

## TERMS AND CONDITIONS OF PURCHASE

### 1. PURCHASE ORDER TERMS

These terms and conditions of purchase (the **Terms and Conditions of Purchase**) apply to every order placed by Dubai Future Foundation (**DFF**) with any individual, firm or company (the **Supplier**) in relation to the supply of goods and/or services as specified in the purchase order which shall be read to include these Terms and Conditions of Purchase (collectively referred to hereinafter as the **Purchase Order**). Where DFF and the Supplier have executed another agreement specific to the supply of goods and/or services (the **Formal Agreement**), the terms of the Formal Agreement shall govern the supply of goods and/or services and shall supersede the Purchase Order to the extent of any conflict, ambiguity or inconsistency between the Purchase Order and the terms of the Formal Agreement.

### 2. GOODS, SERVICES AND PRICES

- (a) If required by DFF, the Supplier must provide DFF with samples of the relevant goods for approval. The goods finally delivered to DFF must be of the same specifications (or better) as any sample which DFF have approved.
- (b) The prices quoted by the Supplier in the Purchase Order are fixed, and may not be increased.
- (c) Packaging cases, boxes, drums and/or packing materials shall form part of the quoted price and shall not be separately charged for by the Supplier and shall be regarded as non-returnable unless otherwise agreed in writing by DFF.
- (d) The Supplier undertakes that, all rights, title and interest in and to the intellectual property rights in any bespoke goods and/or services provided by the Supplier to DFF (i.e. those which have been modified, customised and/or developed specifically for DFF by the Supplier) pursuant to the Purchase Order shall absolutely, unconditionally and fully vest in DFF immediately upon the same having been created, developed, written or prepared.
- (e) It is preferably that the goods and services are environmental friendly and manufactured of environmentally material, recyclable and can be safely disposed. The goods and services should not carry any risks or negative effects on the environment or staff (an official certificate must be provided (if applicable)).

### 3. UNDERTAKINGS, REPRESENTATIONS AND WARRANTIES

The Supplier represents, warrants and undertakes to DFF that:

- (a) it possesses and shall maintain all requisite, consents, certificates, licences, permits and authorisations in relation to the performance of the services and delivery of the goods;
- (b) it shall keep itself acquainted with and comply with all applicable laws;
- (c) it will ensure that its personnel, representatives and/or subcontractors sign and submit to DFF any required non-disclosure agreement and/or assignment or waiver of intellectual property rights forms as may be required by DFF;
- (d) it will comply with all its obligations in the Purchase Order and all instructions provided by DFF and it will supply the goods and/or services with all care, skill and diligence and in accordance with good industry practice;
- (e) it will ensure that the goods and services are free from any defect, fit for the purpose intended, not infringing any third party's intellectual property rights and should there be any defects, deficiencies or illegalities, shall resolve and/or rectify the same promptly at its own costs;
- (f) it shall, at its own expense and at no cost to DFF, assigns (or shall procure the necessary assignments from its personnel, representatives, and/or subcontractors) to DFF for all purposes (to the extent capable of assignment) all intellectual property rights arising in and/or relating to the goods and services and unconditionally and irrevocably waives (or shall procure the necessary waivers by its personnel, representatives and/or subcontractors) all moral rights that exist or may exist in the goods and/or the services. The Supplier shall, at its own expense and at no cost to DFF, take all steps and sign all deeds and documents necessary (including to procure such actions from its personnel, representatives, and/or subcontractors) to formalise such vesting in DFF or otherwise register such intellectual property rights in the name of DFF

(or such other person, entity or affiliate as DFF may so direct). The Supplier acknowledges that DFF shall have the right to hold any payment to the Supplier under the Purchase Order until DFF receives all the original written and signed copy of the relevant assignments and waivers.

- (g) it shall not knowingly or negligently take or do any action or permit or suffer any omission that would be detrimental to the goodwill associated with DFF's or its affiliates' names or to the Government of Dubai or create unfavorable publicity or bring disrepute to Dubai, DFF, any of its affiliates or to the Government of Dubai at any time;
- (h) in connection with each of its personnel, it has complied with all employment-related requirements, labor laws, including obtaining valid permissions, medical insurance, meeting the Supplier's contractual obligations, employment-related or otherwise, and making full payment of salary to such employees;
- (i) the Supplier undertakes to defend, indemnify and hold harmless DFF and its affiliates from and against any claim or action that the use or possession of the goods, the services Supplier's materials or the or any part of thereof infringes the intellectual property rights of any third party; and
- (j) The Supplier undertakes not to do or permit anything which may adversely affect the intellectual property rights of DFF or its affiliates, or assist or allow others to do so.

Any violation or non-compliance with any of the representations, warranties and undertakings set out above shall constitute a material breach of the Purchase Order.

#### **4. ACKNOWLEDGMENT OF A PURCHASE ORDER**

- (a) Within two (2) working days of receiving the Purchase Order, acknowledgement of receipt of the Purchase Order by the Supplier must be made by returning it to the email address r stated in clause 17.
- (b) If the Supplier fails to respond to a Purchase Order in accordance with clause 3(a), the Supplier will be deemed unable to deliver the goods and/or services requested by DFF.

#### **5. DELIVERY, INSPECTIONS AND ACCEPTANCE**

- (a) The Supplier must deliver the goods and/or services within the agreed time periods specified in the Purchase Order. If the Supplier fails to deliver the goods and/or services by the date specified in the Purchase Order, DFF shall have the right at its sole discretion to take one or more of the following actions against the Supplier:
  - i. impose financial compensation of two per cent (2%) of the total value of the Purchase Order, for each week of delay (or any part of a week thereof), up to a maximum amount of ten per cent (10%) of the total value of the Purchase Order;
  - ii. engage one or more third party service provider(s) to perform a portion or all of the services that, as of that date, have not been performed to the satisfaction of DFF and fully claim such related losses, costs and expenses from the Supplier plus 10% administrative charges;
  - iii. call upon the performance bond and/or any advance payment bank guarantee (if any);
  - iv. cancel the Purchase Order; and/or
  - v. terminate the Formal Agreement (if applicable) for material breach and claim any one or more available remedies under the Formal Agreement or law.
- (b) In the event of failure in delivering the goods and/or services caused by a force majeure event, and that such event could not have been prevented by the Supplier undertaking reasonable precautions, the Supplier shall immediately notify DFF in writing of the occurrence of the event giving full details thereof and the measures being taken by the Supplier to mitigate the impact of such event on its obligations under the Purchase Order and subsequently the cessation of such force majeure event. Provided that a notice has been issued and provided further that both parties agree that a force majeure event has occurred, and the party affected by the force majeure event has taken reasonable precautions and

actions to mitigate the effects of such force majeure event, the party affected by the force majeure event shall not be liable for any delay in performing its obligation under the Purchase Order to the extent that such delay has been caused by one or more force majeure event. If the parties do not agree as to the duration of the delay, the disagreement shall be dealt with pursuant to clause 16.

- (c) DFF shall have the right to reject any goods and/or services that have not been provided by the Supplier strictly in accordance with the Purchase Order.
- (d) The Supplier must provide a prior written notice to DFF's authorized representative and must have received a written notice from DFF confirming commencement and acceptance of the services before commencing, performing or providing the relevant services.
- (e) Each of the goods and services shall be subject to written acceptance from DFF which expressly confirms that DFF has accepted the goods and/or services and that they fully and satisfactorily meet DFF's requirements.
- (f) Upon delivery of the goods and/or services, DFF may issue an initial receiving note acknowledging the receipt of the goods and/or services, this will be followed by a final receiving note once the required inspection is finalized. This process depends on the nature of the goods and/or services. If upon inspection by DFF (or its nominated representative) any goods and/or services are found to be unsatisfactory, defective or of inferior quality or workmanship or fail to meet the specifications, warranties or any other requirements set out in the Purchase Order (**Defective Deliverables**), DFF may return such Defective Deliverables to the Supplier at the Supplier's risk and expense. DFF may withhold payment for Defective Deliverables. Payment for the goods and/or services prior to inspection will not be construed to be an acceptance of the goods and/or services. Upon return of any Defective Deliverables, the Supplier must reimburse DFF for: a) any amounts paid by DFF for the Defective Deliverables; and b) any cost incurred by DFF in connection with the delivery or return of such Defective Deliverables. Without prejudice to any other remedies, should DFF require the Supplier to dispatch any replacement services/goods to replace any Defective Deliverables, the Supplier will do so within a reasonable time to be mutually agreed by the Parties.

## **6. TITLE AND RISK**

The title and risk in the goods or materials shall not pass to DFF until the goods or materials are physically delivered in good condition to DFF or to any other agreed delivery point and have been inspected by DFF and accepted by DFF.

## **7. INSURANCE**

- (a) The Supplier shall at its own expense and with reputable insurers, insure all goods and/or services to be delivered to DFF pursuant to the Purchase Order which may be at the Supplier's premises in transit to their full value against all potential liabilities and in such manner that the goods and/or services are covered by such insurance up until the goods and/or services have been delivered and accepted by DFF. The requirements stated herein shall not be construed in any way as limiting the Supplier's liability under the Purchase Order or as constituting a waiver by DFF of any of its rights or remedies under the Purchase Order or under any laws.
- (b) The Supplier shall ensure that any subcontractor engaged by the Supplier in relation to a Purchase Order obtains and maintains all insurances required by all applicable laws with reputable insurers and all such other insurance as the Supplier may consider necessary. Any deficiencies in the cover or policy limits of insurances of such subcontractors shall be the sole responsibility of the Supplier.

## **8. PERFORMANCE BOND AND ADVANCE PAYMENT BANK GUARANTEE**

- (a) The Supplier shall submit a performance bond equal to the value of ten percent (10%) of the total value of the Purchase Order in the form of a bank guarantee as set out in schedule 2. The performance bond must be valid for the period extending from the date of signature of the Purchase Order up until at least 90 days after the completion of the final obligations to be performed by the Supplier under the Purchase Order. The performance bond shall substantially be in the format as set out in Schedule 1. This clause shall not apply if the value of the Purchase Order is less than AED 200,000.00, or, if the performance of the services or the delivery of the goods under the Purchase Order is less than twenty (20) days.

- (b) If there is an advance payment requested by the Supplier and this is agreed by DFF (at its sole discretion), and provided always the advance payment amount is less than 20% of the total value of the Purchase Order, the Supplier shall provide an irrevocable, unconditional, on demand bank guarantee provided by a licensed commercial bank in Dubai, on terms acceptable to DFF and in the amount equal to the advanced payment amount and it must be valid from no later than the date the advance payment is made or is to be made until the advanced payment amount is fully repaid or set-off or redeemed by the provision of the relevant goods and services to which such advance payment relates.
- (c) The Supplier shall not be entitled to any payment until it has provided the performance bond and, if applicable, a bank guarantee for any advance payment, in the form acceptable to DFF and in accordance with this clause 8.

## 9. PAYMENT AND INVOICING

- (a) Subject to clause 8(c), and the written acceptance by DFF in accordance with clause 5(e), payment of any sums due shall be made within thirty (30) days from the date of receipt by DFF of the properly rendered invoice. An invoice shall only be deemed to have been properly rendered upon the Supplier submitting all documents and information required by DFF to support each invoice.
- (b) The Supplier shall submit to [finance@DubaiFuture.gov.ae](mailto:finance@DubaiFuture.gov.ae) the invoice within one (1) month from the date the relevant goods and/or services which are the subject matter of the invoice being delivered, failing which, DFF shall not be obliged to make any payment in relation to such invoice.

## 10. VALUE ADDED TAX (VAT)

The prices shown in the Purchase Order shall be [inclusive of VAT] as imposed pursuant to Federal Decree-Law No. 8 of 2017 on Value added Tax (as amended and updated from time to time) (the **VAT Law**). Invoices will not be accepted by DFF unless issued in accordance with the VAT Law.

## 11. CANCELLATION

- (a) This Purchase Order may be cancelled by DFF by giving a written notice to the Supplier within five (5) days from the submission of the Purchase Order to the Supplier. Such cancellation will be applicable to goods which have not been already delivered to DFF in accordance with the Purchase Order.
- (b) Subject to clause 9, DFF will pay the Supplier the value of the goods or services that have been satisfactorily performed, delivered, and accepted by DFF in writing, in accordance with the Purchase Order up to the date of notification of cancellation on a pro rata basis.

## 12. LIABILITY

- (a) The Supplier shall indemnify and hold harmless the DFF, its personnel, representatives and its affiliates (the **Indemnified Persons**) from all claims, damages, liabilities, losses (including any loss of, or damage to, any property of, or injury to or death of, any person) and expenses of any kind whatsoever incurred or suffered by the Indemnified Persons arising from or in connection with any error or wilful or negligent act or omission by the Supplier or its personnel, representatives or subcontractors and/or any breach by the Supplier of the Purchase Order or applicable laws or arising out of the performance by the Supplier of its obligations under the Purchase Order.
- (b) The Supplier shall defend, indemnify and hold harmless the Indemnified Persons from and against any taxes, levies, duties, demands, penalties or other charges that may be made by the relevant authorities (outside the United Arab Emirates) against the Indemnified Persons or any payments made by the Indemnified Persons in respect of such taxes,

levies, duties, demands, penalties or other charges (outside the United Arab Emirates) relating to the obligations of the Supplier under the Purchase Order which have not been earlier notified or agreed to by DFF in writing.

- (c) If the Supplier fails to deliver the goods and/or services to DFF's satisfaction in accordance with the provisions of the Purchase Order, then DFF shall be entitled to exercise its right pursuant to Clause 5(a).
- (d) The Supplier shall maintain at all times insurance policy or policies adequately insuring the Supplier against potential liabilities under the Purchase Order to an extent and to limits that would be reasonably expected in accordance with good industry practice and applicable laws. DFF may request to inspect, and the Supplier shall provide, originals of such insurance policies.
- (e) The right of DFF to be indemnified under this Clause 12 is in addition to, and not exclusive of, any other right, power or remedy provided by law or under the Purchase Order.
- (f) This Clause 12 shall remain in full force and effect notwithstanding any termination or expiry of the Purchase Order.

### **13. TERMINATION**

- (a) Any breach by the Supplier of any term of the Purchase Order either in respect of time of delivery or otherwise shall, whether DFF has accepted the goods or services or any part thereof or not, and whether or not the title in the goods or services has passed to DFF or not, constitute a material breach and shall entitle DFF to terminate the Purchase Order for such breach and claim for damages for such breach where appropriate.
- (b) DFF shall be entitled to terminate the Purchase Order with immediate effect on written notice if the Supplier is unable to pay its debts or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution of the Supplier (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any substantial part of the assets of the Supplier or the Supplier enters into or proposes any composition or arrangement with its creditors generally or anything analogous to the foregoing occurs in any applicable jurisdiction; or
- (c) DFF shall be entitled to terminate the Purchase Order with immediate effect on written notice if the Supplier or any of its directors, managers, partners, representatives, subcontractors or owners is convicted of any criminal activity, in particular, relating directly or indirectly to the performance of this Purchase Order or any other Purchase Order held with DFF or any of its affiliates.

### **14. CONFIDENTIALITY**

- (a) The Supplier shall treat all confidential information belonging to DFF as confidential and safeguard it accordingly, and shall not disclose any confidential information without the prior written consent of DFF.
- (b) This Clause 14 shall remain in full force and effect notwithstanding any termination or expiry of the Purchase Order.

### **15. GENERAL**

- (a) The Supplier must comply with all labor laws in force in the United Arab Emirates.
- (b) The Supplier shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Purchase Order without the prior written consent of DFF.
- (c) Nothing in this Purchase Order shall constitute or be deemed to constitute a relationship of an agency, partnership or joint venture between the parties.
- (d) No failure of DFF to exercise, and no delay by it in exercising, any right, power or remedy in connection with this Purchase Order shall operate as a waiver of that right.

- (e) If any term of this Purchase Order is or becomes illegal, invalid or unenforceable, that shall not affect the legality, validity or enforceability of any other term of this Purchase Order.
- (f) This Purchase Order contains the whole agreement between the parties relating to the transactions contemplated by this Purchase Order and supersede all previous written or verbal agreements between the parties relating to those transactions and excludes all other terms and conditions which may have been submitted, whether in writing or verbally, by the Supplier. It is expressly agreed that no variations to a Purchase Order shall be effective unless made in writing, signed by both parties.

#### **16. APPLICABLE LAW**

The Purchase Order and the relationship between DFF and the Supplier established hereunder shall be governed by, and construed in accordance with the laws of the emirate of Dubai and the applicable federal laws of the UAE. The Supplier shall submit to the exclusive jurisdiction of the Dubai Courts (as established by Law No. 3 of 1992 and Law No. 13 of 2016) on matters arising from this Purchase Order, the submitted proposal, the procurement process and the Formal Agreement (if any) and renounces any right it may have to challenge in any other jurisdiction or arbitral system the decision of the Dubai Courts.

#### **17. COMMUNICATION**

All enquiries, requests for clarification and communication with DFF regarding the Purchase Order or the services must be made in writing and communicated via <https://www.futurebuy.ae/web/login.html>

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**SCHEDULE 1**  
**Format of Performance Bond**

***[To be prepared on the bank's letterhead]***

**[Date]**

**Dubai Future Foundation**  
**[insert full address]**  
**Attention: [insert name and title]**

Dear Sirs,

**Performance Bond No. [number]**

Whereas our client, **[service provider's name]** (the **Service Provider**), has entered into an agreement with you in relation to the **[subject matter]** on **[date]** (the **Agreement**).

In consideration of the above, we, **[bank's name]**, hereby undertake to hold at your disposal the sum of **UAE Dirhams [amount in words] (AED[amount])** (the **Performance Bond Amount**) as performance bond.

We hereby irrevocably and unconditionally guarantee, as primary obligor, to pay immediately upon receiving your written demand on one or more occasions, and notwithstanding any objection which may be made by the Service Provider or any person on its behalf, and without the need for any judicial proceeding or notary warning, an amount or amounts not exceeding in aggregate the Performance Bond Amount, which shall be immediately available, freely transferable and without any deduction or withholding of any nature whatsoever. We shall accept such demand as undisputable evidence that the Service Provider has failed to fulfil its obligations towards you under the Agreement and that the amount claimed is due to you under this performance bond.

This performance bond shall be irrevocable and remain valid and effective from **[insert date – can be the date of issuance or any date provided it must NOT be later than the Commencement Date of the Agreement]** until **[insert date - the date must be at least 90 days AFTER the expected completion of the Services]**.

Our liability under this performance bond is limited to the Performance Bond Amount and this performance bond must be returned to us upon fulfilment of the obligation under this performance bond.

This performance bond shall be governed by and construed in accordance with the applicable laws of the United Arab Emirates and the laws of the Emirate of Dubai. Any dispute or claim that arises out of or in connection with this performance bond shall be finally settled by Dubai Courts (as established by Law No. 3 of 1992 and Law No. 13 of 2016) in accordance with the terms of the Agreement.

For notice and communication purposes, please contact **[name / designation / department]** at **[telephone no.]** or **[email address]**.

Yours faithfully,

**[BANK'S NAME]**

**[Authorized Signature]**

**[Name]**

**[Designation]**