract the ordering party.

"Goods" includes in particular without limitation equipment, spare parts, commodities, live plants or animals, seed, raw materials, components, intermediate products, or products, as specified in the Purchase Order.

"Force Majeure" shall mean act of nature beyond control, war (whether declared or not), invasion, revolution, insurrection or other acts of similar nature or force. A default or a delay by a supplier or authorized sub-contractor, among others, of the Contractor shall not constitute an event of Force Majeure.

"Services" means any services other than the delivery of Goods, as specified in the Purchase Order.

2 APPLICATIONS OF TERMS AND CONDITIONS

- (1) These Terms and Conditions shall apply exclusively to any Contract. CARE DE CO does not acknowledge any general terms and conditions of the Contractor which are contrary to or differ from this Terms and Conditions unless CARE DE CO has expressly approved their validity in writing. These Terms and Conditions shall also apply if CARE DE CO accepts or pays for deliveries of Goods or Services by the Contractor in the knowledge of terms and conditions of the Contractor which are contrary to or differ from this Terms and Conditions. Terms and conditions of the Contractor shall not apply even if CARE DE CO does not specifically object separately to their validity.

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- (2) These Terms and Conditions shall also apply to all deliveries of Goods or Services to CARE DE CO in the future until new Terms and Conditions apply.

3 ACCEPTANCE OF PURCHASE ORDER, AMENDMENTS

- (1) The Purchase Order may only be accepted by Contractor signing and returning to CARE DE CO an acknowledgement copy of the Purchase Order, by providing a corresponding order acknowledgement to CARE DE CO, by commencement of performance of the Purchase Order in a timely fashion or by timely delivery of the Goods, or timely provision of the Services, specified in the Purchase Order, in each case in accordance with the terms specified in the Purchase Order.
Acceptance of the Purchase Order shall effect a contract between CARE DE CO and Contractor under which the rights and obligations of the parties shall be governed solely by this Terms and Conditions and the Contract.
- (2) No amendment to the Contract shall be valid or enforceable against CARE DE CO unless it is in writing and signed by the same CARE DE CO authorised staff member who signed the Purchase Order or his superior and a duly authorised representative of Contractor.
- (3) CARE DE CO will endeavour to provide the Contractor with as much advance notice for the purchase of {Goods/name type}. However, at times, such notices may be short (2/3-days) in situations where CARE DE CO operates in an emergency mode and can be changed at any quantity, delivery time, depending on the need and urgency.
- (4) Verbal agreements after conclusion of a Contract, especially subsequent amendments and modifications of our Terms and Conditions, including this written form clause and collateral agreements of any kind, shall only be valid when confirmed in writing by CARE DE CO authorised staff member who signed the Purchase Order or his superior and a duly authorised representative of Contractor. This shall not affect the precedence of an individual agreement pursuant to Section 305b BGB (German Civil Code).

4 PERFORMANCE BOND & BANK GUARANTEE

If a performance bond or bank guarantee is specifically required by the terms of the Contract, then such bond or guarantee, in the amount specified in the Contract, shall be issued by Contractor through a primary bank of Contractor's choice which must be a first-class international accepted bank. The bond or guarantee will be issued on forms either furnished by or acceptable to CARE DE CO. Failure to deliver an acceptable bond or guarantee within two weeks from the date of Contractor's acceptance of the Purchase Order, unless otherwise specified in the Contract, shall be deemed a "default" by Contractor and the provisions of Article 17 below will apply.

5 EXPORT LICENCES, GOVERNMENTAL AUTHORIZATIONS

- (1) If one or more export licenses and/or other governmental authorizations are required for the delivery of the Goods to, or the provision of Services at, the location specified in the Contract, it is the obligation of Contractor to check all applicable regulations – especially of the European Union (EU), Germany resp. other EU Member States and, if applicable, the USA or Asian or Arab countries and all third countries involved - and obtain necessary licenses and/or authorizations prior to delivery of the Goods or performance of the Services.
- (2) The Contractor shall in particular check and ensure, and, on request, provide evidence to CARE DE CO that
 - (i) no companies and persons specified on the US Denied Persons List (DPL) are involved in the supply with original US goods, US software and US technology;
 - (ii) no companies and persons specified on the US Warning List, US Entity List or US Specially Designated Nationals List involved in the supply with original US products without relevant authorisation;

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- (iii) no companies and persons are supplied who are specified on the List of Specially Designated Terrorists, Foreign Terrorist Organizations, Specially Designated Global Terrorists or the EU Terrorist List or other relevant negative lists for export controls;
 - (iv) no recipients are supplied that violate other export control regulations, especially of the EU or the ASEAN countries;
 - (v) all early-warning indications of the competent German or national authorities of the respective country of origin of the delivery are complied with.
- (3) The Contractor shall immediately notify CARE DE CO if it encounters difficulties in obtaining a required export license and/or other governmental authorization. The late issuance or refusal of any such license and/or authorization for all Goods or Services or any part thereof shall be deemed a "default" by Contractor and the provisions of Article 17 below will apply.
- (4) The Contractor shall indemnify and hold CARE DE CO harmless against all damages and expenses resulting from the negligent breach of the foregoing obligations pursuant to this Article 5. para. (1) to (3).

6 RENUNCIATIONS OF TERRORISM AND MONEY LAUNDERING

CARE DE renounces all forms of terrorism and money laundering and will never knowingly support, tolerate or encourage terrorism or money laundering or the activities of those who embrace terrorism or money laundering. Consistent with numerous United Nations Security Council resolutions, including S/RES/1269(1999), S/RES 1368(2001) and S/RES1373(2001) and European Union resolutions, CARE DE is firmly committed to the international fight against terrorism and in particular against the financing of terrorism. It is the policy of CARE DE to seek to ensure that none of its own or its donors' funds are used, neither directly nor indirectly, to provide support to individuals or entities associated with terrorism or money laundering. Therefore, CARE DE Country Offices will match any candidate, tenderer or Contractor against the sanctions lists, as applicable from time to time, on a regular basis.

7 INSURANCES

Unless otherwise specified and agreed upon in the Purchase Order, CARE DE CO will arrange for all risk insurance of the Goods. However, CARE DE CO reserves the right to request that Contractor provides appropriate insurance coverage.

8 DELIVERY AND PERFORMANCE

- (1) The Contractor shall deliver the Goods and perform the Services in accordance with the terms specified in the Purchase Order and the other terms and conditions of the Contract. The time of delivery and/or performance as specified in the Purchase Order is an essential term of the Purchase Order. Whenever an INCOTERM is used in the Contract, it shall be interpreted in accordance with the latest version of the INCOTERMS adopted by the International Chamber of Commerce.
- (2) CARE DE CO may at any time by written instruction to the Contractor modify details of the delivery of the Goods and/or the performance of the Services, and the Contractor shall be obliged to deliver the Goods and/or perform the Services in accordance with such modifications in a timely manner. If any such modification causes an increase or decrease in the price agreed for the Goods and/or Services or the time required for the performance of Contractor's obligations under the Contract, a reasonable adjustment to the agreed price and/or the delivery and/or performance schedule shall be agreed between CARE DE CO and Contractor, and the Contract shall be amended accordingly in accordance with Article 3 above.
- (3) Unless otherwise set out in the Purchase Order, Framework Agreement or Contract, the loading and unloading of the items are covered by the contractor.
- (4) Any claim by Contractor for adjustment under the preceding paragraph must be asserted within thirty (30) days from the date of receipt by Contractor of CARE DE CO's written modification

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instruction; providing, however, that CARE DE CO may, at its sole discretion, receive and act upon any such claim asserted at any time prior to final payment under the Contract. Failure to agree to such adjustment shall be a dispute subject to the provisions of Article 37 below. However, nothing in this Article 8 shall release the Contractor from its obligation to proceed with the performance of the Contract as modified.

9 QUALITY AND FITNESS OF GOODS INCLUDING PACKAGING

- (1) Contractor warrants that the Goods, including their packaging, conform to the specifications set out in the Purchase Order including any applicable standards provided for in the Contract or, if no applicable standards are provided, the most recent authoritative standards issued by the relevant institution in the Goods' country of origin. Contractor further warrants that the Goods are fit for the purposes for which such goods are ordinarily used and for purposes expressly made known to Contractor by CARE DE CO, are of current manufacture and are free from defects in design, workmanship and materials.
- (2) The Contractor also warrants that the Goods are securely contained, packaged and marked in accordance with normal commercial standards of export packing for this type of goods and in a manner so as to protect the Goods while in storage or in transit to their ultimate destination. The Contractor undertakes to use environmentally friendly products and processes for its Goods and Services and also for supplies or ancillary services of third parties as far as economically and technically feasible. The Contractor is liable for the environmental compatibility of the delivered Goods and packaging materials and for all consequential damages incurred by the culpable violation of its statutory disposal obligations. At the request of CARE DE CO, the Contractor shall issue a certificate of inspection for the delivered Goods.
- (3) All such warranties for the Goods shall remain in effect for a period of two (2) years or for such longer period that Contractor normally provides for such goods or for any longer period agreed upon in the Contract, in each case after the Goods are placed in use (the "Warranty Period").
- (4) If, during the Warranty Period, the Goods or any part thereof purchased under the Contract are found to be defective, non-conforming, damaged as a result of faulty or inadequate packaging or otherwise in violation of the warranties of fitness provided for in this Article 9, Contractor shall, upon written notification by CARE DE CO, promptly and at its own expense, correct or repair such Goods from any such defect, non-conformity, damage or violation or replace such Goods at CARE DE CO's discretion. Unless otherwise provided for in the Contract, the correction, repair or replacement shall take place at the following locations in the following order of precedence: at the loading address of the Contractor or its sub-contractor, at the point of delivery, or at the location where the Goods are, or shall be, placed in use. In the event Contractor fails to correct, repair or replace defective, non-conforming, damaged or otherwise injured Goods within a reasonable time, CARE DE CO may correct, repair or replace such Goods and charge or debit Contractor for all costs connected therewith or, if such correction, repair or replacement is not practicable, exercise its rights under Article 17 and Article 18 below.

10 SHIPPING

Unless otherwise set out in the Purchase Order, all Goods shall be shipped freight prepaid Delivery Duty Unpaid (DDU) Destination and CARE DE CO will pay no charge for packing, boxing or cartage. The Contractor is responsible for loss of or damage to any Goods before receipt by CARE DE CO at Destination. Each package of Goods will contain documentation showing shipper's name, contents of package, and the Order Number. A copy of the bill of lading, invoice, customs and import/export confirmations, or similar documentation shall be sent at time of shipment to CARE DE CO at the address set out in the Purchase Order as well as to the Destination, if different.

11 DELIVERIES

Time is of the essence and delivery of Goods shall be strictly in accordance with the Purchase Order; FWA and this Contract. Delays in shipment or otherwise shall be reported immediately to CARE DE CO, and the Order payment shall be subject to a late arrival penalty if specified on the Order. Partial deliveries may not be accepted; contact CARE DE CO in advance if a partial delivery is requested.

12 INSPECTIONS, ACCEPTANCE AND REJECTION

The Contractor shall provide and maintain an inspection, quality, and process control system acceptable to CARE DE CO covering the Goods under the Contract. Records of all inspection work by Contractor shall be kept complete and available to CARE DE CO during the performance of the Contract and for twenty-four (24) months after completion, if not otherwise specified in the Contract. Copies of all material certifications and test results will be submitted to CARE DE CO upon request. CARE DE CO reserves the right to inspect and test through its representatives all Goods ordered under the Contract at any time and place. The Contractor, without additional charge, shall provide all facilities for inspection and all necessary support to ensure that inspections can be performed in such a manner as not to unduly delay delivery of the Goods.

CARE DE CO may reject any Goods supplied under the Contract that do not meet the requirements of the Contract or apply a penalty for Goods not fully conforming to such requirements as per Articles 17 and 18 below. Rejection of the Goods shall be made as soon as practicable after delivery of the Goods to their final destination.

Neither any inspection carried out by representatives of CARE DE CO nor any acceptance of the Goods or part thereof by CARE DE CO nor any omission by CARE DE CO to inspect, accept and/or reject the Goods or part thereof shall release Contractor from its responsibility for such Goods that are not in accordance with the requirements of the Contract, including warranties.

13 AFTER SALES SERVICE, SUPPLY OF SPARE PARTS

- (1) For Goods ordered, Contractor shall provide and maintain a service organization reasonably constituted to handle requests from CARE DE CO or other ultimate beneficiaries for technical assistance on maintenance, service repairs, and overhaul of the Goods. If the presence of a local service agent has been requested by CARE DE CO and confirmed by Contractor, its presence in the country where the Goods are, or shall be, placed in use becomes a condition of the Contract. The Contractor must inform CARE DE CO of any changes in the local service structure prior to delivery of the Goods.
- (2) Unless otherwise set out in the Purchase Order the Contractor undertakes to supply CARE DE CO with spare parts for the Goods delivered for a further 10 years starting from the date of delivery.

14 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES

- (1) For the purposes of the provision of Services (if any) and/or production of Goods delivered under the Contract, Contractor shall provide all necessary personnel and shall be fully responsible for their employment, work permits, payment, and administration in strict conformity with all applicable laws and regulations, including any applicable collective labour agreements, legal minimum wages and prohibition of illegal employment.
- (2) Contractor shall be responsible for the professional and technical competence of its employees and will select, for providing Services and/or producing Goods under the Contract, reliable individuals who will perform such Services and/or production of Goods effectively, respect the local customs, and conform to a high standard of moral and ethical conduct. Contractor's

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employees working on CARE DE CO's premises will comply with CARE DE's rules, policies, and procedures regarding conduct and security.

- (3) The Contractor shall be liable towards CARE DE CO for any damage arising as a result of negligent failure to comply with the obligations pursuant to Article 14, para. (1) and (2).

15 LABOUR STANDARDS

Contractor shall:

- (a) respect the prohibition of child labour as defined by International Labour Organization (ILO) Conventions No. 138 of 1973 and No. 182 of 1999 or below 14 years of age or the minimum age for employment permitted by law or the age of the end of compulsory schooling in the area in question, whichever is the higher;
- (b) respect the prohibition of forced or compulsory labour in all its forms;
- (c) respect the freely exercised right of workers, without distinction, to organize, to further and defend their interest as well as the protection of those workers who exercise their right to organize;
- (d) ensure equality of opportunity and treatment in respect of employment and occupation; and
- (e) ensure fair and reasonable conditions of safety, health and welfare.

Any breach of these obligations shall entitle CARE DE CO to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of CARE DE CO.

16 ENVIRONMENTAL STANDARDS

The Contractor shall, as a minimum, comply with all applicable statutory and other legal or regulatory requirements relating to environmental impacts of its business. This applies in particular without limitation to the following areas:

- (a) waste management;
- (b) packaging and paper;
- (c) conservation;
- (d) energy use; and
- (e) sustainability.

17 REMEDIES FOR DEFAULT

In case of failure by Contractor to perform in accordance with the terms and conditions of the Contract, including but not limited to failure to make delivery of all or part of the Goods by the scheduled date(s), or to complete the Services required within the scheduled date(s), CARE DE CO shall be entitled to penalties in accordance with Article 18 below or, after a reasonable written notice to perform has lapsed 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 and/or Services from other sources, in which event CARE DE CO may hold Contractor responsible for any costs and damages incurred in connection therewith;
- (b) refuse to accept delivery of all or part of the Goods and/or to accept provision of all or part of the Services and reduce the Contract price accordingly;
- (c) require Contractor to ship all or part of the Goods via premium means of transportation at Contractor's expense, to meet the delivery schedule; or
- (d) terminate the Contract without liability for CARE DE CO.

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No action or omission by CARE DE CO envisaged in Article 11 above or in this Article 17 shall be deemed a waiver of CARE DE CO's rights to hold Contractor liable for any loss and/or damage resulting from any default or breach of any term or condition of the Contract or shall act as a modification of Contractor's obligations under the Contract.

18 LIABILITIES, PENALTY FOR DELAY, NONCONFORMING GOODS OR SERVICES, SHORTFALLS

- (1) The Contractor shall be liable according to statutory legal provisions, especially for its own negligent breach of duty and negligent breach of duty by its legal representatives or vicarious agents.
- (2) Contractor recognizes that the Contract contends delivery of Goods and/or provision of Services where "time is of the essence" and that failure to deliver the Goods and/or provide the Services by the scheduled date(s) or in accordance with the quantities and/or quality specified in the Contract may cause irreparable harm to CARE DE CO.
- (3) Therefore, if the Contractor culpably defaults in remedying a defect or making a delivery – fully and timely -, CARE DE CO shall have the right to request lump-sum damages due to default for the defective resp. late delivery without further proof of damage, of 0.2 % of the net remuneration agreed for the defective resp. late delivery and/or service for each period of default of 1 working day (Monday to Saturday) but at most 5 % of the agreed net remuneration for the defective resp. late delivery and/or service. The Contractor shall, however, have the opportunity to prove to CARE DE CO that CARE DE CO has incurred no damage or materially lesser damage.
- (4) The remedy in Article 18 (3) is without prejudice to any other right or remedy that may be available to CARE DE CO, including cancellation, for Contractor's non-performance or breach of any term or condition of the Contract. The above lump-sum damages shall however be set off in full against any further damage claim.

19 FORCE MAJEURE

- (1) Contractor shall give notice in text form to CARE DE CO providing full particulars as soon as possible after the occurrence of any event constituting Force Majeure (as defined herein) whereby Contractor is rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract.
- (2) Contractor shall also notify CARE DE CO of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of the Contract. On receipt of the notice required under this Article 19, CARE DE CO shall take such action as it, in its sole discretion, considers being appropriate or necessary in the circumstances, including the granting to Contractor of a reasonable extension of time in which to perform its obligations under the Contract or termination under Article 24 below.

If CARE DE CO determines that the Contractor is rendered unable, wholly or in part, by reason of Force Majeure to perform any of its obligations or meet any of its responsibilities under the Contract, CARE DE CO shall have the right to suspend or terminate the Contract without liability to CARE DE CO effective immediately upon Contractor's receipt of notice of suspension or termination. Neither party shall be held responsible for failing to perform any of their respective obligations under the Contract if such failure is the result of an event of Force Majeure.

Notwithstanding anything to the contrary in the Contract, Contractor recognizes that delivery of Goods and provision of Services may from time to time occur under harsh or hostile conditions, including civil unrest. Consequently, any delay or failure to perform caused by events arising out of, or in connection with, such conditions shall not on its own constitute Force Majeure.

20 INTELLECTUAL PROPERTY INDEMNITY

- (1) The Contractor guarantees and warrants that all deliveries of Goods and performance of Services are free of third-party property rights and in particular that the delivery and use of the Goods and Services does not infringe patents, licences or other third-party property rights.
- (2) The Contractor shall defend, at its own expense, any suit or proceeding brought against CARE DE CO, in so far as it is based on a claim that any Goods delivered, or any Services provided, under the Contract, or the normal use thereof, constitute an infringement of any patent, copyright, trademark or any other intellectual property right. CARE DE CO shall promptly notify any such occurrence to Contractor and give it reasonable authority, information and assistance (at Contractor's expense) as required for the appropriate defence of such suit or proceeding. The Contractor shall pay all damages and costs awarded therein against CARE DE CO.
- (3) In case the delivery of said Goods or any part thereof, or the provision of said Services or any part thereof, or the normal use of said Goods and/or Services or any part thereof is enjoined, Contractor shall, at its own expense and, unless set out otherwise in the Contract, at its choice, either procure for CARE DE CO the right to continue using such Goods and/or Services; or, subject to CARE DE CO's approval, modify such Goods and/or Services so that they become non-infringing; or remove such Goods and/or reverse such Services and refund to CARE DE CO any payments made by CARE DE CO with respect to such Goods and/or Services and compensate CARE DE CO for any other damages suffered by CARE DE CO as a result of the infringement.

21 COPYRIGHT, PATENTS, AND OTHER PROPRIETARY RIGHTS

CARE DE CO shall be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to documents and other materials which are prepared in the course of the performance of the Contract. At CARE DE CO's request, Contractor shall take all necessary steps, execute all necessary documents, and generally assist in securing such proprietary rights and transferring them to CARE DE CO in compliance with the requirements of applicable law.

22 CONFIDENTIALITIES

- (1) All designs, drawings, specifications, reports, data, computer programs, and any other technical or proprietary information furnished or disclosed to Contractor by CARE DE CO under or in connection with the Contract shall remain the property of CARE DE CO and shall be treated as confidential and safeguarded by Contractor. This shall not apply insofar and as long as such information is proven to be in the public domain or a legal or official obligation of disclosure exists.
- (2) Unless otherwise authorized in text form by CARE DE CO, Contractor shall use such information only in the performance of his obligations under the Contract. Upon completion or termination of the Contract, Contractor shall return such information to CARE DE CO.
- (3) Unless otherwise authorized in text form by CARE DE CO, Contractor may not communicate at any time to any third party any non-public information known to it by reason of the fact that it is furnishing or has furnished goods or services to CARE DE CO.
- (4) Contractor shall not at any time use such information to its own personal benefit. The obligations under this Article 22 shall survive the termination of the Contract.
- (5) The Contractor agrees not to disclose any matters of a confidential nature to which it may be or become privy as a result of this service agreement. – see CARE DE Confidentiality Agreement

23 CARE NAME

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The Contractor shall not use the CARE name or trademarks publicly or publicly disclose information relating to the Contract without CARE DE CO's prior written consent.

24 TERMINATIONS FOR SPECIAL CONVENIENCE

CARE DE CO may, in its sole discretion, terminate the Contract, in whole or in part, for any reason upon written notice to Contractor without liability other than that set forth herein. Upon receipt of notice of termination, which shall be deemed as the effective date of termination, Contractor shall take immediate steps to limit the incurrence of any additional costs, bring any work and Services to a close in a prompt and orderly manner, reduce expenses to a minimum and shall not undertake any forward commitment from the date of receipt of notice of termination. In the event of such termination, no payment shall be due from CARE DE CO to Contractor except as herein provided:

- (a) for work and Services satisfactorily performed or in process prior to termination and any related expenses for materials;
- (b) for reasonable expenses necessary for the prompt and orderly termination of the work, and
- (c) for the cost of such necessary work as CARE DE CO may request Contractor to complete.

In no case shall CARE DE CO be liable to Contractor for any sum in excess of the total price stated in the Contract for the Goods and/or Services nor shall this Article 24 be deemed to apply in cases where CARE DE CO terminates the Contract on grounds other than convenience.

Costs attributable to the termination as per this Article 24 shall be computed and substantiated in accordance with standard accounting practices.

25 COMPLIANCE WITH LAWS AND REGULATIONS

- (1) CARE DE CO has declared the notion of compliance to be a key company value. CARE DE CO expects the Contractor, therefore, to comply with respectively applicable national and international statutory provisions within the scope of its business activities on behalf of and with CARE DE CO. This applies in particular to legal requirements in relation to industrial safety and employee protection, compliance with human rights, prohibition of child labour, criminality of corruption and the granting of advantages of any kind and in relation to environmental protection etc. Furthermore, CARE DE CO expects the Contractor to communicate these principles and requirements to its sub-contractors and suppliers and to encourage them to comply with these laws as well.
- (2) Contractor guarantees that neither Contractor, nor any of its affiliates, nor any subsidiaries controlled by Contractor, is/are engaged in the sale or manufacture of anti-personnel mines or of components primarily utilized for the manufacture of anti-personnel mines. Any breach of this guarantee shall entitle CARE DE CO to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of CARE DE CO.

26 INDEMNIFICATIONS

Contractor will indemnify and hold harmless CARE DE and its related CARE entities from and against any claims, losses, damages, expenses, penalties, causes of action or liabilities arising from:

- (a) Contractor's breach by of any obligations or warranties hereunder, or violation of trade secrets, patent, trademark or other intellectual property rights, or
- (b) any other acts or omissions of Contractor, its agents, employees, subcontractors, or guests, relating to this Contract.

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In no event shall CARE be liable for Contractor's lost profits or consequential or incidental damages.

Any action by Contractor against CARE DE CO arising out of or in connection with this Contract must be commenced within one (1) year after the cause of action has accrued or such action shall be deemed waived.

27 CARE DE CO STAFF MEMBERS NOT TO BENEFIT

The Contractor warrants that no staff member or representative of CARE DE CO or any family member of any such person shall have any interest in Contractor's business, or has received or will be offered by Contractor any direct or indirect gift, payment or other benefit of any kind in connection with or arising from the Contract or the award thereof. In particular, Contractor warrants that no staff member or representative of CARE DE CO or any family member of any such person holds or shall hold any direct or indirect financial interest in Contractor's business. For the purposes of this Article 27 the mere holding of shares in a publicly listed company shall not be considered a financial interest, provided that such shares do not confer a power to control, or otherwise significantly influence the management of, Contractor's business. Should Contractor fail to comply with this obligation, CARE DE CO shall have the right to terminate the Contract at any time, in accordance with the provisions of Article 24 above.

28 CODES OF CONDUCT

The contractor and its employees shall maintain and comply with a written code of conduct that prohibits giving anything of value, directly or indirectly, to any person or entity, including government officials or CARE DE CO staff, in the form of a bribe or kickback;

- (a) establishes appropriate limitations on transactions with relatives of Vendor employees or businesses or ventures related to Contractor or its employees;
- (b) and otherwise properly governs the performance of its employees engaged in soliciting, awarding or administering contracts, and receiving gifts.

The Contractor shall inform CARE DE CO in writing of any violations relating to its obligations hereunder. The Contractor certifies that it has not knowingly provided and will not knowingly provide, in violation of applicable laws, material support or resources to any individual or organization that advocates, plans, sponsors, engages in, or has engaged in an act of terrorism.

29 PRICES

The prices stated in this Contract are complete and Contractor shall add no additional charges of any kind. Contractor warrants that the prices to be charged for Goods are competitive with prevailing market rates and do not exceed prices charged to other customers for a similar quantity and quality of Goods. In connection with any cash discount specified in this contract, time will be computed from the date of the complete and final delivery of the Goods, or from the date correct final invoices are received in the CARE DE CO's Accounting Department, if later. The Contractor shall specify all applicable costs, including taxes, duty, export and transportation fees and other charges on Contractor's invoice as separate items, and shall bear all such costs as part of the total Price charged.

30 DELIVERY DOCUMENTS

Immediately, upon shipment of Goods, Contractor shall, unless stipulated differently in the Contract, send the following to consignee:

- (a) one negotiable bill of lading or airway bill;
- (b) two copies of the commercial invoice;

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- (c) one copy of the consular or legalised invoice, if required by the Contract;
- (d) one certificate of origin;
- (e) one copy of the packing list;
- (f) original Certificate of Insurance, if Contractor has been requested to provide insurance.

Freight shall be pre-paid by Contractor. Freight charges must be shown separately on the invoice. Supporting documents, i.e. original invoices covering freight charges, shall be supplied with the invoice.

31 PAYMENT TERMS

- (1) Payment of submitted invoices by CARE DE CO does not imply acceptance of Goods or Services or any related work under the Contract. Unless otherwise specified in the Contract, the following provisions will apply concerning payment and supporting documents.
- (2) CARE DE CO will pay Contractor as specified in this contract, including pursuant to any discount terms; if no time of payment is indicated, payment shall be made within thirty (30) days upon receipt of the documents mentioned under Article 30 and any other documents/reports that may be specified in the Contract.
- (3) In case of installation of Goods by the Contractor the payment terms will negotiated case by case.
- (4) Any adjustments in Contractor's invoices due to shortages, late deliveries, rejection or other failure to comply with the requirements of this Contract may, at CARE DE CO's option, be made by CARE DE CO before payment, but failure to do so shall not deprive CARE DE CO of the right to do so later. CARE DE CO may withhold ten percent (10%) from payment of the final invoice to ensure that all Goods conform to this Contract and all necessary documentation has been properly received.
- (5) CARE DE CO will make payment to the bank account indicated by Contractor in its invoice, providing that the bank account is in the name of Contractor and located in its country of residence. Any request for payment to a bank account other than that of Contractor or to a bank other than one located in Contractor's country of residence must be specified and justified by Contractor at the time of making its offer.

32 ASSIGNMENTS, SUBCONTRACTING

- (1) Contractor shall have the sole and full responsibility for the performance of its obligations under the Contract. Contractor may not assign, transfer, pledge, sub-contract, or otherwise dispose of the Contract or any part thereof, or any of Contractor's rights or obligations under the Contract without the prior written consent of CARE DE CO, which CARE DE CO may not unreasonably withhold. Any assignment by Contractor which is not authorized by CARE DE CO will be void and CARE DE CO reserves the right in such case, without prejudice to other rights or remedies, to cancel the Contract without liability effective upon Contractor's receipt of CARE DE CO's notice of termination. The approval by CARE DE CO of an assignee or subcontractor shall not release Contractor of any of its obligations under the Contract.
- (2) Contractor agrees that CARE DE CO may, at its discretion, assign, transfer, pledge, sub-contract or otherwise dispose of the Contract or any part thereof, or any of CARE DE CO's rights or obligations under the Contract, subject to written notification to the Contractor within a reasonable period of time either prior to or following such assignment, transfer, pledge or sub-contracting arrangement.
- (3) The terms of any assignment, transfer, pledge, sub-contracting arrangement or other disposition in accordance with this Article 32 shall be subject to and in accordance with the provisions of the Contract.

34 CHANGES OF CONTROL, INSOLVENCY, BANKRUPTCY

Contractor shall immediately report any change in its legal status or in its control to CARE DE CO. In the event that Contractor becomes insolvent or bankrupt or the control or legal status of Contractor changes for any other reason, CARE DE CO may terminate the Contract, without prejudice to any other rights and remedies, effective upon Contractor's receipt of CARE DE CO's notice of termination.

35 NOTICES AND COMMUNICATION

All notices and other binding communication shall be in English, or the language of the Purchase Order, and shall be deemed to be validly given if sent by registered mail, by fax, by email with return receipt or by cable to the other party at the address or numbers of either party as indicated in the Contract.

36 APPLICABLE LAWS

Unless provided otherwise in the Purchase Order, the Contract shall be subject to and construed in accordance with the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

37 SETTLEMENTS OF DISPUTES, CONCILIATION AND ARBITRATION

Any dispute between the parties concerning the interpretation and the execution of the Contract will be settled or, if not settled by negotiation between the parties or by another agreed mode of settlement, shall, at the request of either party, be submitted to one conciliator. Should the parties fail to reach agreement on the name of a sole conciliator, each party shall appoint one conciliator.

The conciliation shall be carried out in accordance with the Conciliation Rules of the United Nations Commission on International Trade Law (UNCITRAL), as applicable from time to time. Any dispute between the parties concerning the interpretation and the execution of the Contract that remains unresolved after conciliation shall, at the request of either party, be settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL Arbitration Rules), as applicable from time to time. The conciliation or the arbitration proceedings shall be conducted in the language of the Purchase Order. The parties may request conciliation during the performance of the Contract, during any Warranty Period as defined in Article 9 above, or within a period not to exceed twenty-four (24) months after the completion or termination of the Contract. The parties may request arbitration not later than ninety days after the termination of the conciliation proceedings. Decisions of the arbitral tribunal shall be final and binding upon the parties. The arbitral tribunal shall have the authority to award punitive damages and, unless otherwise expressly provided in the Contract, to award interest. The venue negotiation shall take place in a neutral place. The place of arbitration shall be Bonn, Germany, and the language used in the proceedings shall be English.

CARE Deutschland e.V., Bonn January 2023