



International Union Against
Tuberculosis and Lung Disease
Health solutions for the poor

INTERNATIONAL TENDER ZIMBABWE

Supply of Antiretroviral Medicines

June 2011

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Invitation to Tender

The International Union Against Tuberculosis and Lung Disease (The Union) intends to purchase antiretroviral medicines for its programme entitled 'INTEGRATED HIV CARE FOR TUBERCULOSIS PATIENTS LIVING WITH HIV /AIDS (IHC)' being implemented by the Health Services Departments in City of Bulawayo and City of Harare, Zimbabwe, and being funded by a grant from the European Commission (EC).

The Union is now inviting you to submit a tender for these products. The specifications of the medicines to be provided are detailed in the Technical Specifications.

All tenders are subject to the terms and conditions set out in the document entitled "Instructions to tenderers", and such other provisions, specifications and instructions as are attached and incorporated herein (hereafter collectively referred to as the "Invitation to Tender")

Tenders must be submitted in accordance with the enclosed "Instructions to Tenderers" by 18/07/2011.

By submitting a tender, the tenderer accepts in full the "General Purchase Conditions" annexed with this Invitation to Tender as the basis of this tender procedure, waiving its own conditions for sale. The tenderer shall bear all costs associated with the preparation and submission of its tender and The Union cannot be held responsible or liable for those costs, regardless of the conduct of the outcome of the tendering process.

Tenderers are expected to carefully examine and respect all instructions, terms, conditions and requirements described in this Invitation to Tender. Failure to do so, or errors in doing so, will be at the tenderer's own risk and may result in the rejection of the tender.

All requests for additional information concerning this tender are to be addressed exclusively to rperreault@theunion.org. Any such requests must be made in writing and received by at least 10 calendar days from closing date of tender submission. Any such information may be sent to all prospective tenderers, as an amendment or otherwise, at the discretion of The Union.

Tender Data Summary Sheet

The following specific data for the goods to be procured shall complement, supplement or amend the provisions set out in the Instructions to Tenderers here below. In the event that there is a contradiction between the provisions set out in the Instructions to Tender and the Tender Data Summary Sheet, the provisions set out in the Tender Data Summary Sheet shall prevail.

Tender Number:	2011ZW018_T	
Subject:	Supply of Antiretroviral Medicines	
Project:	Integrated HIV Care for Tuberculosis Patients Living with HIV/AIDS (IHC) / Zimbabwe	
Donor	European Commission	
Deadline for Submission of Tenders:	18 July 2011, at 12:00 hours (Paris Local Time)	
Tenders to be received at / Tenders to be marked:	Attn: Richard Perreault Procurement Unit Coordinator International Union Against Tuberculosis and Lung Disease (The Union) 68 Boulevard Saint-Michel 75006 Paris, France Email : rperreault@theunion.org	ATTENTION: TENDER OPENING UNIT SEALED TENDER NO: 2011ZW018_T DEADLINE: 18 July 2011 AT 12:00 HRS (Paris Local Time) NOT TO BE OPENED BY RECEPTION
<i>Tenders must be submitted sealed, at the latest by the Deadline for Submission of Tenders as stipulated above. It is the Tenderer's responsibility to ensure that Tenders sent by courier/mail are received by the Deadline. Tenders submitted by fax or email will be rejected.</i>		
Tender Opening:	Tenders will be opened on 18 July 2011 at 15:00 hours (Paris Local Time), at The Union office basement meeting room.	
Language	All correspondence and documents related to the tender exchanged by the tenderer and The Union should be in English.	
Price & Terms:	Please submit one unit price per medicine FOB (Airport) as well as one unit price per medicines CIP Harare (Incoterms 2010). The offer should consider the total quantity required for two partial deliveries at 6 months interval and the goods should be packed separately for final deliveries in Harare and Bulawayo according to the quantitative breakdown mentioned in the Technical Tender form (see below delivery addresses).	
Supplies will be delivered to:	Director of Health Services Harare, City of Harare Dr S Mungofa 6th floor, Rowan Martin Building Pennefather Avenue Harare Zimbabwe Tel+263 4 753600 or + 263 4 752093	Director of Health Services Bulawayo, City of Bulawayo Dr Z Hwalima S/C Director of Health Services Harare, City of Harare 6th floor, Rowan Martin Building Pennefather Avenue Harare Zimbabwe +263 9 75011 or + 263 9 636 50
Currency of Tenders:	Euros	
Mode of Delivery:	By airfreight. The Supplier will appoint its own freight forwarder in order to transport the medicines to Harare, Zimbabwe.	

Delivery Lead-Time:	Standard Delivery Lead Time should be of a maximum of ninety (90) days, starting on the confirmation of order to the Supplier.
Tender Validity period	120 days after the deadline for submission of Tenders
Tender Submission	<p>The following must be included in the tender submission (one original and two copies) :</p> <ul style="list-style-type: none"> - Tender Form and Tenderer's declaration - Technical Tender (according to Annex A) - Financial Tender (according to Annex B) - Firm's Financial background (according to Chapter 4.5 of the Instructions to Tenderers)

Background information

Founded in 1920, the International Union Against Tuberculosis and Lung Disease (The Union) is active in more than 75 countries, providing technical assistance, education and research to promote lung health and other issues of importance to public health in low- and middle-income countries. Based in Paris with regional offices in Russia, the Eastern Mediterranean, Africa, Asia and Latin America, The Union has approximately 3,000 members from 145 countries. Its technical activities focus on tuberculosis control, HIV, child lung health, asthma management and tobacco control.

The Union is best known today for the research that led to the global strategy for treating and controlling tuberculosis. Adopted by the World Health Organization in 1993, The Union model is part of the internationally recommended Directly Observed Therapy Short Course Strategy (DOTS), which was expanded in 2006 into the broader Stop TB Strategy. Drawing on this first success in addressing TB from medical, political, social and organizational perspectives, The Union has since developed programmes for the management and treatment of TB-HIV, asthma and pneumonia in children under five years of age; and it is now working to control tobacco use.

For more details please log on to www.theunion.org

Instructions to tenderers

1 Submission of tenders

- 1.1 All tenders shall be received at The Union by the deadline date and time specified in the Tender Data Summary Sheet. Any tender received beyond this deadline is liable to be rejected and will not be entertained. The Union shall not be responsible for any unforeseen delays due to whatever cause.
- 1.2 The tenders shall be submitted as one original, marked “original” and 2 copies thereof. All documents shall bear the tenderer’s name. In case of any discrepancies, the document marked original shall prevail.
- 1.3 Tender shall be addressed to The Union and properly marked as specified in the Tender Data Summary Sheet.
- 1.4 All tenders, including annexes and all supporting documents, shall be submitted in a sealed envelope bearing:
 - 1.4.1 Word ‘Tender document’ written in bold
 - 1.4.2 Reference number of this tender
 - 1.4.3 The words “Not to be opened before the tender opening session” in English
 - 1.4.4 The name and contact details of the tenderer

2 Participation

- 2.1 Participation in tendering is open on equal terms to all natural and legal persons of the 25 Member States of the European Union, 3 Member States in the European Economic Area (Iceland, Norway and Lichtenstein) or any of the Developing Countries according to the EC list. *Tenderers must provide evidence of their location status.* Information concerning countries that are considered as developing countries can be found in the OECD’s website: <http://www.oecd.org/dataoecd/32/40/43540882.pdf>
- 2.2 These terms refer to all nationals of the said States and to all legal entities, companies or partnerships constituted under, and governed by, the civil, commercial or public law of such states and having their statutory office, central administration or principal place of business there. A legal entity, company or partnership having only its statutory office there must be engaged in an activity which has an effective and continuous link with the economy of the state concerned.
- 2.3 These rules apply to:
 - 2.3.1 Tenderers
 - 2.3.2 Members of a consortium
 - 2.3.3 Any subcontractors.

- 2.4 To be eligible for participation in this tender procedure, tenderers must satisfy The Union that they comply with the necessary administrative, technical and financial requirements and have the wherewithal to carry out the contract effectively.

3 Origin

- 3.1 Supplies must originate in a Member State of the European Union, member state of European Economic Area or one of the developing countries as also mentioned at 2.1 above. The origin of the goods must be determined according to the Community Customs Code. **All works, supplies and services must originate in one or more of the eligible countries only.**

When submitting its tender, the tenderer must state expressly that all the goods meet the requirements concerning origin and must state the respective countries of origin. The tenderer may be asked to provide additional information in this connection.

4 Content of tenders

All tenders submitted must comply with the requirements in the tender dossier and comprise:

- 4.1 A completed “**Tender Form for a supply contract**”, as per enclosed format
- 4.2 A completed “**Tenderer’s declaration**”, as per enclosed format, duly signed and officially stamped, confirming that the goods/ services offered meet the Technical Specifications and/or clear indication of any deviations thereto
- 4.3 A **Technical Tender** consisting of a detailed description of the medicines supplied (See form in Annex A) including:
- 4.3.1 The name of the manufacturer (s),
 - 4.3.2 The origin of each medicine (name of manufacturing site and country),
 - 4.3.3 The reference number of each product given by the WHO Prequalification programme¹ or the proof of registration by a stringent regulatory authority² or the proof of tentative approval by the US FDA³.
 - 4.3.4 The registration status of the product in Zimbabwe
- 4.4 A **Financial Tender** consisting of the “Price and Delivery Conditions Sheet” (See form in Annex B) fully completed and signed.
- 4.5 Description of the **Firm's Financial background**:

¹ <http://apps.who.int/prequal/>

² Definition of a stringent regulatory authority: see in the Technical Specifications

³ <http://www.fda.gov/InternationalPrograms/FDABeyondOurBordersForeignOffices/AsiaandAfrica/ucm119231.htm>

- 4.5.1 An audited statement of account for past two years specifically indicating turnover
- 4.5.2 Details of the bank account (financial identification) into which payments should be made

5 *Costs of preparing tenders*

No costs incurred by the tenderer in preparing and submitting the tender are reimbursable, irrespective of the outcome of tendering procedure.

6 *Ownership of tenders*

The Union retains ownership of all tenders received under this tender procedure. Consequently, tenderers have no right to have their tenders returned to them.

7 *Joint venture or consortium*

- 7.1 If a tenderer is a joint venture or consortium of two or more persons, the tender must be single with the object of securing a single contract, each person must sign the tender and will be jointly and severally liable for the tender and any contract. Those persons must designate one of their members to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium after submission of tender must not be altered without the prior consent in writing of The Union.
- 7.2 The tender may be signed by the representative of the joint venture or consortium only if s/he has been expressly so authorized in writing by the members of the joint venture or consortium, and the authorizing contract, notarial act or deed must be submitted to The Union within the 30 calendar days following the award of the contract. All signatures to the authorizing instrument must be certified in accordance with the national laws and regulations of each party comprising the joint venture or consortium together with the powers of attorney establishing, in writing, that the signatories to the tender are empowered to enter into commitments on behalf of the members of the joint venture or consortium.

8 *Ethics clauses*

- 8.1 Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the adjudication committee or The Union during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of the tender.
- 8.2 When putting forward a tender, the tenderer shall declare that it is affected by no potential conflict of interest and has no particular link with other tenderers or parties involved in the project. Should such a situation arise during performance of the contract, the Contractor must immediately inform The Union.
- 8.3 The Contractor must at all time act impartially and as a faithful adviser in accordance with the code of conduct of its profession. It shall refrain from

making public statements about the project or services without The Union's prior approval. It may not commit The Union in any way without its prior written consent.

9 Cancellation of the tender procedure

In the event of a tender procedure's cancellation, tenderers will be notified by The Union. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the sealed envelopes will be returned, unopened, to the tenderers. Cancellation may occur where:

- 9.1 The tender procedure has been unsuccessful, namely where no administratively, technically and financially compliant tender has been received or there has been no response at all;
- 9.2 The economic or technical parameters of the project have been fundamentally altered;
- 9.3 Exceptional circumstances or force majeure render normal performance of the project impossible;
- 9.4 All technically compliant tenders exceed the financial resources available;
- 9.5 There have been irregularities in the procedure, in particular where these have prevented fair competition.

In no circumstances will The Union be liable for damages, whatever their nature (in particular damages for loss of profits) or relationship to the cancellation of a tender, even if The Union has been informed of the possibility of damages. The procurement notice does not commit The Union to implement the project announced or execute the purchase.

10 Alteration or withdrawal of tenders

- 10.1 Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders. Withdrawals must be unconditional ending all participation in the tender procedure.
- 10.2 The outer envelope carrying the withdrawn application or the proposed alteration to tender document must be marked 'Alteration' or 'Withdrawal' as appropriate along with other tender number and contact details.
- 10.3 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiry of the tender validity period.

11 Grounds for exclusion from participation in procurement

Tenderers will be excluded from participation in a procurement procedure if:

- 11.1 They are bankrupt or being wound up, or are in any similar situation where there is reasonable amount of doubt about the capacity of tenderer in carrying out the obligations of a possible resulting contract.
- 11.2 They have attempted to obtain confidential information or influence the adjudication committee, directly or indirectly during the evaluation process of present or past invitation to tender
- 11.3 They have been convicted of an offence by a judgment which has the force of *res judicata* (i.e., against which no appeal is possible);
- 11.4 They have not fulfilled tax and/ or social security obligations as per the legal provisions of the country in which they are established or those of the country where the supplies are to be delivered;
- 11.5 They have been declared to be in serious breach of contract for failure to comply with their contractual obligations in connection with a procurement procedure.
- 11.6 They have existing or are planning to enter into ties with tobacco industry
- 11.7 They are subject of a conflict of interest;
- 11.8 They have misrepresented information required by The Union as a condition of participation in the call for proposals, or failed to supply this information;

Technical Specifications

These technical specifications are valid for the antiretroviral medicines supplied. These products will be used for patients managed in the clinics of the Health Services Department in City of Harare and City of Bulawayo in Zimbabwe (see addresses for packing in the Tender Data Summary Sheet).

Standard requirements

These products should meet the requirements of the pharmaceutical legislation and regulation of Zimbabwe for manufacturing and distribution of medicines.

These products should also meet the requirements of the pharmaceutical legislation and regulation of the country of origin for manufacturing and distribution of medicines. Country of origin means here the country where the finished product is manufactured.

Good Manufacturing Practices (GMP) standards as set out by the WHO should be adhered to, in all respects for manufacturing, packaging and labelling of products.

Products should also be compliant with monographs set by WHO International Pharmacopeia (Int Ph), United States Pharmacopoeia (USP), British Pharmacopeia (BP) and European Pharmacopeia.

Labelling and package inserts shall be in English.

Product specifications

Suppliers **shall only tender** for antiretroviral medicines which have been:

- Prequalified by the WHO Prequalification Programme⁴ and/or;
- Registered by a stringent regulatory authority defined as either: an ICH⁵ member country, an ICH observer or any country whose regulatory authority is associated with an ICH member through a legally binding mutual recognition agreement and/or;
- Tentatively approved by United States FDA⁶.

WHO Prequalification reference number and/or proof of registration by a stringent regulatory authority and/or US FDA tentative approval reference number should be part of the technical tender.

No variations to these specifications will be accepted during the procurement process covered by this tender procedure except if these variations have been already approved by the WHO Prequalification Programme or by the stringent regulatory authority before the

⁴ <http://apps.who.int/prequal/>

⁵ International Conference on Harmonization of Technical Requirements for the Registration of Pharmaceuticals for Human Use: www.ich.org (a) a member of the ICH (as specified on its website, www.ich.org); or (b) an ICH Observer, being the European Free Trade Association (EFTA) as represented by Swiss Medic, Health Canada and World Health Organization (WHO) (as may be updated from time to time); or (c) a regulatory authority associated with an ICH member through a legally binding mutual recognition agreement including Australia, Norway, Iceland and Liechtenstein (as may be updated from time to time). For new members of the European Union (EU), only pharmaceutical products which were delivered a market authorization after EU integration are considered as registered by a stringent regulatory authority.

⁶ <http://www.fda.gov/InternationalPrograms/FDABeyondOurBordersForeignOffices/AsiaandAfrica/ucm119231.htm>

contract is finalised. Proof of acceptance of these variations will need to be submitted.

Non respect of these specifications when supplying The Union will cause rejection of the goods at reception.

Registration

Registration of medicines is the Supplier's sole responsibility.

In addition to the product specifications above, antiretroviral medicines offered should be registered by the Medicines Control Authority of Zimbabwe (MCAZ).

Outer Packaging and Labelling Specifications

Each carton shall contain only one product and one batch.

The individual containers shall be packed in carton boxes made of strong corrugated cardboard that are:

- suitable to be piled at least 5 boxes high;
- maximum 100cm long by 40cm wide by 40cm high;
- sufficiently strong to withstand rough handling and exposure to extreme tropical temperatures and air moisture.

The gross weight per carton shall not exceed 30kgs.

The label for the outer carton shall include:

- Shipping marks;
- The INN or generic name prominently displayed;
- The dosage form;
- Strength/concentration of the product;
- Date of manufacture and expiry (in clear language, no code);
- Batch number;
- Quantity per carton;
- Special instructions for storage;
- Name of manufacturer;
- Carton numbering e.g. carton 1/40;
- Any additional cautionary statements;

Delivery Lead Time

Standard Delivery Lead Time from confirmation of order to supplier to dispatch of goods to recipient country should be up to 90 days maximum.

Quality Control

The Union may also arrange for random batch sample testing through an independent laboratory, which should not influence the Supplier's regular testing procedures.

In the event that a defect is detected either in the quality of a product, or in any other aspects such as packaging, the Supplier will be requested to replace the complete batch at its own cost.

In the event a dispute should arise between The Union and the Supplier, a counter

analysis will be carried out on the Quality Agent's sample by an independent neutral laboratory agreed by both The Union and the Supplier. If the counter analysis confirms the defect, the cost of such analysis will be borne by the Supplier as well as the replacement and disposal of the defective goods. In the event the independent analysis confirms the quality of the product, The Union will meet all costs for such analysis.

Defect

On reception, in case of the detection of a defective product either in the quality of a product or in any other aspects such as packaging, the Supplier will be requested to replace the complete batch at its own cost.

Shelf life

All goods must bear the following:

- Date of manufacture; and
- Expiry date

Upon the date of dispatch to the recipient country, the goods will have a minimum of 75 % remaining shelf-life.

Complaints

Any complaint from The Union or the recipient countries will be handled by the Supplier according to its internal standard operating procedures, and pursuant to the provisions relating to Liability as set out in the General Purchase Conditions.

Recall

If, after delivery, a batch has to be recalled, for whatever reason, the Supplier will inform The Union immediately. The Supplier will replace, at its own cost, all items covered by the recall with goods that fully meet the requirements of the original Purchase Order, and arrange for the collection or destruction of any defective goods.

Operational requirements

The Supplier will be required to:

- 1- Send the documents listed hereunder, as well as any required document for pre-clearance purposes, to the Recipient country and The Union:
 - Signed Original Invoice(s)
 - Packing List(s)
 - Certificates of Analysis
 - Air Way Bill
- 2- Inform The Union and the Recipient Country of the corresponding courier waybill number by email.

All costs incurred in connection with the procurement of these documents are deemed to be covered by the purchase price of the goods and will not be refunded separately.

The Supplier shall be responsible for supplying any other document required by applicable rules and regulations (e.g. legislation pertaining to foreign trade and payments, customs legislation, or regulations concerning hazardous goods).

Evaluation of proposals

1 *Opening of tenders*

- 1.1 The tenders will be opened in public session on 18 July 2011, at 3:00 PM (Paris local time), in presence of all those tenderers/ their authorized representatives present at that time.
- 1.2 The opening and examination of tenders is for the purpose of checking administrative compliance - whether the tenders are complete, whether the documents have been properly signed and whether the tenders are generally in order.
- 1.3 At the tender opening, the tenderers' names, the tender prices, any discount offered, written notifications of modification and withdrawal, and such other information as The Union may consider appropriate shall be announced.
- 1.4 After the public opening of the tenders, no information relating to the examination, clarification, evaluation and comparison of tenders, or recommendations concerning the award of the contract can be disclosed.
- 1.5 Tenderers may be required, at the sole written request of tender evaluation committee, to provide clarifications within 7 working days. Any such request for clarification will not entail modification of tender document, seek the correction of formal errors or of major restrictions affecting performance of the contract or distorting competition.
- 1.6 Any attempt by a tenderer to influence tender evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence The Union in its decision concerning the award of the contract will result in the immediate rejection of its tender.
- 1.7 All tenders received after the deadline for submission specified in the procurement notice or these instructions will be kept by The Union. No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

2 *Evaluation of tenders*

- 2.1 Examination of the administrative conformity of tenders
 - 2.1.1 The aim at this stage is to check that tenders comply with the essential requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.
 - 2.1.2 Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms

of the tender dossier, limit the rights of The Union or the tenderer's obligations under the contract or distort competition for tenderers whose tenders do comply.

2.1.3 If a tender does not comply with the tender dossier, it will be rejected and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.

2.1.4 Only administratively compliant tenders will be subjected to technical/ financial evaluation

2.2 Technical evaluation

2.2.1 After analysing the tenders deemed to comply in administrative terms, the evaluation committee will rule on the technical admissibility of each tender, classifying it as technically compliant or non-compliant.

2.2.2 To facilitate the examination, evaluation and comparison of tenders, the evaluation committee may ask each tenderer individually for clarification of its tender. The request for clarification and the response must be in writing only, but no change in the price or substance of the tender will be offered or permitted except as required to confirm the correction of arithmetical errors discovered during the evaluation of tenders.

2.2.3 Only technically compliant tenders will be subjected to financial evaluation

2.3 Financial evaluation

2.3.1 Tenders found to be administratively and technically compliant shall be checked for any arithmetical errors in computation and summation.

2.3.2 Errors will be corrected by the evaluation committee as follows:

2.3.2.1 Where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into account;

2.3.2.2 Where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will be the price taken into account.

2.3.2.3 Amounts corrected in this way will be binding on the tenderer. If the tenderer does not accept them, the tender will be rejected.

2.4 Award criteria

2.4.1 The contract will be awarded to the administratively and technically compliant lowest priced tender.

Terms and conditions of resulting contract

1 Signature of the contract

- 1.1 The successful tenderer will be informed in writing that its tender has been accepted (notification of award). Before The Union signs the contract with the successful tenderer, the successful tenderer may be asked to provide **documentary proof** or statement required under the law of the country in which the company (or each of the companies in case of a consortium) is established, to show that it does not fall into the exclusion situations.
- 1.2 This evidence or these documents or statements must carry a date, which cannot be more than 180 calendar days prior, in relation to the deadline for the submission of the tender. In addition, a sworn statement shall be furnished stating that the situations described in these documents have not changed since then.
- 1.3 If the successful tenderer fails to provide this documentary proof or statement within 15 calendar days following the notification of award or if the successful tenderer is found to have provided false information, the award will be considered null and void. In such a case, The Union may award the tender to another tenderer or cancel the tender procedure.
- 1.4 Within 15 calendar days of receipt of the contract already signed by The Union, the selected tenderer must sign and date the contract and return it to The Union. On signing the contract, the successful tenderer will become the Contractor and the contract will enter into force.
- 1.5 If the tenderer fails to sign and return the contract and any financial guarantee required within 15 calendar days after receipt of award notification, The Union may consider the award of the tender to be cancelled without prejudice to The Union's right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on The Union.

2 Payments

- 2.1 Payments shall be made in Euros. If the contractor chooses to receive the payments in national currency, the conversion rate from Euros to national currency (according to European Central Bank officially published rates) will be the one on the day of evaluation of tender.
- 2.2 Payments due by The Union shall be made to the bank account mentioned on the financial identification form completed by the Contractor. The same form, annexed to the payment request, must be used to report changes of bank account.
- 2.3 Sums due shall be paid within no more than 30 calendar days from the date on which an admissible payment request is registered by the competent department. The date of payment shall be the date on which The Union's

account is debited. The payment request shall not be admissible if one or more essential requirements are not met.

- 2.4 The 30-day period may be suspended by notifying the Contractor that the payment request cannot be fulfilled because the sum is not due, because appropriate substantiating documents have not been provided or because there is evidence that the expenditure might not be eligible. In the latter case, an inspection may be carried out on the spot for the purpose of further checks. The Contractor shall provide clarifications, modifications or further information within 30 calendar days of being asked to do so. The payment period shall continue to run from the date on which a properly drawn-up payment request is registered.
- 2.5 Unless otherwise stipulated, contracts shall be at fixed prices, which shall not be revised.
- 2.6 The Contractor undertakes to repay any amounts paid in excess of the final amount due to The Union within 30 calendar days of receiving a request to do so. Should the Contractor fail to make repayment within the deadline set by The Union, The Union may increase the amounts due by adding interest at the rediscount at the rate applied by the European Central Bank.

3 *Delayed payments*

- 3.1 The Union shall pay the Contractor sums due within 30 calendar days of the date on which an admissible payment is registered. This period shall begin to run from the approval of these documents by the relevant department. These documents shall be approved either expressly or tacitly, in the absence of any written reaction in the 30 calendar days following their receipt accompanied by the requisite documents.
- 3.2 Once the deadline laid down has expired, the Contractor may, within two months of late payment, claim late-payment interest at the rate applied by the European Central Bank.
- 3.3 Any default in payment of more than 90 calendar days from the expiry of the period shall entitle the Contractor either not to perform the contract or to terminate it, with 30 calendar days' prior notice to The Union.

General Purchase Conditions

DEFINITIONS:

- **The Union** means the International Union against Tuberculosis and Lung Disease at 68, boulevard Saint Michel, 75006 Paris, France.

- **Supplier** means the person, firm or company to whom the Purchase Order is addressed and the permitted sub-contractors and assignees.

- **Goods** are hereinafter deemed to include the products which the Supplier is required to supply under this Purchase Order as well as all services ancillary to the supply of the goods, including, without limitation, transportation, insurance and such other obligations as required under this Purchase Order.

SPECIFICATIONS OF GOODS INCLUDING PACKAGING: The Supplier warrants that the goods conform to The Union's technical specifications and are fit for the conditions (in particular climatic, technical and legal conditions) prevailing at the location in the country of use as made known to the Supplier by The Union. The Supplier also warrants that the goods are securely contained, packaged and marked, in a manner so as to protect the goods during delivery to their ultimate destination. The Supplier shall be liable for any damage arising as a result of inadequate or defective packing and marking.

TRADE TERMS: Whenever an INCOTERM is used in this Purchase Order it shall be interpreted in accordance with the INCOTERMS 2010 or any official revision thereof, as issued by the International Chamber of Commerce of Paris, France.

ACCEPTANCE OF THE PURCHASE ORDER: The Purchase Order may only be accepted by the Supplier's signing and returning an acknowledgement copy of it, as herein specified. Unconditional acceptance of this Purchase Order shall effect a contract between the Parties under which their rights and obligations shall be governed solely by the terms and conditions of this Purchase Order, including these General Purchase Conditions. No additional or inconsistent provisions proposed by the Supplier shall bind The Union, unless agreed to in writing by a duly authorized official of The Union.

VARIATIONS: The Purchase Order constitutes the entire agreement between The Union and the Supplier, and any variation to its terms and conditions cannot be applied without the prior written authorisation of The Union.

INSPECTIONS/AUDITS AND ACCEPTANCE: All goods may be subject to inspection/audit and quality control testing by The Union or its designated representatives, to the extent practicable, at all times and places, including during the period of manufacture and, in any event, prior to final acceptance.

If any inspection/audit or test is made on the premises of the Supplier and/or the manufacturer, the Supplier, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties. All inspections and tests on the premises of the Supplier or its supplier shall be performed in such a manner as not to unduly delay or disrupt the ordinary business activities of the Supplier. Final acceptance or rejection of the goods shall be made as soon as practicable after delivery, but failure to inspect/audit and accept or reject goods shall neither relieve the Supplier from responsibility for non-conforming goods nor impose

liabilities on The Union therefore. The Supplier shall maintain a Quality Assurance system to guarantee the quality of the goods to The Union (including, for example, a recall system). All records related to this Quality Assurance system and related to the Purchase Order shall be kept complete and made available by the Supplier to The Union during the performance, pursuant to this Order and for twenty four (24) months thereafter or for such other period as may be specified in this Order.

EXPORT PROCEDURES: The Supplier is required to comply with all applicable regulations regarding foreign trade and payments as well as customs clearance. The Supplier shall be liable vis à vis The Union for all damage arising as a result of failure to comply with these requirements.

INSURANCE: At all times prior to delivery, the Supplier shall effect and maintain continuous fire, hazard and extended coverage insurance upon any goods subject to this Purchase Order in an amount equal to the sound insurable value of such goods and labour incorporated therein with loss payable to the Supplier, The Union and The Union's clients as their interests may appear.

DELIVERY: The Goods should be delivered by the Supplier to the Delivery Address on the Purchase Order and in respect to the agreed delivery conditions. Any delivery date or time specified in the Purchase Order shall be of the essence and failure to deliver within the time promised or specified shall enable The Union to release himself from any obligation to accept or pay for the Goods, and/or to cancel all or part of the Purchase Order without prejudice in either case to his other rights and remedies. Delivery documents should be made available by the Supplier to The Union and its partner. Part-deliveries may be made only with the prior written consent of The Union. The Union may refuse to accept un-authorized part-deliveries.

TRANSFER OF OWNERSHIP: The transfer of ownership for Goods shall be made in accordance with the applicable INCOTERM and at the time of the quantitative and qualitative reception of all the Goods ordered at the agreed place of delivery.

PAYMENT: Payment shall be made within thirty (30) days after reception, based on the proof of delivery and the presentation of the Signed Invoice and delivery documents. Prices of the Goods shall be as stated in the Purchase Order. Unless authorised by The Union, the Supplier shall submit one invoice in respect of this Purchase Order, and such invoice must indicate the Purchase Order's identification number. The prices shown in this Purchase Order may not be increased except by express written agreement of The Union.

AFTER SALES SERVICE: The Supplier shall maintain or provide a service organisation reasonably constituted to handle requests and complaints from The Union or its partners.

INDEMNIFICATION: The Supplier shall indemnify, hold and save harmless and defend at its own expense The Union, its personnel and its clients from and against all suits, claims, demands, and liability of any nature or kind, including, without being limited to patent infringements, as well as costs and expenses arising out of acts or omissions of the Supplier or its personnel or others responsible to the Supplier in the performance of this Order.

WARRANTY: The Union must report to the Supplier without delay upon their delivery and examination in the recipient country any defects discovered. A period of ten (10) days shall be allowed in all cases both for examination of the goods and for lodging of

complaints. The Union's rights where the goods are defective shall be subject to the French statutory limitation period.

Without prejudice to any other remedy, if any Goods are not supplied in accordance with the Purchase Order, or fail to comply with The Union specifications, The Union shall be entitled to require, at its sole option, either the Supplier to promptly supply replacement goods in accordance with the Purchase Order at the Supplier's sole expense, or the payment of any part of the price which has been paid.

REMEDIES FOR DEFAULT: In case of failure by the Supplier to perform according to this Order, including but not limited to failure to obtain necessary export licenses, or to make delivery of all of the goods by the agreed delivery date, The Union may, after giving the Supplier reasonable notice to perform and without prejudice to any other rights or remedies, exercise one or more of the following rights: (1) procure all or part of the goods from other sources, in which event The Union may hold the Supplier responsible for any excess costs occasioned thereby; (2) refuse to accept delivery of all or part of the goods; (3) terminate this Order; (4) require the Supplier to ship via premium means, at the Supplier's own expense, to meet the delivery schedule; (5) impose liquidated damages.

LIQUIDATED DAMAGES FOR DELAY: If the Supplier fails to deliver any or all of the Goods within the time period specified in the Order and/or in the General Purchase Conditions, The Union may, without prejudice to any other rights and remedies, deduct from the total price stipulated in this Order an amount of 0.5% per week of the value of the Contract up to a period of 4 weeks. After expiration of this period of 4 weeks, The Union shall have right to cancel the order.

FORCE MAJEURE: Notwithstanding any other provisions, the Supplier shall not be liable for default or liquidated damages, if and to the extent that its failure to perform its obligations under this Order is the result of an event of Force Majeure. For purposes of this Order, Force Majeure is defined as an event beyond the control of the Supplier, not involving the Supplier's fault or negligence and not foreseeable, which includes acts of God, civil commotion, natural disasters, war (whether or not declared) and other events of a similar nature or force.

CONFIDENTIALITY: The Supplier must not pass on any information obtained during or in connection with the performance of the Purchase Order except where necessary for the performance of the Purchase Order or where authorised.

INSTRUCTIONS: The Supplier shall neither seek nor accept instructions from any authority external to The Union in connection with the performance of this Order.

BUSINESS ETHICS: The Supplier warrants that no official of The Union has received or will be offered by the Supplier any direct or indirect benefit of any kind, or any gift, payment or other consideration in connection with or arising from this Order or the award thereof. The Supplier agrees that breach of this provision is a breach of an essential term of this Order. The Supplier shall also refrain from any action which may adversely affect The Union.

USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNION: Unless authorised in writing, the Supplier shall not advertise or otherwise make public the fact that it is performing, or has performed, services for The Union or use the name (or any abbreviation thereof), emblem or official seal of The Union for advertising or for any other purpose.

NOTICES: Unless otherwise specified in this Agreement, all notices and other communications required or contemplated under this Contract shall be in writing in the

English language and shall be delivered either by: (i) personal delivery against signed receipt; (ii) recognized international delivery service; (iii) postage prepaid, return receipt requested, certified mail; or (iv) confirmed facsimile or email transmission, addressed to the Party for whom intended at the address shown below.

Notice by certified mail or international delivery service shall be effective on the date it is officially recorded as delivered to, or receipt refused by, the intended recipient. All other notices and communications required or contemplated by this Agreement delivered in person, by facsimile, or by confirmed e-mail shall be deemed to have been delivered to and received by the addressee and shall be effective on the date of actual receipt.

ASSIGNMENT AND SUB-CONTRACTING: The Supplier shall not assign or sub-contract this Purchase Order or any part thereof without the prior written permission of The Union. Any such permitted sub-contracting shall not relieve the Supplier of its obligations under the Purchase Order and shall not create any contractual relationship between The Union and the supplier's sub-contractor(s). The Supplier shall safeguard The Union's interest by incorporating the terms and conditions of the Purchase Order into any permitted assignment or sub-contract.

TERMINATION: Each Party shall have the right to terminate this Agreement in case of failure, by the other Party, to abide by one or several of the contractual obligations it has subscribed to under this Agreement, as well as the General Purchase Conditions. Notice of termination should be given in writing one (1) month in advance. Orders that have already been placed by The Union at the time of notification of termination shall be executed in accordance with the terms and conditions of this Agreement.

PATENTS AND STATUTORY REQUIREMENTS: The Supplier warrants that none of the Goods supplied under this Purchase Order nor any devices or processes embodied therein constitutes or involves an infringement of any existing Patent or Registered Design, Copyright, trade Mark or any other industrial or intellectual property right and the Supplier hereby agrees to indemnify The Union, at any time against all costs, charges, expenses and damages arising from any claim that the use or sale of any of the Goods so supplied constitutes or involves any such infringements.

The Supplier warrants that the design, quality and the material or components of the Goods to be supplied under this Purchase Order or any prior breach thereof and in particular to The Union's right to damages, including any additional costs incurred in having the Goods repaired or supplied by others at a cost in excess of the amount stated in the Purchase Order. If this Purchase Order is terminated under Termination clause the Supplier shall not be entitled to payment for any costs incurred after the effective date of termination nor shall The Union be held liable for damages howsoever arising or for loss of anticipated profits on account of such termination.

SETTLEMENT OF DISPUTES - JURISDICTION: In all cases, The Union and the Supplier will attempt to find an amicable solution to any dispute that may arise between them, within two (2) months from notification sent by one Party to the other, urging the receiving Party to cure the concerned default.

Should The Union and the Supplier be unable to reach an amicable solution, the French Courts shall have jurisdiction to settle the dispute.

LIABILITY: The Union will not be responsible in any way for any claims, liabilities and/or disputes which may arise in connection with or as a result of the supply contract, if any, resulting from this Tender exercise by the Supplier. The Supplier will indemnify and hold

The Union harmless, and require its licensees, sub-contractors and assignees, as the case may be, to indemnify and hold The Union harmless from and against the full amount of any and all claims and liabilities, including legal fees and costs, which are or may be made, filed or assessed against the Supplier at any time in connection with or as a result of the supply and/or delivery of products, by the Supplier, its licensees, sub-contractors or assignees, as the case may be. In connection with the foregoing, the Supplier will require its licensees, subcontractors and assignees to obtain adequate liability insurance to cover the aforesaid claims and liabilities, before they commence the implementation of their respective obligations and liabilities under or as a result of the supply contract issued on behalf of The Union.

APPLICABLE LAW: The Purchase Order, and any agreement that shall be entered into between the Parties, shall be governed by French laws. The Parties however reserve the right to seek application of any preventive, conservatory or emergency orders and relief before the appropriate courts.

GENERAL: The above terms and conditions are without limitation to The Union's rights and remedies in law or otherwise.

Formats

TENDER FORM FOR A SUPPLY CONTRACT

Procurement reference: < Procurement reference >

Title of contract: < Title of contract >

<Place and date>

A: <Name and address of Contracting Authority >.

1 SUBMITTED BY

	Name(s) of tenderer(s)	Nationality
Leader		
Partner 2*		
Etc ... *		

* add/delete additional lines for partners as appropriate. Note that a subcontractor is not considered to be a partner for the purposes of this tender procedure. If this tender is being submitted by an individual tenderer, the name of the tenderer should be entered as 'leader' (and all other lines should be deleted)

2 CONTACT PERSON (for this tender)

Name	
Address	
Telephone (landline and mobile)	
Fax	
E-mail	

TENDERER'S DECLARATION(S)

To be completed and signed by the tenderer (including one from each partner in a consortium).

To: International Union against Tuberculosis and Lung Disease

Ref:

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

- 1 We have examined and accept in full the content of the dossier for invitation to tender No [.....] of [../..]. We hereby accept its provisions in their entirety, without reservation or restriction.
- 2 We offer to deliver, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction:

[description of supplies with indication of quantities and origin]
- 3 This tender is valid for a period of [.....] from the final deadline for submission of tenders, i.e. until [../..].
- 4 Our firm/company [*and our subcontractors*] has/have the following nationality: [.....]
- 5 We are making this application in our own right and [**as partner in the consortium** led by < name of the leader / ourselves >]* for this tender [Lot No]. We confirm that we are not tendering for the same contract in any other form. [We confirm, as a partner in the consortium, that all partners are jointly and severally liable by law for the performance of the contract, that the lead partner is authorized to tender, and receive instructions for and on behalf of, each member, that the performance of the contract, including payments, is the responsibility of the lead partner, and that all partners in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's performance].
- 6 We are not in any of the situations excluding us from participating in contracts which are listed in **Grounds for exclusion from participation in procurement**. In the event that our tender is successful, we undertake to provide the proof usual under the law of the country in which we are established that we do not fall into the exclusion situations listed above. The date on the evidence or documents provided will be no earlier than 180 calendar days before the deadline for submission of tenders and, in addition, we will provide a sworn statement that our situation has not altered in the period which has elapsed since the evidence in question was drawn up.
We also understand that if we fail to provide this proof within 15 calendar days after receiving the notification of award, or if the information provided is proved false, the award will be considered null and void.
- 7 We agree to abide by the ethics clauses in Clause 8 of the **Instruction to Tenderers** and, in particular, have no potential conflict of interests or any relation

Duly authorized to sign this tender on behalf of:

[.....]

Place and date: [.....]

Stamp of the firm/company:

This tender includes the following annexes:

[*Numbered list of annexes with titles*]

FINANCIAL IDENTIFICATION
(On the letter head of the tenderer)

ACCOUNT HOLDER

NAME
ADDRESS
TOWN/CITY
POST CODE
CONTACT
TELEPHONE
FAX
E-MAIL
VAT NUMBER

BANK

NAME
ADDRESS
TOWN/CITY
POST CODE
COUNTRY BANK ACCOUNT
SWIFT CODE
IBAN (optional)
REMARKS

BANK STAMP+SIGNATURE of BANK REPRESENTATIVE (Both Obligatory)
--

DATE + SIGNATURE of ACCOUNT HOLDER: (Obligatory)

Annex A

PRODUCTS	Unit size	Unit quantity for Bulawayo 1st delivery	Unit quantity for Bulawayo 2nd delivery	Unit quantity for Harare 1st delivery	Unit quantity for Harare 2nd delivery	Total Unit quantity	Name of manufacturer	Name of manufacturing site (and country)	Ref N° WHO PQ or US FDA Tentative approval	Registration N° in stringent country*	Registration number from MCAZ
Tenofovir 300mg/Lamivudine 300mg tablets	Box of 30	12 485	12 679	3 643	3 982	32 789					
EFV 600mg tablets	Box of 30	5 472	6 361	1 505	1 984	15 322					
Nevirapine 200mg tablets	Box of 60	14 026	12 636	4 277	3 996	34 935					
Lopinavir 200mg/ Ritonavir 50 mg tablets	Box of 120	450		150		600					
* please specify the country											
Name of Tenderer:											
Signature:											
Name of authorised signatory:											
Date of signature:											
Functional title of signatory:											

Annex B

PRODUCTS	Unit size	Unit quantity for Bulawayo 1st delivery	Unit quantity for Bulawayo 2nd delivery	Unit quantity for Harare 1st delivery	Unit quantity for Harare 2nd delivery	Total Unit quantity	Delivery lead time*	FOB Unit Price (Euro)	FOB Total Price (Euro)	CIP Harare Unit Price (Euro)	CIP Harare Total Price (Euro)
Tenofovir 300mg/Lamivudine 300mg tablets	Box of 30	12 485	12 679	3 643	3 982	32 789					
EFV 600mg tablets	Box of 30	5 472	6 361	1 505	1 984	15 322					
Nevirapine 200mg tablets	Box of 60	14 026	12 636	4 277	3 996	34 935					
Lopinavir 200mg/ Ritonavir 50 mg tablets	Box of 120	450		150		600					
								TOTAL FOB Price in Euros		TOTAL CIP Price Harare in Euros	
* The delivery lead time is the time in weeks from the date of the purchase order until the order is delivered to the agreed point of delivery (CIP)											
Name of dispatch airport:											
Name of Tenderer:											
Signature:											
Name of authorised signatory:											
Date of signature:											
Functionnal title of signatory:											