

INVITATION TO TENDER

TO:

All prospective Bidders

Date of issue:	27 September, 2021
Reference no.:	ITB-DCA-NES-EBL-001
Contract title:	Supply and Delivery of Heavy-Duty Vehicles and Equipment to DCA
Closing date:	18 October, 2021 4:00PM (Iraqi Time) 1:00 PM (GMT)
Tender opening:	20 October, 2021
Contracting Authority:	DanChurchAid NES Contact person : Mohammed Taha Tel: +964(0)7504320605 Email: mota@dca.dk

DANCHURCHAID NORTHEAST SYRIA INVITES SUPPLIERS TO TENDER FOR SUPPLY AND DELIVERY OF SECOND-HAND HEAVY-DUTY VEHICLES AND EQUIPMENT.

Please find enclosed the following documents, which constitute the Tender Dossier:

A – Instructions to Tenderers

Annex 1: Technical data form (to be completed by the Tenderer)

Annex 2: Tender Submission form (to be completed by the Tenderer)

Annex 3: General Terms and Conditions for Supply Contracts – Ver5 2020

Annex 4: Code of Conduct for Contractors

If this document is a PDF format, upon request a complete copy of the above documents can be forwarded in a WORD format for electronic completion. It is forbidden to make alterations in the text.

We should be grateful to receive information by email of the intention to submit or not a proposal.

A. INSTRUCTIONS TO TENDERERS

A.1. Scope of supply

The subject of the contract is the supply and delivery by the Tenderer of the following Items.

Item	Description	Quantity	Required delivery
1	Second Hand - Dump Truck 6 x 2	2	7 November, 2021
2	Second Hand - Unit truck 4X2	1	7 November, 2021
3	Second Hand - Lowboy trailer (Compatible with Item 2)	1	7 November, 2021
4	Second hand DSID Doosan SD310 Wheel loader	2	7 November, 2021

The Equipment to be purchased are for use by the Contracting Authority in its Humanitarian Mine Action Program in Syria. The tenderer can submit a tender for one, several or all items.

The supplies are described in more details in the Technical Data Form, Annex 1.

a) Delivery

The above supplies shall be delivered to DCA Erbil Office DDP as per above required delivery time.

b) Specifications

The supplies must comply fully with the technical specifications set out in the Tender Dossier (technical data form, Annex 1) and conform in all respects with the drawings, quantities, models, samples, measurements and other instructions. Deviations from the specifications may be considered only if deemed to be in the best interest of the Contracting Authority.

A.2. Cost of Tender

The Tenderer shall bear all costs associated with the preparation and submission of his tender and the Contracting Authority will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the tender process.

A.3. Clarification of tender documents and additional information

Tenderers may submit questions in writing at the latest on the date specified in the timetable in article A.4, specifying the tender no., and the contract title. Information regarding interpretation of this invitation to tender must be requested in writing to the Contracting Authority's contact person by email mota@dca.dk keeping miwu@dca.dk in copy of all correspondence.

Tenderers are not allowed to approach the Contracting Authority for verbal clarification.

Any clarification of the Tender Dossier given by the Contracting Authority will be submitted to all Tenderers at the latest on the date specified in the timetable. If the Contracting Authority provides additional information on the Tender Dossier, such information will be sent in writing to all other prospective Tenderers at the same time.

Any prospective Tenderer seeking to arrange individual meetings during the tender period with either the Contracting Authority and/or any other organisation with which the Contracting Authority is associated or linked may be excluded from the Tender Procedure.

A.4. Planned timetable

The Contracting Authority reserves the right to alter the dates and time in the following timetable, in which case all Tenderers will be informed in writing and a new timetable will be provided.

	Date	Time
Deadline for request for any clarifications from the Contracting Authority	11 October, 2021	4:00 PM (Iraq Time)
Last date on which clarifications are issued by the Contracting Authority	13 October, 2021	4:00 PM (Iraq Time)
Deadline for submission of tenders (closing date)	18 October, 2021	4:00 PM (Iraq Time)
Tender opening session	20 October, 2021	10:00AM
Contract award	26 October, 2021	26 October, 2021
Contract start	26 October, 2021	26 October, 2021

All times are in the time zone of Iraq.

A.5. Eligibility and qualification requirements

Tenderers are not eligible if they are in one of the situations listed in article 15 of the General Terms and Conditions for Supply Contracts – Ver5 2020.

Tenderers shall in the Tender Submission Form attest that they meet the above eligibility criteria. If required by the Contracting Authority, the tenderer, which tender is accepted shall further provide evidence satisfactory to the Contracting Authority of its eligibility through certificates issued by competent authorities in its country of establishment or operation, or, if such certificates are not available, through a sworn statement.

Tenderers are also requested to certify that they comply with the Code of Conduct for Contractors.

To give evidence of their capability and adequate resources tenderers shall provide the information and the documents requested in the Tender Dossier.

A.6. Exclusion from award of contracts

Contracts may not be awarded to tenderers who, during the Procurement Procedure:

- (a) are subject to conflict of interest; and/or
- (b) are guilty of misrepresentation in supplying the information required as a condition of participation and eligibility in the Tender Procedure or fail to supply this information.

A.7. Language of Tenders

The tenders, all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority must be written in English. Supporting documents and printed literature furnished by the tenderer may be in local language.

A.8. Documents comprising the tender

The tenderer shall complete and submit the following documents with his tender:

- a) Tender Submission Form (Annex 2) with supporting documents
- b) Technical Data Form (Annex 1) with supporting documents

The following documents shall in addition be submitted with the tender

- c) Manufacturer's technical specifications of the Vehicle / Equipment (Where Available)
- d) Evidence of any quality accreditation
- e) Tenderer's company registration certificate

and other relevant information that should be made known to the Contracting Authority.

A.9. Price

The price quoted by the supplier shall not be subject to adjustments except as otherwise provided in the conditions of the Contract.

Price shall be quoted in **USD (United States Dollar)**.

The Contracting Authority will pay the successful supplier for each Purchase Order issued and supplies delivered in accordance with the terms of this Tender Dossier, a sum which shall be based on the supplies ordered by the Contracting Authority and delivered by the successful supplier, at the price specified in the Contract.

The Contractor guarantees that the price specified in this Tender Dossier, is the maximum price that shall remain firm and shall not be increased during the entire term of the Contract, provided however, that in the event that the successful supplier is able to offer the Contracting Authority a discounted price on placement of bulk contracts, the unit price shall be reduced for specific contracts.

The Tenderer shall commit to provide all Import Tax Payment evidence. All Equipment that shall be offered by the Tenderer must have all Customs and Import duties (where applicable) fully settled by the Tenderer

VAT and/or any sales tax applicable to the purchase of supplies shall be indicated separately in the Quotation Submission Form.

A.10. Validity

Tenders shall remain valid and open for acceptance for 90 days after the closing date for the submission of tenders.

Prior to the expiry of the original tender validity period, the Contracting Authority may ask tenderers in writing to extend this period. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the Tender Procedure will be terminated.

A.11. Submission of tenders and closing date

Tenders must be received either through the **secured email** provided below or at any of **the addresses mentioned below by hand or post not later than the closing date and time specified in the timetable article A.4**. Any tenders received after that time will not be considered.

The timely arrival of a quotation is the responsibility of the Supplier. Late quotations refer to any quotation arriving at the Contracting Authority after the closing date and time for submitting quotation. This is irrespective of the reason e.g., a delay in the delivery of mail or due to a technical problem related to electronic data transmission.

EMAIL SUBMISSIONS

- Tenderers can Submit their Offers by Email to the following secured email address **bid.sy@dca.dk**. **Offers Must not be sent to any other email address, any email offers not sent to the listed email address may be disqualified.**
- Email subject should be the tender Reference Number **"ITB-DCA-NES-EBL-001"**

- All Offers must be submitted as attachments and must be in Pdf Format with all appropriate stamps and signatures, any submission of Ms Word or Excel documents will be disqualified

HARD COPY SUBMISSIONS

Hard Copy Tenders can be submitted to any of the DCA Office Addresses listed below.

DCA NES Erbil Office

Address: DCA NES Iraq Office, Kareiz SEC. 415 - St. 64
al Muntazah - Ankawa
Erbil

Contact Person: Mohammed Taha

Telephone # : +964(0)7504320605

DCA MENBIJ Office

Address: Manbij, Aleppo Road, in front of Al Furat Hospital

Contact Person: Mohamad Al Amory

Telephone # : +963 996 178 921

DCA Ragga Office

Address: AL intifada Neighborhood Raqqa City

Contact Person: Deaa Aldeen

Phone: +963 988 022 166

DCA Al-Hasake Office

Address: Al-Hassaka city - Al-Mofti neighborhood - beside Banko private generator

Prolog contact person: Adnan Al-Zhrawi

Telephone #: 00963 932 592 423

DCA Kobane Office

Address: Kobane - Bozan Bek neighborhood

Contact person: Mustafa Muhamad

Telephone #: 00963 991030081

DCA Derik Office

Address; Derik - Traffic Center Street

Contact person: Jihad Ahmad

Telephone #: 00963 988 694 576

Tenders shall be submitted in a **sealed envelope** bearing the following information:

Tender Title – Supply and Delivery of Heavy-Duty Vehicles and Equipment

Tender receipt: **<Date and time>**

Tender no.: **ITB-DCA-NES-EBL-001**

NOT TO BE OPENED BEFORE THE TENDER OPENING SESSION

All tenders must be submitted in one original, marked “original”, and 1 copy signed in the same way as the original and marked “copy”.

No tender may be changed or withdrawn after the deadline has passed.

A.12. Tender opening and evaluation

Due to Current COVID Restrictions, DCA is unable to Host Tenderers for the tender Opening Session. Tender opening will take place at:

DCA NES Iraq Office
Kareiz SEC. 415 - St. 64
al Muntazah - Ankawa
Erbil - Kurdistan Iraq

At the tender opening, only the tenderers' names, the total amount of the tenders and any discount offered will be read aloud and recorded.

Prior to the detailed evaluation of the tenders, the evaluation committee, (established by the Contracting Authority for the purposes of this Tender Procedure), shall ascertain whether the tenders meet the eligibility requirements; have been properly signed, are substantially responsive to the tender documents; have any material errors in computation; and are otherwise generally in order.

If a tender is not substantially responsive i.e. it contains material deviations from or reservations to the terms, conditions and specifications in the Tender Dossier, it shall not be considered further.

After analysing the substantially responsive tenders, the evaluation committee will examine the technical admissibility of each tender, classifying it as technically compliant or non-compliant. Deviations from the specifications may be considered if deemed to be in the best interest of the Contracting Authority.

Tenders determined to be substantially responsive and technically compliant will be checked by the evaluation committee for any arithmetic errors. Where there is a discrepancy between the amounts in the figures and words, the amount in words will govern. Where there are discrepancies between the unit price and the line-item total, derived from multiplying the unit rate by the quantity, the unit rate as quoted will govern. If a tenderer refuses to accept the correction, his tender will be rejected.

A.13. Award of Contract

The Contracting Authority will award the contract to the tenderer(s) whose tender has been determined to be substantially responsive to the Tender Dossier and technically compliant, and who has offered the lowest price, provided further that the tenderer has demonstrated the capability and resources to carry out the contract effectively.

DCA has the sole authority to award the Supply to one or more Tenderers

A.14. Signature and entry into force of the Contract

Prior to the expiration of the period of the tender validity, the Contracting Authority will inform the successful tenderer in writing that its tender has been accepted and inform the non-successful tenderers in writing about the result of the evaluation process.

The Contracting Authority reserves the right to adjust the quantities to remain within the available funds.)

Within 3 days of receipt of the contract, not yet signed by the Contracting Authority, the successful tenderer must sign and date the contract and return it, to the Contracting Authority. On signing the contract, the successful tenderer will become the Contractor and the contract will enter into force once signed by the Contracting Authority.

If the successful tenderer fails to sign and return the contract within the days stipulated, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting

Authority's right to claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.

A.15. Cancellation for convenience

The Contracting Authority may for its own convenience and without charge or liability cancel the tender process at any stage.

ANNEX 1: TECHNICAL DATA FORM

Tenderers are requested to complete the following template.

The following technical specifications are provided in the format of a checklist. They are compulsory as a minimum standard and will be the only basis for the evaluators to assess the technical compliance of the equipment presented in the tenders. Deviations from the specifications may be considered only if deemed to be in the best interest of the Contracting Authority.

Manufacturers' names, catalogue numbers and model designations appearing in the list are for reference only. Tenders for other equipment that is equal in function, quality and performance to that listed will be given full consideration.

In order to make sure that no single specification is left out from the tender by mistake, it is recommended to use the checklist as a tool to present the tender.

Item no.:	Parameter	Characteristics (Contracting Authorities minimum requirement)	Comply (Yes / No)	Deviations, if any, to be described in this column	
1	Description	Second Hand - Dump Truck 6 x 2 (Not Registered)			
	Specifications	capacity of 10-16 cubic meters, 1-10 tons, Metal Bucket able to carry rubble/dirt			
		Type Tractor, Emission Euro 3 ...6 Wheelbase mm3800			
		Type Ecotorq 12.7 litre			
		Diameter x Stroke130 mm x 160 mm			
		Minimum Torque 2150 Nm / 1000-1300rpm			
		Preferably external diesel injection pump, Turbo charger Oil Filling Volume 50L (other options will be considered)			
		Manual Gear box 8 or 12 speed levels			
		Air-conditioned Cabin			
		Clutch 2 x 400 mm Twin Clutch Power-Assisted Single Circuit			
		Chassis thickness [mm] 10 mm with Reinforcement			
		Brakes (Front/rear) (Ø.mm x mm. Length) 410 X 200, Z-Cam Brake System, Engine exhaust Brake Power max. 340 kW (Engine Level)			
		Battery 180 Ah			
		Fuel Tank 400 L Aluminium			
		Year of Manufacture – Not Earlier than 2013			
		Mileage – Not more than 300,000 KM			
		Certificates	Temporary Registration		
			KRI Manifest.		
2	Description	Second Hand - Unit truck 4X2 [Prime Mover] (Not Registered)			

	Specifications	Engine 8 Cylinders Cubic Capacity 15.6 DM3 max output 1900rpm:580hp		
		Emission level Euro 3....6		
		Preferable external injection diesel pump turbo charger		
		manual Gear box 12 or 16 level speed		
		Air-Conditioned Cabin		
		Clutch 2X 400 mm Twin Clutch disk		
		Chassis 10 mm engine exhaust break		
		Battery 24v 180 Ah		
		Wheel size 22.5 Inch		
		Year of Manufacture - Not Earlier than 2013		
		Mileage - Not more than 300,000 KM		
	Certificates	Temporary Registration		
		KRI Manifest		
3	Description	Second Hand - Lowboy trailer (Compatible with Item # 2)		
	Specifications	3 Axles Length 13M width 3M		
		Hydraulic Ramp balloon suspension Systems		
		Able to load 45 ton		
		Wheel size 22.5		
4	Description	Second hand DSID Doosan SD310 Wheel loader		
	Specifications	Rated load 5000KG		
		Operating Mass 17300 KG		
		Engine power 162KW/2000rpm		
		Engine model DE08TIS		
		Size L*W*H 8260 *2992*3660		
		Highest speed 36.5 KM/H		
		Gear box ZF type 4WG_208		
		Year of Manufacture - Not Earlier than 2015		
		Not More than 4000 Running Hours		
	Certificates	Temporary Registration		
		KRI Manifest		

For all Tenderers who meet DCA requirements, DCA shall conduct a Technical Evaluation and Physical Inspection of all proposed Vehicles, all certificates and documents will be verified during the Technical Evaluation / Inspection visits.

ANNEX 2: TENDER SUBMISSION FORM

Submitted by (name of company):	
Contact Person:	

PRICE SCHEDULE (Price and currency to be inserted by tenderer)

Item	Description of supplies	Qty	Currency:	
			Unit Price incl. VAT DDP – DCA Erbil	Total Price incl. VAT DDP – DCA Erbil
1	Second Hand - Dump Truck 6 x 2 (Not Registered)			
2	Second Hand - Unit truck 4X2 (Not Registered)			
3	Second Hand - Lowboy trailer			
4	Second hand DSID Doosan SD310 Wheel loader			
Total price incl. VAT DDP. Erbil - Iraq (Incoterm 2020)				

Information required by the Contracting Authority:	Information to be entered by tenderer in the below columns:
Delivery Period (Days Required for Delivery to DCA NES office in Erbil / NES after Issuance of Purchase Order)	

Company information	
Parent company (legal name)	
Street name and no.	
City	
Postal code	
Country	
Phone no.	
Email	
Website	
Sales Manager (name)	
Director (Name)	
Other contact (Title and Name)	

References				
Name and country of customer	Type of contract	Value	Contact name	Phone and email

After having read the Invitation to Tender no. <number> for supply and Delivery of Heavy Duty Vehicles and Equipment dated <date, month, year>, and after having examined the Tender Dossier, I/we hereby offer to execute and complete the Contract in conformity with all conditions in the Tender Dossier for the sum indicated in our financial proposal. On behalf of the company, we hereby;

- Accept, without restrictions, all the provisions in the Invitation to Tender including General terms and Conditions for Supply contracts – Ver5 2020, with annexes.
- Certify that I/we do not support terrorists or terrorism activities, and do not condone the use of terrorism.
- Provided that a contract is issued by the Contracting Authority we hereby commit to furnish any or all items at the price offered and deliver same to the designated points within the delivery time stated above.
- Certify and attest that we meet the eligibility criteria of article stated in the Instructions to Tenderers.
- Certify and attest compliance with the Code of Conduct for Contractors in Annex 4.

The above declarations will become an integrated part of the contract and misrepresentation will be regarded as grounds for termination.

- In the event the contract is awarded to us, we request that payments under the contract be made to the following account: [insert all necessary references].
- Our tender is valid for a period of <number> days after the closing date in accordance with instructions to tenders.

Date, signature and stamp:

Signed by:

The tenderer
Name of the company
Address
Telephone no.
Email
Name of contact person
Date

ANNEX 3: GENERAL TERMS AND

DEFINITIONS

In these general terms and conditions, the terms:

- a) "Purchase Order" and "Contract" are used interchangeably and cover also "purchase contract" and/or "supply contract" or any other contract, whichever its denomination, to which these general terms and conditions are made applicable,
- b) "Seller" and "Contractor" are used interchangeably and shall also cover the term "Supplier" used in any contract as defined above.
- c) "Buyer" and "Contracting Authority" are used interchangeably.
- d) "Goods" and "supplies" are used interchangeably, to designate the supplies object of the Contract as defined above.
- e) The Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked.

1. DELIVERY TERMS

Notwithstanding any Incoterm used in a purchase order or similar document, it is the responsibility of the Seller to obtain any export license or other governmental authorisation for export.

2. PAYMENT

Payment will be as indicated in the purchase order.

Payment made by the Contracting Authority does not imply any acceptance of Goods or related services. Unless otherwise stated in the purchase order, prices are fixed.

3. INSPECTION AND ACCEPTANCE OF THE GOODS

3.1. All Goods shall be subject to inspection and testing by the Contracting Authority or its designated representatives, to the extent practicable, at all times and places, including the period of manufacture and, in any event, prior to formal acceptance by the Contracting Authority.

3.2. Neither the carrying out of any inspections of the Goods nor any failure to undertake any such inspections shall release the Seller of any of its warranties or the performance of any obligations under the Contract.

3.3. The Goods shall be taken over by the Contracting Authority when they have been delivered to final destination in accordance with the Contract, have satisfactorily passed the required tests, or have been successfully installed and commissioned as the case may be, and a certificate of acceptance has been issued.

3.4. Under no circumstances shall the Contracting Authority be required, or deemed to, accept any Goods that do not conform to the specifications or requirements of the Contract. The Contracting Authority may condition acceptance of the Goods to the successful completion of acceptance tests. In no case shall the Contracting Authority be obligated to accept any Goods unless and until the Contracting Authority has had a reasonable opportunity to (i) inspect the Goods following their delivery at final destination, (ii) proceed with and complete satisfactory tests, or (iii) be satisfied of installation and commissioning of the equipment, as the case may be, and whichever is the latest. Payment by the Contracting Authority does not imply acceptance of the Goods.

3.5. If the Contracting Authority fails to issue an acceptance certificate within a period of 45 days from actual delivery of the Goods at final destination, successful completion of the tests, successful installation and commissioning, whichever is the latest, the Contracting Authority shall be deemed to have issued the acceptance certificate on the last day of that 45-day period. The issue of the acceptance certificate shall not release the Seller of any of its warranties under the Contract, including those of article 4.

3.6. Notwithstanding any other rights of, or remedies available to, the Contracting Authority under the Contract, in case any of the Goods are defective or otherwise do not conform to the Contract, the Contracting Authority may, at its sole option, reject or refuse to accept the Goods, and the Seller shall promptly proceed in accordance with article 4.3.

4. WARRANTY OBLIGATIONS

4.1. Without limitation of any other warranties stated in or arising under the Contract, or resulting from statutory rights under applicable product liability law, the Seller warrants and represents that:

- a) the Goods, including all packaging and packing thereof, conform to the specifications of the Contract, are fit for the purposes for which such Goods are ordinarily used and for the purposes expressly made known to the Seller, and shall be of

- b) even quality, free from faults and defects in design, material, manufacture and workmanship under normal use in the conditions prevailing in the country of final destination;
- b) that the Goods are securely contained, packaged and marked, taking into consideration the mode(s) of shipment in a manner so as to protect the Goods during delivery to their ultimate destination;
- c) if the Seller is not the original manufacturer of the Goods, the Seller shall provide the Contracting Authority with the benefit of all manufacturers' warranties in addition to the present warranties;
- d) the Goods are of the quality, quantity and description required by the Contract;
- e) the Goods are new and unused; and
- f) the Goods are free from any right of claim by any third-party and unencumbered by any title or other rights, including any liens or security interests and claims of infringement of any intellectual property rights, including, but not limited to, patents, trademarks, copyright and trade secrets.

4.2. Unless provided otherwise in the Contract, all warranties shall remain fully valid for a period of one year after acceptance of the Goods by the Contracting Authority.

4.3. During any period in which the Seller's warranties are effective, upon notice by the Contracting Authority that the Goods do not conform to the requirements of the Contract, the Seller shall promptly and at its own expense correct such non-conformities or, in case of its inability to do so, replace the defective Goods with goods of the same or better quality or fully reimburse the Contracting Authority for the purchase price paid for the defective goods including freight costs to the final destination. The Seller shall pay all costs relating to the repair or return of the Goods as well as the costs relating to the delivery to final site of any replacement goods to the Contracting Authority. If having been notified by any means, the Seller fails to remedy the defect within 30 days, the Contracting Authority may proceed to take such remedial action as may be necessary, at the Seller's risk and expense and without prejudice to any other rights which the Contracting Authority may have against the Seller under the Contract.

4.4. The Seller shall indemnify and hold harmless the Contracting Authority from and against any and all suits, actions or administrative proceedings, claims and demands from third-parties, losses, damages, costs, and expenses of any nature, including legal fees and expenses, which the Contracting Authority may suffer as a result of any infringement by the Seller of the warranties specified in article 4.1.

5. AFTER SALES SERVICE

The Seller shall be able to handle requests from the Contracting Authority for technical assistance, maintenance, service and repairs of the Goods supplied.

6. LIQUIDATED DAMAGES FOR DELAY

Subject to force majeure, if the Seller fails to deliver any of the Goods or to perform any of the services within the time period specified in the Contract, the Contracting Authority may, without prejudice to any other rights and remedies, deduct from the total price stipulated in the Contract an amount of 2.5% of the price of such goods for each commenced week of delay. However, the ceiling of these penalties is 10% of the total Contract price.

7. FORCE MAJEURE

Neither Party shall be considered to be in default nor in breach of its obligations under the Contract if the performance of such obligations is prevented by any event of force majeure arising after the date of the Contract becomes effective.

For the purposes of this Article, the term "force majeure" means acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar unforeseeable events which are beyond the Parties' control and cannot be overcome by due diligence.

If either Party considers that any circumstances of force majeure have occurred which may affect performance of its obligations, it shall promptly notify the other Party and the Contracting Authority, giving details of the nature, the probable duration and the likely effect of the circumstances.

Unless otherwise directed by the Contracting Authority in writing, the Seller shall continue to perform its obligations under the Contract as far as is reasonably practicable and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent it from performing. The Seller shall not employ such alternative means unless directed to do so by the Contracting Authority.

8. TERMINATION FOR CONVENIENCE

The Contracting Authority may, for its own convenience and without charge, cancel all or any part of the Contract. If the Contracting Authority terminate this Contract in whole or in part upon written notice to the Seller. The Contracting Authority shall be responsible for the actual costs incurred by the Seller as a direct result of such termination which are not recoverable by either (i) the sale of the goods affected to other parties within a reasonable time, or (ii) the exercise by the Seller, in a commercially reasonable manner, of other mitigation measures. Any claim by the Seller for such actual costs shall be deemed waived by the Seller unless submitted in writing to the Contracting Authority within thirty (30) calendar days after the Contracting Authority notified the Seller of the termination.

9. VARIATIONS

The Contracting Authority may at any time by written instruction vary the quantities of the Goods by 25 percent above or below the original Contract price. The Contracting Authority may also order variations including additions, omissions, substitutions, changes in quality, form, character, and kind of the Goods, related services to be provided by the Seller, as well as method of shipment, packing, place of delivery and sequence and timing of delivery. No order for a variation may result in the invalidation of the Contract, but if any such variation causes an increase or decrease in the price of or the time required for performance under this Contract, and except where a variation is necessitated by a default of the Seller, an equitable adjustment shall be made in the Contract price, or delivery schedule, or both, and the Contract shall be amended by way of an addendum. The unit prices used in the Seller's tender or quotation shall be applicable to the quantities procured under the variation.

10. APPLICABLE LAW AND DISPUTES

The Contract is governed by and shall be construed in accordance with the laws of the country of establishment of the Contracting Authority.

Any dispute or breach of contract arising under this Contract shall be solved amicably if at all possible. If not possible and unless provided otherwise in the Contract, it shall be submitted to, and settled by, the competent court in the country of establishment of the Contracting Authority, in accordance with the national law of that country.

11. REMEDIES FOR DEFAULT

11.1. The Seller shall be considered in default under the Contract if:

- he fails to deliver any or all of the Goods within the period specified in the Contract;
- he fails to perform any other obligations under the Contract;
- his declarations in respect of his eligibility (article 15) and/or in respect of article 13 (Child labour and forced labour) and article 14 (Mines), appear to have been untrue, or cease to be true;
- he engages in the practices described in article 16 (corrupt practices).

11.2. Upon occurrence of an event of Seller's default, and without prejudice to any other rights or remedies of the Contracting Authority under the Contract, the Contracting Authority shall be entitled to one or several of the following remedies:

- liquidated damages for delay under article 7;
- any of the remedies specified in article 4.3;
- refuse to accept all or part of the Goods;
- general damages;
- termination of the Contract.

11.3. Upon termination of the Contract by the Contracting Authority under this article, the Seller shall follow the Contracting Authority's instructions for immediate steps to bring to a close in a prompt and orderly manner the performance of any obligations under the Contract, in such a way as to reduce expenses to a minimum. The Contracting Authority shall have no other liability than paying the Seller the goods which have already been accepted in accordance with article 3, and shall be entitled to deduct from any such sums:

- any liquidated or general damages due by the Seller;
- and/or any sums due by the Seller under article 4.3;
- and/or any excess cost occasioned by a replacement procurement from other sources.

The Contracting Authority shall also be entitled to call any pre-financing or performance guarantee provided by the Seller under the Contract.

12. OFFICIALS

The Seller warrants that no official of the Contracting Authority and/or its partner has received or will be offered by the Seller any direct or indirect benefit arising from this Contract.

13. HUMAN RIGHTS AND LABOUR RIGHTS

The Seller warrants that it, and its affiliates, respect and uphold Human and Labour Rights defined in national law, the International Bill of Human Rights and the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998). Furthermore, the Seller warrants that it and its affiliates comply with the UN Convention on the Rights of the Child - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the Forced labour Convention C29 and in the Abolition of Forced Labour Convention C105 of the International Labour Organization. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

14. MINES AND OTHER WEAPONS

The Seller warrants that it, and its affiliates are NOT engaged in any development, sale, manufacture or transport of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of antipersonnel mines and/or cluster bombs. Furthermore, the Seller warrants that it and its affiliates are NOT involved in the sale and/or production of weapons, which feed into violations of International Humanitarian Law covered by the Geneva Conventions I-IV and Additional Protocols; and the UN Convention on Certain Conventional Weapons (1980). Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

15. INELIGIBILITY

By signing the purchase order, the Seller certifies that he is NOT in one of the situations listed below:

- (a) He is bankrupt or being wound up, is having his affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) He has been convicted of an offence concerning his professional conduct by a judgement that has the force of res judicata;
- (c) He has been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- (d) He has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which he is established or with those of the country of the Contracting Authority or those of the country where the Contract is to be performed;
- (e) He has been the subject of a judgement that has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
- (f) Following another procurement procedure or grant award procedure financed by the European Community budget or other donor or following another procurement procedure carried out by the Contracting Authority or one of their partners, he has been declared to be in serious breach of contract for failure to comply with his contractual obligations.
- (g) He has been guilty of creating an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the

jurisdiction of his registered office, central administration or principal place of business.

- (h) They are involved in terrorism activities, providing support to individuals or organizations that support terrorism activities, condone the use of terrorism or involved in the provision of arms to individuals or organizations involved in terrorism.
- (i) They are on a list of sanctioned parties issued by United States government, UN, EU or other government issued terrorism and sanction lists.

16. CORRUPT PRACTICES

The Seller and his personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the Contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the Contract or any other contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the Contract or any other contract with the Contracting Authority.

The payments to the Contractor under the Contract shall constitute the only income or benefit the Seller may derive in connection with the Contract and neither he nor his personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, his obligations under the Contract.

The execution of the Contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the Contract or not stemming from a properly concluded contract referring to the Contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

17. DISCRETION AND CONFIDENTIALITY

The Seller shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract or the project without the prior consent in writing of the Contracting Authority. It shall, in particular, refrain from making any public statements concerning the project or the delivery without the prior approval of the Contracting Authority.

18. CHECKS AND AUDITS

The Seller shall permit the Contracting Authority or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit the Contracting Authority or any person authorized by it, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the Contract is financed by the European Community budget, at any time, to have access to its financial accounting documents and to audit such records and accounts both during and after the implementation of the Contract. In particular, the Contracting Authority may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses

19. LIABILITY

Under no circumstances or for no reason whatsoever will the Back donor entertain any request for indemnity or payment directly submitted by the (Contracting Authority's) contractors

20. DATA PROTECTION

If the Contracting Authority is subject to EU Directive 95/46/EC (General Data Protection Regulation) and the Contractor is processing personal data in the context of submitting an offer (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) the Contractor shall do so accordingly to EU Directive 95/46/EC (General Data Protection Regulation) and inform the data subjects of the details of the processing and communicate the Contracting Authority's Privacy Policy to them.



CODE OF CONDUCT FOR CONTRACTORS

ETHICAL PRINCIPLES AND STANDARDS

By this Code of Conduct, the Contracting Authority outlines the ethical principles and standards which contractors are required to follow and uphold. The Contracting Authority is a rights-based organisation that works for people's rights to a dignified life and equality and we expect our contractors to act in a socially responsible manner, with respect for human and Labour rights and the environment.

This Code of Conduct are aligned with recommendations from the Danish Ethical Trading Initiative (DIEH)¹, the UN Global Compact principles² and ECHO's Humanitarian Aid Guidelines for Procurement 2011³.

General Conditions

The Code of Conduct is applicable for all contractors who supply goods, services and works to our operations and projects. It defines the expectations to contractors to act in accordance with applicable law and to conduct themselves responsibly, ethically and with integrity. This includes taking appropriate due diligence measures towards minimising adverse impacts on human- and labour rights, environment and anti-corruption principles. By signing the Code of Conduct contractors agree to ensure due diligence and placing ethics central to their business.

The provision of the ethical standards constitutes minimum rather than maximum standards. International and national laws shall be complied with, and where the provisions of law and the Contracting Authority's standards address the same subject, the highest standard shall apply.

It is the responsibility of the contractor to assure that their contractors and subcontractors comply with the ethical requirements and standards set forth in this Code of Conduct.

The Contracting Authority acknowledge that implementing ethical standards and ensuring ethical behaviour in our supply chain is a continuous process and a long-term commitment for which we also have a responsibility. To achieve high ethical standards, we are willing to engage in dialogue and collaboration with our contractors. In addition, we expect our contractors to be open and willing to engage in dialogue.

Unwillingness to co-operate or serious violations of the Code of Conduct will lead to rejection of bids or termination of contracts.

Human Rights and Labour Rights

Contractors must protect and promote human- and labour rights and work actively to address issues of concern as they arise. As a minimum they are required to comply with national laws and actively work to secure alignment to international Human and Labour Rights standards and frameworks:

Respect for Human- and Labour Rights (The International Bill of Human Rights, ILO Declaration on Fundamental Principles and Rights at Work and the UN Guiding Principles on Business and Human Rights):

The basic principles of the International Bill of Human Rights are that all human beings are born free and equal in dignity and in rights within all spheres of life. Everyone has the right to life, liberty, dignity, freedom and security of the person. Contractors must not flaunt their

responsibility to uphold and promote such rights toward employees, contractors, sub-contractors and the community in which they operate.

Non-exploitation of Child Labour (UN Child Convention on the Rights of the Child, and ILO C138 & C182):

Contractors must not engage in the exploitation of child labour⁴ and contractors must take the necessary steps to prevent the employment of child labour. A child is defined as a person under the age of 18 and children shall not be engaged in labour that compromise their health, safety, mental and social development, and schooling.

Employment is freely chosen (ILO C29 & C105):

Contractors must not make use of forced or bonded labour and must respect workers freedom to leave their employer.

Freedom of association and the right to collective bargaining (ILO C87, C98 & C154):

Contractors must recognise workers right to join or form trade unions and bargain collectively and should adopt an open attitude towards the activities of trade unions (even if this is restricted under national law).

Living wages are paid (ILO C131):

As a minimum, national minimum wage standards or ILO wage standards must be met by contractors. Additionally, a living wage must be provided. A living wage is contextual, but must always meet basic needs such as food, shelter, clothing, health care and schooling, and provide a discretionary income⁵.

Non-discrimination in employment (ILO C100 & C111 and the UN Convention on Discrimination against Women):

Contractors must not practice discrimination in hiring, salaries, job termination, retiring, and access to training or promotion - based on race, national origin, caste, gender, sexual orientation, political affiliation, disability, marital status, or HIV/AIDS status.

No harsh or inhumane treatment of employees (ILO C105):

The use of physical abuse, disciplinary punishment, sexual abuse, the threat of sexual and physical abuse, and other forms of intimidation and abuse may never be practiced by contractors.

Working conditions are safe and hygienic (ILO C155 & C168):

Contractors shall provide safe and hygienic working conditions for its employees and put in place adequate measure to prevent accidents and injury to health associated with or occurring in the course of work.

Working hours are not excessive (ILO C1, C14, C30 & C106):

Contractors must ensure that working hours comply with national law and international standards. A working week of 7 days should not exceed 48 hours and employees must have one day off per week. Overtime shall be compensated, limited and voluntary.

Regular and contractual employment (ILO C143, C183 & C132):

All work performed must be on the basis of a recognised employment relationship via written contracts, established through international conventions and national laws. Contractors shall provide leave, benefit

¹ <https://www.dieh.dk/om-dieh/etisk-handel/hvordan-etisk-handel/dieh-guidelines/>

² <https://www.unglobalcompact.org/what-is-gc/mission/principles>

³ http://ec.europa.eu/echo/files/partners/humanitarian_aid/Procurement_Guidelines_en.pdf

⁴ The definition of Child Labour can be found at:

<https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-5> and https://www.ilo.org/dyn/normlex/en/f?p=NORMLXPUB:12100:0::NO::P12100_ILO_CODE:C138

⁵ Discretionary income is the amount of an individual's income that is left for spending, investing, or saving after taxes and personal necessities (such as food, shelter, and clothing) have been paid.

and employment protection, and protect vulnerable group's regular employment under these laws and conventions.

International Humanitarian Law

Contractors linked to armed conflicts or operating in armed conflict settings shall respect civilian's rights under International Humanitarian Law and not be engaged in activities which directly or indirectly initiate, sustain, and/or exacerbate armed conflicts and violations of International Humanitarian Law⁶ as defined in the Geneva Conventions I-IV and Additional Protocols. Contractors are expected to take a 'do no harm' approach to people affected by armed conflict.

Non-Involvement in Weapon- and Criminal Activities

The Contracting Authority advocates for the Ottawa Convention against landmines and the Convention on Cluster Munitions. Contractors shall not engage in any development, sale, manufacturing or transport of anti-personnel mines, cluster bombs or components, or any other weapon which feed into violations of International Humanitarian Law covered by the Geneva Conventions and Protocols.

Contractors shall not be engaged in any illegal or criminal activity and must never be associated with, provide support to or be involved in any terrorist activities.

Protection of the Environment

The Contracting Authority wishes to minimise the environmental damages applied to nature via our procurement activities and we expect our suppliers and contractors to act in an environmentally responsible manner. This involves respecting applicable national and international environmental legislation and acting in accordance with the Rio Declaration on Environment and Development. As a minimum, contractors must never support or be involved in illegal foresting and shall actively address issues related to proper waste management, ensuring recycling, conservation of scarce resources and efficient energy use.

Anti-Corruption

Corruption is by the Contracting Authority defined as the misuse of entrusted power for private gain and it includes bribery, fraud, embezzlement and extortion. The Contracting Authority holds a great responsibility to avoid corruption and ensure high standards of integrity, accountability, fairness and professional conduct in our business relations. Contractors are expected to have the same approach by undertaking good and fair business ethics and practices, take action to prevent and fight corruption, and abide by international conventions as well as international and national laws.

Complaints

Contractors and contractor's employees who are confronted with corrupt practices, violations of human- or labour rights, or any of the standards laid down in this Code of Conduct, are encouraged to file a complaint with the Contracting Authority⁷.

⁶ This includes pillage/looting which is the unlawful taking of private property for personal or private gain based on force, threats, intimidation, pressure and through a position of power accomplished due to the surrounding conflict.

⁷ DCA's Complaint Handling System is accessed on our website.