

MTI ATH RATE CONTRACT AGREEMENT (for successful bidders)

THIS RATE CONTRACT AGREEMENT is made and agreed today on the _____ day of **[Month]**, 2024 between the Hospital Director MTI ATH Abbottabad, KPK, Pakistan (*hereinafter referred to as the Procuring Agency or first party, which expression shall, where the context admits, be deemed to include the successors and / or assignee/s of the Provincial Government of Khyber Pakhtunkhwa*); and Messrs. **[Name of Supplier]** through

Mr. _____ Designation _____

CNIC No. _____, (*hereinafter referred to as the Supplier or second party or he or his or him, which expression, unless repugnant to the context, means and includes their legal heir/s, successors-in-interest, assignee/s and legal representative/s*) that:

WHEREAS the Procuring Agency has made a bidding competition under the approved Bid Solicitation Documents for the year 2024-25 (*hereinafter referred to as the BSDs*) approved for the selection and rate contracting of drugs/medicine, medical devices, surgical disposables and other non-drug items (*hereinafter referred to as goods*) for actual purchases of the selected and rate contracted goods to be made by the offices /officers of the MTI ATH Abbottabad (*hereinafter called the Procuring Agency*); and

WHEREAS the Supplier has won the bidding competition for selected goods, as listed in the Schedule- 1 of this contract agreement; and

WHEREAS the Supplier declares that he is not a broker, middle-man, distributor or authorized dealer of, or acting on behalf of any entity or person, but himself a genuine Manufacturer and / or direct Importer of the goods for which he has won the bidding competition for supply of the same to the Procuring Agency, as defined in the BSD and

WHEREAS both the parties have agreed that the Procuring Agency shall purchase all, or some, or none of the goods, as of details given in the Schedule-1 of this Contract Agreement, from the Supplier at the sole discretion of the Procuring Agency in subordination to laws and matters ancillary to the terms and conditions of the BSDs; and

WHEREAS the Supplier shall supply all the goods ordered by the Procuring Agency to the latter in the quantity as mentioned in the supply order to be issued by the Procuring Agency within the timeframe as mentioned in clause-22 of this contract agreement;

Now, therefore, both the parties hereby mutually agreed to enter into this contract agreement as under:

1. The Supplier agrees to take full responsibility of the validity and implications, that may arise in future, of declaration as submitted by him through an affidavit on judicial stamp paper along with the Bid Form-1 of the BSDs along with his bid; and also that in case of any kind of breach of the said declaration, the Supplier shall be liable to be proceeded against by the Procuring Agency, in accordance with the clauses of this rate contract agreement as well as relevant laws, rules and regulations of the MTI ATH Abbottabad/Government of Khyber Pakhtunkhwa/KPPRA, as amended from time to time, to govern the situation/s.
2. The Supplier shall supply the ordered goods to the concerned Procuring Agency exactly at the address of the official premises as provided in the supply order issued to the Supplier.
3. The Supplier shall be solely responsible for the safe and appropriate method and mode of transportation, loading, unloading and staking of the supplied items till, and at

the time of delivery to the destination address indicated by the Purchasing Agency in the district of its jurisdiction.

4. The Supplier shall be solely responsible for any damage, untoward incidence, maintenance of required temperature (cold chain) and protection from light and other environmental conditions as well as other hazards that may possibly or potentially affect the safety, quality, and efficacy of the supplied goods till the time of delivery and the consequences arising therefrom, if any.

5. The Supplier shall not claim or charge any transportation, loading/unloading, labor or any other charges, whatsoever, related to or in the name of logistics, accidents, insurance, freight, toll tax, etc.

6. The Supplier shall supply all the goods in full conformity to the specifications as laid down in the BSDs.

7. The Procuring Agency may arrange to obtain randomized sample/s of the supplied goods, as in the BSDs officers/officials of MTI ATH for sending the same to the concerned Laboratory for Test/Analysis upon the risk and cost of the supplier under provisions of the BSDs, further subject to the following condition/s:

8. Supplier shall supply to the MTI ATH the freshly manufactured goods having maximum possible long expiry dates with the minimum remaining shelf life of at least 65% in case of imported goods and at least 85% in case of locally manufactured goods within Pakistan.

9. In case of taking any action in contravention to any provision of the applicable law and rules, the Supplier shall render himself liable to such lawful action/s as deemed appropriate and taken against him under any or all the applicable law/s, rule/s of the Government of Khyber Pakhtunkhwa, terms and conditions of the BSDs and the clauses of this contract agreement.

10. The MTI ATH shall take lawful / legal action against the Supplier regarding non-supply, short supply, substituted supply, delayed supply or any other unlawful action/shortcoming, on the part of Supplier, in the execution of this contract agreement, in accordance with the clauses of this contract agreement as well as relevant and applicable laws, rules and regulations of the MTI ATH Abbottabad/Government of Khyber Pakhtunkhwa, as amended from time to time, to govern suchlike situation/s, which may, inter alia, include but not limited to blacklisting, forfeiture of earnest money and performance guarantee, if any.

11. The Supplier agrees to the following conditions related to packing, packaging and labelling of the goods to be supplied to MTI ATH Abbottabad under this contract agreement:

a. Each item shall be supplied to MTI ATH Abbottabad in the packing and packaging unit as approved and registered by the relevant authority. The supplier shall supply all the unit items bearing the words **"MTI ATH ABBOTTABAD SUPPLY"** and **"NOT FOR SALE"** in block letters and clearly visible manner with indelible ink, on the label, outer packing of each individual unit item as well as on its outer carton/s.

b. The labels shall comply with all the requirements as laid down under the Lab Chemicals Labelling and Packing Rules. The strip shall clearly indicate expiry date of the supplied item/s in a clear and legible manner.

c. The goods shall be packed and transported to the MTI ATH Abbottabad in accordance with the provisions contained in the Bid Solicitation Documents.

12. The MTI ATH or its representative shall have the right to inspect the manufacturing facilities, premises, warehouses, godowns, laboratories etc. at any time during the financial year 2024-25 /or till the execution of supply orders given under this contract agreement by the MTI ATH Abbottabad. If anything found in contravention of the applicable laws/rules/regulations Or BSDs, or of this Contract Agreement with the MTI ATH Abbottabad, shall have the sole right and authority to take any lawful action as deemed appropriate, against the Supplier which may include, but not limited to cancellation of supply order/ orders given to the Supplier, as well as imposition of penalties, forfeiture of supplied stock, forfeiture of performance guarantee or earnest money as the case may be, stoppage or recovery of payment made to the supplier as well as taking any other lawful action.
13. The Supplier agrees that the approved price of all individual items in Schedule-1 of this contract agreement, as quoted by him in the financial bid, shall remain valid up to June 30th, 2025 for Lab chemicals (General Items) and Valid up to June 30th 2027 for Lab Chemicals reagent basis and/or till the finalization of next tender/s (whichever is earlier).
14. As mentioned in Special Conditions of Contract, the **bid security** of Rs. _____/- from the Supplier as already received by the MTI ATH Abbottabad at the time of bids submission under GCC Clause 15, shall be retained by the MTI ATH Abbottabad as Performance Security till the end of contract period and will be released back to supplier in response to applying for the same by him to the Procuring Agency after successful completion of all the contractual obligations of this contract agreement and the BSDs.
15. The Supplier shall provide legal and valid warranty to the MTI ATH Abbottabad for all the goods supplied under this contract agreement in accordance with the mechanism prescribed for the purpose.
16. Bill for payment in triplicate along with all other relevant and required documents shall be submitted by the Supplier to the Procuring Agency immediately after completion of supply of ordered stock. The Supplier shall be bound to pay all sorts of government taxes including general sales tax, duties and stamp duties, imposed earlier or during the execution of this contract by the Government of Pakistan or by the Provincial Government of KPK, on any supplied/purchased item.
17. In case of any collusive, coercive, corrupt, obstructive, fraudulent practices and/or any act of misconduct by the approved firm and/or its focal person, during the contract period in relation to the decision making by the MTI ATH (Purchase Committee), shall be liable to be proceeded under ATH Manual of Blacklisting and/or forfeiture of the bid security/performance guarantee of the bidding firm, and/or any other lawful action as deemed appropriate by the MTI ATH, including that to be taken up with the relevant authorities or any other body/entity of the Federal Government; and
18. In case of situation related to Force Majeure, the Supplier may immediately without delay inform the Procuring Agency as well as the Procuring Agency in writing about the situation along with solid proof of the situation through the fastest, lawful and available means of communication, but not through the electronic mail, and request the MTI ATH Abbottabad for the grant of extension in the supply period.
 - a. The Procuring Agency, in case of being fully satisfied with the genuineness of situation arising from the claimed Force Majeure by the Supplier, may extend the period of supply of goods up to a maximum of not more than thirty (30) days.

b. The MTI ATH Abbottabad shall, in no case, be responsible or held responsible for any complications in making payments to Supplier that may arise from the closure of financial year, and / or lapse, and/or surrender of public funds, vis-à-vis, the standard and normal public sector financial management laws, rules, regulations, procedures and practices governing the Procuring Agency.

c. After the expiry of extended period as in clause-18(a) above, the supply order shall stand cancelled to the extent of non-supplied goods and the performance security in the form of retained bids security, shall be forfeited in favor of the MTI ATH Abbottabad.

19. The Supplier agrees that the supply of the ordered goods under this agreement shall be completed by the Manufacturer suppliers within thirty (30) days and Importer Supplier within sixty (45) days after the receipt of supply order/s from the MTI ATH Abbottabad, except in situation/s covered under clause-18 above regarding Force Majeure. In case of delay in supplies reaching to the MTI ATH, the following penalties shall be imposed by the MTI ATH Abbottabad upon the Supplier:

a. Upon delay in supply beyond 30 and 45 days for local manufacturer supplier and for importer supplier respectively a lump sum penalty of 1% per week shall be deducted up to a maximum of 4% penalty for 4 weeks, of the total quoted price of such goods, whose supply was delayed out of the same supply order as issued to the supplier, shall be levied through deducting the total amount of penalty from the total pre-tax payable billed amount by the Purchasing Agency.

b. In case of delay in supply beyond 04 weeks after the cutoff days, as mentioned in clause-19 (a) above, the delayed items shall be arranged through Local Purchase (LP) upon the risk and cost of the supplier up to further three (03) weeks (i.e. total of 7 weeks beyond cut off days). However, beyond 7 weeks of cutoff days (79 days for manufacturer & 94 days for importers), the supply order issued by MTI ATH shall stand cancelled to the extent of non-supplied items and in such a case, the MTI ATH shall have the right, duty and authority to impose any or all of the below mentioned penalties; that is

i. Forfeiting the bids security and/or performance guarantee of the Supplier as related to this contract agreement; and/or

ii. Immediately debarring the selected item/s and/or Supplier/firm from future participation and business not less than one year and up to next three (03) calendar years with the MTI ATH/Government of KPK or any other health institution, project and/or Program directly or indirectly run or implemented by or through the provincial Health Department or other health institution in the Province, as defined in the BSDs, and District Governments in the Province; and/or

iii. Initiating the process for and recommending for permanent blacklisting of the Supplier with the MTI ATH Abbottabad under ATH Manual of Blacklisting.

iv. The applicant bidder shall be debarred/blacklisted from the process of contract framework agreement 2024-25/2024-27 either for its quoted item/s and/or firm from the bidding competition at any stage where the

bidder has been declared defaulter firm/non-supplier firm in the MTI ATH contract agreement period of FY 2023-24 and/or current FY 2024-25/2024-27 and proceeded by MTI ATH Abbottabad as per ATH Manual of Blacklisting.

20. The Supplier agrees that the supply order/s of the goods which are issued till the last day of finalization of the next tender FY 2025-26/2027-30 by the MTI ATH under this agreement shall be completed, in case of failure the supplier shall be liable to all the penalties enunciated in clause 19(a) & (b) of this agreement.
21. The supplier agrees that, in cases where the utilization or consumption of the supplied item/s is low and the items become short-expired, the supplier shall replace the short-expired stock with fresh batches at its own risk and cost, even after the contract has ended. However, MTI ATH Abbottabad must request the replacement in writing at least three (03) months prior to the stock's expiry date.
22. Notwithstanding any rights, duties and/or remedial measures and/or managerial actions taken and/or to be taken and/or any powers exercised and/or to be exercised by the MTI ATH Abbottabad and/or Purchasing Officer/s of this institute, with regard to the execution of this contract agreement, the Supplier agrees to indemnify all of them for any loss or damage incurred or inflicted upon by them in individual or official capacity upon the Supplier whether through any of their actions and/or practices and/or otherwise.
23. The Supplier further agrees to pay compensation to the MTI ATH Abbottabad/Government of Khyber Pakhtunkhwa of an amount equivalent to ten times the sum of any commission, gratification, bribe or kickback and/or finder's fee given by the Supplier for the purpose of obtaining and/or inducing the procurement of any contract, right, interest, privilege or other obligation/s or benefit/s in whatsoever form, from the MTI ATH Abbottabad.
24. The supplier further agrees that all the data related to supplies throughout the financial year shall be provided to the procuring entity by the end of financial year/immediately before the finalization of next tender. The CDR/Bank Guarantee of the supplier shall be subjected to the provision of the said data.
25. The MTI ATH, and the Supplier shall make every effort to resolve amicably by direct negotiation any disagreement or dispute arising between them under or in connection with the contract/supplies. However, despite such negotiation if the Procuring Agency & Supplier have been unable to resolve amicably a contract dispute, the case shall be referred to the Board of Governors of MTI ATH Abbottabad for decision through a Dispute Resolution Committee. The decision in this regard by the BOG shall be final.
26. Both the parties agree that the MTI ATH Abbottabad, has the authority to regulate, if deemed appropriate, under the provisions in the SBDs, through imposing restrictions and/or classifying and/or grouping any selected quoted item/s for stopping, increasing or decreasing the purchase of such item/s to rationalize and/or control the use and/or misuse of such item/s.
27. The procuring agency may extend the duration for the framework contract to another year, extendable up to a maximum of three years; provided that every extension shall be approved by a committee, notified by the Hospital Director MTI ATH Abbottabad and/or Chairman Management Council (MC) MTI ATH and/ Chairman BOGs MTI ATH Abbottabad (as the case may be), to determine competitiveness and assess value for money as per the KPPRA Rules (31A) of 2014.

28. In case of single complying bid, the MTI ATH may conclude the procurement contract through negotiation on quality upgrades, mode and schedule of delivery or cost reduction. In case the bid price is above engineer estimates or market analysis report, conducted by MTI ATH Abbottabad, after due diligence, in such eventuality, the successful bidder shall be asked to match that price in order to protect public interest and to ensure general principle of timelines for procurement as enunciated in section 3 of the Act as per the KPPRA Rules (42A) of 2014.

<p>_____</p> <p>HOSPITAL DIRECTOR on Behalf of Medical Teaching Institution, Ayub Teaching Institution, Abbottabad</p>	<p>Signature: _____</p> <p>Name: _____</p> <p>Designation _____</p> <p>CNIC No. _____</p> <p>Stamp: _____</p> <p>For and on behalf of Manufacturers / Importer</p>
<p>WITNESS NO. 1</p> <p>Signature: _____</p> <p>Name : _____</p> <p>Father's Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>CNIC No. _____</p> <p>on Behalf of Hospital Director MTI ATH Abbottabad</p>	<p>WITNESS NO. 2</p> <p>Signature: _____</p> <p>Name : _____</p> <p>Father's Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>CNIC No. _____</p> <p>For and on behalf of Manufacturers / Importer</p>