

### 1. Invitation to Tender

[INSTRUCTIONS TO MC STAFF: Blue highlights are for items to be completed; Yellow highlights are guidance to be deleted]

Tender Name:		Tender No: ADD 0800
<b>International consultancy company for</b> Assessment of se market systems in Gambela	elected	
Location: (City, Country): Addis Ababa	Corresponde	ence Language(s): English
Brief Summary Description of Project:		

Mercy Corps is committed to supporting the Government of Ethiopia (GoE) to address the challenge posed by the large influx of refugees into the country. Ethiopia has the second largest refugee population in Africa, second only to Uganda. The official refugee population is more than 905,000 individuals, composed of mainly South Sudanese (48%), Somalis (28%), Eritreans (18%), and Sudanese (5%) living in 25 refugee camps in peripheral regions of the country. The largest populations are in Gambela Region (44% of refugees) and Somali Region (28%).

The scale of the refugee numbers, and the long-term nature of the challenge (many refugees have been living in the country for more than 20 years), requires new thinking and innovative solutions. This has been recognized by the GoE through its support for the Comprehensive Refugee Response Framework (CRRF), and through the draft of a 'National Comprehensive Refugee Response Strategy' (NCRRS) by the Administration of Refugee and Returnee Affairs (ARRA). The NCRRS includes 'Nine Pledges' that ultimately aim to create productive and self-reliant citizens among refugees and host communities.

Mercy Corps has extensive expertise in developing sustainable solutions to complex humanitarian challenges. We employ a systems-strengthening approach to improve human and social capital; and to link, strengthen and expand systems critical to improving household incomes and resilience at the individual, community and systems level.

Mercy corps in partnership with DCA is about to implement a market system program that is WFP Funded (supported by SIDA and DANAID) in the Gambella region. It aims to support the long standing challenges of refuges and host communities and proposed action contributes to the EU's commitment to supporting the Comprehensive Refugee Response Framework (CRRF), and SDGs 1, 5, 8 and 10, including the Decent Work and Economic Growth goal. The action also supports the Government of Ethiopia's (GoE) CRRF pledge, including the signing of the New York Declaration for Refugees and Migrants in September 2016 and the revision of Ethiopia's Refugee Proclamation in January 2019.For this reason, Mercy Corps is planning to conduct market system assessments to better understand needs and opportunities, focusing on Gambella region.

Tender Package Available from:	Tender Package Pickup Location:
(Day / month in letter / year)	(Physical location, website and/or email if applicable)
3 <sup>rd</sup> March 2020	Mercy Corps Website
Deadline for Offer Submission:	Submit Offers to:



(Day / month in letter / year; Time) March 16, 20202 at 18.00	(Physical location, website and/or email if applicable) tenders@mercycorps.org

Mercy Corps reserves the right to accept or reject any late offers

#### Questions and Answers (Q&A)

If any, Submit Questions in writing to: (Physical location, website and/or email if applicable): mtefera@mercycorps.org

Last Day for Questions:	Questions will be answered by:
(Day / month in letter / year; Time)	(Day / month in letter / year; Time)
March 7, 2020;	Meseret Tefera, mtefera@mercycorps.org

Questions will be answered through: (Physical location, website and/or email if applicable) mtefera@mercycorps.org

<b>Q&amp;A Session</b> (Delete if not applicable -For Works, the Q&A session can occur at the Work Site, and may be mandatory)		
Date / Time: (Day / month in letter / year; Time) Location: Mercy corps Ethiopia office March 7, 2020;		
Point of Contact: Meseret Tefera, mtefera@mercycorps.org		

Documentation Checklist		
These documents are contained within this tender package:		Invitation to Tender General Conditions for Tender Criteria and Submittals Price Offer Sheet Supplier Information Form Scope of Work/Technical Specifications/BoQ Sample Contract

### 2. General Conditions for Tender

Mercy Corps invites proposals for the goods, services and/or works described and summarized in these documents, and in accordance with procedures, conditions and contract terms presented herein. Mercy Corps reserves the right to vary the quantity of work/materials specified in the Tender Package without any changes in unit price or other terms and conditions and to accept or reject any, all, or part of submitted offers.

### 2.1 Mercy Corps' Anti-Bribery and Anti-Corruption Statement



### Mercy Corps strictly prohibits:

- Any form of bribe or kickback in relation to its activities
- This prohibition includes any *request* from any Mercy Corps employee, consultant or agent for anything of value from any company or individual in exchange for the employee, consultant or agents taking or not taking any action related to the award of a contract or the contract once awarded. It also applies to any *offer* from any company or individual to provide anything of value to any Mercy Corps employee, consultant or agent in exchange for that person taking or not taking any action related to the contract or the contract.
- <u>Conflicts of interests in the awarding or management of contracts</u> If a company is owned by, whether directly or indirectly, in whole or in part, any Mercy Corps employee or any person who is related to a Mercy Corps employee, the company must ensure that it and the employee disclose the relationship as part of or prior to submitting the offer.
- <u>The sharing or obtaining of confidential information</u> Mercy Corps prohibits its employees from sharing, and any offerors from obtaining, confidential information related to this solicitation, including information regarding Mercy Corps' price estimates, competing offerors or competing offers, etc. Any information provided to one offeror must be provided to all other offerors.

• <u>Collusion between/among offerors</u>

Mercy Corps requires fair and open competition for this solicitation. No two (or more) companies submitting proposals can be owned or controlled by the same individual(s). Companies submitting offers cannot share prices or other offer information or take any other action intended to pre-determine which company will win the solicitation and what price will be paid.

Violations of these prohibitions, along with all evidence of such violations, should be reported to:

### integrityhotline@mercycorps.org

Mercy Corps will investigate allegations fully and will take appropriate action. Any company, or individual that participates in any of the above prohibited conduct, will have its actions reported to the appropriate authorities, will be investigated fully, will have its offer rejected and/or contract terminated, and will not be eligible for future contracts with Mercy Corps. Employees participating in such conduct will have his/her employment terminated.

Violations will also be reported to Mercy Corps' donors, who may also choose to investigate and debar or suspend companies and their owners from receiving any contract that is funded in part by the donor, whether the contract is with Mercy Corps or any other entity.

### 2.2 Tender Basis:

- All offers shall be made in accordance with these instructions, and all documents requested should be furnished, including any required (but not limited to) supplier-specific information, technical specifications, drawings, bill of quantities, and/or delivery schedule. If any requested document is not furnished, a reason should be given for its omission in an exception sheet.
- No respondent should add, omit or change any item, term or condition herein.
- If suppliers have any additional requests and conditions, these shall be stipulated in an exception sheet.
- Each offeror may make one response only.
- Each offer shall be valid for the period of [180 days] from its date of submission.
- All offers should indicate whether they include taxes, compulsory payments, levies and/or duties, including



VAT, if applicable.

- Suppliers should ensure that financial offers are devoid of calculation errors. If errors are identified during the evaluation process, the unit price will prevail. If there is ambiguity on the unit price, the Selection Committee may decide to disqualify the offer.
- Any requests for clarifications regarding the project that are not addressed in written documents must be presented to Mercy Corps in writing. The answer to any question raised in writing by any offeror will be issued to that offeror. In some cases Mercy Corps may choose to issue clarifications to all offerors. It is a condition of this tender that no clarification shall be deemed to supersede, contradict, add to or detract from the conditions hereof, unless made in writing as an Addendum to Tender and signed by Mercy Corps or its designated representative.
- This Tender does not obligate Mercy Corps to execute a contract nor does it commit Mercy Corps to pay any costs incurred in the preparation and submission of proposals. Furthermore, Mercy Corps reserves the right to reject any and all proposals, if such action is considered to be in the best interest of Mercy Corps.

### 2.3 Supplier Eligibility

Suppliers may not apply, and will be rejected as ineligible, if they:

- Are not registered companies
- Are bankrupt or in the process of going bankrupt
- Have been convicted of illegal/corrupt activities, and/or unprofessional conduct
- Have been guilty of grave professional misconduct
- Have not fulfilled obligations related to payment of social security and taxes
- Are guilty of serious misinterpretation in supplying information
- Are in violation of the policies outlined in Mercy Corps Anti Bribery or Anti-Corruption Statement
- Having a satisfactory record of performance and business ethics based on information available to Mercy Corps ;
- Supplier (or supplier's principals) are on any list of sanctioned parties issued by; or are presently excluded or disqualified from participation in this transaction by: the United States Government or United Nations by the United States Government, the United Kingdom, the European Union, the United Nations, other national governments, or public international organizations.

Additional eligibility criteria, if applicable, are stated in section 3.2 of this tender package.

#### 2.4 **Response Documents**

Offerors can either utilize the response documents contained in this tender package to submit their offer or they can submit an offer in their own format as long as it contains all the required documents and information specified by this tender.

#### 2.5 Acceptance of Successful Response

Documentation submitted by offerors will be verified by Mercy Corps. The winning offeror will be required to sign a contract for the stated, agreed upon amount.

#### 2.6 Certification Regarding Terrorism

It is Mercy Corps' policy to comply with humanitarian principles and the laws and regulations of the United States,

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the European Union, the United Nations, the United Kingdom, host nations, and other applicable donors concerning transactions with or support to individuals or entities that have engaged in fraud, waste, abuse, human trafficking, corruption, or terrorist activity. These laws and regulations prohibit Mercy Corps from transacting with or providing support to any individuals or entities that are the subject of government sanctions, donor rules, or laws prohibiting transactions or support to such parties.

### 3. Criteria & Submittals

### 3.1 Contract Terms

Mercy Corps intends to issue **Fixed Price** contract to one or several company (ies) or organization(s). The successful offeror(s) shall be required to adhere to the statement of work and terms and conditions of the resulting contract. The anticipated contract is incorporated in Section 6 herein. By submitting an offer, offerors certify that they understand and agree to all of the terms and clauses contained in Section 6.

### 3.2 Specific Eligibility Criteria [To be completed in accordance with section 5.6 of the FP3]

Eligibility criteria must be met and the corresponding supporting documents listed below under "Tender Submittals" **<u>must</u>** be submitted with offers. Offerors who do not submit these documents may be **<u>disqualified</u>** from any further technical or financial evaluation.

Eligibility Criteria:

- The offeror must be legally registered; and attach renewed Business license.
- The offeror must be in good standing with its governing tax authority
- Having a satisfactory record of performance and business ethics based on information available to Mercy Corps ;

### 3.3 Tender Submittals

Documents and required information listed in tender submittals are necessary in order to support the eligibility criteria and to conduct technical evaluations of received offers (and due diligence). While absence of these documents and/or information does not denote mandatory disqualification of suppliers, the lack of these items has the potential to severely and negatively impact the technical evaluation of an offer.

#### Documents supporting the Eligibility Criteria:

- Legal Business Registration certificate should be attached
- Latest Tax Registration Certificate

# Documents to conduct the Technical Evaluation and additional Due Diligence: [To be completed according to the specific items to be tendered]

- References from previous work projects (including contact information) [Required]
- > Technical and financial proposal should be sent separately to **tenders@mercycorps.org**;
- > Application deadline is March 16, 20202 at 18.00 and proposals sent after this date may not be considered;
- CV of key personnel to be assigned /consultant(s) and company profile;
- Statement of interest, proposed methodology and work plan;



- Financial proposal with a detailed breakdown of costs (including all related costs) in USD mentioning the terms of payment;
- <u>et-tender-questions@mercycorps.org</u> can be used for procurement related questions and <u>mtefera@mercycorps.org</u> for technical questions, but only till March 7, 2020;
- > Failure to comply with any of the conditions indicated above will result in automatic rejection;
- > Mercy Corps reserves the right to reject the bid fully or partially.

#### Price Offer :

Fixed-Price and No profit, fees, taxes, or additional costs can be added after contract signing. Offerors must show unit prices, quantities, and total price, as displayed in the Offer Sheet in Section 4. All items must be clearly labeled and included in the total offered price.

Offerors must include VAT and customs duties in their offer

#### 3.4 Currency

Offers should be submitted in: USD Payments will be made in: USD

#### 3.5 Tender Evaluation (Trade-Off Selection Method)

Based on the above submittals, a Mercy Corps Tender Committee will conduct a tender evaluation process. Mercy Corps reserves the right to accept or reject any or all proposals, and to accept the offer(s) deemed to be in the best interest of Mercy Corps. MC will not be responsible for or pay for any expenses or losses which may be incurred by any Offeror in the preparation of their tender.

Evaluations will be conducted as described in the following subsections:

### 3.5.1 Scoring Evaluation

### Trade-Off Method

Mercy Corps Tender Committee will conduct a technical evaluation which will grade technical criteria on a weighted basis (each criteria is given a percentage, all together equaling 100%). Offeror's proposals should consist of all required technical submittals so a Mercy Corps committee can thoroughly evaluate the technical criteria listed herein and assign points based on the strength of a technical submission.

Award criteria shall be based on the proposal's overall <u>"value for money"</u> (quality, cost, delivery time, etc.) while taking into consideration donor and internal requirements and regulations. Each individual criteria has been assigned a weighting prior to the release of this tender based on its importance to Mercy Corps in this process.

Offeror(s) with the best score will be accepted as the winning offeror(s), assuming the price is deemed fair and reasonable and subject to the additional due diligence in section 3.5.2.

When performing the Scoring Evaluation, the Mercy Corps tender committee will assign points for each criteria based on the following scale:

Evaluation ItemExpectationMax Score
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Understanding of TOR, Proposed Methodology and Approach while presenting for the Core Advisor	Organizations perspective of what the assignment entails and the key considerations that should be made to implement it successfully.	20
team Work alon	Clean acquarging of activities and time planning	20
Work-plan	Clear sequencing of activities, and time planning	20
Qualification, Experience and capacity of the firm in terms of staff qualifications and equipment	Academic background and A brief of past relevant assignments (in similar technical areas) indicating scope, geographic coverage, staff involved, budget, and client (name and contacts) recommendations	30
Financial Costs	A breakdown of costs detailing proposed days, taxes and other direct costs related to the assignment	30
	<b>TOTAL</b> 100%	100

#### 3.5.2 Additional Due Diligence

Upon completion of both the technical and financial evaluations Mercy Corps may choose to engage in additional due diligence processes with a particular supplier or supplier(s). The purpose of these processes is to ensure that Mercy Corps engages with reputable, ethical, responsible Suppliers with solid financials and the ability to fulfill the contract. Additional due diligence may take the form of the following processes (though it is not limited to):

- Reference Checks
- Example: Supplier's facility visits
- Example: Analysis of audited financial statements
- Example: Determination of relations and affiliations between offerors
- Example: Other appropriate documented method giving Mercy Corps increased confidence in the supplier's ability to perform

• ...



### Offer Form

Offerors must submit their own independant offer including at least (but not limited to):

- All documents requested in the "Eligibility Criteria" section of this Tender Package
- All documents requested in the "Tender Submittals" section of this Tender Package
- All information listed in the "Documents Comprising the Proposal" section below

All offers must be duly signed (including position and full name of the signer) and stamped, with the date of completion.

### Documents Comprising the Proposal

[Mercy Corps Procurement department to adjust content based on country context and nature of procurement]

The following information must be included in the offer of any potential offeror:

- □ **Cover Letter** explaining interest to be a contracted vendor or supplier, and the details of the Proposal. The content of the cover letter shall include the following information:
  - □ A detailed specification of the offered goods, services and/or works (Proposal)
  - □ Warranty (if necessary and appropriate)
  - Delivery time
  - Price validity date (for this purpose and as stated on the advertisement, quote given shall remain unchanged for 180 working days)
- A Price Offer detailing the unit price only, using the **Price Offer Sheet** template provided in section 7
- Completed and signed Mercy Corps **Supplier Information Form** (template provided in section 7)
- Other important documents offeror feels need to be attached to support their proposal

The original proposal shall be signed by the offeror or a person or persons duly authorized to bind the offeror to the contract. Financial offer pages of the proposal shall be initialed by the person or persons signing the proposal and stamped with the company seal.

Any interlineations, erasures, or overwriting shall be valid only if they are initialed by the person or persons signing the proposal.



### 5. Scope of Work/Technical Specifications

### 5.1 Background

**Title:** Assessment of selected market systems in Gambela **Project Location(s):** Gambela (in selected refugee camps)

### 1. Background

Mercy Corps is an international humanitarian and development organization whose mission is to reduce suffering, poverty and oppression by helping people build secure, productive and just communities. Mercy Corps has been operating in Ethiopia since 2004, working in rural, peri-urban and urban areas in five regional states - Somali, Oromia, Afar, Southern Nations Nationalities and Peoples, Amahara - and the capital city of Addis Ababa. We engage in both development and humanitarian work, and seek to integrate approaches, programs and geographies as much as possible. Our partners include government, academic institutions, development and private sector actors, civil societies and participating public.

Mercy Corps is committed to supporting the Government of Ethiopia (GoE) to address the challenge posed by the large influx of refugees into the country. Ethiopia has the second largest refugee population in Africa, second only to Uganda. The official refugee population is more than 905,000 individuals, composed of mainly South Sudanese (48%), Somalis (28%), Eritreans (18%), and Sudanese (5%) living in 25 refugee camps in peripheral regions of the country. The largest populations are in Gambela Region (44% of refugees) and Somali Region (28%).

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### 2. Objectives

The primary objectives for this Scope of Work (SoW) is as follows:

Objective 1. Identify priority market systems, and conduct market system assessments



Objective 2. Provide recommendations for interventions in selected market systems

#### Objective 1. Market system assessments

The market system focus for this assessment are the Agriculture markets (Crop, Livestock, Fishery, poultry), Financial markets, and Labor Market

This objective will require a two-step process:

- i) Selection of priority market systems;
- ii) Undertake market assessments and analysis for the selected market systems.

The selection of priority market systems will use a 'Market system selection matrix' approach. This will consist of a five-step process, as follows:

- Step 1. The assessment team will identify the criteria to be used in selecting priority market systems
- Step 2. The assessment team will develop a long-list of potential market systems, in consultation with key stakeholders
- Step 3. The assessment team will undertake a first-round scoring process of each market system, against the criteria
- Step 4. Where there are gaps in knowledge, that prevent the assessment team from undertake the scoring with confidence, the assessment team will undertake rapid information-collection through key informant interviews
- Step 5. The assessment team will finalize the 'Market system selection matrix', and make the final selection of priority market systems, again in a participatory way that involves key stakeholders.

The number of market systems selected will be determined in coordination with the Mercy Corps program team. It is anticipated that approximately six market systems will be selected, depending on their complexity. Having selected the markets, the assessment team will next conduct detailed market assessments and analysis for each. The market system assessments should use Mercy Corps methodology, including analysis of the market system functions, market actors and relationships, and the key capacities, constraints and incentives in each market system. The market assessment should integrate gender analysis throughout, and be conducted using a gender-sensitive approach. The assessments should also provide an overview of political-economy dynamics in each market system, and should take account of relationship-dynamics between refugee and host communities, both of which will help to inform a do-no-harm approach. The market assessments should be conducted in an iterative way, so that the assessment team is able to react to new information received and adapt the interview questions and market actors targeted.

#### **Objective 2.** Recommendations for interventions

This objective will provide recommendations for interventions for each of the selected market systems. This will include:

- Review of existing livelihood interventions, and advice on how a market systems approach can build on existing work (and also what pitfalls existing interventions pose)
- List of intervention response options for each market system, showing clearly the linkage to improve
  outcomes for refugees and/or host communities, including fostering improved relationships between the two
  groups
- Recommendations for potential lead firm partners, for each market system

### 3. Deliverables

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The following are the deliverables of this Scope of Work:

- 1. Market system selection matrix and brief justification for why selected market systems were chosen
- 2. Market assessment tools (adapted from Mercy Corps' existing toolkit)
- 3. Succinct market assessment report for each selected market system , including recommendations for interventions

### 4. Activities and schedule

The following table identifies the key activities and estimated time-frame for achieving the Scope of Work:

	Activity	# of Days	Start	Finish
	Objective 1	38 days		
1.	<ul> <li>Selection of target market systems</li> <li>Develop selection criteria</li> <li>Develop long-list</li> <li>Scoring and selection of market systems (including rapid information collection if necessary)</li> </ul>	4		
2.	<ul> <li>Preparation for market assessments</li> <li>Identify actors to be interviewed for each market system</li> <li>Review and adapt Mercy Corps tools</li> <li>Train market assessment team on interview guides and interview write-up</li> </ul>	4		
3.	<ul> <li>Conduct detailed market assessments:</li> <li>Map market system functions and market actors</li> <li>Key informant interviews / FGDs to identify capacities, constraints and incentives in the target market systems</li> <li>Secondary data analysis</li> <li>Conduct assessment of gender dynamics</li> </ul>	30		
4.	Conduct de-brief workshops with assessment teams to review			
	assessment findings and identify priority constraints	40		
5.	Objective 2 Intervention recommendations	10 days		
Э.	<ul> <li>Workshop with assessment teams to brainstorm intervention response options</li> <li>Identify gender-sensitive interventions</li> <li>Brainstorm potential lead-firm partners</li> </ul>			
	Report write-up/ Debriefing / Presentation	12 days		
6.	Market system selection and justification	2		
7.	Compile and tidy-up detailed outcomes of market assessments	3		
8. 9.	Write-up synthesis of market assessment findings and intervention recommendations (with detail provided as annexes) Debriefing/ Presentation	5		
9.	Debiteting/ Tresettation	2		

### 6. Sample Contract

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



in the final contract.

### SERVICE CONTRACT

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

THIS SERVICE CONTRACT entered into as of \_\_\_\_\_\_ by and between MERCY CORPS, nonprofit corporation having its office in Addis Ababa, Ethiopia, Woreda 08 house No. 377 and

\_\_\_\_\_ ("Contractor") is as follows:

**1. Defined Terms.** Each of the following terms has the meaning given to such term on <u>Schedule I</u> 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).
- 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.
- 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 to 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.

#### Penalty Clause:

In the case that the Supplier fails to meet the agreed delivery period, the Supplier shall be liable to pay penalties of 0.5% of the value of the Goods for every day of the delay. Should the Supplier exceed the agreed delivery period by more than 10 days, Mercy Corps shall have the right to terminate this Agreement and request that the remaining balance of the advance paid to the Supplier be paid back.

**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 of expiration of this Contract.

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

MERCY CORPS	
Ву:	Ву:
Name:	Name:
Title:	Title:

### 7. Attachments to the Tender Package

### Mercy Corps

TSupptiePunformation Form



#### The information provided will be used to evaluate the Company before contracting with the Mercy Corps. Please complete all fields.

### Supplier Information

Company Name	
Any other names company is operating under (Acronyms, Abbreviations, Aliases)	
Previous names of the company	
Address	
Website	
Phone/Fax Numbers	Phone: Fax:
Primary Contact	Name: Phone Number: Email Address:
# of Staff	
# of Locations	
Avg. Value of Stock on Hand (USD)	
Government - owned (yes/no)	
Name(s) of Board of Directors	
Name(s) of Company Owner(s)	
Parent companies, if any	



Subsidiary or affiliate companies, if any	,	
companies, il any		

### **Financial Information**

Bank Name and Address	
Name under which company is registered at bank	
Payment Terms	Payment By: Check Yes   No Wire Transfer Yes   No
Specify Standard Payment Terms (Net15, 30, etc.)	

### **Product/Service Information**

List Range of Products/Services Offered	
Basis For Pricing (Catalog, List, etc.)	

### **References**

Client Name:	Contact Name, Phone, Email Address:
Client Name:	Contact Name, Phone, Email Address:
Client Name:	Contact Name, Phone, Email Address:



### **Supplier Self-Certification of Eligibility**

Company certifies that:

- It, its affiliates and subsidiaries, owners, officers, directors and key employees (to the best of its knowledge) are not the subject of any government's sanctions, designations, donor rules or prohibitions, or laws prohibiting transactions with it/them. It is not the subject of any donor government investigation into its misconduct with any other recipient of that donors funding.
- 2. It, its affiliates and subsidiaries, owners, officers, directors and key employees have not and do not engage in any form of terrorism or attacks on civilians and do not provide any form of material support or financial resources for individuals or organizations that do engage in any form of terrorism or deliberate attacks on civilians.
- 3. It, its affiliates and subsidiaries, owners, officers, directors and key employees have not and do not engage in weapons or drugs manufacture, transport, sale or distribution.
- 4. It is not in default on any material credit agreement, bankrupt or being wound up, are having its affairs administered by the courts, have entered into arrangements with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations.
- 5. It is has not been determined to be in breach of a material contract by any legal body anytime within the past 2 years.
- 6. It pays taxes as and when due and is not currently the subject of any investigation or proceeding related to backowed taxes.
- 7. It provides workers compensation insurance to its workers in accordance with the laws of the countries where it operates.
- 8. It pays social security obligations as required in the countries where it operates.
- 9. It, its owners, officers and directors have not been convicted of an offense concerning its professional conduct and has not engaged in grave professional misconduct.
- 10. It, its affiliates and subsidiaries, owners, officers, directors and key employees have not been the subject of criminal investigation or judgement for fraud, corruption, human trafficking, spying, weapons transport or smuggling, sexual exploitation or abuse, involvement in a criminal organization or any other criminal activity.
- 11. It treats its employees with dignity and respect and maintains social operating standards, including:: working conditions and social rights: avoidance of child labor, bondage, forced labor, human trafficking or exploitation; assurance of safe and reasonable working conditions; freedom of association; freedom from exploitation, abuse, and discrimination; protection of basic social rights of its employees and Mercy Corps beneficiaries.
- 12. To the best of its knowledge, no Mercy Corps employee, officer, consultant or other party related to Mercy Corps has a financial interest in the Company's business activities, nor is any Mercy Corps employee related to any owner, officer, director or employee of the company, and, if so, it will ensure that the relationship is disclosed to Mercy Corps and will not used for improper influence. Discovery of an undisclosed Conflict of Interest will result in immediate revocation of the Company's Authorized Supplier status and disqualification of Company from participation in future Mercy Corps procurement.
- 13. It understands that attempting to or agreeing to provide anything of value to any Mercy Corps employee, agent or representative for the purpose of encouraging that person to award Company a contract or take or not take any action related to any contract will result in immediate termination of any agreement. Company certifies that it does not engage in such conduct..
- 14. It understands that Mercy Corps seeks fair and open competition and the fairest price available and that any attempt by company to subvert fair and open competition, including working with other bidders to fix prices, working to exclude competition, seeking confidential information from Mercy Corps or other bidders, using multiple related or controlled companies to give the appearance of competition, or any similar activity, will result in termination of any agreement. Company certifies that it does not engage in such conduct.
- 15. It understands that Mercy Corps prohibits any of its partners or suppliers from bribing public officials and certifies that it does not do so.
- 16. It is not conducting business under other names or aliases that have not been declared to Mercy Corps.



If the Company cannot certify to any of the above it should explain why not. Mercy Corps may take the individual circumstances into account for some situations. However, any false certification could be grounds for immediate disqualification and termination of any future agreement.

By signing the Supplier Information Form you certify that your Company is eligible to supply goods and services to major donor funded organizations and that all of the above statements are accurate and factual.

Company Name:	
Name of Representative:	
Title:	
Signature:	
Date:	

### Attachment 2 - Price Offer Sheet template

Price Offer Sheet				MERCY CORPS
Item Deceristics	Quentitu	Unit of	Unit	Total Dries
Item Description	Quantity	Measure	Price	Total Price
Total before tax:				
VAT (if applicable)				
Total:				



Company Name:		
Name of Representative:		
Title:		
Signature:		
Date:		
Tender #:		