

Request for Quotation

Stylized Audio for Media Campaign
RFQ No: RFQ/AMC-02/2018

Issued: 14th May 2018

Pakistan Agriculture Development (PAD)
Project

Address: Ground Floor, Kashf Building, 1-C, Shahrah e Nazria
Pakistan, Johar Town, Lahore

Cooperative Agreement: FCC-391-2016/003-00
Country: Pakistan



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Confidentiality Statement

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Thank you for your consideration, Winrock International – Pakistan Agriculture Development (PAD) Project.

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Introduction

The project will particularly focus on building the capacity of farmers, associations, and agribusinesses to conserve product and reduce losses in all value chains through integrated pest management, improved post-harvest handling practices, and increased storage infrastructure, including cold chains. Co-financing in the form of in-kind grants will promote adoption of new technologies and techniques and create Master Trainers who can pass on technical knowledge and demonstrate successful practices and technologies. Capacity building will focus on farming as a business, technical and marketing skills, and strengthening of associations and networks that promote peer-to-peer learning and collective bargaining with suppliers and buyers. In addition to focal work in Punjab and Sindh, PAD will boost inter-province trade and strengthen sustainability.

Business Overview & Background

Winrock International is a global nonprofit organization that provides sustainable solutions for an interconnected world. Working with partners in the United States and more than 55 countries,

Winrock integrates deep expertise in agriculture, economic development, social science and the environment to offer scalable solutions that increase prosperity while protecting our planet.

Submission Details

Submission Deadlines

Quotation must be received no later than 5:00 PM on Monday, April 21, 2018. Late submissions will not be accepted. All proposals are to be submitted following the guidelines listed below. Telephone requests will not be honored.

Winrock International may request additional documentation after the bid deadline.

Submission Delivery Address

The delivery address to be used for all submissions is:

Ahsan Iqbal Malik

Procurement & Logistics Manager

Winrock International PAD Project

Ground Floor, Kashf Building, 1-C, Shahrah e Nazria Pakistan, Johar Town, Lahore.

Mobile: 03408442933

Email: ahsanm@winrock.org

Submission Questions and Clarifications

Inquiries/questions must be received no later than Friday, April 18, 2018 and must be submitted via e-mail to ahsanm@winrock.org. Winrock will review and respond to all potential offers.

Winrock will evaluate complete vendor quotation to determine which quote represents the best value to Winrock. This is an unsealed solicitation request. Winrock reserves the right to negotiate with the bidders with or without discussion.

Electronic Submissions

Electronic submissions in response to this Request for Proposal/Quote will be accepted as long as they meet the following criteria:

Sent via email to: ahsanm@winrock.org

Instructions to Bidders

- Validity of bid: 60 days starting from the submission date.
- Delivery time: 45 Days
- Winrock Payment Terms: 10% Advance with milestone payments.
- Cost quoted must include unit price and total price in PKR.
- Include WHT & GST if applicable.

- Payment terms and complete banking information.
- Any applicable warranty & service Information.
- Recommended service location must be in Lahore.
- Winrock reserves the right to make changes or cancel this solicitation as required by donor agency.

Shipping Instructions

- Please include door to door shipping costs to Lahore, Pakistan. If you are unable to provide shipping services, please include specific location of goods.
- Additional evaluation points will be given to minimum delivery time.

Bid Documents to Include

- Legal Business Name
- Authorized contact including address, phone number and email
- A list of previous similar contracts completed successfully with the names and contact information of buyers.

Award

Winrock anticipates notifying successful bidder and provide agreement for signature by the second week of June, 2018.

- Winrock will run an open and fair competitive bidding process.
- As warranted, Winrock may increase or decrease the quantities.

Scope of Work

PAD Project seeks to acquire services for audio program. A crop information in Urdu Language will be provided by the project on basis of which, the selected firm will convert information into Regional language i.e. Punjabi & Sindhi. Next stage will be to record the dramatized & stylized audio program & provide complete solution services for the above said production.

Deliverables for Selected Firm:

- Scripting
- Music
- Stylization
- Pre- Production
- Production
- Post Production
- Premises: Selected firm will solely use its premises & equipment to record the program.
- Casting Team: Male & Female both For Audio production/Dramatization
- Language of audio production: Sindhi & Punjabi
- Raw & final versions of audio file will be provided by the firm.
- Total Audio messages: 320
- Duration of each audio message: 25 seconds
- Voice in messages: Multi voice messages of Male & Female voice (both) separately
- Audio File format: 8 KHz Mono Wav file

Terms and Conditions

Each Bid must conform to the following requirements

1. Must agree to the general provisions outlined in Attachment A. Any variations must be requested in the bid submission and agreed to before a purchase order is issued.
2. No minimum order requirements may be made by a bidder.
3. A Bidder may withdraw or change a bid before the deadline to receive bids if written notice of the withdrawal or change is received by Winrock for submission of bids. Any changes may be made only by substitution of another bid.
4. Bids received after the time specified in the request for bid will not be considered and shall be returned to the respondent.
5. Title to the services herein described shall not pass until said services have actually been received by Winrock or its consignee. Risk of loss prior to such actual receipt by Winrock or its consignee shall be borne by the bidder.
6. All supplies shall be subject to inspection by Winrock to ensure compliance with specifications, quantities, and condition of goods. Winrock reserves the right to reject any goods which contain defects in material or workmanship. Rejected goods shall be removed at the expense of the bidder, including all transportation costs, promptly after notification of rejection.
7. Final Payment by Winrock will not be made until inspection and acceptance of supplies has been completed by Winrock program team.
8. Winrock reserves its rights to reject any goods and to cancel all or any part of this sale if bidder fails to deliver all or any part of the goods described in the request for proposal. Acceptance of any part of the goods covered by the request to bid shall not obligate Winrock to accept future shipments nor deprive it of its rights to revoke any acceptance given. If bidder ceases to conduct its operations in the ordinary course of business or are unable to meet its obligations, Winrock may cancel this order without liability except for deliveries previously made or for goods covered/services previously provided or for services received. The bidder must be able to demonstrate substantial experience in working on similar projects and, in particular, to demonstrate past experience in working with organizations similar to Winrock.

9. The bidder must have excellent communication skills and methods, and be able to communicate very clearly at every step of development, both providing information to the Winrock team as well as requesting, understanding and closely following guidance from the Winrock team.

10. Bidders must be willing to supply samples of items requested

Evaluation Criteria

Final evaluation will be based upon on assessment made by the designated team of Winrock International. Assessment of vendors will be based upon points system as given below:

Firm background and experience:	20 points
Technical bid (specific emphasis will be given on detailed design, materials to be used, workmanship, safety standards etc.):	50 points
Financial bid:	20 points
Delivery period:	10 points
Total Points:	100

Certification of Independent Price Determination

(a) The offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror, including but not limited to subsidiaries or other entities in which offeror has any ownership or other interests, or any competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror, including but not limited to subsidiaries or other entities in which offeror has any ownership or other interests, or any competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated or competitive solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern or individual to submit or not to submit an offer for the purpose of restricting competition or influencing the competitive environment.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the offerors organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the principals of the offeror in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; (ii) As an authorized agent, does certify that the principals of the offeror have not participated, and will not participate, in any action contrary to subparagraphs

(a)(1) through (a)(3) above; and (iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through

(a)(3) above.

(c) Offeror understands and agrees that –

(1) violation of this certification will result in immediate disqualification from this solicitation without recourse and may result in disqualification from future solicitations; and

(2) Discovery of any violation after award to the offeror will result in the termination of the award for default.

Attachment A: General Provisions

1. **Independent Organization.** Vendor shall be an independent organization and shall not claim to be an agent, officer, or employee of Winrock International and shall not have authority to make any commitments on behalf of Winrock International, except to the extent that such authority shall be expressly conferred by Winrock International in writing.
2. **Insurance.** Vendor shall maintain comprehensive general liability and automobile liability insurance coverage to cover itself for all activities undertaken under this Purchase Order. Vendor is solely responsible for all applicable taxes, benefits, worker's compensation insurance or equivalent, health, all risk property insurance and a comprehensive general liability insurance with financially sound and reputable insurance companies, and other insurance as required under the applicable laws. Vendor must hold a valid work permit and ensure that it operates in compliance with applicable laws.
3. **Publicity.** No advertising or publicity having or containing any reference to Winrock International, or in which the name of Winrock International is mentioned, shall be used by Vendor without the written approval of Winrock International. Vendor shall not use Winrock International's logo or title block on any correspondence or written matter without the written approval of Winrock International.
4. **Communication with the Funding Agency.** All contact, communication and dealings with the Funding Agency and its agent and representatives by Vendor and any of its personnel, consultants, or Vendors, on matters subject to this Purchase Order shall be through or approved by Winrock International.
5. **Terms of Payment.** Subject to any superseding terms on the face hereof, Vendor shall invoice Winrock International at address and contact listed on Purchase Order and be paid upon completion/acceptance of the required supplies/services. Vendor shall be paid no later than thirty (30) days unless otherwise negotiated in terms and conditions of the Purchase Order after Winrock's receipt of an acceptable invoice or Winrock's receipt of the completed products/services, together with any required documents. Drafts will not be honored.
6. **Compliance with Law.** Vendor's performance of work hereunder and all products to be delivered hereunder shall be in accordance with any and all applicable executive orders, Federal, State, municipal, and local laws and ordinances, and rules, orders, requirements and regulations. Such Federal laws shall include, but not be limited to, the Fair Labor Standards Act of 1938 as amended. Unless otherwise agreed, governing law shall be that of the State of Arkansas.
7. **Assignment Prohibited.** Vendor may not assign or Subcontract any part of the activities described in the Purchase Order without the prior written consent of Winrock International. Where such prior written consent is given, it shall not relieve the Vendor of any of its responsibilities under this Purchase Order.

8. Indemnification. Vendor hereby agrees to indemnify, hold harmless, and defend each and every Winrock Indemnified Party from and against any and all Claims arising out of, relating to, or in connection with (i) any injuries (including death) to persons and for damage or loss to property caused by, arising out of, or relating to Vendor performing the Contract Work or otherwise providing of any goods and/or services covered by this Agreement in whatever manner and by whomever the same may be caused; (ii) any wrongful act, omission, misconduct, or violation of Laws by Vendor or by any agent, servant, or employee of Vendor or any Vendor and any party retained by any Vendor; (iii) any negligent, wanton, willful, or intentional act or omission of or by Vendor, any Vendor, anyone directly or indirectly employed or retained by any of them, or anyone for whose acts any one of them may be liable under any Law; (iv) any breach of Warranty; and (v) any breach or violation by Vendor of, or default by Vendor with respect to, any other terms and conditions of this Agreement or Vendor's duties, obligations, and responsibilities under this Agreement. The indemnity provided in this Section is intended for the benefit of Winrock and each Winrock Indemnified Party. Vendor's indemnification obligations will in no way be limited by the limitation on amount or type of damages or by any compensation or benefits payable by or for Vendor or any Vendors, under any worker's compensation act, employer liability act, disability act, or other employee benefit act. The indemnification provided in this Section will survive the expiration or termination of this Agreement.

9. Title and Risk of Loss. Title to and risk of loss of, each product and/or service to be delivered/provided hereunder shall, unless otherwise provided herein, pass from Vendor to Winrock upon acceptance of such product/service by Winrock.

10. Stop Work Order. Winrock International may at any time, by written order to the Vendor require the Vendor to stop all, or any part, of the work called for under this purchase order for a period of 90 days after the order is delivered to the Vendor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Vendor, or within any extension of that period to which the parties shall have agreed, Winrock International will follow the guidelines as described below:
 - (1) Cancel the stop-work order; or
 - (2) Terminate the work covered by the order as provided in the Termination clause of this contract.
 - (a) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the vendor shall resume work. Winrock International shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if—
 - (3) The stop-work order results in an increase in the time required for, or in the Vendor's cost properly allocable to, the performance of any part of this purchase order; and
 - (4) The Vendor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if Winrock International decides the facts justify the action, WI may receive and act upon the claim submitted at any time before final payment under this purchase order.

11. Debarment and Suspension. In accepting this Agreement, the Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any US Federal department or agency. Any change in the debarred or suspended status of the Vendor during the life to this Agreement must be reported immediately to Winrock. The Vendor agrees to incorporate the Debarment and Suspension certification into any lower-tier award that they may enter into as part of this Agreement.
12. Termination. Winrock International shall have the option to terminate this Purchase Order in the event of termination of the Prime Agreement by the Funding Agency for whatever reasons. In the event of such termination, Vendor shall be entitled to receive all supporting funds as described herein for those expenditures justifiably incurred to the time of termination of this Purchase Order, including commitments which cannot be reversed or mitigated, to the extent that said funds are available to Winrock International under its Prime Agreement.

Either party shall have the option to terminate this Purchase Order if either party fails to perform its obligations under this Purchase Order and fails to cure any such default in performance within thirty (30) days unless otherwise noted in Purchase Order Terms & Conditions after written notification by the other party thereof. In the event termination is due to fault of Vendor, Winrock International may hold it liable of reimbursement for expenses incurred due to said fault and of any penalties, damages or interest which are incurred by Winrock International as a result of said fault; provided that Winrock International delivers adequate documentation to Vendor evidencing the expenses, penalties, damages, or interest which have been incurred. Any such expenses may be deducted from any sums due to Vendor, and Vendor shall promptly pay any deficiencies upon demand of Winrock International.

In the event of termination of this Purchase Order, Vendor shall, upon receipt of notification of termination, immediately take all steps required to minimize additional costs incurred during the termination of performance hereunder.

13. Applicable Law. This purchase order shall be enforced in accordance with the body of law applicable to procurement of goods and services by the Federal Government. To the extent that Federal law does not exist, the laws of Arkansas shall apply. By accepting this agreement Vendor agrees to waive any rights to invoke the jurisdiction of the local national courts where this contract is performed.
14. Drug Trafficking. Winrock reserve the right to terminate this purchase order to demand a refund or take other appropriate measures if the Vendor is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.
15. Disputes. Disputes. Any disputes arising out of this Agreement or from a breach thereof shall be submitted to arbitration in Little Rock, Arkansas, and the judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitration shall be held under the standard form of the applicable Rules of the American Arbitration Association. The law of Arkansas shall apply and the statutes of limitation thereunder apply to any arbitration as if it were an action in a court of competent jurisdiction.

16. Liens. Vendor agrees to deliver/provide the products/services which are the subject-matter of this order to Winrock free and clear of all liens, claims, and encumbrances.
17. Access to Accounting Records. Vendor agrees that Winrock International, the Funding Agency, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Vendor which are directly pertinent to the services provided hereunder, for the purpose of making audits, examinations, excerpts and transcriptions upon prior written request and during normal business hours.
18. Confidential Information. The Vendor may become privy to confidential information either provided by to the Vendor by Winrock International or discovered by the Vendor without the knowledge of Winrock International. The Vendor agrees to treat such information as confidential and to use such information only for the purposes of carrying out the scope of work under this agreement. The Vendor further agrees that such information will not be disclosed to any third party without the prior written consent of Winrock International and return to Winrock International all original and copies of such information upon completion of this agreement or whenever requested by Winrock International, whichever occurs first. No news release, public announcement, denial or confirmation of any part of the subject matter of this agreement shall be made without the prior written consent of Winrock International. The restrictions of this article shall continue in effect upon completion or the parties may mutually agree upon termination of this Agreement for such period of time as in writing. In the absence of a written established period, no disclosure is authorized.
19. Intellectual Property. Unless otherwise provided for in the Primary Contract, if Vendor first conceives of, actually puts into practice, discovers, invents, or produces any intellectual property subject to patent or copyright exclusively in connection with Vendor's performance pursuant to the Purchase Order (the "Intellectual Property"), it shall report that finding to Winrock International. Vendor shall also assist Winrock International in obtaining governmental protection for rights in the intellectual property. Winrock International shall retain ownership of all patents and copyrights for intellectual properties created as the result of this Vendor Agreement, either in part or in whole. In the case of copyrighted materials created as a result of this Vendor Agreement, Winrock International shall grant to Vendor a nonexclusive, royalty-free right to use, publish, reproduce or distribute those materials for educational purposes.
20. Work Product Presumptive Property. All writings, books, articles, computer programs, databases, source and object codes, and other material of any nature whatsoever, including trademarks, trade names, and logos, that is subject to copyright protection and reduced to tangible form in whole or in part by Vendor in the course of Vendor's service to Winrock shall be considered a work made for hire, or otherwise Winrock property. During this agreement and thereafter, Vendor agrees to take all actions and execute any documents that Winrock may consider necessary to obtain or maintain copyrights, whether during the application for copyright or during the conduct of an interference, infringement, litigation, or other matter (Winrock shall pay all related expenses). Vendor shall identify all materials in which Vendor intends to exempt from this provision prior to the use or development of such materials.

21. Affirmative Action. Unless this Purchase Order is exempted by rules, regulations or orders of the Secretary of Labor, Vendor agrees to comply with the provisions of paragraph 91) through (7) of Part 202 of Executive Order 11246, as amended; the affirmative action for handicapped worker's clause set forth in 41 CFR 60-741.5; and the affirmative action for disabled veterans and veterans of the Vietnam era clause set forth in 41 CFR 60-250.4, which are by reference incorporated herein.
22. Force Majeure. Vendor's failure to perform the terms and conditions of this Purchase Order, in whole or in part, shall not be deemed to be a breach or a default hereunder or give rights to any liability to Winrock International if such failure is attributable to any act of God, riot, public enemy, fire, explosion, flood, drought, war, sabotage, an action by governmental authorities or any other condition beyond the reasonable control.
23. Rights in Data. The Vendor understands and agrees that Winrock may itself and permit others, including government agencies of the United States and other foreign governments, to reproduce any provided publications and materials through but not limited to the publication, broadcast, translation, creation of other versions, quotations there from, and otherwise utilize this work and material based on this work. During the agreement and thereafter, Vendor agrees to take all actions and execute any documents that Winrock may consider necessary to obtain or maintain copyrights, whether during the application for copyright or during the conduct of an interference, infringement, litigation, or other matter (all related expenses to be borne by Winrock). The Vendor shall identify all materials it intends to exempt from this provision prior to the use or development of such materials. The Vendor shall defend, indemnify, and hold harmless Winrock against all claims, suits, costs, damages, and expenses that Winrock may sustain by reason of any scandalous, libelous, or unlawful matter contained or alleged to be contained in the work, or any infringement or violation by the work of any copyright or property right; and until such claim or suit has been settled or withdrawn, Winrock may withhold any sums due the Vendor under this agreement.
24. United States Executive Order 13224 – Anti Terrorism. The Vendor is reminded that U.S. Executive Orders and U.S. Law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Vendor to ensure compliance with these Executive Orders and laws. This provision must be included in all lower-tier awards. A list of individuals and organizational names that are the subject of this Executive Order can be found at the web site of the Office of Foreign Assets Control (OFAC) within the U.S. Department of Treasury. The address of this web site is <http://treasury.gov/ofac>.
25. Computer Software Licenses. Vendor agrees to specifically identify to Winrock International any and all computer software licenses ("including shrink-wrap") as may convey to the Winrock International. The Vendor agrees that any and all computer software developed in the performance of this order using Winrock International monies shall, unless otherwise agreed, become and remain the property of Winrock International.

26. Anti-trafficking in Persons Directive. Vendor acknowledges that WI International is opposed to human trafficking, prostitution, and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. None of the funds made available under this Agreement may be used to engage in trafficking in persons or to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to ameliorate the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.
27. Conflict of Interest. Vendor must establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others such as those with whom they have family, business, or other ties. Each Subcontracting institution receiving funds must have written policy guidelines on conflict of interest and avoidance thereof. These guidelines should reflect country and local laws and must cover conflict of interest situations regarding financial interests, gifts, gratuities and favors, nepotism, and other areas such as political participation and bribery. Winrock International must be informed of any conflict of interest or appearance of conflict of interest by the recipient. If organizational or management systems cannot be structured to neutralize such conflict, Winrock International may choose to terminate the relationship with the Vendor.
28. No Improper Payments: Vendor agrees and represents that, in connection with its performance hereunder, it has not and will not make any payments or gifts or any offers or promises of payment or gifts of any kind, directly or indirectly, to any official of any government, government agent, government instrumentality or to any political candidate. This agreement will become null and void if the recipient organization makes any such offer, promise, payment or gift in connection with performance of this agreement.
29. Compliance with the US Foreign Corrupt Practices Act: Vendor shall comply with all laws and regulations in the jurisdictions where it is performing under this Agreement. Vendor is familiar with applicable anti-corruption, anti-bribery, anti-kickback, laws and regulations and will not undertake any actions that may violate these laws and regulations. Vendor is familiar with the U.S. Foreign Corrupt Practices Act (the "FCPA"), its prohibitions and purposes, and will not undertake any actions that may violate the FCPA.
30. Insurance & Work on Winrock's or Winrock's Client Premises. When Vendor performs work on Winrock's premises during the performance of this order, the Vendor agrees to maintain General Liability Insurance in the amount of at least \$500,000 per claim/occurrence unless otherwise noted in the Purchase Order Terms & Conditions and such other insurance as may be required in writing by the Winrock Client. Vendor, however, shall maintain adequate insurance coverage against claims arising from injuries sustained by Vendor on Winrock's facilities and agrees to be liable for all damages & claims arising against Winrock for which the Vendor is responsible.
31. Severability. If any provision or any portion of a provision of this Agreement shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any

applicable legal requirements or court order, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or portion of the provision hereunder, which shall remain in full force and effect as if the unenforceable provision or portion were deleted.

32. Laws and regulations within the General Provisions apply to all purchase orders. Special provisions that apply to a specific purchase order activity can be found in the Terms and Conditions section of this agreement. It is the responsibility of the vendor to read and accept the terms and conditions included in the purchase order.
33. Liquidated Damages. If the Vendor fails to deliver the supplies or perform the services within the time specified in this agreement, Winrock may require that Vendor pay, in place of actual damages, liquidated damages in the amount of one percent (1%) unless noted in the Purchase Order Terms & Conditions of the agreement value for each day of delay. If Winrock terminates this agreement in whole or in part for default, as provided under section 11 above, Vendor is liable for liquidated damages accruing until such time that Winrock reasonably obtains delivery or performance from another Vendor. These liquidated damages shall be in addition to any excess costs for re-purchase. Vendor will not be charged with liquidated damages when delay of delivery or performance is beyond the control and without the fault or negligence of the Vendor.
34. U.S. Export Control Laws. Vendor shall at all times comply fully with all United States export control laws and regulations as they apply to any goods, software, or information, or the direct product of such information, provided under this Agreement. Vendor shall not at any time sell, deliver, or divert any goods other than in strict compliance with all applicable U.S. export control laws and regulations.
35. Waiver. A waiver of a breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of this Agreement. The failure of Winrock to enforce at any time or from time to time any provision of this Agreement shall not be construed as a waiver of any of Winrock's rights or the Vendor's duties.
36. Clauses Incorporated By Reference. Work performed under this Agreement is pursuant to a contract or grant from the U.S. Government, or other funding sources, and all relevant flow-down clauses from the contract or grant shall be deemed to be incorporated in this Agreement: (a) in such manner as to make the Vendor subject to those clauses, as applicable; and (b) to the extent necessary to enable Winrock International to perform its obligations under the contract or grant and to enable the funding source to enforce its rights hereunder. This agreement incorporates the following FAR, and agency regulations (AIDAR) as applicable. To the fullest extent that these clauses flow-down or apply to the Vendor, they are incorporated herein by reference with the same force and effect as if they were given in full text. Where appropriate and applicable under these clauses, reference to the "Government" shall be interpreted to mean "Winrock International" and "Vendor" to mean "Vendor."
37. Entire Purchase Order. The Purchase Order document and all attachments incorporated therein represents and constitutes the entire Purchase Order between parties and shall not be explained, modified, or contradicted by any prior or contemporaneous negotiations, representations, or

agreements, either written or oral. Only a written instrument signed by each party may amend this Purchase Order.