

German Financial Cooperation with Armenia

BMZ-N 2009.6657.2

SUPPORT PROGRAMME FOR PROTECTED AREAS – ARMENIA (SPPA-A)

Project's Implementation Unit on behalf and for the Ministry of Environment of the Republic of Armenia

KfW Procurement Number: 506523

National Competitive Bidding (NCB) for

PRODUCTION, SUPPLY AND INSTALLATION OF WINDOWS
FOR 11 SPPA-A TARGET VILLAGES IN MEGHRI REGION

Ref. No: SPPA /ARMENIA/G/2021-1

November 2023

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CONDITIONS OF NATIONAL COMPETITIVE BIDDING PROCEDURE

1. NATIONAL COMPETITIVE BIDDING PROCEDURE

1.01. General

The Project Implementation Unit of the Support Programme for Protected Areas – Armenia (SPPA-A; BMZ-N 2009.6657.2) acting on behalf of and for the Ministry of Environment (MoE) of the Republic of Armenia (hereinafter referred to as "the Employer") is pleased to invite all qualified candidates to participate in the National Competitive Bidding Procedure (NCB) as it is described in this document and its annexes for the procurement of goods (hereinafter referred to as the "Goods"):

Production, Supply and Installation of up to 5000 m² of Windows for 11 SPPA-A Target Villages of Meghri Region - Lehvaz, Shvanidzor, Karchevan, Alvanq, Vardanidzor, Nrnadzor, Lichq, Tashtun, Kuris, Vahravar, Gudemnis

Attention for potential Bidders: Alternative Proposals are not permitted. Domestic Preference is not applicable.

1.02. Information about the Project

Starting from 2000s, the German government has been supporting the biodiversity conservation and sustainable usage in Caucasus region in the frame of Caucasian Initiative. Dozens of projects were started under the German Financial Cooperation with KfW bank's finances.

The purpose of the five-year "Support Programme for Protected Areas – Armenia" Project (SPPA-A, 2015-2020) is to improve natural resources and protected areas management in the southern part of Syuniq marz, as well as to improve the socio-economic situation of the adjacent communities. The Project's goal is also a long-term contribution to the conservation of the biodiversity in the South Caucasus, without negatively affecting the income situation and the livelihoods of the rural population. The Project is being implemented via KfW bank's financing in the frames of German Financial Cooperation.

The project mainly covers the southern section of Syuniq marz and targets seven Protected Areas (PAs) (about 80,000 ha, managed by the Zangezur Biosphere Complex SNCO) as well as 32 communities (as SPPA-A target PAs support zone adjacent communities, located in Meghri, Kapan, Goris and Sisian regions).

The Project Executing Agency (PEA) is the Ministry of Environment of RA (MoE). The contract for the Project Implementation Support Consultancy service was originally awarded to GITEC consulting company (GITEC-IGIP GmbH, Cologne, Germany) in joint venture (JV) with ECO Consult Sepp & Busacker Partnerschaft, Oberaula, Germany and in association with Armenian Consecoard LLC (hereinafter 'the Consultant'). The Consultant has established the Project Implementation Unit (PIU) for supporting the Project with necessary short-term, mid-term and long-term experts' services. The PIU is supporting the PEA in the Project's implementation management, administrative and financial issues.

1.03. Required Documents for Participation to the National Competitive Bidding

The Bidder should submit the following documents together with his Bid in order to be eligible:

- Copy of the Certificate from the State Register of RA;
- Certificate from tax authorities verifying that the Bidder has no overdue debts toward the state budget;
- Information on the average annual turnover over a period of 5 years (audited balance sheets, financial statements/reports).

1.04. Qualification Requirements

The Bidder should be a legal entity without state ownership shares and should provide the following information in order to be eligible for technical and further financial evaluation:

- Technical description of the Goods proposed;
- Proven evidence on the Bidder's experience in the supply of the required Goods (copies of the contracts or other evidentiary documents should be submitted) for at least 1 project of an equivalent nature and complexity in the last 5 years. Equivalent nature and complexity is to be understood as the production, supply and installation of insulated windows, de-installation of old windows, closing of holes with polyurethane construction foam ;
- Information on the minimum average annual turnover over a period of 5 years (audited balance sheets, financial statements/reports);
- Valid information on the Bidder's technical capacities and staff (production facility, building, information on the partners, transportation means, personnel, others).

It is the Bidder's responsibility to ensure that its experts, joint venture members, sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the requirements of eligibility and conflict of interest as established hereunder.

KfW's eligibility criteria to bid are described in Annex 7 (Eligibility Criteria).

Important Notice

As a regulated financial institution located in the European Union, KfW must ensure that all its financing fully complies with applicable regulations, including the restrictive measures of the European Union. Russia's invasion of Ukraine has resulted in a new sanctions regime of unprecedented scope, complexity and volatility. KfW is therefore reminding all its partners of ensuring adherence to the Compliance Annex attached to all of KfW's financing agreements, which includes the requirement to comply with European Union sanctions. KfW is analysing the impact of new European Union and other sanctions on an ongoing basis and expects its partners to do the same.

Based on various EU sanctions provisions (including Article 5k of Regulation 833/2014) bidders, subcontractors, and suppliers located in or originating from the Russian Federation must be excluded from procurement processes utilising KfW funds.

Russian bidders, subcontractors and suppliers are to be understood as

- a) Russian nationals or natural or legal persons, entities or bodies established in Russia,
- b) any legal person, entity or body in which more than 50% of the shares are owned directly or indirectly by one of the entities referred to under point (a), or
- c) any natural or legal person, entity or body acting on behalf of or at the direction of any of the entities referred to under point (a) or (b).

At the Employer's request, Bidders may be required to provide evidence of the origin of materials, equipment and services.

1.05. Procedure for Submission of Documents

Bids shall be prepared in 1 (one) printed original document comprising the Qualification Information and Bidding Forms and Documents as described in Articles 2.01 and 2.02 of the Instructions for Bidders, clearly marked as "ORIGINAL". In addition, the Bidder shall submit one printed copy of the bid, clearly marked as "COPY", and one electronic version as true and complete copy of the original in one file in unalterable PDF format on a readable USB flash drive. In the event of any discrepancy between the original and the copy, the original shall prevail.

The original and all copies of the bid shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation and shall be attached to the bid. All pages of the bid where entries or amendments have been made shall be signed or initialed by the person signing the bid. In case the Bidder is a joint venture (JV), the bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, then the bid shall be signed by every member of the proposed JV.

The Bidder shall enclose the original and all copies of the bid in separate sealed envelopes, duly marking the envelopes as "ORIGINAL" and "COPY". These envelopes containing the original and the copies shall then be enclosed in one single envelope/package.

The following information should be reflected on the inner and outer envelopes:

- the Bidder's legal name and address;
- NCB reference number - SPPA /ARMENIA/G/2021-1;
- the address of the Employer.

The sealed and signed package/envelopes must be submitted to the following address:

*RA Ministry of Environment
0010, Yerevan, Government 3rd building, 5th floor, room N 544*

not later than 9th of January, 2024 at 10:00 (local time).

In case the Bidder submits documents under different procedures and/or outside the deadlines described in this NCB, the Bidder will be disqualified from the selection procedure.

1.06. Languages

The Bid as well as all communication related to the present NCB shall be prepared in English.

1.07. Validity Period of Tenders

The period of validity of the offers counted from the deadline for receipt of offers is 120 days.

1.08. Costs of bid preparation and information visit

All expenses related to receiving documents, gathering information, and preparing and submitting the bid, as well as costs for Bidders of participating in an information visit, if any, are covered by the Bidder.

1.09. Request for Additional Information

Any question, communication or requests for additional information concerning this NCB are only permitted in writing and not later than 14 (fourteen) days before the deadline for the submission of the proposals. Such requests are to be sent to the following emails: christian.jaminon@gic-group.com and nervisa.bayonblanco@gic-group.com. The Employer will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all potential Bidders not later than ten (10) days prior to the deadline for the submission of proposals. Potential Bidders must submit their emails for distribution of questions and inquiries among potential Bidders to the Employer.

1.10. Amendments to the NCB Dossier

Any change made to the NCB dossier by the Employer will be uploaded in the same source/media/web where the initial announcement was posted. Information about any such amendment will be distributed to all already known potential Bidders.

1.11. Association

Potential bidders may associate with other candidates to ensure that all the necessary know-how and experience is delivered in implementation of service. In case of association of individual experts, the Bidder must submit a Memorandum of Cooperation, which must include details of each party's responsibilities and obligations. In case of association of firms and companies, Bidders must submit a declaration as prescribed in Section 2.01. Associations which partners are not jointly and severally liable will not be accepted. Applicants shall be free to select their partners.

1.12. Sanctionable Practice

KfW requires compliance with its policy regarding Sanctionable Practice as defined and set forth in Annex 8 (KfW Sanctionable Practices).

In further pursuance of this policy, Bidders shall permit and shall cause its agents to provide information and permit KfW or an agent appointed by KfW to inspect on site all accounts, records and other documents relating to bid submission and contract performance (in the case of award), and to have them audited by auditors or agents appointed by KfW

2. CONTENTS OF THE BID

2.01. Technical Information

The Bid shall contain:

a) NCB Forms

The Bidder must submit all forms filled in with relevant information signed and sealed by the authorized person.

b) The Bidder must submit:

- Copy of the Certificate from the State Register;
- Certificate from tax authorities verifying that the Bidder has no overdue debts toward the state budget;
- Proven evidence on the Bidder's experience in the supply of the required Goods (copies of the contracts or other evidentiary documents should be submitted) for at least 1 project of an equivalent nature and complexity in the last 5 years. Equivalent nature and complexity is to be understood as the production, supply and installation of insulated windows, de-installation of old windows, closing of holes with polyurethane construction foam ;
- Information on the minimum average annual turnover over a period of 5 years (audited balance sheets, financial statements/reports);
- Valid information on the Bidder's technical capacities and staff (production facility, building, information on the partners, transportation means, personnel, others).

c) Detailed Description of goods to be provided

The Bidder is ***explicitly encouraged*** to present a detailed description of the technical and qualitative characteristic of Goods to be provided. The description must meet all criteria set in the Terms of Reference (Annex 1).

d) Detailed information about the terms and conditions of warranty of the goods to be supplied

e) Delivery period

The Bidder must submit information regarding the delivery period, with delivery schedule, in which the Bidder is going to provide the Recipient with the required Goods.

f) Declarations

The Bidder shall provide the following declarations:

- Declaration(s) of Association: duly signed by the partners and specifying clearly the type of association and the lead firm (if any);
- Declaration of Undertaking: a duly signed declaration (in case of an association by all members) pursuant to Annex 3 shall be included.

2.02. Financial Information

The Bid Price shall be based on one average unit price of the proposed Goods (considering usual standard ratio between the static surface and the openable surface), which should include: production, transportation, de-installation of old windows, new window installation and closing of holes with polyurethane construction foam. The measurements' results (for each household) are available with the Client and will be provided by the Client to the successful Bidder after the contract awarding.

The unit price should be indicated in the currency of AMD. The Financial Information shall be submitted in the form shown in Annex 4.

The Bidder should also submit the payment schedule as an annex to the Bid. If an advance payment is required in the payment schedule, after awarding the contract the Bidder shall present an Advance Payment Bank Guarantee, according to the sample in Annex 6.

3. EVALUATION

3.01. General

The selection of the winning Bidder will be made in accordance with the latest KfW Procurement Guidelines. The latest version can be downloaded from KfW's website at: <https://www.kfw-entwicklungsbank.de/PDF/Download-Center/PDF-Dokumente-Richtlinien/FZ-Vergaberichtlinien-V-2021-EN.pdf>

3.02. Bid Evaluation

The quality of each Bid will be evaluated based on compliance with the requirements set in the Terms of Reference. If a bid is not substantially responsive to the requirements of the Bidding Documents, it shall be rejected by the Purchaser and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

A substantially responsive Bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

(a) If accepted, would:

- (i) Affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
- (ii) Limit in any substantial way, inconsistent with the Bidding Documents, the Purchaser's rights or the Bidder's obligations under the proposed Contract; or

- (b) If rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.

The evaluation of the technical information will be carried out using the following criteria:

Criteria description	Result
1. Technical description of the Goods proposed in compliance with the Terms of Reference requirements.	Pass/fail
2. Proven evidence on the Bidder's experience in the supply of the required Goods (copies of the contracts or other evidentiary documents should be submitted) for at least 1 project of an equivalent nature and complexity in the last 5 years. Equivalent nature and complexity is to be understood as the production, supply and installation of insulated windows, de-installation of old windows, closing of holes with polyurethane construction foam .	Pass/fail
3. Valid information on the Bidder's technical capacities and staff (production facility, building, information on the partners, transportation means, personnel, others)	Pass/fail

After evaluation of the Technical Information, the Purchaser shall, for the bids which are substantially responsive, correct arithmetical errors on the following basis:

- (a) If there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
- (b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail, and the total shall be corrected; and
- (c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

Bidders shall be requested to accept corrections of arithmetical errors. Failure to accept the corrections in accordance shall result in the rejection of the bid.

3.03. Award of Contract

The Purchaser shall award the Contract to the qualified Bidder whose bid has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents. Prior to the expiration of the period of bid validity, the Purchaser shall notify the successful Bidder, in writing, that its Bid has been accepted.

Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract. Promptly after notification, the Purchaser shall send the successful Bidder the Contract Agreement. The draft Contract will be prepared according to the standard contract pursuant to Annex 5. The award of contract is subject to KfW's "No-Objection".

4. OTHER PROVISIONS

4.01. Unsuccessful bidders

After the winning Bidder has been notified on the award of Contract, the remaining Bidders will be informed in writing about the rejection of their proposals.

4.02. Cancellation procedure

The NCB procedure may be cancelled, prior to awarding the Contract, without thereby incurring any liability to the Applicants, and notwithstanding the stage in the procedures leading to the conclusion of the Contract, if

- the Programme has been cancelled;
- no Bidder satisfies the criteria for the award of the Contract;
- There is not enough competition;
- All offers received are not substantially compliant with the requirements of the Bidding Documents;
- All the offered prices are substantially higher than the latest updated cost estimate. In this case, as an alternative to retendering, the Employer may negotiate with the Bidder with the highest score and try to get an acceptable offer.

In the event of cancellation of the procedure, Bidders shall be notified thereof by the Employer. The cancellation of the Tender procedure is subject to KfW's prior "No-Objection".

4. ANNEXES

ANNEX 1. TECHNICAL SPECIFICATIONS

Production, Supply and Installation of up to 5000 m². of Windows for 11 SPPA-A Target Villages of Meghri Region - Lehvaz, Shvanidzor, Karchevan, Alvanq, Vardanidzor, Nrnadzor, Lichq, Tashtun, Kuris, Vahravar, Gudemnis

Project Title: Support Programme for Protected Areas - Armenia (SPPA-A)

Project #: BMZ 2009.6657.2

Executing Agency: Ministry of Environment, Republic of Armenia (MoE)

Funding agency: German Financial Cooperation (GFC) through KfW Development Bank (KfW)

Budget code: SPPA OP 2020 – 2.2.5, KfW budget code – 2.

Task(s) of Bidder: Production and transportation of new windows to the villages, de-installation of old windows, new window installation and closing of holes with polyurethane construction foam

Time frame: 5 months within the period of February 2024 – June 2024

Place of delivery: 11 villages of Meghri region in accordance/depending to the grouped lots, presented in the below table.

Reports to: The MoE of RA, SPPA-A project’s implementation unit

Description of the windows to be procured:

- multiple glass unit,
- Metal-plastic profiles
- 60 mm, with 4 cells profiles sizes
- inside of it should be 0,9- 1.2 mm galvanized sheet
- silica gel within the vacuum window frames with 0.4 mm double glass
- vacuum windows
- white color frames
- simple lock

Villages names and houses quantity:

No	SPPA-A target village	Number of permanent households	Unexpected variations
1	Lehvaz	149	
2	Shvanidzor	84	
3	Karchevan	73	
4	Alvanq	81	
5	Vardanidzor	55	
6	Nrnadzor	39	
7	Lichq	26	
8	Tashtun	23	
9	Kuris	9	
10	Vahravar	4	
11	Gudemnis	3	
		546	± 20

Quantity of square meters per each household: up to 9 m² for each house, up to 5000 m² in total. The lists and quantities in m² per each household (measurements results) will be provided by the Employer after contract awarding.

Warranty period: Minimum 18 months.

Delivery period: No later than 4 (four) months after the signing of the contract.

	SPPA-A target village	Number of permanent households	Quantity of households for one contract	Total windows surface in m ² (9 m ² per each household)
1	Shvanidzor	84	204	1900 (variated slightly)
2	Alvanq	81		
3	Nrnadzor	39		
1	Karchevan	73	177	1600 (variated slightly)
2	Vardanidzor	55		
3	Lichq	26		
4	Tashtun	23		
1	Lehvaz	149	165	1500(variated slightly)
2	Kuris	9		
3	Vahravar	4		
4	Gudemnis	3		
Total:			546 ± 20	5000

ANNEX 2. NCB FORMS

Application Submission Sheet

Date:

NCB No.: SPPA /ARMENIA/G/2021-1

To: The Project Implementation Unit (PIU) of the Support Programme for Protected Areas – Armenia

We, the undersigned, apply to be qualified for the referenced NCB and declare the following:

- (a) We have examined and have no reservations to the NCB Document and conditions including issued Addenda.
- (b) We have collected the needed information on conditions of supply and studied all other circumstances that may influence the contract execution.
- (c) We, including any subcontractors or Contractors for any part of the contract(s), meet the eligibility requirements and have no conflict of interest.
- (d) We, including any subcontractors or Contractors for any part of the contract(s) resulting from this NCB, have no conflict of interest and have not been suspended nor declared ineligible by the Purchaser, KfW or any other international Donor. No sanctions by the UN Security Council have been imposed on us.
- (e) We are not a Government-owned entity.
- (f) We, plan to subcontract the following key activities: _____
- (g) The total price of our Bid includes production, transportation, de-installation of old windows, new window installation and closing of holes with polyurethane construction foam. The total price of our Bid excluding VAT, taxes, import duties and other possible charges and excluding any discounts offered in item (h) below is
 - i. In case of only one lot, total price of the Bid is: *[Insert total price and currency in words and figures]*
[Delete if multiple lots are offered]
 - ii. In case of multiple lots, total price of each lot is: *[Insert a list/table showing the total price and currency in words and figures for each lot offered]* *[Delete if only one lot is offered]*
 - iii. In case of multiple lots, total price of all lots (sum of all lots) is: *[Insert the total price and currency in words and figures for all lots offered]* *[Delete if only one lot is offered]*

Please present separately VAT, other taxes and possible charges which are not included in the total Bid Price.

- (h) The discounts offered and the methodology for their application are:
 - i. The discounts offered are: [Specify in detail each discount offered; if no discount is offered state “None”]
 - ii. The exact method of calculations to determine the net price after application of discounts is: [Specify in detail the method that shall be used to apply the offered discounts; if no discount is offered state “None”]

- (i) Our bid shall be valid for a period of 120 days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- (j) The advance payment is: AMD. (.....) which is ___ percent of our Contract Price¹.

Name

In the capacity of

Signed

Duly authorized to sign the Application for and on behalf of

Date

¹ The maximal volume of advanced payment is up to 20% of the Goods price, which may be provided only in case of bank guarantee submission in the same amount

Bidder's Information Sheet

NCB # SPPA /ARMENIA/G/2021-1

1. Bidder's legal name	
2. Bidder's legal address:	
3. Bidder's actual address:	
4. Telephone Number:	
5. Fax:	
6. Emails:	
7. Web:	
8. Director's full name:	
9. Contact Person:	
10. Business field:	
11. Year of Constitution:	
12. Founder (Parent Company if case of existing and its full legal name)	
13. Tax Identification code:	
14. Bank Details:	

Bidder's Signature _____

ANNEX 3. DECLARATION OF UNDERTAKING

Date:

NCB number SPPA /ARMENIA/G/2021-1

To: **("Project Executing Agency")**

1. We recognise and accept that KfW only finances projects of the Project Executing Agency ("PEA")² subject to its own conditions which are set out in the Funding Agreement it has entered into with the PEA. As a matter of consequence, no legal relationship exists between KfW and our company, our Joint Venture or our Subcontractors under the Contract. The PEA retains exclusive responsibility for the preparation and implementation of the Tender Process and the performance of the Contract.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:
 - 2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered into receivership, reorganisation or being in any analogous situation;
 - 2.2) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union or Germany for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
 - 2.3) having been convicted by a final court decision or a final administrative decision by a court, the European Union, national authorities in the Partner Country or in Germany for Sanctionable Practice in connection with a Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests (*in the event of such a conviction, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);
 - 2.4) having been subject, within the past five years to a contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such Contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
 - 2.5) not having fulfilled the applicable fiscal obligations with regard to the payment of taxes at the respective tax residence and in the country of origin of the PEA (*contractors based in Annex 1 countries (<https://www.consilium.europa.eu/de/policies/eu-list-of-non-cooperative-jurisdictions/>) must submit a fully completed and legally countersigned declaration of tax conformity (Appendix 1 to the Declaration of Undertaking) in addition to the Declaration of Undertaking at the time of award of the contract/contract review. This shall become an integral part of the contract. Failure to submit may result in exclusion from the awarding procedure. For contractors based in countries not listed as Annex 1 countries, only the Declaration of Undertaking must be submitted, and not the declaration of tax conformity*);

² The PEA means the purchaser, the employer, the client, as the case may be, for the procurement of Consulting Services, Works, Plant, Goods or Non-Consulting Services.

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

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

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

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

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

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

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

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

i. having prepared or having been associated with a Person who prepared specifications, drawings, calculations and other documentation to be used in the Tender Process of this Contract;

ii. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;

4. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.

5. We undertake to bring to the attention of the PEA, which will inform KfW, any change in situation with regard to points 2 to 4 here above.

6. In the context of the Tender Process and performance of the corresponding Contract:

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

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

6.3) we commit ourselves to complying with and ensuring that our Subcontractors and major suppliers under the Contract comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International Labour Organisation³ (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans or other similar documents provided by the PEA and, in any case, implement measures to prevent sexual exploitation and abuse and gender based violence.

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

Name: _____ In the capacity of: _____

Duly empowered to sign in the name and on behalf of⁴: _____

Signature:

Dated:

³ In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

⁴ In the case of a JV, insert the name of the JV. The person who will sign the application, bid or proposal on behalf of the Applicant/Bidder shall attach a power of attorney from the Applicant/Bidder.

Declaration of tax conformity – binding confirmation for legal persons

Name of company

I hereby confirm with my signature that:

1. I am authorised to make this declaration on behalf of the above company;
2. the company properly pays all taxes in accordance with the tax laws of the country in which the company is domiciled;
3. the company is not currently nor has been in the past involved in any legal proceedings concerning the taxation of the company;
4. the company will duly pay taxes that may arise from the provision of contracted services;
5. all information and statements provided in advance are complete, accurate in terms of content and currently correct.

.....

(Place)

.....

(Date)

.....

(Name of the consultant)

.....

(Signature(s))

Declaration of tax conformity – binding confirmation for natural persons

I hereby confirm with my signature that:

1. I make this declaration in my name/on my own account;
2. I duly pay taxes that I am obliged to pay under the tax law of my country of residence;
3. I am not currently involved in tax law court proceedings, nor have I been in the past;
4. I will duly pay taxes that may arise from the provision of contracted services;
5. I have filled in all the information and statements of this confirmation in full, accurately in terms of content and that they are up to date at this time.

.....

(Place)

.....

(Date)

.....

(Name of the person)

.....

(Signature)

ANNEX 4. SAMPLE BUDGET

Price Schedule

SPPA /ARMENIA/G/2021-1

Name of good	Description of good	Unit Price (excl. VAT, Import Duties and other taxes)	VAT, Import Duties and other taxes	Delivery Period	Place of Delivery

NOTE: the following pricelist is presented as sample and it can be modified by the Bidder

1. Our offer is valid for the period specified in NCB Document.
2. We propose the following payment method:
3. By submitting this bid, we accept the conditions included in the NCB Document in full and we accept the proposed draft contract

Date and Place

Person in charge

(Signature and stamp)

ANNEX 5. STANDARD CONTRACT SAMPLE

GOODS SUPPLY CONTRACT

№ “D-_____ - _____”

Yerevan

“_____” 2021

The The Ministry of Environment of RA, represented by _____, the _____, “Support Programme for Protected Areas-Armenia” BMZ-N 2009.6657.2 (hereinafter referred to as SPPA-A,) Project’s Director, acting based on the charter of the Ministry and the order № _____ issued on _____ by the Minister of Nature Protection, and the SPPA-A Project Implementation Unit, represented by the Team Leader Mr. H.Hertel, jointly “Payer” (hereinafter referred to as the Payer), acting based on the Separate Agreement, signed between the Ministry of Nature Protection, RA and German KfW bank, on the 28th of May, 2013, on the one hand, Meghri Community, represented by the community leader _____, acting based on the community charter (hereinafter referred to as the Recipient), on the other hand and “_____” LLC, represented by its director _____, acting based on the company’s charter (hereinafter referred to as the Supplier) on the third hand (hereinafter jointly referred to as the Parties) signed the present Contract (hereinafter referred to as the Contract) on the following:

1. THE SUBJECT OF THE CONTRACT

1.1 The Supplier is obliged to supply to the Recipient the **goods** (hereinafter referred to as the Goods) defined by the Contract’s Technical Specifications (Annex N1), in accordance with the terms, quantities and purchase-schedule (Annex N2), defined by the Contract; the Recipient is obliged to accept the Goods, and the Payer - to pay for it in accordance to the order, defined by the section 4 of the Contract and the payment schedule (Annex 3).

2. THE TERMS OF DELIVERY

- 2.1 The Supplier shall deliver the Goods to the Recipient in accordance with the quantities and terms, defined by the purchase schedule, Annex №2 of the Contract.
- 2.2 The Supplier shall deliver the Goods to the Recipient in accordance with the terms, defined by the Annex 1 of the Contract.

3. THE RIGHTS AND THE OBLIGATIONS OF THE PARTIES

3.1. The Payer has the right to:

- 3.1.1 Reject the Goods in the case if the Goods are not delivered within the terms defined by the Contract, if the delivery terms are violated for more than 10 (ten) working days.
- 3.1.2 In the case if the delivered Goods’ quality is improper: is not in compliance with the technical specifications, defined by the clause 1.1 of the Contract:
- Demand a compensation for the cost, caused by the improper quality of the Goods.
 - Not accept Goods, in its discretion defining a reasonable term, for the free of charge replacement of the improper quality Goods with the Goods in accordance with quality, defined by the Contract and demand from the Supplier to pay the penalty set by the clause 7.4 of the Contract.
 - Discontinue the performance of the Contract and demand to return the amounts, paid for the Goods.
- 3.1.3 In the case if the quantity of the Goods is less than it is defined by the Contract:
- Demand to replenish the missing quantity of the Goods,
 - Reject from the delivered Goods and to pay for it, and in the case if it is paid, to demand to return the amount paid and to pay the penalty, as defined by the clause 7.2 of the Contract.
- 3.1.4 In the case if the delivered Goods are in violation regarding with the type condition, then in its discretion
- Accept the Goods, which are in compliance with the condition of type and to withdraw from the rest of the Goods.
 - Withdraw from all the delivered Goods and to demand to pay the penalty defined by the clause 7.2 of the Contract.
 - Demand free replacement of the Goods, which are not in compliance with the condition of type, with the respective Goods in accordance with the type, defined by the Contract.
- 3.1.5 In the case if the Supplier violated the terms of delivery, in its discretion, to define the new terms of the Goods’ delivery, and to demand to pay the penalty defined by the clause 7.2 of Contract.
- 3.1.6 Unilaterally terminate the Contract (fully or partially), if the Supplier violated it significantly.
- 3.1.6.1 The violation of the Contract by the Supplier is considered as significant if:

- a) The delivered Goods are of improper quality, which cannot be replaced within affordable for the Payer terms,
 - b) The Goods' delivery dates have been violated for more than 10 (ten) working days;
 - c) The Supplier did not fulfill the obligations, defined by the clauses 3.6.4, 3.6.5 and 3.6.9 of the Contract.
- 3.1.7 Examine Goods and to inform the Supplier on the detected defects immediately.
- 3.2 The Payer is obliged to:**
- 3.2.1 Pay to the Supplier the amount subjected to be paid in the case of the acceptance of the Goods delivered as it is defined in the Contract, within the respective terms, and in the case of the payment terms violation to pay also the penalty defined by the clause 7.5 of the Contract.
 - 3.2.2 Inform the Supplier on the violation of the conditions of the Contract related to the Goods' quantity, types and quality, as soon as the defects are detected, immediately or within the reasonable terms after the violation has been detected, reasoned when the Contract's relevant condition's violation should be detected, based on the Goods' nature or designation.
 - 3.2.3 Compensate the damages to the Supplier in case of the Contract's termination in accordance with the clause 3.5.4 of the Contract.
- 3.3 The Recipient has the right to:**
- 3.3.1 Receive from the Supplier the Goods in accordance with the technical characteristics, given in the Annex N1 of the Contract.
 - 3.3.2 Reject the delivered Goods, if the Goods are not in accordance with the technical characteristics, given in the Annex N1 of the Contract.
- 3.4 The Recipient is obliged to:**
- 3.4.1 To submit for the Payer's approval the concept of choosing the households, mentioned in the clause 1.1 of the Contract and the list of names, before the beginning of the supplied Goods' distribution process.
 - 3.4.2 Fulfill all the necessary activities to ensure the acceptance of the delivered in accordance with the Contract's terms Goods, in accordance with the Legislation of RA.
 - 3.4.3 Ensure the respective storage of the Goods, delivered by the Supplier in the case of rejecting the Goods in accordance with the Contract, and inform the Supplier about it immediately.
 - 3.4.4 Inform the Payer or the Supplier on the violation of the conditions of the Contract related to the Goods' quantity, types and quality, as soon as the defects are detected, immediately or within the reasonable terms after the violation has been detected, reasoned when the Contract's relevant condition's violation should be detected, based on the Goods' nature or designation.
 - 3.4.5 Organize the distribution of the delivered Goods to the beneficiaries, to make relevant acceptance acts between the community and all the beneficiaries, separately, as well as to provide the Payer with a report, summarizing all the distribution of the Goods delivered in the frames of the Contract, attaching the acceptance acts, mentioned in the present clause.
- 3.5 The Supplier has the right to:**
- 3.5.1 Demand from the Recipient to accept the delivered Goods in accordance with the terms, defined by the Contract.
 - 3.5.2 Demand from the Payer to compensate the damages, if due to the violation of the obligation by the Payer, within reasonable terms after the Contract's termination, the Supplier sold the Goods to another client at lower but reasonable price, than it has been defined by the Contract: at the amount of the difference between the defined by the Contract price and instead of it deal's price.
 - 3.5.3 Demand from the Payer to pay the amounts subjected to the payment for the delivered Goods with respect to the regulations and within terms defined by the Contract.
 - 3.5.4 Unilaterally terminate the Contract (fully or partially) in the case if the Payer violated the Contract significantly. The violation of the Contract by the Payer is considered as significant, if the terms of the payment have been violated numerously.
 - 3.5.5 Deliver the Goods earlier or by installments agreed with the Payer.
- 3.6 The Supplier is obliged to:**
- 3.6.1 Deliver the Goods to the Recipient in accordance with the terms and regulations, defined by the Contract.
 - 3.6.2 Deliver the Goods to the Recipient according to the clause 2.1 of the Contract within the terms agreed beforehand with the Payer and the Recipient.
 - 3.6.3 Deliver to the Recipient the Goods exempted from the rights of the third parties.
 - 3.6.4 Deliver to the Recipient the Goods with respective quantity and quality defined by the Annex 1 and the Annex 2 of this Contract within the respective terms and regulations, and based on the request of the Payer to provide the quality confirmation documents as defined by RA legislation.
 - 3.6.5 Complete the incomplete delivery in accordance with the Contracts terms in the case of incomplete delivery.
 - 3.6.6 Take back the Goods, stored by the Recipient according to the clause 3.4.3 of the Contract or undertake the responsibility of its disposal, within the reasonable terms, as well as to compensate all the costs related to the acceptance of the Goods for a storage, sale or return to the Supplier.
 - 3.6.7 Pay the defined fines and penalties, set by the clauses 7.2 and 7.4 of the Contract in the cases defined by the Contract.
 - 3.6.8 Hand over all the supplies and respective documents of the Goods to the Recipient.
 - 3.6.9 Compensate all the damages to the Payer after the Contract's termination, according to the clause 3.1.6 of the Contract.
 - 3.6.10 Inform the Payer in written beforehand, if during the Contract's fulfillment liquidation or bankruptcy initiation processes were begun.
 - 3.6.11 Sign the Declaration of Undertaking, presented in the Annex 5, the integral part of the Contract.

4. THE PRICE OF THE GOODS AND THE PAYMENTS' REGULATIONS

- 4.1 The total price of the Goods subjected to be delivered by the Supplier according to the Contract is up to AMD _____ (_____). The price of the Goods includes all the taxes, duties and other payments defined by RA regulations, all other costs related to the registration of the Goods, as well as all the expenses conducted by the Supplier in connection with the delivery of the Goods to the destination place. The Goods' delivery price is static and the Supplier is not eligible to demand to increase the price, and the Payer is not eligible to decrease it. The unit price of the Goods is defined in the Annex N2 of the Contract.
- 4.2 The Payer pays for the Goods delivered to the Recipient through a bank, transferring the amount to the Supplier's bank account. The transfers shall be done basing on the hand-over record, within the month, defined by the payment schedule – the Annex 3 of this Contract (if the hand-over record is made after the 20th of a month, in this case the payment is subject be done during 20 banking days), but not more than the amount defined for that period according to the payment schedule. If the funds, subjected to be paid for the Goods accepted according to the payment schedule, are not enough, then the payment shall be done during that month, for which the funds are planned, but not later than December 20th, 2021.

5. THE GOODS QUALITY AND WARRANTY

- 5.1 The warranty period for the Goods, considered as fixed assets, shall be set minimum 365 calendar days starting from next day of the Goods acceptance.
In the case if the defects are detected during the warranty period, then the Supplier is obliged to fix the defects during the reasonable period defined by the Payer.

6. THE GOODS HANDOVER

- 6.1 The Supplier hands over the Goods to the Recipient in the quantity and within the terms defined by the Annex 2 of the Contract.
- 6.2 The outcomes of the delivery of the Goods or a part of the Goods, shall be accepted basing on the Hand-Over Act, signed mutually between the Payer, the Recipient and the Supplier. The Supplier submits the Recipient and the Payer 4 copies of a signed hand over act on the delivered Goods in accordance with the Contract (the sample is provided in the Annex №4) before the end of the Goods' delivery day (including) defined by the Contract. The violation of the condition, defined by this clause is considered as a violation of the delivery terms.
- 6.3 The Hand-Over act is signed in the case if the delivered Goods are in compliance with the conditions of the Contract. Otherwise the outcomes of the delivery of the Goods or a part of the Goods shall not be accepted, the hand over act shall not be signed and the Payer shall:
- undertake the activities defined by the Contract for regulation of the such situations.
 - Apply the sanctions defined by the Contract towards the Supplier.
- 6.4 The Payer shall submit the Supplier one copy of the signed from his side hand over act or the reasoned explanation of not accepting the Goods, within ten days since the hand over Act was received,.
- 6.5 If the Payer does not accept or reject the outcome of the Goods delivery within the terms defined by the clause 6.4 of the Contract, then it is considered as accepted and on the next working day after the deadline, defined by the clause 6.4 of the Contract, the Payer shall submit the Supplier the signed from his side hand over act and make a payment.

7. THE RESPONSIBILITIES OF THE PARTIES

- 7.1 The Supplier is responsible for the quality of the delivered Goods and for acting in accordance with the delivery terms defined by the Contract.
- 7.2 In the case if the Goods delivery terms, defined by the Contract, are violated by the Supplier, the Latter shall be applied a penalty for each day of delay in the amount of 0.05 (zero point zero five) percent of the undelivered Goods value.
- 7.3 The fine and the penalty defined by the clauses 7.2 and 7.4 of the Contract shall be calculated and set off with the amounts subjected to be paid to the Supplier.
- 7.4 In each case of not compliance of the delivered Goods with the Technical specifications defined by the clause 1.1 of the Contract, the Supplier shall be applied with a fine in the amount of 0.5 (zero point five) percent of the total price of the Contract.
- 7.5 If the Payer violates the terms defined by the clauses 4.2, 6.4 and 6.5 of the Contract then the latter shall be penalized for each day of delay in the amount of 0.05 (zero point zero five) percent of the amount subjected to be paid.
- 7.6 In the cases of not fulfilling or improperly fulfilling the obligations, which are not defined by this Contract, the Parties are taking responsibility according to the legislation of RA.
- 7.7 The payment of fines and/or penalties does not relieve the Parties from the complete fulfillment of contractual obligations.

8. FORCE-MAJEURE

All the Parties shall be free of responsibility for the partial or not complete fulfilment of the obligations under the present Contract if it occurs as a result of force-majeure, which arises after signing the Contract and which the Party could not foresee or prevent. Such situations are flood, earthquake, fire, war, announcing military or emergency situation political concerns, strikes, stopping the works of communication means, acts of state bodies, etc., which make impossible the realization of the obligations foreseen by this Contract. If the influence of force-majeure lasts for more than 3 (three) months, each of the Party has the right to terminate the Contract informing the other Party about it beforehand.

9. OTHER CONDITIONS

9.1 The Contract is enforced from the date, it is mutually signed, and is valid up to the complete fulfillment by the Parties of the undertaken obligations, defined by this Contract.

The Contract's payment obligation of any of the Parties shall not be terminated because of setting of the retaliatory obligation, arising from another contract, without written and sealed agreement of the Parties. The right of the requirement, arising from the Contract shall not be delegated to another person, without a written agreement of the Debtor.

9.2 Disputes arising from this Contract are subjected to be claimed at the courts of the Republic of Armenia.

9.3 Any amendments and changes to the Contract shall be done only by mutual consent of the Parties, via signing an Agreement, which shall be the integral part of this Contract.

It is forbidden to make any changes in the Contract, which may cause artificial change of the Goods quantity or of the unit price of the Goods, considered to be purchased, or Contract cost; and if the Price of the Contract is dependable, then it is also forbidden to make any changes in the Agreements, attached to this Contract, signed during the following years. The Government of the Republic of Armenia defines the cases for Contract changes if they are impacted by independent factors regardless the Parties.

9.4 The terms of the delivery can be extended before the expiration of these terms according to the Contract, in the case if one of the Parties proposes, provided that the Payer still has a demand for the subject of purchase. Meanwhile in the case defined by this clause the Goods delivery terms can be extended once, up to the 30 calendar days.

9.5 In the case of proper fulfillment of the Contract the benefits (savings) or the losses of the Parties (the Supplier or the Payer) are considered as savings and losses of the relevant Party.

9.6 The disputes arising in regard with this Contract are solved through negotiations. In case if there is no result, by the court order of RA.

9.7 The Contract consists of 8 pages, is made in 4 copies, bilingual (Armenian and English) which are legally equal. In the case of discrepancies or different interpretation of the provisions of the Contract, the Armenian version is considered as the basis. The Annexes 1; 2; 3; 4 and 5 of the Contract are the integral part of the Contract. The Payer shall receive two copies of the Contract, the Recipient shall receive one copy and the Supplier shall receive the last copy of it.

9.1 The relations related to the Contract are regulated by the right of the Republic of Armenia.

10. THE ADDRESSES OF THE PARTIES, BANK INFORMATION AND SIGNATURES

ANNEX 6. ADVANCE PAYMENT BANK GUARANTEE

Beneficiary: *[Insert name and Address of Purchaser]*

Date: *[Insert date of issue]*

ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *[Insert name and address of contractor, which in the case of a joint venture shall be the name and address of the joint venture]* (hereinafter called “the Applicant”) has entered into Contract No. *[Insert reference number of the contract]* dated *[Insert contract date]* with the Beneficiary, for the execution of *[Insert object of the contract and brief description of Works]* (hereinafter called “the Contract”). Furthermore we understand that, according to the conditions of the Contract, an advance payment in the sum of *[Insert amount and currency in words and figures]*⁵, representing *[Insert percentage in words and figures]*% of the contract price, is to be made against an advance payment guarantee.

Waiving all objections and defences, we, as Guarantor, hereby irrevocably and independently undertake to pay the Beneficiary, any sum or sums not exceeding in total an amount of *[Insert guarantee amount and currency in words and figures]* upon receipt by us of the Beneficiary’s first demand, supported by the Beneficiary’s statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for the demand or the sum specified therein.

The advance payment guarantee shall come into force and effect as soon as the advance payment has been credited to the Applicant on its account. Minor deductions of the above mentioned amount notably due to bank fees shall have no effect on the entry into force.

[For guarantees issued in foreign currency insert the following:

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt am Main (BIC: KFWIDEFF, BLZ 500 204 00), account no. 38 000 000 00 (IBAN: DE53 5002 0400 3800 0000 00), for the account of *[Insert name of the Purchaser and the Purchaser’s country]*.

[For guarantees issued in local currency insert the following:

In the event of any claim under this guarantee, payment shall be effected to *[Insert the account on which payments are to be made]*, for the account of *[Insert name of the Purchaser and the Purchaser’s country]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) per cent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the *[Insert date]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date, by letter or encoded telecommunication.

⁵ This guarantee must be issued in the contract currency only.

It is understood that you will return this guarantee to us on expiry or after payment of the total amount to be claimed hereunder.

[As preferred option regarding guarantee rules insert⁶: This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.]

⁶ In the case the issuing bank will not add the preferred option, the following must be added instead: This guarantee is governed by the laws of *[Insert country of jurisdiction]*. Note: the country of jurisdiction shall be the country where the bank's branch issuing the guarantee is physically located.

ANNEX 7. ELIGIBILITY CRITERIA

Eligibility in KfW-Financed Procurement

1. Consulting Services, Works, Goods, Plant and Non-Consulting Services are eligible for KfW financing regardless of the country of origin of the Contractors (including Subcontractors and suppliers for the execution of the Contract), except where an international embargo or sanction by the United Nations, the European Union or the German Government applies.
2. Applicants/Bidders (including all members of a Joint Venture and proposed or engaged Subcontractors) shall not be awarded a KfW-financed Contract if, on the date of submission of their Application/Offer or on the intended date of Award of a Contract, they:
 - 2.1 are bankrupt or being wound up or ceasing their activities, are having their activities administered by courts, have entered into receivership, or are in any analogous situation;
 - 2.2 have been
 - (a) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union and/or the German Government for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
 - (b) convicted by a final court decision or a final administrative decision by a court, the European Union or national authorities in the Partner Country or in Germany for Sanctionable Practice during any Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests, unless they provide supporting information together with their Declaration of Undertaking (Form available as Appendix to the Application/Offer which shows that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction;
 - 2.3 have been subject within the past five years to a Contract termination fully settled against them for significant or persistent failure to comply with their contractual obligations during Contract performance, unless this termination was challenged and the dispute resolution is still pending or has not confirmed a full settlement against them;
 - 2.4 have not fulfilled applicable fiscal obligations regarding payments of taxes either in the country where they are constituted or the PEA's country;
 - 2.5 are subject to an exclusion decision of the World Bank or any other multilateral development bank and are listed in the respective table with debarred and cross-debarred firms and individual available on the World Bank's website or any other multilateral development bank unless they provide supporting information together with their Declaration of Undertaking which shows that this exclusion is not relevant in the context of this Contract or
 - 2.6 have given misrepresentation in documentation requested by the PEA as part of the Tender Process of the relevant Contract.
- 3 State-owned entities may compete only if they can establish that they (i) are legally and financially autonomous, and (ii) operate under commercial law. To be eligible, a state-owned entity shall establish to KfW's satisfaction, through all relevant documents, including its charter and other information KfW may request, that it: (i) is a legal entity separate from their state (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to their state, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt.

ANNEX 8. KfW POLICY – SANCTIONABLE PRACTICE – SOCIAL AND ENVIRONMENTAL RESPONSIBILITY

1) Sanctionable Practice

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

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

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

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

- (a) reject an Offer for Award of Contract if during the Tender Process the Bidder who is recommended for the Award of Contract has engaged in Sanctionable Practice, directly or by means of an agent in view of being awarded the Contract;
- (b) declare misprocurement and exercise its rights on the ground of the Funding Agreement with the PEA relating to suspension of disbursements, early repayment and termination if, at any time, the PEA, Contractors or their legal representatives or Subcontractors have engaged in Sanctionable Practice during the Tender Process or performance of the Contract without the PEA having taken appropriate action in due time satisfactory to KfW to remedy the situation, including by failing to inform KfW at the time they knew of such practices.

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

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

Sanctionable Practice Any Coercive Practice, Collusive Practice, Corrupt Practice, Fraudulent Practice or Obstructive Practice (as such terms are defined herein) which is unlawful under the Financing Agreement.

2) Social and Environmental Responsibility

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

- (a) comply with and ensure that all their Subcontractors and major suppliers, i.e. for major supply items comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the respective Contract and the fundamental conventions of the International Labour Organisation⁷ (ILO) and international environmental treaties and;
- (b) implement any environmental and social risks mitigation measures, as identified in the environmental and social impact assessment (ESIA) and further detailed in the environmental and social management plan (ESMP) as far as these measures are relevant to the Contract and implement measures for the prevention of sexual exploitation and abuse and gender-based violence Guarantor.

⁷ In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.