

PRE-BID AGREEMENT

for the project “Assessment of the Cost and Benefits of Climate Change Adaptation in Agriculture, Forestry and Water Management Sectors of Tajikistan”

This Agreement is made and entered into on the 1st of April, 2021 at Prague.

BY AND BETWEEN

- [1] **DEKONTA, a.s.**, a company duly incorporated under the laws of the Czech Republic, having its registered seat at Dřetovice 109, 273 42 Stehelčevy, Czech Republic, contact address Volutová 2523, 158 Praha 5, and registered under number 25006096,

Hereinafter “DEKONTA” or “Bidder”,

And

- [2] **Czech University of Life Sciences Prague**, a university duly incorporated under the laws of the Czech Republic, having its registered seat at Kamýčká 129, 165 00 Praha – Suchbátka, and registered under number 60460709,

Hereinafter “CZU” or “Consultant”,

DEKONTA and CZU are hereinafter individually referred to as a “Party” and collectively as the “Parties”.

WHEREAS

- [A] The **United Nations Development Programme (UNDP), 39 Ayni str., Dushanbe, Tajikistan** (the “Employer”) has invited tenderers to bid by January 21, 2021 for the project “Assessment of the Cost and Benefits of Climate Change Adaptation in Agriculture, Forestry and Water Management Sectors of Tajikistan” with reference No. 2020-RFP-UNDP-BCRAW, concerning an assessment of the cost and benefits of climate change adaptation in the agriculture, forestry and water management sectors of Tajikistan, compared to “No Adaptation” situation;
- [B] DEKONTA is a well reputed Environmental Solutions Provider and General Contractor, familiar and experienced in such international environmental projects and consultancy services;
- [C] CZU is a public university with six Faculties and one Institute. CZU offers over 170 accredited study programmes at BSc, MSc and PhD levels. CZU has 1 700 employees, of which more than 700 are Professors or Associate Professors. Since 2007 CZU is member of the Euroleague for Life Sciences. In addition to providing education to students, the employees provide a number of professional consulting services, incl. those focused on climate change;

[D] The Parties are prepared to put their knowledge and experience at the service of the joint bid in order to submit together a complete and thorough solution to the Employer;

[E] The Parties hereto are mutually desirous of preparing a joint bid for the Works, to be associated in the price submission process and, when successful to execute the awarded contract (the “**Contract**”) as the supply team (bidder - consultant) with the agreed split of scope and upon the terms and conditions as stipulated in the articles hereunder.

THEREFORE, IT HAS BEEN AGREED AS FOLLOWS

Article 1 - Definitions

In the Agreement, the following words and expressions shall have the meanings hereby assigned to them unless the context otherwise requires:

Affiliate:	An affiliate is any legal entity which controls, is controlled by, or is under common control with a Party to the Agreement.
Agreement:	This pre-bid agreement.
Bidder:	Means: DEKONTA (general contractor)
Contract:	The contract to be concluded between the Employer and the Bidder for the execution of the Works in the event that the join bid is successful with its Tender.
Consultant:	Means: CZU (consultant, subcontractor)
Employer:	United Nations Development Programme (UNDP), Tajikistan
Joint bid:	The temporary collaboration of the Parties to execute the Works; the parties shall carry out its business for the Contract under the joint bid.
Parties’ Scope of Works:	The particular part or parts of the Works for which an individual Party is respectively responsible.
Prequalification:	The joint preparation and submission to the Employer of any prequalification documents called for.
Project:	“Assessment of the Cost and Benefits of Climate Change Adaptation in Agriculture, Forestry and Water Management Sectors of Tajikistan” with reference No. 2020-RFP-UNDP-BCRAW.
Tender:	The offer for the joint execution and carrying out of the Works to be submitted by the Bidder to the Employer.
Tender Price:	The price consisting of the amalgamated prices quoted for each chapter of the relevant bid submission by each of the Parties for its individual Scope of Works.

Works: The entire services, works and supplies to be performed or provided by a Party or all of them under the terms of the Contract, including any additions or variations made in accordance with the terms of the Contract or any amendments thereto.

Article 2 - Object of the Cooperation

2.1 The Parties agree to cooperate in the preparation and submission of the Tender and, in the event of the award of a Contract to the Parties on terms accepted by each of the Parties in writing, to perform the Contract, on the terms set out in this Agreement. The purpose of this Agreement is explicitly limited to the cooperation between the Parties in respect of the Works and the Contract.

The Tender will be binding on the Parties and shall be complete for the purposes of the Works.

2.2 The purpose of this Agreement is to establish the principles governing the relationships of the Parties with each other, the Employer and third parties.

2.3 Nothing contained herein is intended to create a partnership or any other separate legal or corporate entity. No Party has the right to represent another Party or to enter into any commitment on behalf of another Party without such Party's prior written consent.

Article 3 - The Scope of Works

3.1 At this early stage, it is envisaged that, in case of Contract award, during the execution of the Works, the Parties will execute following Works that will be split between the Parties as follows:

DEKONTA's scope shall be:

- Project management
- Communication with the Employer
- Coordination of the supply team
- Collection data support

CZU's scope shall be:

- Output 1: Assessment of "no adaptation" costs for agriculture, forestry and water management sectors
- Output 2: Assessment of the Costs and benefits of Adaptation as recommended / demonstrated by UNDP/donor project interventions
- Output 3: Ranking the cost effectiveness of Specific Adaptation Strategies / actions
- Output 4: Recommendations to UNDP, donor community and national authorities on economic Justification and Rationale for CC adaptation and land degradation reduction/reversal, and the policy implications for Tajikistan government

Each party will provide experienced staff and other resources in relation to their own Scope.

3.2 A more detailed partition of the Consultant's (CZU) Scope of Works following the items of the Bill of Quantities is given in **Exhibit A**.

3.3 If during the execution of the Works the Employer instructs a variation that extends the Parties' Scope of Works with additional Works, the Project management team will propose and will decide on the Party who will be responsible to execute this extra work and at what unit rate.

Article 4 - Preparation and Submission of the Tender

4.1 The Bidder (DEKONTA) is responsible for completing and submitting the joint bid to the Employer.

Consultant (CZU) shall timely prepare its designated portion of the application for Tender for submission to the Bidder. The Consultant also shall timely provide its prices to the bidder to form the Tender Price, which is to be included within the Tender to the Employer.

The Parties shall appoint a supply team made up of employees of each of the Parties, which shall be submitted to the Employer the Tender. The Tender manager shall be appointed by the Bidder.

The Tender shall be submitted in the name of all Parties, shall be signed by the Bidder on behalf of both Parties and shall be based upon the Tender documents as supplied by the Employer (the contents of all of which documents are known to each of the Parties hereto) with any amendments thereto that may subsequently be made by the Employer prior to Tender but shall be subject to any terms agreed between the Parties and incorporated in the Tender.

After submission of the Tender the Parties shall be jointly and severally bound by the provisions thereof and none of them shall vary or seek to vary the same without the previous written consent of the others.

The Parties hereby agree to consider themselves to be bound to sign under the joint bid all documents required for the introduction of a valid Tender.

4.2 Each Party agrees that its costs and expenses in preparing the Tender and of any investigations undertaken in relation thereto shall be separately and solely borne by that Party.

4.3 The Parties understand and acknowledge that each Party is entitled to stipulate certain prices and/or qualifications in the Tender provided that such prices and/or qualifications only relate to that Party's own portion of the Scope of Works.

4.4 The bidder will cover any Tender bonds or provide Tender guarantee if required by the Employer to be obtained for the Tender or shall be paid for by the Bidder.

In case of any call of such bonds by the Employer either in part or in full, the Party(ies) who is (are) attributable for such call shall bear the sole liability and hence, fully indemnify all the non-attributable Parties against and keep the latter harmless for such loss and associated expenses.

Article 5 - Negotiation and Signing of the Contract

5.1 The Parties, as a part of the Consortium, shall conduct any necessary contacts or negotiations with the Employer during the offering and negotiating stage.

5.2 One Party shall not commit the other Party on any matter during such negotiations without the prior written approval of the other Party. The Parties agree to give full assistance to each other during such negotiations.

5.3 If any terms and conditions applicable to the Tender, in particular with respect to the Tender Price, qualifications and/or technical proposal do not satisfy the Employer, the Parties shall use their best efforts to justify and/or amend such terms and conditions to the satisfaction of the Employer.

5.4 The Contract shall be signed by the Bidder on behalf of all Parties and shall be based upon the

Tender as submitted to the Employer with any amendments thereto that may subsequently be made by the Employer and the Parties after the submission of the Tender but shall be subject to any terms agreed between the Parties.

Article 6 - Exclusivity

6.1 No Party shall during the term of this Agreement, unless with the previous written consent of the other Party to the contrary, directly or indirectly, in part or in whole, alone or together with any third party, prepare or submit or take part in the preparation or submission of a tender proposal or any other offer for the Works other than in accordance with the stipulations of this Agreement.

6.2 Each Party agrees that it will not act, either individually or as a prospective former or actual member of a consortium or a joint venture, and will not permit any Affiliate to participate or take any action, in a way which could conflict or materially hinder the performance of its responsibilities hereunder or, in the event of the award of the Contract to the Consortium, under the Contract.

Article 7 - Finance and Payment Terms

7.1 The Parties agree that all payments from the Employer to the Consortium shall be made to a DEKONTA project bank account. DEKONTA undertakes to expedite the settlements due to each concerned Party, according to the Scope of Works of each Party, its valuation in the Contract and the rates agreed in Exhibits A.

7.2 Each Party shall finance the working capital of its own Scope of Works as necessary to fulfil its obligations under the Agreement. Each Party shall solely retain any profit or bear any loss resulting from the execution of its Scope of Works.

7.3. Payment Terms:

Outputs	Percentage	Condition for payment release
1st payment Payable after agreement between consortium and UNDP comes into force:	10%	Within 30 days after the agreement will have been approved by partners
2nd payment Payable after submitting detailed report of: Assessment of Costs for agriculture, forestry and water management of “no adaptation” And Assessment of the Costs and benefits of Adaptation as recommended / demonstrated by UNDP/donor project interventions	40%	Within 30 days after the submission of the necessary documents, as indicated in the column Outputs – 2nd payment

<p>3rd payment</p> <p>Payable after submitting detailed report of:</p> <p>Ranking the cost effectiveness of Specific Adaptation Strategies / actions</p>	<p>20%</p>	<p>Within 30 days after the submission of the necessary documents, as indicated in the column Outputs – 3rd payment</p>
<p>Final payment</p> <p>Payable after submitting Final report with clear evidences of achieved results:</p> <p>Recommendations to UNDP, donor community and national authorities on economic Justification and Rationale for CC adaptation and land degradation reduction/reversal, and the policy implications for Tajikistan government</p>	<p>30%</p>	<p>Within 30 days after the submission of the necessary documents, as indicated in the column Outputs – Final payment</p>

Article 8 - Responsibilities and Liabilities

8.1 The cooperation between the Parties is of a **non-integrated type**.

8.2 In the event the Contract for the Works is awarded to the Bidder based on joint bid with the Consultant, the Parties shall assume to be jointly and severally liable towards the Employer for the proper fulfilment of the Contract, but only to the extent required by the Employer.

8.3 Within the Consortium, each Party shall be responsible for, and assume all obligations and risks in any way related to its own portion of the Scope of Works as detailed in article 3.

8.4 Each Party shall be under an obligation to the other Party to schedule, plan and execute its respective part of the Works in a manner such that it facilitates the Works of the other Parties and allows the Parties to fulfil the obligations to the Employer, assumed or arising out of the Contract, in a timely and cost effective manner. If any liability arises and damages are imposed by the Employer, such as but not limited to liquidated damages, then such damages shall be borne by the Party causing the delay.

The Party whose actions or failures trigger the liability of the other Party vis-à-vis the Employer and/or a third party shall be bound to and shall finally bear all costs or expenses incurred by the other Party and shall indemnify and hold the other Party harmless from any such damages or costs claimed by the Employer and/or by a third party.

If a delay is caused by failure of a Party to complete some work that has to be necessarily performed before another part of the work to be performed by the other Party then the Party causing the delay shall be liable for any damages as well as any additional costs suffered by the other Party as a result of such delay.

8.5 Knock-for-knock principle: each Party shall bear itself all of its own damages and losses resulting from the execution of the Works.

8.6 Notwithstanding any other provision of this clause 8 or elsewhere in the Agreement, no Party shall be liable to another Party for any costs, expenses, losses or damages incurred due to the first Party's failures, acts or omissions, except:

- [a] if and only to the extent such acts, omissions or failures have resulted in claims from the Employer and/or a third party, or
- [b] in the event of a persistent and material breach of Contract, gross negligence or wilful misconduct.

Notwithstanding any other provisions in this Agreement, none of the Parties hereto shall be liable to any other Party, whether by way of indemnity, in contract or in tort (including negligence), for any loss of contract or business opportunity, loss of profit, loss of revenue, loss of goodwill, or for any other special, indirect or consequential loss and/or consequential damage resulting from the performance or non-performance by such Party of any of its obligations under this Agreement and/or the Contract.

8.7 Subject to the provisions of the Contract, each Party shall have full and sole responsibility for the payment of any taxes, duties, fees or assessments of any nature, levied in connection with its Scope of Works, including any personal income taxes imposed on any of its personnel.

8.8 In the event of a claim or action from any third party to this Agreement and to the extent a Party has an obligation to indemnify the other Party, the indemnified Party shall (a) allow the indemnifying Party to participate in all negotiations and proceedings; (b) allow the indemnifying Party to provide such reasonable assistance as is required by the indemnified Party; and (c) not, without prior consultation with the indemnifying Party, make any admission relating to the claim or potential claim or attempt to settle it.

Article 9 - Duration and Termination

9.1 The Agreement shall be effective as from the date hereof and, except as otherwise provided herein, shall continue until all and each Party has completed and settled all its obligations and liabilities under the Agreement. It shall, however, remain valid for the settlement of any disputes, rights and obligations arising from the Agreement which may subsist in relation to the Employer to third parties, and to the Parties.

9.2 Notwithstanding the above, the Agreement shall automatically be terminated on the earliest occurrence of any one of the following events:

- [a] non Qualification of the Parties for the Works at the date of notification by the Employer of the said failure;
- [b] on the date when the Parties unanimously so decide for any reasons whatsoever;
- [c] on the date when the Parties unanimously decide not to submit a Tender to the Employer;
- [d] on the date when the Employer awards the Contract to a tenderer other than the Consortium;
- [e] on the date when the Employer decides not to proceed any further with the Works without awarding the Contract or postpones the Works indefinitely;
- [f] on the date when a Consortium agreement replacing the Agreement in accordance with the provisions herein is signed;
- [g] on the date twelve months after submission of the Tender, if on this date
 - a. no Contract has been signed

- b. no extension of the Tender validity in writing has been agreed to by the Parties;
- c. the Parties have not agreed to extend the validity of this Agreement.

Article 10 - Confidentiality

10.1 All information acquired by a Party from the other Party, including prices and commercial or technical information, shall be treated as confidential by the recipient and shall not be used other than for the purpose contemplated by the Agreement without the prior consent in writing of such other Party.

10.2 Where it is necessary for a Party to supply data or technical information of the other Party to any subcontractor, supplier or consultant for the purpose of preparing the Tender, that Party shall include the provisions herein in any such subcontract, supplier or consultant agreement.

10.3 DEKONTA acknowledges that CZU is obliged to provide information at the request of a third party in accordance with Act No. 106/1999 Coll., on Free Access to Information, as amended (Czech law), and agrees with provision of all the information contained in this Agreement to third parties upon their request in accordance with the cited law.

10.4 DEKONTA acknowledges that CZU is an entity obliged to publish contracts in the register of contracts in accordance with Act No. 340/2015 Coll., On special conditions of effectiveness of certain contracts, publication of these contracts and on the register of contracts (Act on the Register of Contracts), as amended (Czech law) and if this contract Agreement the conditions for its mandatory publication, the CZU will publish it in the register of contracts in accordance with the cited law.

Article 11 – Assignment, Sub-Letting and Additional partners

11.1 None of the Parties shall assign the whole or part of its rights or benefits under the Agreement to any other company, firm or person without obtaining the prior written consent of the other Parties, always provided that the Parties shall be entitled to procure due performance of any of their respective obligations hereunder by an Affiliate, but such entitlement shall in no way affect the liability of such Party for the performance of its obligations.

11.2 The Parties may consider inviting additional partners to their co-operation for the Contract. Such invitation shall be submitted to the unanimous prior consent of the Parties.

Article 12 - Default

In the event of bankruptcy, dissolution or liquidation (other than for the purposes of amalgamation or reconstruction) of one of the Parties prior to award of the Contract, the Agreement shall immediately upon the occurrence thereof cease and terminate with respect to the bankrupt or dissolved Party and the successors, receivers, trustees or other legal representatives of the Party who shall become bankrupt or be dissolved shall cease to have any interest whatsoever in the Agreement and in such event the other Party shall unless they agree to terminate the Agreement have the right to carry out and complete the purpose of the Agreement and deal with the Scope of Works of the bankrupt or dissolved Party insofar as it is possible but without prejudice to any other rights which the continuing Party may have against the bankrupt or dissolved Party.

Article 13 - Relationship of the Parties

13.1 The Agreement is entered into solely for the purposes specified in Article 2 and none of the

Parties shall represent itself as the partner of the other Party beyond the scope of the Agreement.

The Parties, except as provided herein, shall act as independent contractors, and their mutual relation shall in no event be construed to be that of principal and agent, nor shall any relationship, fiduciary or otherwise be implied between the Parties in any respect other than expressly provided herein. The liability which is required towards the Employer under the Contract, shall not apply between the Parties or towards third parties.

13.2 Nothing in the Agreement or in the Contract shall authorize or entitle one Party to pledge the credit of, or incur liabilities and obligations binding on the other Party.

Article 14 - Entire Agreement

14.1 The Agreement constitutes the entire agreement between the Parties in relation to the Works and cancels and supersedes all prior negotiations, representations or agreements, whether written or oral, between the Parties prior to the date of the Agreement, unless otherwise agreed in writing by all Parties.

IN WITNESS WHEREOF

The Parties have caused this Agreement to be executed in three (3) parts by their duly authorised representatives the day and year first above written. DEKONTA recognises having received one (1) original and CZU recognises having received two (2) originals.

Signed for and on behalf of DEKONTA

Signed for and on behalf of CZU
(Czech University of Life Sciences Prague)

Name: Jan Vaněk

Function: Member of the Board

Place: Prague

Date : 2021

Name: prof. Ing. Petr Sklenička, CSc.

Function: Rector

Place: Prague

Date : 2021

Exhibits to the Agreement:

Exhibit A: Detailed Consultant's (CZU) Scope of Works, Delivery Schedule and BoQ

Detailed Consultant's (CZU) Scope of Works, Delivery Schedule and BoQ

1. Detailed scope of Works:

- 1.1 Output 1: Assessment of “no adaptation” costs for agriculture, forestry and water management sectors
 - 1.1.1 Identifying the existing impacts of climate change in Tajikistan (experienced over the past 10 years).
 - 1.1.2 Assess the expected impacts of climate change based on existing forecast scenarios on agricultural production (including the impacts from availability of water and degradation of ecosystem services) over the coming decades.
 - 1.1.3 Assess the direct and indirect economic costs of the impacts at the present time (comparison of situation before such threats were significant i.e. 20 years ago, and current time).
 - 1.1.4 Project the direct and indirect costs of the impacts of CC identified above in future (10, 20 years), assuming the continued “business as usual” /no adaptation situation.

- 1.2 Output 2: Assessment of the Costs and benefits of Adaptation as recommended / demonstrated by UNDP/donor project interventions.
 - 1.2.1 Identify the main adaptation strategies and actions being recommended / demonstrated by UNDP and other international aid agencies in Tajikistan to adapt to climate change and related land degradation/ekosystem service loss.
 - 1.2.2 Assess the feasibility and likely impact over 10 to 20 years of the main adaptation strategies and actions being recommended / demonstrated by donors to adapt to climate change and prevent/reverse land degradation/ecosystem service losses, if they were adopted and scaled up in the country.
 - 1.2.3 Estimate the costs involved in scaling up the main adaptation strategies and actions for farmers, forestry sector, etc. to undertaking such interventions (in terms of financial investments, time/labour of organization and activities, lost income opportunities (such as reduced grazing, etc)
 - 1.2.4 Estimate the economic benefits of the adaptation – i.e. income that could be sustainably generated under adapted resources use scenario.
 - 1.2.5 Undertake an overall cost-benefit analysis of the two strategies – i.e. “business as usual”, or adaptation in accordance with donor recommendations and demonstrated approaches.

- 1.3 Output 3: Ranking the cost effectiveness of Specific Adaptation Strategies / actions
 - 1.3.1 Identify the extent/impact that different sets of adaptation strategies / action (as identified under Output 2) would have, and their relative costs and feasibility.
 - 1.3.2 On this basis rank the different strategies / actions in terms of cost /benefit, and feasibility.

- 1.4 Output 4: Recommendations to UNDP, donor community and national authorities on economic Justification and Rationale for CC adaptation and land degradation reduction/reversal, and the policy implications for Tajikistan government
- 1.4.1 Based on the study conducted, develop an evidence/example-based list of recommendations, justifying the benefits of adaptation over no-adaptation;
- 1.4.2 Based on the cost-effectiveness study conducted provide recommendation on the most beneficial adaptation measures for application and scaling up.
- 1.4.3 Summarise the possible policy implications the recommended adaptation measures will have on the political and legal frameworks in Tajikistan.

2. Schedule of Delivery:

Outcome 1: 3 months after the contract signature between consortium and UNDP

Outcome 2: 3 months after the contract signature between consortium and UNDP

Outcome 3: 5 months after the contract signature between consortium and UNDP

Outcome 4: 6 months after the contract signature between consortium and UNDP

3. Bill of Quantities:

Deliverables	Percentage of Total Price (Weight for payment)	Price (Lump Sum, All Inclusive)
1 Deliverable 1		
Report of Assessment of Costs for agriculture, forestry and water management of “no adaptation”.	25%	
2 Deliverable 2		
Report of Assessment of the Costs and benefits of Adaptation as recommended / demonstrated by UNDP/donor project interventions.	25%	
3 Deliverable 3		
Ranking the cost-effectiveness of Specific Adaptation Strategies / actions.	20%	

4 **Deliverable 4**

Recommendations to UNDP, donor community and national authorities on *economic Justification and Rationale* for CC adaptation and land degradation reduction/reversal, and the policy implications for Tajikistan government. 30%

Consultancy final report.

Total **100%**