#  Dossier d'appel d'offres INTERNATIONAL

 **(SHELTER KITS)**

#

#  APPEL D'OFFRES

TO:

|  |  |  |  |
| --- | --- | --- | --- |
| **Dénomination Sociale :** **RCCM :****Id. Nat. :****NIF (Numeral Impot):****Adresse:** |  | **Date de délivrance:**  | 02 / 08 / 2023 |
|  | **Dossier n °:** | DD no.20230802 |
|  | **Intitulé du contrat:** | Lot SUP 06A\_KIT SHELTER |
|  | **Date de clôture:** | 31 / 08 / 2023 \_ 16 h00, Heure de Goma |
|   | **Pour plus d'informations, contactez le pouvoir adjudicateur :** | COMITE D’APPROV DCA, RDCContact person: Jefferson Sahr BAKALIE et  Christine BadingaTel : +243 829898614, +243 815647409,  +243 824171040E-mail : jeba@dca.dk E-mail : robb@dca.dk **Courrier** : jeba@dca.dk |
| **Téléphone :** |  | **Veuillez noter que les devis physiques peuvent être envoyés à l’adresse :****N0 : 044 Ave. Accasias, Commune de Goma, Quartier de Volcans.**  |

**Dan Church AID, GOMA / RD Congo vous invite à soumettre une offre pour les produits indiqués dans le tableau ci-dessous**

|  |  |  |  |
| --- | --- | --- | --- |
| **Article** | **Description** | Quantité | **Date et lieu de livraison exigée**  |
| **DD 20230802**  | **Fourniture et Livraison de Kits SHELTER** | 52,000 | **20 / 10 / 2023 MWESO** |

 **VOTRE OFFRE SERA ACOMPAGNER DE L ECHATILLON**

# Veuillez trouver ci-joint les documents suivants, qui constituent le dossier d'appel d'offres

# A – Instructions aux soumissionnaires

# B – Projet de contrat incluant les annexes :

#  Annex 1: Formulaire de données techniques (à remplir par le soumissionnaire)

# Annex 2 : Formulaire de soumission d'offre (à remplir par le soumissionnaire)

# Annex 3 : Conditions générales des contrats de fourniture – Ver5 2020

# Annex 4 : Code de conduite pour les entrepreneurs

#  Si ce document est au format PDF, sur demande, une copie complète des documents ci-dessus peut être transmise au format WORD pour être complétée par voie électronique. Il est interdit d'apporter des modifications au texte.

# Nous serions reconnaissants de recevoir des informations par e-mail de l'intention de soumettre ou non une proposition

## A. Instructions to tenderERs

# A.1. Étendue de la fourniture

# L'objet du marché est la fourniture par le Soumissionnaire des fournitures suivantes :

|  |  |  |  |
| --- | --- | --- | --- |
| **Article** | **Description** | Quantité | **Livraison requise** |
| **1** | Sac en Polypropylène de 90 Kg taille 74 X 116 cm  | **6861** |  |
| **2** | Bâche de couleur blanche en polyéthylène d’avec Logo DCA et USAID en grand formatDimension : 6M x 4 MMatériaux : en fibres de polyéthylène noir (HDPE) tissées à haute densité, laminé desdeux côtés avec un revêtement en polyéthylène basse densité (LDPE), avec des rebordsrenforcés par thermo-soudage sur tous les côtés.Poids net minimum : 4,5 Kg cf fiche technique pour plus de détails | **20583** |  |
| **3** | Cloues de 10 cm  | **6861** |  |
| **4** | Cloues de 8 cm  | **6861** |  |
| **5** | Cloues de 4 cm  | **6861** |  |
| **6** | Marteau avec manche (500g)  | **6861** |  |
| **7** | Corde de fibre synthétique de diamètre 4,55 mm en rouleau de 100 m  | **6861** |  |
| **8** | Natte de 2 places avec fil plastic  | **20583** |  |
| **9** | Bêche avec manche | **6861** |  |
| **10** | **Transport du fournisseur a Mweso** | **1** |  |

# Les fournitures à acheter sont destinées à être utilisées par le pouvoir adjudicateur dans son AIDE D'URGENCE INTEGREE POUR AMÉLIORER LES CONDITIONS DE VIE DES DEPLACES INTERNES ET DES CAS DE DETRESSE EXTREME PARMI LES PERSONNES TOUCHEES PAR LE CONFLIT DANS LES ZONES DIFFICILES D'ACCES DE L 'EST DE LA RDC (RUTSHURU, MASISI, WALIKALE ET LUBERO Programme en RDC.

**Les fournitures sont décrites plus en détail dans le formulaire de données techniques, annexe A1.**

# une livraison

# a) Les fournitures ci-dessus doivent être livrées à Mweso conformément au délai de livraison requis ci-dessus.

# b) Spécifications

# Les fournitures doivent être entièrement conformes aux spécifications techniques énoncées dans le dossier d'appel d'offres (formulaire de données techniques, annexe 1) et conformes en tous points aux plans, quantités, modèles, échantillons, mesures et autres instructions. Les écarts par rapport aux spécifications ne peuvent être envisagés que s'ils sont jugés dans le meilleur intérêt de l'autorité contractante.

# A.1. Coût de l'appel d'offres

# Le soumissionnaire supportera tous les coûts associés à la préparation et à la soumission de son offre et le pouvoir adjudicateur ne sera en aucun cas responsable ou redevable de ces coûts, quel que soit le déroulement ou le résultat du processus d'appel d'offres.

# A.2. Clarification des documents d'appel d'offres et information supplémentaires

# Les soumissionnaires peuvent poser leurs questions par écrit au plus tard à la date indiquée dans le calendrier de l'article A.4, en précisant le n° de l'offre et l'intitulé du marché. Les informations concernant l'interprétation de cet appel d'offres doivent être demandées par écrit à la personne de contact du pouvoir adjudicateur.

# Les soumissionnaires ne sont pas autorisés à s'adresser au pouvoir adjudicateur pour obtenir des éclaircissements verbaux.

# Toute clarification du dossier d'appel d'offres donnée par le pouvoir adjudicateur sera soumise à tous les soumissionnaires au plus tard à la date indiquée dans le calendrier. Si le pouvoir adjudicateur fournit des informations supplémentaires sur le dossier d'appel d'offres, ces information seront envoyées par écrit à tous les autres soumissionnaires potentiels en même temps.

# Tout soumissionnaire potentiel souhaitant organiser des entretiens individuels pendant la période d'appel d'offres avec l'autorité contractante et/ou toute autre organisation avec laquelle l'autorité contractante est associée ou liée peut être exclu de la procédure d'appel d'offres.

# A.3. Calendrier prévu

# Le pouvoir adjudicateur se réserve le droit de modifier les dates et heures dans le calendrier suivant, auquel cas tous les soumissionnaires seront informés par écrit et un nouveau calendrier sera fourni.

|  |  |  |
| --- | --- | --- |
|  | **Date** | **Time** |
| Date limite de demande éclaircissements auprès du pouvoir adjudicateur | 29/08/2023 | 16h00 |
| Date limite à laquelle les éclaircissements sont délivrés par le pouvoir adjudicateur | 29/08/2023 | 16h00 |
| Date limite de remise des offres (date de clôture) | 31/08/2023 | 16h00 |
| Échantillons de tous les articles à présenter par le fournisseur au bureau de la DCA à Goma | 06/09/2023 | Entre 14h00 – 16h30  |
| Séance d'ouverture des offres | 08/09/2023 | 10h00 |
| Attribution du contrat | 09/09/2023 | 10h00 |
| Début du contrat | 12/09/2023 | 11h00 |

#  Toutes les heures sont dans le fuseau horaire de la RDC

# A.1. Conditions eligibility et de qualification

# Les soumissionnaires ne sont pas éligibles s'ils se trouvent dans l'une des situations énumérées à l'article 15 des Conditions générales des contrats de fourniture - Ver5 2020.

# Les soumissionnaires doivent attester dans le formulaire de soumission de l'offre qu'ils satisfont aux critères d'éligibilité ci-dessus. Si le pouvoir adjudicateur l'exige, le soumissionnaire dont l'offre est retenue fournira en outre une preuve satisfaisante pour le pouvoir adjudicateur de son éligibilité au moyen de certificats délivrés par les autorités compétentes de son pays d'établissement ou d'exploitation ou, si de tels certificats ne sont pas disponibles, par une déclaration sous serment.

# Les soumissionnaires sont également invités à certifier qu'ils respectent le code de conduite des entrepreneurs.

# Pour prouver leur capacité et leurs ressources adéquates, les soumissionnaires doivent fournir les informations et les documents demandés dans le dossier d'appel d'offres.

# A.2. Exclusion de l'attribution des marchés

# Les marchés ne peuvent être attribués aux soumissionnaires qui, au cours de la procédure de passation des marchés:

# (a) font l'objet d'un conflit d’intérêts; et/ou

# (b) se sont rendus coupables de fausses déclarations en fournissant les information requises comme condition de participation et d'éligibilité à la procédure d'appel d'offres ou ont omis de fournir ces informations.

# A.3. Langue des offres

# Les offres, toute la correspondance et les documents relatifs à l'offre échangés par le soumissionnaire et le pouvoir adjudicateur doivent être rédigés en Français. Les pièces justificatives et les imprimés fournis par le soumissionnaire doivent être rédigés en Français.

# A.4. Documents composant l'offre

# Le soumissionnaire doit compléter et soumettre les documents suivants avec son offre:

# a) Formulaire de soumission de l'offre (annexe 2) avec pièces justificatives

# b) Formulaire de Données Techniques (Annexe 1) avec pièces justificatives

# Les documents suivants doivent en outre être joints à l'offre

# c) Spécifications techniques du fabricant

# d) Copies des états financiers vérifiés du soumissionnaire pour les trois dernières années.

# e) Preuve de toute accréditation de qualité

# f) Autorisation du fabricant (si le fournisseur n'est pas le fabricant)

#  (Choix :)

# g) Certificat d'immatriculation de la société du soumissionnaire

# h) Garantie de soumission

# • Autres documents pertinents requis, par ex : le contrat de fourniture avec d autre organisation humanitaire

# et toute autre information pertinente qui devrait être portée à la connaissance du pouvoir adjudicateur.

# A.5. Prix

# Le prix proposé par le fournisseur ne sera pas sujet à des ajustements, sauf disposition contraire dans les conditions du contrat.

# A.5.1 Le prix doit être indiqué en USD.

#  Le pouvoir adjudicateur paiera au fournisseur retenu pour chaque bon de commande émis et fournitures livrées conformément aux termes du présent dossier d'appel d'offres, une somme qui sera basée sur les fournitures commandées par le pouvoir adjudicateur et livrées par le fournisseur retenu, au prix spécifié dans le Contrat.

# Le Contractant garantit que le prix spécifié dans le présent Dossier d'Appel d'Offres, est le prix maximum qui restera ferme et ne pourra être augmenté pendant toute la durée du Contrat, étant toutefois entendu que dans le cas où le fournisseur retenu serait en mesure de proposer au Contractant Autorité un prix réduit sur le placement des contrats en gros, le prix unitaire doit être réduit pour les contrats spécifiques.

# A.5.2. Validité

# Les offres resteront valables et ouvertes à l'acceptation pendant 30 jours après la date limite de dépôt des offres.

# Avant expiration de la période initiale de validité de l'offre, le pouvoir adjudicateur peut demander par écrit aux soumissionnaires de prolonger cette période. Les soumissionnaires qui acceptent de le faire ne seront pas autorisés à modifier leurs offres. S'ils refusent, leur participation à la Procédure d'Appel d'Offres sera résiliée.

# A.5.3. Dépôt des offres et date de cloture

# Les offres doivent être reçues à l'adresse mentionnée ci-dessous en mains propres ou par courrier au plus tard à la date et heure de clôture précisées dans le calendrier article A.4. Toute offre reçue après ce délai ne sera pas prise en compte.

# L'arrivée dans les délais d'un devis relève de la responsabilité du Fournisseur. Les devis en retard désignent tout devis parvenu à l'autorité contractante après la date et l'heure de clôture de la soumission des devis. Ceci indépendamment de la raison, par ex. un retard dans l'acheminement du courrier ou en raison d'un problème technique lié à la transmission électronique des données.

# Les offres doivent être remises dans une enveloppe cachetée portant les mentions suivantes:

# Adresse

# Attention : Dan Church Aid

# Réception de l'offre : Date et heur

# N° de l'appel d'offres : Numéro

# Annex 1 : FICHE TECHNIQUE

# Les soumissionnaires sont priés de remplir le modèle suivant.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Item no.:** | **Paramètre** | **Caractéristiques (exigence minimale des pouvoirs adjudicateurs)** | **Conforme (Oui / Non** | **Les écarts, le cas échéant, à décrire dans cette colonne** |
| **1** | **Description** | Sac en Polypropylène de 90 Kg taille 74 X 116 cm |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **2** | **Description** |  Bâche de couleur blanche en polyéthylène d’avec Logo DCA et USAID en grand formatDimension : 6M x 4 MMatériaux : en fibres de polyéthylène noir (HDPE) tissées à haute densité, laminé desdeux côtés avec un revêtement en polyéthylène basse densité (LDPE), avec des rebordsrenforcés par thermo-soudage sur tous les côtés.Poids net minimum : 4,5 Kg cf fiche technique pour plus de détails |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **3** | **Description** | Cloues de 10 cm |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **4** | **Description** | Cloues de 8 cm  |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **5** | **Description** | Cloues de 4 cm |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **6** | **Description** | Marteau avec manche (500g) |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **7** | **Description** |  Corde de fibre synthétique de diamètre 4,55 mm en rouleau de 100 m |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **8** | **Description** |  Natte de 2 places avec fil plastic |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |
| **9** | **Description** |  Bêche avec manche |   |   |
| **Specifications** |   |   |   |
| **Accessoire** |   |   |   |

# Annex 2: FORMULAIRE DE SOUMISSION

|  |  |
| --- | --- |
| Présenté par (nom de l'entreprise): |  |
| Personne de contact: |  |

#  BORDEREAU DE PRIX (Prix et devise en USD

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | Descriptif des fournitures | **Qty** | **Currency:** USD |
| **PRIX UNITAIRE** | **PRIX TOTAL** |
| 1 | Sac en Polypropylène de 90 Kg taille 74 X 116 cm | 6861 |  |  |
| 2 | Bâche de couleur blanche en polyéthylène de avec Logo DCA et USAID en grand formatDimension : 6M x 4 MMatériaux : en fibres de polyéthylène noir (HDPE) tissées à haute densité, laminé desdeux côtés avec un revêtement en polyéthylène basse densité (LDPE), avec des rebordsrenforcés par thermo-soudage sur tous les côtés.Poids net minimum : 4,5 Kg cf fiche technique pour plus de dét)  | 20583 |  |  |
| 3 | Cloues de 10 cm | 6861 |  |  |
| 4 | Cloues de 8 cm | 6861 |  |  |
| 5 | Cloues de 4 cm | 6861 |  |  |
| 6 | Marteau avec manche (500g) | 6861 |  |  |
| 7 | Corde de fibre synthétique de diamètre 4,55 mm en rouleau de 100 m | 6861 |  |  |
| 8 | Natte de 2 places avec fil plastic | 20583 |  |  |
| 9 | Bêche avec manche | 6861 |  |  |
| 10 | Transport du fournisseur à Mweso | 1 course |  |  |
| **PRIX TOTAL INCLU LE TRANSPORT** |  |

|  |
| --- |
| Informations sur la société |
| Société mère (nom légal) |  |
| Nom et n° de la rue |  |
| Ville |  |
| Postal code |  |
| Pays |  |
|  |  |
| Phone no. |  |
| E-Mail |  |
| Website |  |
|  |  |
| Directeur des ventes (nom) |  |
| Directeur (Nom) |  |
| Autre contact (Titre et Nom) |  |
|  |  |

# Après avoir pris connaissance de l'Appel d'Offres no. DD no.20230802 pour la fourniture de KIT SHELTER en date du 02/08/2023, et après avoir examiné le dossier d'appel d'offres, je propose/nous proposons par la présente d'exécuter et de compléter le contrat conformément à toutes les conditions du dossier d'appel d'offres pour la somme indiqué dans notre proposition financière. Au nom de la société, nous par la présente;

# • Accepter, sans restriction, toutes les dispositions de l'Appel d'Offres y compris les Conditions Générales des Contrats de Fourniture – Ver5 2020, avec annexes.

# • Certifier que nous ne soutenons pas les terroristes ou les activités terroristes, et ne tolérons pas l'utilisation du terrorisme.

# • À condition qu'un contrat soit émis par le pouvoir adjudicateur, nous nous engageons par la présente à fournir tout ou partie des articles au prix proposé et à les livrer aux points désignés dans le délai de livraison indiqué ci-dessus.

# • Certifier et attester que nous rencontrons les critères d'admissibilité de l'article énoncés dans les Instructions aux soumissionnaires.

# • Certifier et attester la conformité avec le Code de Conduite pour les Entrepreneurs à l'Annexe 4.

#

# Les déclarations ci-dessus feront partie intégrante du contrat et toute fausse déclaration sera considérée comme un motif de résiliation.

# • Dans le cas où le contrat nous serait attribué, nous demandons que les paiements au titre du contrat soient effectués sur le compte suivant : ………………………………………………………………………………………………..

# • Notre offre est valable pour une période de ( ) Jours après la date de clôture conformément aux instructions aux appels d'offres.

# Date, signature et cachet:

# Signé par:

# Le soumissionnaire :

# Nom de l'entreprise :

# Adresse :

# N ° de téléphone :

# E-mail

# Nom de la personne à contacter :

# Date:

**DEFINITIONS**

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

In these general terms and conditions, the terms:

1. “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,
2. “Seller” and “Contractor” are used interchangeably and shall also cover the term “Supplier” used in any contract as defined above.
3. “Buyer” and “Contracting Authority” are used interchangeably.
4. “Goods” and “supplies” are used interchangeably, to designate the supplies object of the Contract as defined above.
5. 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:

1. 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 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;
2. 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;
3. 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;
4. the Goods are of the quality, quantity and description required by the Contract;
5. the Goods are new and unused; and
6. 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 if 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:

1. 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;
2. He has been convicted of an offence concerning his professional conduct by a judgement that has the force of res judicata;
3. He has been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
4. 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;
5. 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;
6. 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.
7. 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.
8. 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.
9. 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.

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**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]](#footnote-1), the UN Global Compact principles[[2]](#footnote-2) and ECHO’s Humanitarian Aid Guidelines for Procurement 2011[[3]](#footnote-3).

**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 labour[[4]](#footnote-4) 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. Children under the age of 15 (in developing countries 14) may not be engaged in regular work, but children above the age of 13 (in developing countries 12) can be engaged in light work if it does not interfere with compulsory schooling and is not harmful to their health and development.

***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 income[[5]](#footnote-5).

***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 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 Law[[6]](#footnote-6) 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 Authority[[7]](#footnote-7).

1. <https://www.dieh.dk/om-dieh/etisk-handel/hvordan-etisk-handel/dieh-guidelines/> [↑](#footnote-ref-1)
2. <https://www.unglobalcompact.org/what-is-gc/mission/principles> [↑](#footnote-ref-2)
3. <http://ec.europa.eu/echo/files/partners/humanitarian_aid/Procurement_Guidelines_en.pdf> [↑](#footnote-ref-3)
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=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138> [↑](#footnote-ref-4)
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. [↑](#footnote-ref-5)
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. [↑](#footnote-ref-6)
7. DCA’s Complaint Handling System is accessed on our website. [↑](#footnote-ref-7)