



## SERVICE CONTRACT

Contract No. \_\_\_\_\_

THIS SERVICE CONTRACT entered into as of \_\_\_\_\_ by and between MERCY CORPS, a State of Washington, U.S.A. nonprofit corporation having its principal office in Portland, Oregon, U.S.A. ("Mercy Corps") and \_\_\_\_\_ ("Contractor") is as follows:

**1. Defined Terms.** Each of the following terms has the meaning given to such term on Schedule I attached hereto: Authorized Representative, Payment Terms, Services and SOW. "Contract" means this Service Contract as amended, modified or supplemented from time to time taken together with its Schedules. Additional terms may be defined throughout this Contract.

**2. Delivery of Services.**

- a. Contractor will perform the Services, and Mercy Corps will pay for the Services, in accordance with the terms and conditions and within the Performance Period set forth in this Contract and the Statement of Services.
- b. Contractor will perform all Services through the services of Contractor's employees. Contractor will not delegate or subcontract any Services to be provided to Mercy Corps without Mercy Corps' prior written consent. Contractor agrees that including the specific individuals named (if any) as Key Personnel in Schedule I is a material part of the bargain. Contractor will not change the Key Personnel without prior notice and an amendment to this Contract specifying the change. Mercy Corps may withhold its consent to substitute personnel using its sole discretion.

**3. Compliance with SOW and Changes to the SOW.** Services will be provided strictly in accordance with the SOW. No deviation, substitution or change is permitted without Mercy Corps' prior written consent; provided that Mercy Corps may terminate, suspend, increase or decrease the scope of Contractor's performance under the SOW by written notice to Contractor specifying the changes. Unless mutually agreed, change to the SOW by Mercy Corps does not apply to change Services timely and fully delivered and performed before the date of the change. If any change causes an increase or decrease in the cost of, or the time required for, Contractor's performance, an equitable adjustment may be made in the SOW or Payment Terms or both, if such adjustment is set forth in an amendment signed by Mercy Corps' and Contractor's Authorized Representative.

**4. Invoicing and Payment.**

- a. Contractor will submit invoices to Mercy Corps in accordance with the invoicing schedule and invoicing delivery terms set forth in the Statement of Services (Schedule I). Final invoices must be submitted within 60 days of the end date of the Contract. Contractor recognizes that in many cases Mercy Corps' donor will not reimburse Mercy Corps for invoices submitted beyond 60 days after the termination of a contract and therefore Mercy Corps will have no obligation to pay any portion of invoices received more than 60 days after the end date of the Contract. Each invoice will include (i) the Contract Number; (ii) Contractor's name and address; (iii) a description of the Services performed, (iv) the dates such Services were performed, (v) a pricing calculation based on the payment terms, (vi) properly reimbursable expenses (if any)

incurred along with receipts for such expenses (if applicable) for all individual expenses exceeding \$25 USD, and (vii) such other information as Mercy Corps may reasonably request. Invoices will only be deemed received on the date they are delivered to the Authorized Representative pursuant to the Payment Terms (see Schedule I). If Mercy Corps determines that Services that are the subject of an invoice have not been performed in accordance with the Statement of Services, Mercy Corps may dispute the invoice by sending Contractor notice of such dispute after Mercy Corps' receipt of the invoice. Such notice shall clearly state the specific Services disputed, and Mercy Corps' reason for disputing the performance of the Services. If both parties accept the dispute of the invoice, they shall agree in writing as to the steps required of Contractor to ensure that the performance of the disputed Services is subsequently completed in accordance with the Additional Terms, and the time required of Contractor to complete the Services.

- b. Except as otherwise provided in the Statement of Services, Mercy Corps will pay each invoice (or adjusted invoice if the subject of dispute) in accordance with the Payment Terms within 30 days after the later of (i) receipt of the invoice or (ii) resolution of the items set forth in the notice of disputed charges.
- c. Mercy Corps may off-set any amount it owes Contractor against any amount Contractor owes Mercy Corps.

#### **5. Taxes, Duties and Expenses.**

- a. Except as otherwise provided in the Statement of Services, Contractor is responsible for all expenses incurred by it in performing under this Contract and all taxes, duties and other governmental charges with respect to the provision of Services. If the law requires Mercy Corps to withhold taxes from payments to Contractor, Mercy Corps may withhold those taxes and pay them to the appropriate taxing authority. Mercy Corps will deliver to Contractor an official notice for such taxes. Mercy Corps will use reasonable efforts to minimize any taxes withheld to the extent allowed by law.
- b. In the event Statement of Services does allow for reimbursement of Contractor expenses, such expenses must be reasonable and included in the scope of allowable expenses stated in Schedule I and fully documented with receipts and any other documentation reasonably necessary for Mercy Corps to determine the costs were reasonable and properly incurred.

#### **6. Representations, Warranties and Additional Covenants.** Contractor represents and warrants to Mercy Corps and covenants with Mercy Corps as follows.

- a. Contractor has full rights and authority to enter into and perform its obligations under this Contract. Contractor's performance will not violate any agreement or obligation between Contractor and any third party.
- b. Contractor has the requisite skills to perform the Services in accordance with the SOW.
- c. Contractor possesses all governmental and other certifications and licenses necessary to perform the Services. Performance by Contractor of its obligations under this Contract will not infringe on any patent, copyright, trademark, trade secret or other proprietary right of any third party.



- d. Contractor will comply with all applicable law, regulations and rules in the performance of its obligations under this Contract.
- e. Contractor has not, and will not, engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism, including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or the United Nations Security designation list ([http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml)).
- f. Contractor will comply with and train its employees in all applicable laws against bribery, corruption, inaccurate books and records, inadequate internal controls and money-laundering, including the U.S. Foreign Corrupt Practices Act and the UK Bribery Act. Contractor has not and will not offer or give any employee, agent, or representative of Mercy Corps anything of value to secure any business from Mercy Corps or influence such person to alter the terms, conditions, or performance of any contract with or purchase order from Mercy Corps, including but not limited to this Contract.
- g. Contractor, including its owners or employees, does not own, directly or indirectly, any other company that was competing for award of this Contract. Contractor did not seek or obtain confidential information related to the award of this Contract from any Mercy Corps employee, agent or representative. Contractor did not collude or conspire with any other individual or entity to limit competition for the award of this Contract, to set prices being offered or in any other way to interfere with free and open competition.
- h. Contractor is not owned in whole or in part, directly or indirectly, by any immediate or extended family member of any Mercy Corps employee, agent or representative, or, if so owned, Contractor fully disclosed such relationship and any potential conflict of interest has been waived, in writing, by Mercy Corps.
- i. Contractor has not engaged in, and will not engage in, any of the following conduct: (A) trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime); (B) procuring a commercial sex act; or (C) using forced labor.
- j. Contractor is not the subject or any governmental or donor investigation and has not been debarred or suspended by any government, governmental agency or donor.

**7. Independent Contractor.** The parties intend to be independent Contractors. Contractor will be solely responsible for and have control over the means, methods, techniques, personnel and procedures for performing the Services. Neither party will be deemed an agent or partner of the other party.

**8. Work Product and Intellectual Property Rights.**

- a. "Work Product" means any and all (1) intellectual property, intellectual property rights, materials, tangible personal property and other work product that Contractor creates (or has created), alone or jointly with one or more other persons, (a) that relates to any SOW under this Contract, (b) that results from or arises out of any services performed by Contractor for Mercy Corps, (c) for which Contractor used equipment, supplies, facilities or trade secret information of Mercy Corps in creating such work product, or (d) that is derived or otherwise created from



any intellectual property, intellectual property rights, materials, tangible personal property, or other assets of Mercy Corps; and (2) materials that contain, embody, disclose, reflect, or refer to any of the foregoing.

- b. Mercy Corps will be the sole owner of all Work Product. To the extent allowed by applicable law, all Work Product that consists of subject matter of U.S. or any other country's copyright laws will constitute "works made for hire" under applicable copyright laws. Contractor will not provide Work Product to any person other than employees or agents of Mercy Corps. Contractor will hold all Work Product in trust for Mercy Corps. All Work Product will be deemed to be Confidential Information of Mercy Corps and subject to the provisions of Section 9.
- c. Contractor will promptly disclose in writing to Mercy Corps all Work Product that Contractor creates, alone or jointly with others, in the performance of its obligations under this Contract.
- d. Contractor hereby irrevocably assigns and transfers to Mercy Corps (i) all rights, title and interest in all Work Product, (ii) all related rights and remedies, and (iii) all claims (for damages or otherwise) and causes of action with respect to any Work Product.
- e. Contractor hereby irrevocably waives and agrees never to assert any Moral Rights that may exist anywhere in the world in or with respect to any Work Product, including claims for damages and other remedies. "Moral Rights" means any and all right to claim authorship or to object to any distortion, mutilation or other modification or other derogatory action in relation to a work, whether or not such action would be prejudicial to the author's reputation, and any similar right, existing under common or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or generally referred to as a "*moral right*".

**9. Confidentiality.** Contractor will maintain, and cause each of its employees and others it involves in performing its obligations under this Contract to maintain, the confidentiality of: (i) any information Mercy Corps provides to Contractor that Mercy Corps identifies as confidential; (ii) the terms and conditions of this Contract; and (iii) nonpublic information regarding Mercy Corps' policies and practices. Upon Mercy Corps' request, Contractor will return to Mercy Corps all confidential information provided by Mercy Corps to Contractor.

**10. Indemnification.** Contractor will indemnify Mercy Corps and each of its officers, directors, employees, representatives and agents (each, an "Indemnitee"), and hold them harmless from, any and all losses, claims, damages, liabilities, any government or donor investigations, fines or penalties and related expenses (including incidental and consequential damages and reasonable attorneys' fees, whether incurred at the investigative, trial or appellate level or otherwise) incurred by any Indemnitee or asserted against any Indemnitee by any third party or by Contractor arising out of, in connection with, or as a result of this Contract, any failure by Contractor to fully perform its obligations under this Contract or any breach by Contractor of any of its representations and warranties under this Contract, provided that such indemnity will not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the gross negligence or willful misconduct of such Indemnitee.

**11. Termination.** This Contract may be terminated under the following circumstances:

- a. by both Parties on mutual written agreement of the Parties;

- b. by either Party for its convenience with written notice and after the Termination Notice Period specified in Schedule I has expired;
- c. by Mercy Corps immediately upon written notice in the event Mercy Corps' donor(s) terminates or withdraws funding that Mercy Corps would use to pay Contractor under this Contract;
- d. by either Party due to the non-terminating Party's breach of this Contract and failure to correct such breach within 15 days prior notice of such breach;
- e. be either Party upon written notice if a force majeure event, including any not reasonably foreseeable war, insurrection, change in law or government action or inaction, strike, natural disaster or similar event, prevents the terminating Party from being able to fulfill its obligations under this Contract; or
- f. by Mercy Corps immediately upon written notice if Mercy Corps using its sole discretion determines that Contractor has or will breach any of its warranties, covenants or representations in this Contract, in which case Mercy Corps may withhold any and all amounts owed to Contractor until such breach is remedied.

In the event of termination due to Contractor's breach of this Contract or by Contractor for Contractor's convenience, Mercy Corps will not be obligated to pay Contractor for any partially completed work. In the event termination is due to Mercy Corps' breach of this Contract, by Mercy Corps for Mercy Corps' convenience, due to force majeure event, or due to loss of funding, Mercy Corps will be obligated to pay Contractor for its reasonable, pro-rated costs of work completed and expenses properly incurred prior to termination. However, Mercy Corps will not be responsible for any expenses incurred in anticipation of termination or suspension.

**[ALTERNATIVE CLAUSE IF USING LIQUIDATED DAMAGES:** [If Mercy Corps determines that Contractor has or will breach any of its warranties, covenants or representations in this Contract, Mercy Corps may terminate this Contract. Contractor's breach of its obligations under this Contract will result in Mercy Corps incurring damages in an amount that will be difficult to establish and leave Mercy Corps without an adequate remedy. Accordingly, the parties agree that the following liquidated damages are reasonable in light of the anticipated harm caused by any such breach: *[insert dollar amount or other formula for determining the amount of damages]*].

**12. Dispute Resolution.** Any unresolved dispute or claims will be settled by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. The number of arbitrators will be one. The place of arbitration will be Portland, Oregon. The language of the arbitration will be English.

**13. Access to Books and Records.** Mercy Corps, its donors (including, if applicable, USAID, and the Comptroller General of the United States) and any of their respective representatives will have access to any books, documents, papers and records of Contractor that are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions for a period of seven years following the completion of the Contract.

**14. Additional Donor Terms and Conditions.** The Donor Terms (if any) are incorporated in this Contract by reference and are fully binding on Contractor and Mercy Corps. In the event of a conflict



between the Donor Terms and any other provision of this Contract or any other document between Contractor and Mercy Corps, the Donor Terms will prevail.

#### **15. Miscellaneous.**

- a. This Contract and the rights and obligations of the parties hereto will be governed by and construed in accordance with the laws of the State of Oregon (exclusive of the United Nations Convention on Contracts for the International Sale of Goods), without regard to the conflict of laws provisions thereof.
- b. No right or obligation under this Contract (including the right to receive monies due) will be assigned without the prior written consent of Mercy Corps. Any assignment without such consent will be void. Mercy Corps may assign its rights under this Contract.
- c. All notices provided for herein will be in writing and will be delivered by hand or overnight courier service, email or fax in accordance with each party's contact information set forth on Schedule I. Notices will be deemed to have been given when received, provided that notices sent by email or fax will be deemed received when sent (except that, if not sent during normal business hours for the recipient, will be deemed received at the opening of business on the next business day for the recipient).
- d. Time is of the essence of each and every obligation of Contractor under this Contract.
- e. If any provision of this Contract is prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Contract.
- f. Except as otherwise provided above, this Contract may be amended or modified only by a written document signed by both parties. This Contract constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous Contracts and understandings, oral or written, relating to the subject matter hereof.
- g. No failure on the part of Mercy Corps to exercise, and no delay in exercising, any right, power, privilege or remedy under this Contract will operate as a waiver thereof; nor will any single or partial exercise of any such right, power, privilege or remedy preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy. The rights and remedies under this Contract are cumulative and not exclusive of any rights, powers, privileges and remedies that may otherwise be available to Mercy Corps.
- h. The warranty, representations, dispute resolution, confidentiality and indemnification provisions of this Contract will survive the termination, cancellation or expiration of this Contract.



IN WITNESS WHEREOF, this Service Contract has been duly executed as of the date first written above.

**MERCY CORPS**

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



**SCHEDULE I: ADDITIONAL TERMS**

**Statement of Services – Fixed Price**

**1. Services and Statement of Work:** In accordance with the terms of the Contract, Contractor agrees to perform the following services in the following manner.

- a. Background:
- b. Scope of Work:
- c. Deliverables: The Contractor shall deliver the following deliverables in accordance with the schedule set in Section 2 below:
  - i. Deliverable 1:
  - ii. Deliverable 2:
  - iii. Deliverable 3:

*[add additional deliverables as needed].*

The term “Services” means all services, including delivery of all deliverables, described in this clause, which is the scope of work (the “SOW”).

**2. Performance Period:** The start date of this Contract is XXX and, unless earlier terminated in accordance with Section 11, has an end date of XXX. The individual due dates of each deliverable are as follows:

Deliverable #	Deliverable Description	Deliverable Due Date

**3. Pricing:** This is a firm and fixed price Contract that includes a ceiling amount of XXX for Services rendered under this Contract. Payments will be made according to the deliverables schedule below:

Deliverable #	Deliverable Description	Deliverable Price	Total Contract Price





<p><b>Invoicing and Payment Terms:</b> <i>[Upon written acceptance by Mercy Corps of each Services deliverable] [Upon completion of the Contract]</i> Contractor will submit an Invoice in accordance with pricing as specified in the Contract. Mercy Corps will make payment to Contractor for all sums not in dispute within 30 days of receipt of Contractor’s invoice(s) (the “Payment Terms”).</p>			
<p><b>Key Personnel:</b></p>			

**Authorized Representatives and Contact Information:**

<p><b>Mercy Corps:</b> <i>Only the following Mercy Corps employees are authorized to agree to any amendment of this Contract:</i></p>	<p><b>Contractor:</b> <i>Contractor’s authorized representative for all purposes is:</i></p>
<p><i>Only the following Mercy Corps employees are authorized to receive invoices, accept, or reject Services or sign SCRs.</i></p>	

**Termination for Convenience Notice Period:** *[include the number of days within which Mercy Corps can terminate for its convenience]* (the “Termination Notice Period”)

**Donor Terms:** *[The Donor Terms are set forth in Schedule II are hereby incorporated in this Contract by reference.]*

## SCHEDULE II

### Donor Terms

#### 1. United States Government (USAID / OFDA):

Mercy Corps, in accordance with donor regulations, requires certain certifications and provisions, set forth herein, to be included in all contracts.

1. The recipient must not engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism, including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (online at: <http://www.treasury.gov/resource-center/sanctions/SDNList/Pages/default.aspx>) or the United Nations Security designation list (online at: [http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml)).
2. Contractor certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any US Government department or agency.
3. Contractor certifies that it will not and has not used any funds received directly or indirectly from the U.S. Government to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of U.S. Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this Contract or any other U.S. government funded project.
4. Mercy Corps, USAID, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of Contractor which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions.
5. The Contractor or its employees, or any Subcontractor or its employees, must not engage in any of the following conduct:
  - (i) Trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime) during the period of this Contract;
  - i. Procure a commercial sex act during the period of this Contract;
  - ii. Use forced labor in the performance of the Contract; or
  - iii. Commit acts that directly support or advance trafficking in persons, including the following acts:
    - Destroying, concealing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
    - Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:
      - exempted from the requirement to provide or pay for such return transportation by Mercy Corps under this award; or

- the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action;
- Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;
- Charging employees recruitment fees ; or
- Providing or arranging housing that fails to meet the host country housing and safety standards.

Contractor agrees to report in a timely manner to Mercy Corps any credible information from any source that alleges the contractor or any sub-contractor has engaged in any of the prohibited activities identified in this provision.

6. The Contractor must inform its employees working under this contract in the predominant native language of the workforce that they are afforded the employee whistleblower rights and protections provided under 41 U.S.C. § 4712; and

7. Contractor must disclose, in a timely manner, in writing to the USAID Office of Inspector General and Mercy Corps all violations of US government criminal law involving fraud, bribery or gratuity violations potentially affecting this Contract.

Disclosures to USAID must be sent to:

U.S. Agency for International Development  
Office of the Inspector General  
P.O. Box 657  
Washington, DC 200044-0657  
Phone: 1-800-230-6539 or 202-712-1023  
Email: [ig.hotline@usaid.gov](mailto:ig.hotline@usaid.gov)  
URL: <https://oig.usaid.gov/content/usaid-contractor-reporting-form>

8. The Contractor agrees to incorporate the terms of “Annex 5” word-for-word in all of its sub-contracts funded under this Contract, if any.

## 2. UK Government (DFID):

Mercy Corps, in accordance with donor regulations, requires certain certifications and provisions, set forth herein, to be included in all contracts.

### Liability/Indemnity

The Service Provider acknowledges that DFID will not be held responsible for or in relation to the activities of the Service Provider under this Contract.

### Right of Access/ Audit

The Service Provider shall permit Mercy Corps, its donor, DFID (UK), and/or the UK’s National Audit Office and/or any of their duly authorized representatives, access to project sites and relevant records, including books, documents, papers (including in electronic format) for the purpose of monitoring, evaluation and audit. Such verification or audit may take place at any time during this Contract and up to seven years after final payment made under this Contract.

#### Anti-Corruption and Anti-Bribery

The parties recognize that Mercy Corps has a zero tolerance approach to bribery and corruption. The Service Provider will comply with all relevant anti-bribery and anti-corruption laws (including the UK Bribery Act 2010) and comply with the principles of Mercy Corps' Anti-Corruption and Anti-Bribery Policies, or equivalent policies, including: (a) not accepting or offering a bribe of facilitation payment; and (b) reporting immediately to Mercy Corps any bribery issues which the Service Provider becomes aware of during this Contract; and, at the reasonable request of Mercy Corps, confirming in writing that they have complied with this clause and provide any information reasonably requested in support of such compliance. Mercy Corps recognizes that in complying with this clause, the Service Provider is not expected to risk life, limb or freedom.

#### Cancelation of the Contract

If any illegal or corrupt practices were or are committed in the award or execution of this Contract, including if any offer, gift, payment, contribution or benefit of any kind was accepted as an inducement or reward for the award or execution of this Contract, this Contract will be cancelled with immediate effect, in which case Mercy Corps will return to the Service Provider any items delivered and the Service Provider will return to Mercy Corps any funds paid (at each of their own cost, unless otherwise agreed).

#### Confidentiality

The Service Provider acknowledges that Mercy Corps has reporting obligations to DFID. Accordingly, the Service Provider consents to Mercy Corps sharing information about the Service Provider or the Services with DFID as required.

#### Conflict of Interest

- (a) The Service Provider shall take all reasonable precautions to avoid any conflict of interests and shall inform Mercy Corps without delay of any situation constituting or likely to entail a conflict of interests.
- (b) There is a conflict of interests where the impartial and objective exercise of the functions, tasks and activities under this Contract is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another person or party.

#### Principal of Ethical Procurement

The Service Provider acknowledges that Mercy Corps must comply with DFID's principle of Ethical Procurement including adhering to the minimum ethical standards of the avoidance of child labor, and the respect of basic social rights and working conditions based on international labor standards.

#### Child Protection

The Service Provider acknowledges that, under the Donor Contract, the recipients of funds are required to have a robust child protection policy and mechanisms to monitor its adherence and that it is important that a focus on child protection is maintained throughout the lifecycle of the Project. The Donor reserves the right to ask for the relevant child protection policy and mechanisms and test that they are implemented during the life of the Project.

### 3. **European Union:**

Mercy Corps has received funding from the European Union. Mercy Corps, in accordance with the European Union regulations under which this contract is executed, requires certain certifications and provisions, set forth herein, to be included in all contracts.

#### Liability/Indemnity

Under no circumstances nor for any reason whatsoever will the European Union be held liable for damages as a result of the work pursuant to this Contract.

#### Right of Access/ Audit

(a) The Service Provider will be responsible for holding all invoices, receipts and financial and accounting documents relating to this Contract for at least seven years following final payment made under this Contract.

(b) The Service Provider will allow Mercy Corps or the European Union (or any other organisation authorised by the European Union) access to the location where the Service Provider is based or any location where the Services are being implemented and to all documents, information and other material related to this Contract (including in electronic format), necessary to assess, or audit the implementation of the project and compliance with this Contract. Such audit may take place at any time during this Contract and up to seven years following final payment made under this Contract.

#### Confidentiality

The Service Provider acknowledges that Mercy Corps has reporting obligations to the European Union. Accordingly, the Service Provider consents to Mercy Corps sharing information about the Service Provider Service Provider or the Services with the European Union as required.

#### Anti-corruption

The Parties recognize that Mercy Corps has a zero tolerance approach to bribery and corruption. Service Provider will comply with all relevant anti-bribery and anti-corruption laws (including the UK Bribery Act 2010) and comply with the principles of Mercy Corps' Anti-Corruption and Anti-Bribery Policies, or equivalent policies, including: (a) not accepting or offering a bribe of facilitation payment; and (b) reporting immediately to Mercy Corps any bribery issues which the Service Provider becomes aware of during this Contract; and, at the reasonable request of Mercy Corps, confirming in writing that they have complied with this Clause and provide any information reasonably requested in support of such compliance.

Mercy Corps recognizes that in complying with this Clause, the Service Provider is not expected to risk life, limb or freedom.

#### Visibility

Any information or publications, in any form and medium, including the Internet, published pursuant to this Contract must include the following text or a similar disclaimer: "This document has been produced with the financial assistance of the European Union. The views expressed herein should not be taken, in any way, to reflect the official opinion of the European Union.

#### Principal of Ethical Procurement

The Service Provider acknowledges that Mercy Corps must comply with the European Union's principle of Ethical Procurement including adhering to the minimum ethical standards of the avoidance of child labour, and the respect of basic social rights and working conditions based on international labour standards.

#### 4. UNICEF:

1. The Contractor agrees to apply the highest reasonable standard of diligence to ensure that the supplies and equipment and money provided under this Agreement (a) are not used to provide support to individuals or entities associated with terrorism; (b) are not transferred to any individual or entity on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999), available at [http://www.un.org/sc/committees/consolidated\\_list.shtml](http://www.un.org/sc/committees/consolidated_list.shtml); and (c) are not used for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. Contractor agrees that they will be in violation of this contract if they do not follow these guidelines. If they are in violation of these guidelines, this contract will immediately become null and void, with no penalties to Mercy Corps.

2. Contractor is required to comply with the relevant provisions of UNICEF's Policy Prohibiting and Combatting Fraud and Corruption, available at [http://www.unicef.org/publicpartnerships/files/Policy\\_Prohibiting\\_and\\_Combatting\\_Fraud\\_and\\_Corruption.pdf](http://www.unicef.org/publicpartnerships/files/Policy_Prohibiting_and_Combatting_Fraud_and_Corruption.pdf) or such other URL as may be decided from time to time by UNICEF.

#### 3. Sexual Exploitation and Protection of Children

3.1 Contractor shall ensure compliance with the provisions of ST/SGB/2003/13 entitled "Special Measures for Protection from Sexual Exploitation and Sexual Abuse", which is available at <http://www.un.org/Docs/journal/asp/ws.asp?m=ST/SGB/2003/13>. Contractor shall further ensure that s/he does not expose any intended beneficiary, including children, to any form of discrimination, abuse or exploitation and that s/he complies with the provisions of other UNICEF policies relating to protection of children as advised by UNICEF (via GMO) from time to time

4. Data related to beneficiaries (meaning any personal information including identifying information such as the name, identification or passport number, mobile telephone number, email address, cash transaction details) is deemed to be Mercy Corps's confidential information and shall be governed by the UNICEF Disclosure of Information policy, a copy of which is available at [http://www.unicef.org/about/legal\\_disclosure.html](http://www.unicef.org/about/legal_disclosure.html). The Contractor shall only use such data in order to implement the contract. The Contractor shall promptly notify Mercy Corps of any actual or suspected or threatened incident of accidental or unlawful destruction or accidental loss, alteration, unauthorized or accidental disclosure or access to such data.

#### 5. ASSURANCE ACTIVITIES:

##### 5.1 Audit

a. At the request of and at such times as determined by UNICEF and/or Mercy Corps, Mercy Corps may have its activities under this program audited. In the event of an audit Contractor shall provide its full and timely cooperation with any audits. Such cooperation shall include, but shall not be limited to, Contractor's obligation to make available its personnel and any relevant documentation and records for such purposes at reasonable times and on reasonable conditions and to grant the auditors access to Contractor's premises and/or sites of contract implementation at reasonable times and on reasonable conditions in connection with such access to Contractor's personnel and relevant

documentation and records. Contractor shall require its agents, including, but not limited to, IP's attorneys, accountants or other advisers, and its subcontractors to reasonably cooperate with any audits carried out hereunder.

#### 5.2 Spot checks and programmatic visits:

Contractor agrees that, from time to time, Mercy Corps and/or UNICEF may conduct on site reviews ("spot checks" and programmatic visits), subject to such standards, scope, frequency and timing as decided by Mercy Corps and/or UNICEF. Contractor shall provide its full and timely cooperation with any such spot checks or programmatic visits, which shall include Contractor's obligation to make available its personnel and any relevant documentation and records for such purposes at reasonable times and on reasonable conditions and to grant to Mercy Corps and/or UNICEF access to Contractor's premises and/or sites of contract implementation at reasonable times and on reasonable conditions. Contractor shall require its agents, including, but not limited to, Contractor's attorneys, accountants or other advisers, and its subcontractors to reasonably cooperate with any spot checks carried out by Mercy Corps and/or UNICEF hereunder. It is understood that Mercy Corps and/or UNICEF may, at their sole discretion, contract for the services of an individual or corporate person to conduct spot checks or programmatic visits, or Mercy Corps and/or UNICEF may conduct spot checks or programmatic visits with its own staff, employees and agents.

#### 5.3 Investigation:

a. Contractor agrees that Mercy Corps and/or UNICEF may conduct investigations, at such times as determined solely by Mercy Corps and/or UNICEF, relating to any aspect of this Agreement or the award thereof, the obligations performed under the Agreement, and the operations of the Contractor relating to performance of this Agreement. The right of Mercy Corps and/or UNICEF to conduct investigations shall not lapse upon expiration or prior termination of this Agreement. Contractor shall provide its full and timely cooperation with any such investigations. Such cooperation shall include, but shall not be limited to, Contractor's obligation to make available its personnel and any relevant documentation and records at reasonable times and on reasonable conditions and to grant to Mercy Corps and/or UNICEF access to the Contractor's premises and/or sites of contract implementation at reasonable times and on reasonable conditions. Contractor shall require its agents, including, but not limited to, Contractor's attorneys, accountants or other advisers, and its subcontractors to reasonably cooperate with any investigations carried out by Mercy Corps and/or UNICEF hereunder. It is understood that Mercy Corps and/or UNICEF may, at its sole discretion, contract for investigation services of an individual or corporate person, or Mercy Corps and/or UNICEF may conduct investigations with its own staff, employees and agents.

5.4 Contractor consents to the public disclosure by Mercy Corps and/or UNICEF of the audit reports referred to in article 5.1; the spot check and programmatic visit reports referred to in article 5.2; and the investigation reports referred to in article 5.3.

#### 4.5 Global Affairs Canada (GAC):

1. All recipients of GAC International Humanitarian Assistance funding shall abide by (i) the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief and (ii) aspire to meet the SPHERE minimum standards and/or other internationally recognized benchmarks of program quality; and have organizational codes of conduct consistent with the core principles identified in the Inter-Agency Standing Committee Plan on Protection from Sexual Exploitation and Abuse in Humanitarian Crises.



2. The contractor shall indemnify and save GAC harmless from and against all claims, losses, demands, damages, costs and expenses which GAC may sustain or incur in consequence or arising out of project.

3. Anti-Corruption: No offer, gift, consideration or benefit of any kind, which constitutes an illegal or corrupt practice, been or will be made to anyone, either directly or indirectly, as an inducement or reward for the award or execution of this Agreement. Any such practices will be grounds for terminating this Agreement or taking any other corrective actions as required.

4. Anti-Terrorism:

4.1 The Organization declares and guarantees that the funding for the purposes of the Project will not knowingly be used to benefit terrorist entities as defined in the Criminal Code or individual members of these groups, or for terrorist's activities either directly or indirectly. The Canadian government lists of terrorist entities or individuals can be found at the following web addresses:  
<http://www.osfi-bsif.gc.ca/Eng/fi-if/amlc-clrpc/atf-fat/Pages/default.aspx>;  
<http://www.publicsafety.gc.ca/cnt/ntnl-scrt/cntr-trrrsm/index-en.aspx>

4.2 The Organization is responsible to consult the lists in order to keep itself current of the listed terrorist entities or individuals during the period of the Agreement.

4.3 The Organization shall include a corresponding provision in any Sub-Contract or Sub-Agreement that the Organization enters into for the purposes of the Project.