

SAMPLE CONTRACT

This is the anticipated contract. However, if required, additional terms and conditions may be added by Mercy Corps in the final contract.

PURCHASE CONTRACT

Contract No. _____

THIS PURCHASE CONTRACT (the “**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 _____ (“**Supplier**”) 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, Contract Number, Delivery Date, Delivery Location, Delivery Terms, Donor Terms, Goods, Packing Requirements, Pricing, and Specifications. Other terms are defined as specified throughout this Contract.
- 2. Purchase and Sale of Goods.** Supplier will sell to Mercy Corps, and Mercy Corps will purchase and pay for, the Goods in accordance with the terms and conditions set forth in this Contract.
- 3. Specifications.** The Goods must strictly comply with or exceed the Specifications listed in Schedule II. No deviation, substitution or change is permitted without Mercy Corps’ prior written consent.
- 4. Purchase Order Amendments.** Mercy Corps may suspend Supplier's performance, increase or decrease the ordered quantities, or make changes for Mercy Corps’ reasonable business needs by written notice to Supplier (each, a “**Purchase Order Amendment**”). Unless mutually agreed, a Purchase Order Amendment does not apply to change the Goods timely and fully delivered and accepted before the date of the Purchase Order Amendment. If any change causes an increase or decrease in the cost of, or the time required for, Supplier's performance, an equitable adjustment may be made in the price or delivery schedule or both, if such adjustment is set forth in a Purchase Order Amendment signed by the Authorized Representative.
- 5. Non-Exclusivity.** This Contract is not intended to create an exclusive relationship between the parties.
- 6. Inspection, Acceptance and Rejection.**
 - a. All Goods will be subject to Mercy Corps' inspection and testing (which may be done by a third party authorized by Mercy Corps), at any time and place, including the period of manufacture/production/creation and before final acceptance. If Mercy Corps inspects or tests at Supplier's premises, Supplier, without additional charge, will provide all reasonable facilities and assistance for the safety and convenience of Mercy Corps' inspectors. No inspection or testing done or not done before final inspection and acceptance will relieve Supplier from responsibility for defects or for other failure to meet the requirements of this Contract. Notwithstanding any prior inspections or payments made, all Goods will be subject to final inspection and acceptance at the Delivery Location within a reasonable time after delivery (but in no event, less than three days after the date of delivery).
 - b. Acceptance will occur only when the Authorized Representative delivers written, signed notice of acceptance to Supplier in the form of a goods received notice (“**GRN**”) and such notice has been signed by Supplier’s representative. The GRN must include: (1) the GRN number and the packing slip number; (2) the Contract number; (3) a description of the Goods; (4) the quantity delivered; (5) final inspection date and location; (6) quantity accepted; and (7) quantity rejected or over-shipped.

- c. If any delivery, documentation or the Goods delivered do not comply with all of the terms and conditions of this Contract, Mercy Corps may do one or more of the following: (1) reject such nonconforming Goods, accept conforming Goods and reduce the purchase price by such amount as Mercy Corps determines in good faith reflects the value to Mercy Corps of the accepted Goods, (2) accept such nonconforming Goods and reduce the purchase price by such amount as Mercy Corps determines in good faith reflects the reduced value to Mercy Corps of such nonconforming Goods; (3) reject all Goods; and/or (4) terminate this Contract without any further obligation on Mercy Corps' part.
- d. If any Goods are finally accepted, Mercy Corps will only pay for the quantity accepted up to the quantity specified in this Contract. Mercy Corps will in no event pay for quantity above the amount provided for in this Contract or accepted. Mercy Corps or its agent will hold over-shipments and non-conforming shipments at Supplier's risk and expense for a reasonable time awaiting Supplier's instructions. Supplier will bear the expense of return charges, storage charges and other expenses for over-shipped quantities and Goods not accepted.

7. Packing. All Goods will be prepared for shipping and delivery and will be shipped in accordance with the Packing Requirements listed in Schedule I. Price based on weight will include net weight only. Supplier will not charge Mercy Corps for packaging or pre-shipping costs, such as boxing, crating, handling damage, drayage, or storage. Supplier will mark all containers with necessary handling and shipping information, Contract Number, date of shipment, and names of the consignee and consignor. A packing list, and other documentation required for domestic or international transit, regulatory clearance or identification of the Goods will accompany each shipment.

8. Transportation, Shipment and Delivery. Shipment/transportation will be in accordance with the Delivery Terms, Delivery Date, and Delivery Location in Schedule I. Mercy Corps will not be charged for shipping, delivery, loading or unloading costs unless otherwise specified in the Delivery Terms.

9. Risk of Loss. Supplier will bear all risk of loss, damage, or destruction to the Goods, in whole or in part, occurring before final acceptance by Mercy Corps at the Delivery Location; provided, Mercy Corps is responsible for any loss caused by its gross negligence.

10. Taxes, Duties and Expenses.

- a. All taxes, duties and other governmental charges with respect to the manufacture/production/creation of the Goods and the delivery of the Goods to Mercy Corps in accordance with this Contract will be the liability of, and borne solely by, Supplier. If the law requires Mercy Corps to withhold taxes from payments to Supplier, Mercy Corps may withhold those taxes and pay them to the appropriate taxing authority. Mercy Corps will deliver to Supplier an official notice for such taxes. Mercy Corps will use reasonable efforts to minimize any taxes withheld to the extent allowed by law.
- b. Supplier is responsible for all expenses incurred by it in performing under this Contract.

11. Invoicing and Payment.

- a. Mercy Corps will have no obligation to make any payment to Supplier with respect to the Goods until final acceptance in accordance with Section 6(b) and delivery of an invoice that fully complies with the requirements specified in this Contract. Invoices may only be submitted after Supplier receives a GRN. Invoices must be submitted within 60 days of Supplier's acceptance of a GRN. Mercy Corps will have no obligation to pay an invoice submitted after 60 days or to pay an invoice amount that Mercy Corps disputes in a written notice to Supplier. Each invoice must contain or attach the following: (1) a copy of the signed GRN; (2) Supplier's name and address; (3) description of the Goods delivered, delivery date, quantity, unit price and total price to be paid; (4) all information necessary for Mercy Corps to implement payment (e.g., name of representative to address payment to, address, bank account information as applicable for the method of payment); (5) the Contract Number; (6) packing slip number; (7) taxes and duties (only if payable by Mercy Corps per the terms of this Contract); (8) Delivery Location and Delivery Date; and (9) any other

information reasonably required by Mercy Corps. Invoices will only be deemed received on the date they are delivered to the Authorized Representative and in full compliance with the requirements herein.

- b. Mercy Corps will make payment within 30 days of receipt of Supplier's fully conforming invoice. Payment of an invoice will not constitute acceptance of Goods, and is subject to adjustment for errors, shortages, defects or other failure of Supplier to meet the requirements of this Contract. Mercy Corps may set-off amounts owed to Mercy Corps against an amount Mercy Corps owes to Supplier or Supplier's affiliated companies, and Mercy Corps will provide notice to Supplier within a reasonable time after the setoff.

12. Representations, Warranties and Additional Covenants. Supplier represents and warrants to Mercy Corps and covenants with Mercy Corps as follows.

- a. Supplier has full rights and authority to enter into and perform its obligations under this Contract. Supplier's performance will not violate any agreement or obligation between Supplier and any third party.
- b. The Goods and all documentation required will meet each of the standards and specifications set forth in this Contract. The Goods are merchantable and fit for their intended purpose, comply with all applicable law and are free from all defects in material and workmanship.
- c. Supplier will deliver good and marketable title to the Goods free and clear of all liens, claims, encumbrances and interests of any other person, entity or government. The Goods will not infringe on any patent, copyright, trademark, trade secret or other proprietary right of any third party.
- d. Supplier will comply with all applicable law, regulations and rules in the performance of its obligations under this Contract.
- e. Supplier 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).
- f. Supplier 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. Supplier 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. Supplier does not own, directly or indirectly, any other company that was competing for award of this Contract. Supplier did not seek or obtain confidential information related to the award of this Contract from any Mercy Corps employee, agent or representative. Supplier 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. Supplier 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, Supplier fully disclosed such relationship and any potential conflict of interest has been waived by Mercy Corps.
- i. Supplier 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. Supplier is not the subject of any governmental or donor investigation and has not been debarred or suspended by any government, governmental agency or donor.
- k. **Independent Contractor.** The parties intend to be independent contractors. Supplier will be solely responsible for and have control over the means, methods, techniques, personnel and procedures for supplying goods. Neither party will be deemed an agent or partner of the other party.

13. Confidentiality. Supplier will maintain the confidentiality of: (i) any information Mercy Corps provides to Supplier 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, Supplier will return to Mercy Corps all confidential information provided by Mercy Corps to Supplier. This confidentiality obligation will survive final acceptance of the Goods, payment of the purchase price and termination of this Contract.

14. Indemnification. Supplier 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 Supplier arising out of, in connection with, or as a result of this Contract, any failure by Supplier to fully perform its obligations under this Contract or any breach by Supplier 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. This indemnity obligation will survive final acceptance of the Goods, payment of the purchase price and termination of this Contract.

15. Termination and Remedies. This Contract may be terminated under the following circumstances:

- a. by both Parties on mutual written agreement of the Parties;
 - b. 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;
 - c. 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;
 - d. by 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
 - e. 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 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 shall be obligated to pay Contractor for its reasonable, pro-rated costs of work completed and expenses properly incurred prior to termination.

If Mercy Corps determines that Supplier has or will breach any of its warranties, covenants or representations in this Contract, Mercy Corps may, in addition to any other remedies for such breach available at law or in equity, (i) terminate this Contract; (ii) reject any Goods delivered; (iii) return any Goods already accepted and obtain full repayment for any amount paid for such Goods; (iv) if Supplier breaches Section 10(j), withhold payment until such investigation, suspension or debarment is lifted; and (v) if Supplier breaches any of Section 10(e), (f), (g), (h) or (i), not pay for any Goods that have been accepted but that have been consumed or otherwise cannot be returned to Supplier and report the breach to Mercy Corps donors and appropriate governmental authorities.

16. 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.

17. 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 Supplier that are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions or a period of seven years following the completion of the Contract.

18. Additional Donor Terms and Conditions. The Donor Terms (if any) are incorporated in this Contract by reference and are fully binding on Supplier and Mercy Corps. In the event of a conflict between the Donor Terms and this Contract or any other document between Supplier and Mercy Corps, the Donor Terms will prevail.

19. 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 Supplier 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.

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

MERCY CORPS

Sign:_____

Sign:_____

Name:_____

Name:_____

Title:_____

Title:_____

FINANCE REVIEW

Sign:_____

Name:_____

Title:_____



SCHEDULE I

Additional Terms

- 1. Goods:** _____ (the “Goods”). All Goods must precisely comply with the specifications attached hereto as Schedule II (the “Specifications”).
- 2. Quantity:** _____.
- 3. Packing Requirements:** _____ (the “Packing Requirements”).
- 4. Delivery Location:** _____ (the “Delivery Location”).
- 5. Delivery Date:** _____ (the “Delivery Date”).
- 6. Transportation and Unloading Terms:** _____.
- 7. Pricing:**
- a. **Unit Price(s):** _____ (the “Unit Price(s)”).
- b. **Total Price:** _____ (the “Price”).
- 8. Additional Payment Terms (if any):** *[If applicable, include any invoicing or payment terms that differ from the standard contract and include the following statement: “To the extent necessary to ensure consistency between these terms and the terms of the Purchase Contract, in the event of inconsistency the terms in this clause shall prevail.”] [If not applicable, simply state “Intentionally Omitted.”]*
- 9. Authorized Representatives and Contact Information:**
- a. **Mercy Corps:** Only the following Mercy Corps employees are authorized to agree to any amendment of this Contract and any Change Order:
- _____
- _____
- _____
- Attn: _____
- Fax: _____
- Email: _____
- Only the following Mercy Corps employees are authorized to accept or reject Goods or sign on any GRN.
- _____
- _____
- _____
- Attn: _____
- Fax: _____
- Email: _____
- b. **Supplier:** Supplier’s authorized representative for all purposes is:

Attn: _____
Fax: _____
Email: _____

SCHEDULE II

DONOR TERMS

Other Contract Provisions Required by Law or MC's Donor

A: ECHO General Conditions

Liability/Indemnity

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

Right of Access/ Audit

- (a) The Contractor 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 Contractor will allow Mercy Corps or the European Commission (or any other organization authorized by the European Commission) access to the location where the Contractor 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 Contractor acknowledges that Mercy Corps Nigeria has reporting obligations to the European Commission. Accordingly, the Contractor consents to Mercy Corps Nigeria sharing information about the Contractor or the Services with the European Commission as required.

Conflict of Interest

- (a) The Contractor shall take all reasonable precautions to avoid any conflict of interests and shall inform MCS without delay of any situation constituting or likely to entail a conflict of interests.
- 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.

Anti-Corruption

The Parties recognize that Mercy Corps has a zero tolerance approach to bribery and corruption. The Contractor 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 Contractor becomes aware of during this Contract; and, at the reasonable request of MCS, confirming in writing that they have complied with this Clause number and provide any information reasonably requested in support of such compliance.

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

B: DFID requires certain clauses and provisions to be included in all contracts:

Liability/Indemnity

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

Right of Access/ Audit

Access – The Solicitor 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 Solicitor 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 Solicitor becomes aware of during this Contract; and, at the reasonable request of Mercy Corps, confirming in writing that they have complied with this Section and provide any information reasonably requested in support of such compliance.

Cancellation 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 Solicitor any items delivered and the Solicitor will return to Mercy Corps any funds paid (at each of their own cost, unless otherwise agreed).

Confidentiality

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

Conflict of interest

The Solicitor 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.

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.

Intellectual Property Rights

Mercy Corps shall be the owner of any product and/or copyrightable item that results from the performance of the Contract.

C: CHILD AND VULNERABLE ADULTS PROTECTION POLICY

Mercy Corps aims to safeguard children/vulnerable adults from abuse, violence and exploitation in all that we do, in line with Article 19* of United Nations Convention on the Rights of the Child.

Besides economic, social and political problems affecting large numbers of children/vulnerable adults in countries where Mercy Corps works, individuals may be at risk from abuse by adults or other children. This policy concerns maltreatment of a child/vulnerable adult in contact with a Mercy Corps team member. Mercy Corps' policy is to react sensitively to any suspicions or allegations and deal with them appropriately. Any team member who has suspicions of or has witnessed any form of inappropriate behavior as defined in this policy should immediately report it to the Country Director or Regional Program Director as appropriate and the UK HR Director or US HR Services Director.

Any employee who is accused of inappropriate behavior towards a child/vulnerable adult, regardless of whether this is within or outside the work context, will be immediately removed from contact with children/vulnerable adults in the work context while the incident is being investigated.

Any inappropriate behavior towards a child/vulnerable adult, regardless of whether this is within or outside the work context, could constitute gross misconduct and could result in termination of employment. Appropriate action will also be taken against partners and others engaged in our work.

Mercy Corps works in many situations which are inherently abusive to children/vulnerable adults, and in some situations it is unrealistic to intervene on a personal level in the lives of individuals who could be seen as suffering 'abuse' in the widest sense. Such concerns may be addressed more appropriately at a programmatic level. However, Mercy Corps team members may well have a professional duty to act where there are concerns in relation to children/vulnerable adults with whom they are in contact, directly or indirectly. Their ability to act may be severely limited by particular circumstances prevailing locally, but concerns must still be raised, and possible action considered.

Values and Principles in working with Children/Vulnerable Adults:

When team members are in contact with children/vulnerable adults, they should:

- At all times treat children/vulnerable adults with respect.
- Regard them positively and value them as individuals who have specific needs and rights and a particular contribution to make.

- Work with them in a spirit of co-operation and partnership based on mutual trust and respect; value their views and take them seriously
- Work with them in ways that enhance their inherent capacities and capabilities, and develop their potential
- Strive to understand them within the context in which they live.

It is important for all team members in contact with children/vulnerable adults to:

- Be aware of situations which may present risks and manage these risks.
- Plan and organize the work and the workplace so as to minimize risks as far as possible.
- Ensure that a culture of openness exists to enable any issues or concerns to be raised and discussed.
- Ensure that a sense of accountability exists between team members so that poor practice or potentially abusive behavior does not go unchallenged.

Team members must be especially aware of potential abusive situations when working with children.

Team members must never:

- Develop physical/sexual relationships with children
- Develop relationships with children which could in any way be deemed exploitative or abusive
- Act in ways that may be abusive or may place a child at risk of abuse.

Team members must avoid actions or behavior that could be construed as poor practice or potentially abusive. For example, they should never:

- Use language, make suggestions or offer advice which is inappropriate, offensive or abusive
- Behave physically in a manner toward children which is inappropriate or sexually provocative
- Have a child/children with whom they are working stay overnight at their home unsupervised
- Sleep in the same room or bed as a child with whom they are working
- Do things for children of an intimate personal nature that they can do for themselves
- Condone, or participate in, behavior toward children which is illegal, unsafe or abusive
- Act in ways intended to shame, humiliate, belittle or degrade children, or otherwise perpetrate any form of emotional abuse discriminate against, show differential treatment, or favor particular children to the exclusion of others

PREVENTION OF SEXUAL EXPLOITATION AND ABUSE POLICY

All Mercy Corps team members must be aware of and adhere to the Core Principles laid out by the United Nations and INTERACTION in 2002, to which Mercy Corps is committed.

1. Sexual activity with children (persons under the age of 18, when not legally married) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defense.
2. Exchange of money, employment, goods or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior is prohibited. This includes an exchange of assistance that is due to beneficiaries. Sexual acts with prostitutes are prohibited at any time during employment with Mercy Corps.
3. Sexual relationships between expatriate humanitarian workers and beneficiaries are prohibited since they are based on inherently unequal power dynamics. Such relationships undermine the credibility and integrity of humanitarian aid work.
4. Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same agency or not, s/he must report such concerns via established agency reporting mechanisms.
5. Humanitarian workers are obliged to create and maintain an environment that prevents sexual exploitation and abuse and promotes the implementation of the code of conduct. Managers at all levels have particular responsibility to support and develop systems that maintain this environment.

6. Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment

D: Other USAID Contract Provisions Required by Law

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/resourcecenter/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).
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;
 - (ii) Procure a commercial sex act during the period of this Contract;
 - (iii) Use forced labor in the performance of the Contract; or
 - (iv) Commit acts that directly support or advance trafficking in persons, including the following acts:
 - a. Destroying, concealing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
 - b. 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;

- c. 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;
- d. Charging employees recruitment fees; or
- e. 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

URL: <https://oig.usaid.gov/content/usaid-contractor-reporting-form>

- 8. The Contractor agrees to incorporate the terms of “Annex C” word-for-word in all of its sub-contracts funded under this Contract, if any.
- 9. Department of State Annex C [For Contracts to Be Performed Outside of the U.S.]

E: Other DOS Contract Provisions Required by Law

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

- 1. The Contractor is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Contractor to ensure compliance with these Executive Orders and laws.

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 has been paid or will be paid to 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, the US Department of State, the Inspector General of the United States, and the Comptroller General of the United States, or any of their duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers and records of Contractor that are pertinent to this Contract, in order to make audits, examinations, excerpts and transcripts and copies of such documents. This right also includes timely and reasonable access to a Contractor's personnel for the purpose of interview and discussion related to such documents.
5. The U.S. Government is opposed to 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 contract may be used to promote, support, or advocate for 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. The Contractor does not promote, support, or advocate the legalization or practice of prostitution.
6. Mercy Corps has the right to terminate this Contract, without penalty, if Contractor or its employees, or any Subcontractor or its employees, 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;
 - (ii) Procure a commercial sex act during the period of time that this Contract is in effect; or
 - (iii) Use forced labor in the performance of the Contract.
7. The Contractor agrees to incorporate the terms of "Annex E" word-for-word in all of its sub-contracts funded under this Contract, if any.

F: Other Contract Provisions Required by Law or 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

- (c) The Vendor 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.
- (d) The Vendor will allow MERCY CORPS or the European Union (or any other organisation authorised by the European Union) access to the location where the Vendor 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.

Conflict of Interest

The Contractor shall take all reasonable precautions to avoid any conflict of interests and shall inform MCS without delay of any situation constituting or likely to entail a conflict of interests.

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.

Confidentiality

The Vendor acknowledges that MERCY CORPS has reporting obligations to the European Union. Accordingly, the Vendor consents to MERCY CORPS sharing information about the Vendor 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. The Vendor 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 or facilitation payment; and (b) reporting immediately to MERCY CORPS any bribery issues which the Vendor 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 Vendor 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 Vendor 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.

Payment/ Service Fee

Payment will be made to [Contractor's] bank account:

Account Name	
Bank Name	
Account Number	
TIN	
Bank Address	

Intellectual Property Rights

MCS shall be the owner of any [product copyrightable, patentable item] that results from the performance of the Contract. The Contractor grants the right to MCS and the European Commission to use freely and as it sees fit all documents produced under this Contract, whatever their form or medium.

Procurement:

If the Contractor will also carry out procurement (e.g. for travel or supplies), please contact MCS Compliance.

G: Other USDA Contract Provisions Required by Law

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

1. The Contractor is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Contractor to ensure compliance with these Executive Orders and laws.
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 has been paid or will be paid to 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, the US Department of Agriculture, the Inspector General of the United States, and the Comptroller General of the United States, or any of their duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers and records of Contractor that are pertinent to this Contract, in order to make audits, examinations, excerpts and transcripts and copies of such documents. This right also includes timely and reasonable access to a Contractor's personnel for the purpose of interview and discussion related to such documents.
5. Mercy Corps has the right to terminate this Contract, without penalty, if Contractor or its employees, or any Subcontractor or its employees, 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;
 - (ii) Procure a commercial sex act during the period of time that this Contract is in effect; or
 - (iii) Use forced labor in the performance of the Contract.
6. The Contractor agrees to incorporate the terms of "Donors" word-for-word in all of its sub-contracts funded under this Contract, if any.
