

## GENERAL TERMS AND CONDITIONS: PURCHASE ORDER

- 1. Offer & Agreement:** The following terms together with those on the face of this agreement, other documents as may be incorporated by reference or attached hereto, and additional terms in any Change Notice issued to this order, constitute the offer of FHI Partners to the Vendor and shall, when accepted, constitute the entire order or contract between FHI Partners and Vendor. This agreement shall be deemed to have been accepted upon commencement of performance. Any reference herein to any proposal, quotation, or other communication by Vendor shall, unless indicated to the contrary herein, be deemed to be limited to the description of the services and to be limited by these terms set forth or incorporated by reference herein.
- 2. Assignment:** Neither party may assign this order or any benefits arising from this order without the prior written consent of the other, and, unless otherwise agreed in writing, the rights of any assignee shall be subject to all set-offs, counterclaim, and other comparable rights arising hereunder. FHI Partners shall not, except as otherwise agreed in writing by FHI Partners, delegate or assign all or substantially all of on any item or service to be furnished under this agreement.
- 3. Proprietary Information & Confidentiality:** Vendor shall consider all data, documentation, drawings, specifications software and other information furnished by FHI Partners to be confidential and proprietary and shall not disclose any such information to any other person, or use such information itself for any purpose other than that for which it was intended in completing this order, unless Vendor obtains written permission from FHI Partners to do so. Vendor agrees to execute FHI Partners standard Non-Disclosure Agreement upon request.
- 4. Terms of Payment:** Subject to any superseding terms on the face hereof, Vendor shall invoice FHI Partners at [FHIPartners@fhi360.org](mailto:FHIPartners@fhi360.org) and be paid upon completion/acceptance of the required supplies/services. Vendor shall be paid not later than thirty (30) days after FHI Partners receipt of an acceptable invoice or FHI Partners receipt of the completed products/services, together with any required documents. Drafts will not be honored.
- 5. Compliance with Law:** Vendor's performance of work hereunder and all products to be delivered hereunder shall be in accordance with any and all applicable executive orders, Federal, State, municipal, and local laws and ordinances, and rules, orders, requirements and regulations. Otherwise agreed, governing law shall be that of the North Carolina.
- 6. Title and Risk of Loss:** Title to and risk of loss of, each product and/or service to be delivered hereunder shall, unless otherwise provided herein, pass from Vendor to FHI Partners upon acceptance of such product/service by FHI Partners.
- 7. Inspection:** (a) Vendor shall work within professional standards and limitations specified on work statements, drawings and specifications covering the work and shall make such inspections as are deemed necessary to insure Vendor compliance, unless deviation there from is authorized in writing by FHI Partners. (b) All shipments of materials shall be subject to final inspection by FHI Partners after receipt by FHI Partners at destination. If material supplied or work performed by Vendor is found to be defective, Vendor shall be given the opportunity to correct any deficiencies within a reasonable period of time. If correction of such work is impracticable, Vendor shall bear all risk after notice of rejection and shall, if so requested by FHI Partners and at its own expense, promptly make all necessary replacements. Vendor shall provide immediate notice to FHI Partners of any potential failure on the part of its suppliers to provide supplies/services required hereunder. Vendor is responsible for any deficiency on the part of its suppliers. Vendor shall be responsible for any costs of re-procurement as may necessary for FHI Partners to secure the supplies/services as a result of vendor's inability to perform that exceed the agreed upon price herein. (d) Final inspection and acceptance by FHI Partners shall be conclusive except for latent defects, fraud, or for any rights provided by any product warranty.
- 8. Force Majeure:** The Vendor shall not be liable by reason of any failure in performance of this Agreement in accordance with its terms if such failure arises out of causes beyond the control and without the fault or negligence of Vendor. Such cases may include, but are not restricted to, acts of God, acts of government or municipal or other authorities, fires, floods, epidemics, quarantines, strikes, and labor disputes. Such causes do not include deficiencies on the part of its suppliers.
- 9. General Warranty:** Vendor warrants all supplies/services to be free from all materials defects and expressly represents that all such required supplies/services are capable of performing the function service for which they were intended. Vendor agrees to pass on all manufacturer's warranties to FHI Partners.
- 10. Liens:** Vendor agrees to deliver the products/services which are the subject-matter of this order to FHI Partners free and clear of all liens, claims, and encumbrances.
- 11. Stop Work and Termination:** (a) FHI Partners shall have the right to direct Vendor to stop work at any time. Such direction must be in writing and shall be effective for a period of not more than 30 days after which time Vendor may continue work absent direction to do so or a notice of termination. (b) This Order may be terminated upon default of either party in meeting its obligations hereunder. (c) This order may be terminated for convenience, without fault of either party, by FHI Partners with advance written notice to Vendor. Vendor shall be paid for work completed and shall be reimbursed all actual costs for work in process incurred to time of termination notification inclusive of any associated administrative costs, restocking charges, vendor cancellation charges and settlement costs. Under no circumstances shall Vendor receive more than the original value of this Order (d) This order may be terminated for constructive default in the event that the FHI Partners has reasonable cause to believe that the Vendor will not be able to perform in accordance with the terms and conditions of the Order. Vendor shall be given a reasonable opportunity to respond to a notice of constructive default termination. In the event of failure of the Vendor to deliver/complete any part of this order, then FHI Partners shall, at its sole discretion, have the right to accept any delivered/completed part and unilaterally reduce the agreed upon price accordingly. (e) FHI Partners acceptance of partial deliveries shall not constitute a waiver of any of the Vendor's remaining obligations hereunder. (f) The preceding paragraph (e) shall not limit any legal rights of either party to cancel this order by reason of any default, and FHI Partners further reserves the right to cancel this order without further liability for articles not accepted by FHI Partners in the event Vendor commits an act of bankruptcy, files or has filed against the petition of bankruptcy or insolvency or suffers any receivership or other similar petition to be filed for or against it.
- 12. Insurance & Work on FHI Partners' or FHI Partners Client Premises:** When Vendor performs work on FHI Partners premises during the performance of this order, the Vendor agrees to maintain General Liability Insurance in the amount of at least \$500,000 per claim/occurrence and such other insurance as may be required in writing by the FHI Partners Client. Vendor, however, shall maintain adequate insurance coverage against claims arising from injuries sustained by Vendor on FHI Partners facilities and agrees to be liable for all damages & claims arising against FHI Partners for which the Vendor is responsible.
- 13. Independent Relationship:** Nothing in this Agreement shall be construed as creating anything other than a FHI Partners/Vendor relationship between FHI Partners and the Vendor.

14. **Work Product Presumptive FHI Partners Property:** All writings, books, articles, computer programs, databases, source and object codes, and other material of any nature whatsoever, including trademarks, trade names, and logos, that is subject to copyright protection and reduced to tangible form in whole or in part by Vendor in the course of Vendor's service to FHI Partners shall be considered a work made for hire, or otherwise FHI Partners property. During this agreement and thereafter, Vendor agrees to take all actions and execute any documents that FHI Partners may consider necessary to obtain or maintain copyrights, whether during the application for copyright or during the conduct of an interference, infringement, litigation, or other matter (FHI Partners shall pay all related expenses). Vendor shall identify all materials in which Vendor intends to exempt from this provision prior to the use or development of such materials.

15. **Rights in Data:** The Vendor understands and agrees that FHI Partners may itself and permit others, to reproduce through but not limited to the publication, broadcast, translation, creation of other versions, quotations there from, any provided publications and materials, and otherwise utilize this work and material based on this work. During the agreement and thereafter, Vendor agrees to take all actions and execute any documents that FHI Partners may consider necessary to obtain or maintain copyrights, whether during the application for copyright or during the conduct of an interference, infringement, litigation, or other matter (all related expenses to be borne by FHI Partners). The Vendor shall identify all materials it intends to exempt from this provision prior to the use or development of such materials. The Vendor shall defend, indemnify, and hold harmless FHI Partners against all claims, suits, costs, damages, and expenses that FHI Partners may sustain by reason of any scandalous, libelous, or unlawful matter contained or alleged to be contained in the work, or any infringement or violation by the work of any copyright or property right; and until such claim or suit has been settled or withdrawn, FHI Partners may withhold any sums due the Vendor under this agreement. Vendor agrees to specifically identify to FHI Partners any and all computer software licenses ("including shrink-wrap") as may convey to the FHI Partners. Vendor agrees that any and all computer software developed in the performance of this order using FHI Partners monies shall, unless otherwise agreed, become and remain the property of FHI Partners.

16. **Indemnification:** The Vendor shall defend, indemnify, and hold harmless FHI Partners against all claims, suits, costs, damages, and expenses that FHI Partners may sustain by reason of Vendor's negligent or unlawful actions resulting from Vendor's performance under this agreement.

17. **Liquidated Damages:** If the Vendor fails to deliver the supplies or perform the services within the time specified in this agreement, FHI Partners may require that Vendor pay, in place of actual damages, liquidated damages in the amount of one percent (1%) of the agreement value for each day of delay. If FHI Partners terminates this agreement in whole or in part for default, as provided under section 12 above, Vendor is liable for liquidated damages accruing until such time that FHI Partners reasonably obtains delivery or performance from another vendor. These liquidated damages shall be in addition to any excess costs for re-purchase. Vendor will not be charged with liquidated damages when delay of delivery or performance is beyond the control and without the fault or negligence of the Vendor.

18. **Debarment, Suspension, Ineligibility, and Voluntary Exclusion:** Vendor certifies by acceptance of this agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any U.S. Federal Government department of agency.

19. **Vendor Terms and Conditions:** The terms and conditions of this purchase order shall supersede any other terms and conditions.

20. **Gratuities:** This agreement shall be terminated for cause in accordance with section 11 above should it be determined by FHI Partners that Vendor offered or gave a gratuity (e.g. entertainment, gift, services or money) to any FHI Partners employee or other persons responsible for or connected to those responsible for the decision to award this agreement or the acceptance of performance under this agreement and that gratuity was intended to obtain this award or favorable treatment during performance of the award.

21. **Payment for Reimbursable Expenses:** Requests for payment for materials costs, if applicable under a Time and Materials agreement, must be supported by receipts for all items invoiced.

22. **Computer Software Licenses:** Vendor agrees to specifically identify to FHI Partners any and all computer software licenses (including "shrink wrap") as may be conveyed to FHI Partners. The Vendor agrees that any and all computer software developed in the performance of this order using FHI Partners money shall, unless otherwise agreed, become and remain the property of FHI Partners.

23. **Organizational Conflict of Interest:** The Vendor warrants that, to the best of his knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances that might indicate the existence of or give rise to actual or potential organizational conflicts of interest. Organizational conflict of interest, means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

24. **Excusable Delays:** The Vendor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Vendor and without its fault or negligence. The Vendor shall notify FHI Partners in writing as soon as it is reasonably possible after the commencement of any excusable delay.

25. **Export Control:** Vendor shall comply in all respects with all applicable local, state, and federal laws and regulations, as well as all U.S. statutes, regulations, and administrative requirements regarding relationships with non-U.S. governmental and quasi-governmental entities including but not limited to the export control regulations of the Department of State and the International Traffic in Arms Regulations ("ITAR"), the Department of Commerce and the Export Administration Act ("EAA"), the anti-boycott and embargo regulations and guidelines issued under the EAA, and the regulations of the U.S. Department of the Treasury, Office of Foreign Assets Control.

26. **Foreign Corrupt Practices Act:** The anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 ("FCPA"), 15 U.S.C. §§ 78dd- 1", *et seq.*, makes it unlawful for U.S. companies, as well as their officers, directors, employees, and agents, to corruptly offer or make a corrupt payment of money or anything of value to a foreign official for the purpose of obtaining or retaining business. Vendor acknowledges and understands that he/she must comply fully with the anti-bribery provisions of the FCPA. Specifically, Vendor understands and agrees that it shall be unlawful for the Vendor to pay, offer, promise to pay (or authorize to pay or offer) money or anything of value to a *foreign official* in order to assist FHI Partners in *obtaining* or *retaining business* for or with, or *directing business* to, FHI Partners. A "foreign official" means any officer or employee of a foreign government, a public international organization, or any department or agency thereof, or any person acting in an official capacity.

27. **Data Protection**

1. References in this section to "controller", "personal data", "data subject", "processor", and "processing" shall have the meaning given under Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural

persons with regard to the processing of personal data (the “General Data Protection Regulation” or “GDPR”).

2. To the extent Supplier processes any personal data on behalf of FHI Partners and in relation to which FHI Partners is the Controller, Supplier shall:
  - (a) act only on instructions from FHI Partners when processing such personal data and keep records of all such processing;
  - (b) take all appropriate technical and organizational measures against unauthorized or unlawful processing of such personal data and against accidental loss or destruction of, or damage to, such personal data. Such measures shall take into account and be appropriate to the state of the art, nature, scope, context and purposes of processing and risk harm which might result from unauthorized or unlawful processing or accidental loss, destruction or damage to personal data;
  - (c) process the personal data in accordance with the GDPR and all other applicable laws and regulations relating to the processing of personal data, data privacy, or data security (the “Data Protection Legislation”);
  - (d) not do or permit anything to be done which might cause FHI Partners or any of its affiliates in any way to be in breach of the Data Protection Legislation;
  - (e) immediately inform FHI Partners if, in its opinion, performance of the Services or compliance with any instruction received from FHI Partners under subsection (a) above violates, or might reasonably be considered to violate, the Data Protection Legislation;
  - (f) immediately notify FHI Partners if it receives any complaint, data subject access request, notice or communication which relates directly or indirectly to the processing of personal data under this Agreement and provide full co-operation and assistance in relation to the same;
  - (g) notify FHI Partners promptly and without undue delay upon becoming aware of a Personal Data Breach (as defined herein) or circumstances that are likely to give rise to a Personal Data Breach, providing FHI Partners with sufficient information and in a timescale which allows FHI Partners to meet any obligations to report a Personal Data Breach under the Data Protection Legislation. As used in this section, “Personal Data Breach” means an unauthorized loss, corruption, damage, destruction, alteration, disclosure or access to any personal data, any unauthorized or unlawful processing of personal data, or any breach of the Data Privacy Legislation.
  - (h) co-operate with FHI Partners and take such reasonable commercial steps as are directed by FHI Partners to assist in the investigation, mitigation and remediation of a Personal Data Breach;
  - (i) co-operate as requested by FHI Partners to enable FHI Partners to comply with any exercise of rights by a data subject under the Data Protection Legislation with respect to personal data processed by Supplier under this Agreement or comply with any assessment, enquiry, notice or investigation under the Data Protection Legislation;
  - (j) only authorize a third party sub-processor to process such personal data subject to FHI Partners’ prior written consent and provided that the sub-processor’s contract is on terms which are substantially the same as those set out in this section; and
  - (k) not transfer, permit a third party sub-processor to transfer or allow access to personal data outside the European Economic Area without FHI Partners’ prior written consent, which consent may be subject to such conditions as FHI Partners may determine at its discretion.
3. Supplier agrees that FHI Partners may from time to time have reasonable access to Supplier’s premises, systems and records to enable FHI Partners to carry out an audit of Supplier’s security measures and procedures in connection with the processing of any personal data pursuant to this Agreement.
4. Supplier shall indemnify, defend, and hold harmless FHI Partners and its Affiliates, against all costs, claims, damages or expenses incurred by FHI Partners due to any failure by Supplier to comply with any of its obligations under this section.