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**Standard Bidding Documents**

**for Procurement of Goods under Bracket 2**

*Strengthening Local Resilience and Integration through Improved Watershed and Irrigation System*

*Supply of Sapling for Baghlan Province, Afghanistan*

Copyright:

PATRIP Foundation

&

Georg Fiebig Consultants Pty Ltd

# Section 0: Invitation for Quotations

## **0.1 Instructions to Bidders**

*The deadline for submission of sealed hard copies of offers is 13th Jan 2025 / 12:00 PM Local Time. (Kabul, Afghanistan time) at the address provided below. Please reference this (**PAT-TLO-RFQ-01-2025) on the sealed envelopes. Address: House # 959 - 38, Street # 06, Taimani Watt Kabul-Afghanistan*

**Project name:** *Strengthening Local Resilience and Integration through Improved Watershed and Irrigation System*

**Location of project:** *Baghlan Province, Afghanistan*

**Summary of Project:** *The “Strengthening Local Resilience and Integration through Improved Watershed and Irrigation System” project funded by PATRIP Foundation will be implemented directly by TLO in the Baghlan and Samangan provinces with the partnership of Swiss Peace. The project duration is 24 months, the starting date is 1st December 2023, and the closing date will be 31 November 2025. The focus of the project will be on the Cash for Work interventions that the community members of the Hazrat Sultan and Khulm districts of Samangan province and Pulkhumri districts of Baghlan province will benefit from the project.*

*The project will work on the improvement of two watersheds in both provinces as well as one 1.9km canal construction in Sirt village of Khulm district.*

*The total beneficiaries of the project are 3040 households in both provinces and will Create Cash for Work opportunities of 178229 m/d in both provinces.*

**Name of Implementing Partner (“IP”):** The Liaison Office (TLO)

**Address of Implementing Partner (“IP”):** House No 38, Street No#6 Taimani Road, Kabul, Afghanistan

**RFQ No.** PAT-TLO-RFQ-01-2025 **Date of Invitation:** 5th January 2025

1. The **Implementing Partner (“IP”)** invites sealed price quotations from the eligible suppliers (including sub-contractors and/or joint ventures) for the supply and delivery of:

* *Fruit Sapling (Almond): 50,000 Each quantity*
* *Fruit Sapling (Pistachio): 20,000 Each quantity*
* Detailed specifications, lists, and quantities of required goods are provided in Section I Bidding Form 1.3.

1. Bidding will be conducted by means of a Restricted Tender Procedure by collecting quotations from a minimum of three qualified/eligible suppliers.
2. Suppliers shall comply with the eligibility criteria as described in Section III. Suppliers participating in the tender must also comply with the principles set forth in Section IV Sanctionable Practices.
3. A Bidder requiring any clarification of the Bidding Documents shall contact the IP only in writing at the IP’s address specified in this Invitation for Quotation. The IP will respond in writing to any request for clarification no later than five (5) calendar days prior to the deadline of submission of bids, provided that such request is received no later than eight (8) calendar days prior to this deadline. The IP shall forward copies of its response to all Bidders, including a description of the inquiry but without identifying its source.
4. At any time but not later than five (5) calendar days prior to the deadline for submission of bids, the IP may amend the Bidding Documents by issuing addenda. Any such addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all Bidders.
5. Quotations must be delivered in one sealed envelope for both price and technical offer, clearly marked with the inscription “Supply and Delivery of [Fruit Sapling] – ‘RFQ No’ [PAT-TLO-RFQ-01-2025]” and addressed to the IP, [House No 38, Street No#6 Taimani Road, Kabul, Afghanistan] on or before [12:00 PM local time 13th Jan 2024]. The quotations can be delivered in person or by post to the above address.
6. The IP may, at its discretion, extend the deadline for the submission, indicated above, at any time before the expiration of the same.
7. The bids must be in English language. Supporting documents can be provided by the bidders in local language.

All **late submissions** received after the deadline for submission **will be rejected**.

1. All bids must be accompanied with the following documents:
   1. Company’s valid Business Registration Documents (Mandatory)
   2. Tax Registration Certificate
   3. NID/Passport Copy of President & Vice President of Company
   4. At least 2 [two] relevant references for contracts of a similar nature and size. Purchase orders and Goods Received Notes/Delivery Notes must be attached (Mandatory)
   5. Fully filled Bidding Forms as per Section II of the bidding document including signed Declaration of Undertaking. Bidders are required to complete the Bidding Forms on their company’s letterhead in the format provided under section II. of the bidding document (Mandatory)
   6. Filled Technical Specifications and price schedule of offered supplies, as per Section I, Bidding forms No. 1.3 and 1.4. (Mandatory)

**Offers with incomplete documents may be rejected.**

1. In addition to an original hard copy of the above documents, a soft copy (searchable pdf-file) shall also be submitted by the bidders.
2. Offers shall be valid for *Ninety (90)* days from the date of submission of bids.
3. The supplies shall be delivered to the Aqa Khail, Ali Khail, and Gawan Watersheds within 15 working days from the date of Contract Signature.
4. Quotation shall be in USD. Prices quoted shall be fixed and correspond to 100% of the items required/specified.
5. The offered price must be inclusive of all duties, taxes and delivery charges.
6. Suppliers are requested to present their best offer in their bid. The offered unit rates for the supplies will NOT be negotiated.
7. The bids will be evaluated by an evaluation committee comprising of at least 3 members who will open and evaluate all bids received before the bid closing time as specified in clause 6 above. Only complete bids will be evaluated, and incomplete or late bids will be rejected.
8. Point scoring of technical bids will not be undertaken. Selection will be based on the lowest price evaluation of the bids that comply technically and meet the specifications of goods as required in Section I Bidding Form 1.3.
9. Minimum offered warranty period for the goods should be three hundred and sixty-five days (365).
10. 100% payment of the contract price shall be paid within thirty (30) working days after full delivery of all the items and accepted by the IP.
11. The IP reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract Award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted shall be promptly returned to the Bidders.

# Section I: Bidding Forms

# 1.1 Declaration of Undertaking

Reference name of the Application/Offer/Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("**Contract**")[[1]](#footnote-1)

To: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (**"Implementing Partner"**)

1. We recognise and accept that KfW[[2]](#footnote-2) (via PATRIP Foundation) only finances projects of the Implementing Partner (“IP”)[[3]](#footnote-3) subject to its own conditions which are set out in the Funding Agreement it has entered into with PATRIP Foundation which has entered into a Funding Agreement with the IP. As a matter of consequence, no legal relationship exists between KfW or PATRIP Foundation and our company, our Joint Venture or our Subcontractors under the Contract. The IP retains exclusive responsibility for the preparation and implementation of the Tender Process and the performance of the Contract.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:

2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered into receivership, reorganisation or being in any analogous situation;

2.2) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union or Germany for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;

2.3) having been convicted by a final court decision or a final administrative decision by a court, the European Union, national authorities in the Partner Country or in Germany for Sanctionable Practice in connection with a Tender Process or the performance of a Contract or for an irregularity affecting the EU’s financial interests *(in the event of such a conviction, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction)*;

2.4) having been subject within the past five years to a Contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such Contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;

2.5) not having fulfilled applicable fiscal obligations regarding payments of taxes either in the country where we are constituted or the IP's country;

2.6) being subject to an exclusion decision of the World Bank or any other multilateral development bank and being listed on the website <http://www.worldbank.org/debarr> or respectively on the relevant list of any other multilateral development bank *(in the event of such exclusion, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction)*; or

2.7) being guilty of misrepresentation in supplying the information required as a condition of participation in the Tender.

1. We hereby certify that neither we, nor any of the members of our Joint Venture or any of our Subcontractors under the Contract are in any of the following situations of conflict of interest:

3.1) being an affiliate controlled by the IP or a shareholder controlling the IP, unless the stemming conflict of interest has been brought to the attention of KfW (and PATRIP Foundation) and resolved to their satisfaction;

3.2) having a business or family relationship with a IP's staff involved in the Tender Process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of KfW (and PATRIP Foundation) and resolved to its satisfaction;

3.3) being controlled by or controlling another Applicant or Bidder, or being under common control with another Applicant or Bidder, or receiving from or granting subsidies directly or indirectly to another Applicant or Bidder, having the same legal representative as another Applicant or Bidder, maintaining direct or indirect contacts with another Applicant or Bidder which allows us to have or give access to information contained in the respective Applications or Offers, influencing them or influencing decisions of the IP;

3.4) being engaged in a Consulting Services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the IP;

3.5) in the case of procurement of Works, Plant or Goods:

1. having prepared or having been associated with a Person who prepared specifications, drawings, calculations and other documentation to be used in the Tender Process of this Contract;
2. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
3. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
4. We undertake to bring to the attention of the IP, which will inform KfW (and PATRIP Foundation), any change in situation with regard to points 2 to 4 here above.
5. In the context of the Tender Process and performance of the corresponding Contract:

6.1) neither we nor any of the members of our Joint Venture nor any of our Subcontractors under the Contract have engaged or will engage in any Sanctionable Practice during the Tender Process and in the case of being awarded a Contract will engage in any Sanctionable Practice during the performance of the Contract;

6.2) neither we nor any of the members of our Joint Venture or any of our Subcontractors under the Contract shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or Germany; and

6.3) we commit ourselves to complying with and ensuring that our Subcontractors and major suppliers under the Contract comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International Labour Organisation[[4]](#footnote-4) (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans or other similar documents provided by the IP and, in any case, implement measures to prevent sexual exploitation and abuse and gender-based violence.

1. In the case of being awarded a Contract, we, as well as all members of our Joint Venture partners and Subcontractors under the Contract will, (i) upon request, provide information relating to the Tender Process and the performance of the Contract and (ii) permit the IP and PATRIP Foundation and KfW or an agent appointed by either of them, and in the case of financing by the European Union also to European institutions having competence under European Union law, to inspect the respective accounts, records and documents, to permit on-the-spot checks and to ensure access to sites and the respective project.
2. In the case of being awarded a Contract, we, as well as all our Joint Venture partners and Subcontractors under the Contract undertake to preserve above mentioned records and documents in accordance with applicable law, but in any case, for at least six years from the date of fulfilment or termination of the Contract. Our financial transactions and financial statements shall be subject to auditing procedures in accordance with applicable law. Furthermore, we accept that our data (including personal data) generated in connection with the preparation and implementation of the Tender Process and the performance of the Contract are stored and processed according to the applicable law by the IP, PATRIP Foundation and KfW.

Name: In the capacity of:

Duly empowered to sign in the name and on behalf of[[5]](#footnote-5):

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Tender Form

Date:

To: *[name and address of Implementing Partner]*

Gentlemen and/or Ladies:

Having examined the bidding documents, we the undersigned, offer to supply and deliver

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*[description of goods and services]*

in conformity with the said bidding documents for the sum of *[CURRENCY]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[total tender amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

We undertake, if our Bid is accepted, to deliver the goods in accordance with the delivery schedule specified in clause 12 of Section 0 Invitation for Quotations.

We agree to abide by this Tender for a Period of \_\_\_\_\_ *[number]* days from the date fixed for Bid opening it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any bid you may receive.

We confirm that we have included the following documents as per templates provided in our bid [Please tick the relevant box]:

|  |  |
| --- | --- |
| **Document** | **Attached** |
| Company’s valid Business Registration Documents |  |
| Tax Registration Certificate |  |
| NID/Passport Copy of President & Vice President of Company |  |
| At least 2 (two) relevant references for contracts of a similar nature and size. Purchase orders and Goods Received Notes/Delivery Notes must be attached. |  |
| Signed Declaration of Undertaking as per the template provided in bidding form 1.1 |  |
| Filled Technical Specifications and price schedule of offered supplies, as per Section I, Bidding form No. 1.3 and 1.4 |  |
| Soft copy (searchable pdf-file) of the bid |  |

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_\_\_\_.

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

*[signature] [in the capacity of]*

Duly authorized to sign Bid for and on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Detailed Specification of Goods

|  |  |  |
| --- | --- | --- |
| **No** | **Specification** | **Details** |
| **1** | **Fruit Sapling (Almond)** | |
| Variety | Satar Bayee or Qahar Bayee |
| type | Certified and true-to-type saplings of the specified fruit variety |
| Health | Saplings must be free from visible signs of pests, diseases, or physical damage. |
| Age | Ideally **1-2 years old**, depending on the fruit tree species. |
| Height | 1.0 to 1.5 meters (minimum 1 meter) |
| Root system | Well-developed, fibrous root system without rot or deformation. |
| Graft Union | * + The graft union must be strong and healthy with no visible cracks or damages.   + Height of graft union: 15-30 cm above the soil/root collar (varies with species). |
| Labels | * + Species, variety, and rootstock.   + Nursery origin (with contact details).   + The owner should be a member of the Afghanistan National Nursery Growers Organization (ANNGO) registered Nursery Growers Associations (NGAs), or reliable nursery growers |
| Packing | * + Roots should be wrapped in plastic, moist sawdust, and bundled in a bag for protection of roost during transportation. |
|  |  |  |
| **2** | **Fruit Sapling (Pistachio)** | |
| Variety | Tajiki or Sarda or any other well-adopted variety within the area |
| type | Certified and true-to-type saplings of the specified fruit variety |
| Age | Ideally 1-2 years old, depending on the fruit tree species. |
| Height | 0.5-to-0.8-meter |
| Root System | Well-developed, fibrous root system without rot or deformation. |
| Labels | * + Species, variety, and rootstock.   + Nursery origin (with contact details)   + The owner should be a member of the Afghanistan National Nursery Growers Organization (ANNGO) registered Nursery Growers Associations (NGAs), or reliable nursery growers. The label is not mandatory for pistachio |
| Packing | * + The saplings should be in the poly-pots with proper packaging before transporting to the field |

# Price Schedule of Goods Offered

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Item No.** | **Description** | **Quantity** | **Unit** | **Unit Cost (USD)** | **Total Cost (USD)** |
| 1 | Supply & Delivery of Fruit Sapling (Almond) as per above detailed specifications to Aqa Khail, Ali Khail, and Gawan Watershed of Baghlan Province | 50,000 | EACH |  |  |
| 2 | Supply & Delivery of Fruit Sapling (Pistachio) as per above detailed specifications to Aqa Khail, Ali Khail, and Gawan Watershed of Baghlan Province | 20,000 | EACH |  |  |
| Grand Total (USD) | | | |  | |

# Section II: Eligibility Criteria

**Eligibility in PATRIP Foundation Financed Procurement**

1. Consulting Services, Works, Goods, Plant and Non-Consulting Services are eligible for PATRIP Foundation financing regardless of the country of origin of the Contractors (including Subcontractors and suppliers for the execution of the Contract), except where an international embargo or sanction by the United Nations, the European Union or the German Government applies.
2. Applicants/Bidders (including all members of a Joint Venture and proposed or engaged Subcontractors) shall not be awarded a PATRIP Foundation-financed Contract if, on the date of submission of their Application/Offer or on the intended date of Award of a Contract, they:

2.1 are bankrupt or being wound up or ceasing their activities, are having their activities administered by courts, have entered into receivership, or are in any analogous situation;

2.2 have been

(a) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union and/or the German Government for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;

(b) convicted by a final court decision or a final administrative decision by a court, the European Union or national authorities in the Partner Country or in Germany for Sanctionable Practice during any Tender Process or the performance of a Contract or for an irregularity affecting the EU’s financial interests, unless they provide supporting information together with their Declaration of Undertaking (Form available as Appendix to the Application/Offer which shows that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction;

2.3 have been subject within the past five years to a Contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during Contract performance, unless this termination was challenged and the dispute resolution is still pending or has not confirmed a full settlement against them;

2.4 have not fulfilled applicable fiscal obligations regarding payments of taxes either in the country where they are constituted or the IP’s country;

2.5 are subject to an exclusion decision of the World Bank or any other multilateral development bank and are listed in the respective table with debarred and cross-debarred firms and individual available on the World Bank’s website or any other multilateral development bank unless they provide supporting information together with their Declaration of Undertaking which shows that this exclusion is not relevant in the context of this Contract or

2.6 have given misrepresentation in documentation requested by the IP as part of the Tender Process of the relevant Contract.

1. State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to PATRIP Foundation’s satisfaction, through all relevant documents, including its charter and other information PATRIP Foundation may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

# Section III: Sanctionable Practices

The bidders must observe the highest standard of ethics during the Tender Process and performance of the Contract.

By signing the Declaration of Undertaking the bidders declare that (i) they did not and will not engage in any Sanctionable Practice likely to influence the Tender Process and the corresponding Award of Contract to the IP’s detriment, and that (ii) in case of being awarded a Contract they will not engage in any Sanctionable Practice.

# Conflict of Interest

A bidder participating in this procurement process must not have a conflict of interest. Any bidder found to have a conflict of interest shall be ineligible for an award of a contract. If there is any personal relationship between the bidder, the IP or the PATRIP Foundation, this must be stated as this might result in exclusion of the bidder.

# Fairness and Transparency

## All bidders who take part in this procurement process must ensure a fair and transparent competition and to fulfil at least the International Labour Organisation’s (ILO) key norms, which are ratified by the country in which the services or works are performed. These must be documented by signing a Declaration of Undertaking in compliance with the specimen provided in Section II.

## **Fraud and Corruption**: When participating in this tender, it is required that bidders and their agents and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. For the purpose of this provision, the terms set forth are defined below:

* “*Corrupt practice*” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
* “*fraudulent practice*” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
* “*collusive practice*” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
* “*coercive practice*” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
* “*obstructive practice*” is deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation of money donor into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

## **Confidentiality:** The tender process shall be treated confidentially. During the tender process, no information will be given to bidders or third parties who do not officially participate in the tender with regard to the evaluation of the proposals and recommendations for the award of contract. If the confidentiality has been broken the tender can be cancelled.

# Section IV: Contract

# Contract Agreement

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_20 \_\_\_\_ between *[name of Purchaser]* (hereinafter called “the Purchaser”) of the one part and *[name of Supplier]* of *[city and country of Supplier]* (hereinafter called “the Supplier”) of the other part:

WHEREAS the Purchaser invited bids for certain goods and ancillary services, viz.,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[brief description of goods and services]*

and has accepted a bid by the Supplier for the supply of those goods and services in the sum of *[contract price in words and figures]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.

2. This Contract is valid from the signing of the contract until the date of delivery and acceptance of the of goods by the Purchaser as per the terms of the contract.

3. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:

a. Tender Form and the Price Schedule submitted by the Supplier;

b. Signed Declaration of Undertaking;

d. The Technical Specifications;

e. The Conditions of Contract; and

f. The Purchaser’s Notification of Award.

4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

5. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

|  |  |
| --- | --- |
| On behalf of the Purchaser | On behalf of the Supplier |
| Name: | Name: |
| Designation: | Designation: |
| Sign: | Sign: |
| Seal: | Seal: |

# Letter of Acceptance

*[Use letterhead paper of the Purchaser]*

*[Insert date]*

To: *[Insert name and address of the Supplier]*

Subject: ***Notification of Award Contract No. [Insert contract number]***

This is to notify you that your Bid dated *[Insert date]* for execution of the *[Insert name of the contract and identification number, as given in the PC]* for the Accepted Contract Amount of *[Insert* *contract price in numbers and words including code and name of currency]*, is hereby accepted by the undersigned Purchaser.

Authorized Signature:

Name and Title of Signatory:

Name of Institution:

**Attachment: Contract Agreement**

# Conditions of Contract

|  |  |  |
| --- | --- | --- |
| **1. Definitions** | 1.1 | In this contract, the following terms shall be interpreted as indicated:  a. "The Contract" means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form Signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein;  b. "The Contract Price" means the price payable to the Supplier under the contract for the full and proper performance of its contractual obligation;  c. "The Goods" means Equipment and related Accessories and spare-parts which the Supplier is required to supply to the Purchaser under the contract;  d. "Services" means services ancillary to the supply of the goods such as transportation and insurance including the installation, commissioning and the operational and maintenance training of the supplied equipment.  e. "The Purchaser" means the organization purchasing the goods;  f. "The Supplier" means the organization supplying the goods and services under this contract. |
| **2. Technical Specification** | 2.1 | The goods supplied under this contract shall conform to the standards mentioned in the Technical Specification. |
| **3. Patent Right** | 3.1 | The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark or industrial design rights arising from use of goods or any part thereof in the Purchaser's country. |
| **4. Inspection**  **and Tests** | 4.1 | The Purchaser or its Representative shall have the right to inspect and/or test the goods to confirm their conformity to the Technical Specification and the quality of performance after the supply and delivery of good to Purchaser's premises. |
| **5. Packing** | 5.1 | The Supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination as indicated in the contract. |
|  | 5.2 | The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit and open storage. |
|  | 5.3 | Packing case, size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit. |
|  | 5.4 | The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided in accordance with international standard and practice. |
| **6. Delivery of Goods** | 6.1 | Delivery of the goods shall be made by the Supplier in accordance with the terms specified by the Purchaser in the Invitation for Quotation. |
|  | 6.2 | For purposes of the contract "FOB", "C&F", "CIF", "CIP" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of the International Rules for the Interpretation of the Trade Terms (INCOTERMS) published by the International Chamber of Commerce (ICC), Paris. |
|  |  |  |
| **7. Insurance** |  | N/A |
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| **8. Warranty** |  | N/A |
| **9. Payment** | 9.1 | Payment shall be made in the currency as specified in the Section 0 Invitation for Quotations. |
|  | 9.2 | Final payment for goods supplied shall be made after the delivery and installation and commissioning of goods to the satisfaction of the Purchaser. |
| **10. Prices** | 10.1 | Prices charged by the Supplier for goods delivered under the contract shall not vary from the prices quoted by the Supplier in its sealed quotation. |
| **11. Liquidated Damages** | 11.1 | If the Supplier fails to deliver any or all of the goods within the time period specified in the contract, the Purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as liquidated damages, a sum equivalent to 1.0 percent of the contract price of delayed goods for each week of delay until actual delivery, up to a maximum deduction of 10 percent of the delayed goods' contract price. Once the maximum is reached, the Purchaser may consider termination of the contract. |
| **12. Resolution of Disputes** | 12.1 | The Purchaser and Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract. |
|  | 12.2 | If, after thirty (30) days from the commencement of such informal negotiation, the Purchaser and Supplier have been unable to resolve amicably a contract dispute, it shall be referred by either party to an adjudicator agreed by the parties. In the event of disagreement, the adjudicator shall be appointed in accordance with the Laws and Rules of Afghanistan. |
| **13. Governing Language** | 13.1 | The Governing Language shall be English |
| **14. Applicable Law** | 14.1 | The applicable law shall be the Laws of Afghanistan |
| **15. Notices** | 15.1 | Purchaser's address for notice purposes:  **POSITION of Purchaser’s Rep.**  **PURCHASER NAME**  **ADDRESS** |
|  | 15.2 | Supplier’s address for notice purposes: |
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|  |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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| **16. Taxes and Duties** | 16.1 | The Supplier shall be entirely responsible for all taxes, duties, license fees and other such levies imposed by the Government of Afghanistan.  All taxes, duties, license fees and other such levies are to be listed **separately** on the invoices |
| **17. Operation, Maintenance and Spare-parts Manuals** | 17.1 | The successful Supplier shall supply a copy of manufacturer's operation, maintenance and spare-part manuals of the goods (Equipment). |
| **18. Insurance, Reimbursements, guarantee or similar claimable payments** | 18.1 | Any reimbursements guarantee or similar claimable payments and any insurance payments shall be made for account of the Purchaser to account with PATRIP Foundation crediting such payments to the account of the Purchaser. If such payments are made in local currency they shall be remitted to a special account of the Recipient in the country of the Recipient, which may be drawn on only with the consent of PATRIP Foundation. Such funds may be re-utilized for the execution of the Project with PATRIP Foundation's consent. |
| **19. Limitation of Liability** | 19.1 | Except in cases of criminal negligence or wilful misconduct,   1. The Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and 2. The aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the purchaser with respect to patent infringement |
| **20. Force Majeure** | 20.1 | The Supplier shall not be liable for forfeiture of its Performance Security (if any), liquidated damages, or termination for default if and to the extent that it’s delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure. |
|  | 20.2 | For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes. |
|  | 20.3 | If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. |
| **21. Assignment** | 21.1 | Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party. |

**Attachment to the Conditions of Contract**

PATRIP Foundation Policy – Sanctionable Practice – Social and Environmental Responsibility

1. **Sanctionable Practice**

The IP and the Contractors (including all members of a Joint Venture and proposed or engaged Subcontractors) must observe the highest standard of ethics during the Tender Process and performance of the Contract.

By signing the Declaration of Undertaking the Contractors declare that (i) they did not and will not engage in any Sanctionable Practice likely to influence the Tender Process and the corresponding Award of Contract to the IP’s detriment, and that (ii) in case of being awarded a Contract they will not engage in any Sanctionable Practice.

Moreover, PATRIP Foundation requires to include in the Contracts a provision pursuant to which Contractors must permit PATRIP Foundation and in case of financing by the European Union also to European institutions having competence under European law to inspect the respective accounts, records and documents relating to the Tender Process and the performance of the Contract, and to have them audited by auditors appointed by PATRIP Foundation.

PATRIP Foundation reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

(a) reject an Offer for Award of Contract if during the Tender Process the Bidder who is recommended for the Award of Contract has engaged in Sanctionable Practice, directly or by means of an agent in view of being awarded the Contract;

(b) declare misprocurement and exercise its rights on the ground of the Funding Agreement with the IP relating to suspension of disbursements, early repayment and termination if, at any time, the IP, Contractors or their legal representatives or Subcontractors have engaged in Sanctionable Practice during the Tender Process or performance of the Contract without the IP having taken appropriate action in due time satisfactory to PATRIP Foundation to remedy the situation, including by failing to inform PATRIP Foundation at the time they knew of such practices.

PATRIP Foundation defines, for the purposes of this provision, the terms set forth below as follows:

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| **Coercive Practice** | The impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of the person with a view to influencing improperly the actions of a person. |
| **Collusive Practice** | An arrangement between two or more persons designed to achieve an improper purpose, including influencing improperly the actions of another person. |
| **Corrupt Practice** | The promising, offering, giving, making, insisting on, receiving, accepting or soliciting, directly or indirectly, of any illegal payment or undue advantage of any nature, to or by any person, with the intention of influencing the actions of any person or causing any person to refrain from any action. |
| **Fraudulent Practice** | Any action or omission, including misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a person to obtain a financial benefit or to avoid an obligation. |
| **Obstructive Practice** | Means (i) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or the making of false statements to investigators, in order to materially impede an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice, or threatening, harassing or intimidating any Person to prevent them from disclosing their knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) any act intended to materially impede the exercise of PATRIP Foundation's access to contractually required information in connection with an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice. |
| **Sanctionable Practice** | Any Coercive Practice, Collusive Practice, Corrupt Practice, Fraudulent Practice or Obstructive Practice (as such terms are defined herein) which is unlawful under the Financing Agreement. |

1. **Social and Environmental Responsibility**

Projects financed in whole or partly in the framework of Financial Cooperation have to ensure compliance with international Environmental, Social, Health and Safety (ESHS) standards (including issues of sexual exploitation and abuse and gender-based violence). Contractors in PATRIP Foundation-financed projects shall consequently undertake in the respective Contracts to:

1. comply with and ensure that all their Subcontractors and major suppliers, i.e. for major supply items comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the respective Contract and the fundamental conventions of the International Labour Organisation[[6]](#footnote-6) (ILO) and international environmental treaties and;
2. implement any environmental and social risks mitigation measures, as identified in the environmental and social impact assessment (ESIA) and further detailed in the environmental and social management plan (ESMP) as far as these measures are relevant to the Contract and implement measures for the prevention of sexual exploitation and abuse and gender-based violence.

1. Capitalised terms used, but not otherwise defined in this Declaration of Undertaking have the meaning given to such term in KfW’s “*Guidelines for the Procurement of Consulting Services, Works, Plant, Goods and Non-Consulting Services in Financial Cooperation with Partner Countries”*. [↑](#footnote-ref-1)
2. To be adapted throughout the document in case of other donor institution. [↑](#footnote-ref-2)
3. The IP means the purchaser, the employer, the client, as the case may be, for the procurement of Consulting Services, Works, Plant, Goods or Non-Consulting Services. [↑](#footnote-ref-3)
4. In case ILO conventions have not been fully ratified or implemented in the Employer’s country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer, the PATRIP Foundation and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker’s organisations and e) non-discrimination. [↑](#footnote-ref-4)
5. In the case of a JV, insert the name of the JV. The person who will sign the application, bid or proposal on behalf of the Applicant/Bidder shall attach a power of attorney from the Applicant/Bidder. [↑](#footnote-ref-5)
6. In case ILO conventions have not been fully ratified or implemented in the Employer’s country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and PATRIP Foundation, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker’s organisations and e) non-discrimination. [↑](#footnote-ref-6)