# Invitation to Tender

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| **Tender Name: Supply of satellite under Global Master Agreement** | **Tender No: G06/2021** |
| Location: Global | Correspondence Language(s): English |
| Brief Summary Description of Project:Mercy Corps procures satellite phones from time to time to be used for normal programming work and to facilitate communication during emergency situation. This tender is therefore a strategic measure to contract satellite phone and BGANs suppliers to be engaged by Mercy Corps globally on a need basis. The successful firm(s) will be contracted on a Global Master Purchase Agreement (MPA) and engaged by any Mercy Corps Country offices in need of these satellite phones and associated supplies.The contract will initially be for two years (24 months) with a possibility of extension for a similar period and vendors will be required to maintain their Ex Works prices in the contract for the contract period. |

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| **Tender Package Available from:****20th October, 2021** | **Tender Package Pickup Location:** <https://www.mercycorps.org/tenders>  |
| **Deadline for Offer Submission:** **2nd November 2021 at 5PM pacific time**  | **Submit Offers to:****tenders@mercycorps.org** |

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

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| **Questions and Answers (Q&A)** |
| If any, Submit Questions in writing to: Lkagai@mercycorps.org  |
| Last Day for Questions:26th October 2021 5.00 PM Pacific Time | Questions will be answered by:27th October 2021 at 5PM pacific time |
| Questions will be answered through: By uploading on the website all questions and answers received for access by all prospective bidders. All the responses will be uploaded on 27th October 2021 at 5PM pacific time. |

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| **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
* Sample Contract
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# General Conditions for Tender

Mercy Corps invites tenders for the satellite phones 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.

**2.2 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 award of the contract or the contract.

* *Conflicts of interests in the awarding or management of contracts*

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 bid.

* *The sharing or obtaining of confidential information*

Mercy Corps prohibits its employees from sharing, and any bidders from obtaining, confidential information related to this solicitation, including information regarding Mercy Corps’ price estimates, competing bidders or competing bids, etc.  Any information provided to one bidder must be provided to all other bidders.

* *Collusion between/among bidders*

Mercy Corps requires fair and open competition for this solicitation.  No two (or more) companies submitting bids can be owned or controlled by the same individual(s). Companies submitting bids cannot share prices or other bid 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 bid 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.

**2.3 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 the 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 the exception sheet.
* Each applicant may make one response only.
* Each application 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 bid.
* 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 applicant will be issued to that applicant by the format stated in this tender package. In some cases Mercy Corps may choose to issue clarifications to all applicants. 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 bids. Furthermore, Mercy Corps reserves the right to reject any and all bids, if such action is considered to be in the best interest of Mercy Corps.

**2.4 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..
* Are on any list of sanctioned parties issued by the United States Government.

**2.5 Response Documents**

Suppliers 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.

**2.6 Acceptance of Successful Response**

Documentation submitted by suppliers will be verified by Mercy Corps. The winning supplier will be obliged to sign a contract for the stated, agreed upon amount.

**2.7 Certification Regarding Terrorism**

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

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# Criteria & Submittals

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| **3.1 Contract Terms** Mercy Corps intends to issue a **Fixed Price Master Service Agreement** to one or several company(ies) or organization(s) for period of 24 months. The successful offeror(s) shall be required to adhere to the technical specifications 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 Eligibility Criteria** Documents listed in eligibility criteria **must** be submitted with offers. Applicants who do not submit these documents will be **disqualified** from any further technical or financial evaluation.* Legal Business Registration / Certificate of incorporation
* Evidence of complying with tax obligation as required by law of the country where registered/incorporated
* Authorized distributor/ reseller issued by the manufacturer. Attach evidence
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| **3.3 Tender Submittals**Documents and required information listed in tender submittals are necessary in order to conduct technical evaluations of received offers. 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. **Technical Proposal:**1. Company Profile- A brief outline of your organization and services offered, including:
* Full legal name, jurisdiction of organization or incorporation and address of the company
* Name, address, telephone number and email address for principal contact.
* Year business was established
* Company Head quarter and details on global presence plus organization structure.
1. Detailed product specifications including catalogues and brochures where applicable in response to Mercy Corps’ specifications.
2. After sale service description- Customer portal and pictorial presentation (Screen shots of account management portal) Warranties, customer support and customer support and account administration
3. Specific NGO experience – Provide list and evidence of supplying and providing satellite phones services to other organization specifically in the NGO sector. Include contact details in the references.
4. Financial proposal – Ex works price for the phones, Sim card price, Airtime prices, other fees ; activations, subscription etc

**Cost Proposal:**The cost proposal is used to determine which bid represents the best value and serves as a basis of negotiation before award of a contract. The price of the contract to be awarded will be an all-inclusive fixed price basis, either in the form of a total contract fixed price or a per-unit/deliverable fixed price. No profit, fees, taxes, or additional costs can be added after contract signing. Bidders 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. Bidders must not include VAT and customs duties in their proposal. |
| **3.4 Currency** Offers should be submitted in: USD Payments will be made in: USD  |
| **3.5 Tender Evaluation**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 bids, and to accept the bid deemed to be in the best interest of the Mercy Corps. MC will not be responsible for or pay for any expenses or losses which may be incurred by any Tenderer in the preparation of his tender.Evaluations will be conducted in the following manner:  |
| **3.5.1 Technical Evaluation**Mercy Corps Tender Committee will conduct a technical evaluation which will grade technical criteria on a weighted basis. Supplier’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 **“value for money”** (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.

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| **Technical Criteria** | **Weight**  |
| Product technical specifications (Refer to section 5.2). As per attached detailed specifications/Brochure for the item the vendor is responding to. | 20% |
| Delivery Time; Time from date of receipt of Purchase order to date of dispatch to be within 10 calendar days | 5% |
| Corporate Capabilities; Must have been in operation for over eight (8) years dealing in Satellite phones and or BGANs and associated supplies and experience supplying globally and must have global presence.Over 8 years of experience – 5%Global presence – 5% | 10% |
| After sale service descriptionCustomer portal and pictorial presentation (Screen shots of account management portal) Online client portal which contains information on sat phones per country specifically:* Phone number, IMEI and SIM
* Record of invoices and payments
1. Permissions for online client portal must be able to be configured to allow multiple administrators to view all countries and all records while also allowing for other administrators to view a single country, or a selection of country accounts 23%
2. Customer support and call center and dealership 6%

Minimum warranty period to be 12 months; 6% - 1 year- 2points, 2 years- 5 points and 3 years and above full points | 35% |
| Previous experience and current clients being supplied Sat phones and BGANSEvidence of five current clients with contact details and specifically in the NGO sector.  | 10% |
| Financial offer;Product prices – Lowest bidder gets full score and the rest prorated – full points. Second lowest 6points and remaining 3 pointsPayment terms – 30 days after invoice. Items to be paid after delivery. – 5%Subscription and airtime policy – 3% with lowest getting full score | 20% |

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| **3.5.2 Financial Evaluation/Price/Cost Analysis****The** supplier who score the highest for combined score of technical and financial, their proposal will be considered and will proceed to further negotiation on the terms of contract other aspects assuming the price is deemed fair and reasonable and subject to the additional due diligence in section 3.5.3. |
| **3.5.3 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
* Ineligibility and compliance check
* Internet search
* Other appropriate documented method giving Mercy Corps increased confidence in the supplier’s ability to perform
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# Offer Form

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| **Offerors must submit their own independent 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 Bid” 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 Bid***

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

* **Cover Letter** explaining interest to be a contracted vendor or supplier. The content of the cover letter shall include the following information:
* A detailed specification of the satellite phone quoted for including the brochures
* Warranty, guarantee and after sale service
* Spare parts and accessories prices
* Airtime, Simcards, subscription and any other chargeable items.
* Delivery time
* Corporate discounts or quantity discounts
* Price validity date (for this purpose and as stated on the advertisement, quote given shall remain unchanged for 180 working days).
* Vendors Payment terms – Mercy Corps Payment terms is 30 days after inspection and acceptance of sat phones. Vendor should indicate if they agree to this.
* A Price Offer detailing the unit price only using the **Price Offer Sheet** template provided in section 7. Kindly note at this point we are not providing quantity requirements details as the items will be for emergency response hence quantities will be known at the time of ordering on as-and-when needed basis.
* 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 bid

The original bid 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 bid shall be initialed by the person or persons signing the bid 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 bid.

# 5. Scope of Work/Technical Specifications

**5.1 Background**

Mercy Corps procures satellite phones from time to time to be used for normal programming work and to facilitate communication during emergency situation. This tender is therefore a strategic measure to contract satellite phone suppliers to be engaged by Mercy Corps globally on a need basis. The successful firm(s) will be contracted on a Global Master Purchase Agreement (MPA) and engaged by any Mercy Corps Country offices in need of these satellite phones and associated supplies.

The contract will initially be for 24 months ( 2 years) with a possibility of extending for another same period subject to performance. Vendors will be required to maintain their Ex Works prices unchanged for the contract period unless there is significant change in the global market. Country offices will place purchase orders as-and-when-needed at the agreement price.

Currently there are 105 active phones and is envisaged countries will order more during the contract period plus maintaining the active sim cards. We are unable to share the numbers for future orders as this will only be known when need arises and it is for this reason, this agreement is being sort.

**5.2 Technical Specifications for the satellite phones**

**B**idders are requested to attach specifications and or brochures for their quotation.

1. Iridium model or equivalent

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| **Specification Item** | **Minimum Specification**  |
| Iridium Extreme | <https://www.iridium.com/products/> |
| Irridium Push to Talk (PTT) | <https://www.iridium.com/products/> |

2. Thuraya model or equivalent

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| **Specification Item** | **Minimum Specification**  |
|  Thuraya XT pro  | <http://www.thuraya.com/> |
| Thuraya XT pro dual | <http://www.thuraya.com/> |
| Thuraya Explorer  | <http://www.thuraya.com/> |

3. BGAN with the accompanying Immersat SIM

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| **Specification Item** | **Minimum Specification**  |
| Explorer 510 or equivalent | Check the model for detailed specifications |
| Explorer 710 or equivalent | Check the model for detailed specifications |
| Hughes 9202 or equivalent  | Check the model for detailed specifications |
| Hughes 9211 or equivalent | Check the model for detailed specifications |
| Hughes 9502 or equivalent | Check the model for detailed specifications |
| MCD 4800 or equivalent | Check the model for detailed specifications |
| Ranger M2N (wideye) or equivalent | Check the model for detailed specifications |
| Any other latest technology | Attach detailed specifications |

Phone accessories; for both Thuraya( XT pro, XT pro dual,XT lite, 2520 and XT dual) and Iridiums( Extreme, 9505 and 9555) or equivalent. The accessories for older models will be needed as we currently have the models in use, though for new phones, we will purchase newer models as above.

1. AC charger
2. Auto Accessory adaptor
3. International Plug Kit
4. Portable auxiliary antenna with at least 6 feet cable
5. Retractable hands-free handset
6. High Capacity battery
7. Phone Cover/ Holster
8. Rechargeable battery
9. Airtime package for postpaid SIMs - to be delivered unactivated

Accessories for BGAN

1. Rechargeable battery
2. International AC/DC adaptor with power cable
3. Case
4. Ethernet cable
5. USB to Ethernet power cable
6. USB extension cable
7. Wire handset
8. DC vehicle power supply charger

Additional Features/support

1. Monthly, itemized billing
2. Option to “freeze” “temporarily hold” “suspend and reactivate” a sim
3. Online access to realtime information of recent usage
4. Quick response time or hotline for lost or stolen phones in order to shut down service and/or track recent usage
5. Airtime bills display both the phone number and the SIM number.
6. Airtime carrier that allows customization on the bill (add a “nickname” or client designation)
7. SIM not tied to the phone as some countries require purchase of local SIMs (so they can monitor it) so it is important that the SIMs from the identified provider are delivered unactivated and/or we can purchase a handset without a SIM if needed.
8. Global (and in-country) registered dealerships for local repair.

**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.

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

THIS MASTER PURCHASE AGREEMENT (the “**Agreement**”) 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. Master Agreement and Purchase Order Issuance and Acceptance.** From time to time during the term of this Agreement, Mercy Corps may desire to purchase goods from Supplier at the Specifications and Prices specified in this Agreement. Should Mercy Corps desire to purchase goods from Supplier, Mercy Corps’ Authorized Representative will issue Purchase Orders substantially in the form attached hereto as Exhibit A (each, a **“Purchase Order”** or **“PO”**). Supplier must notify Mercy Corps within three business days if it rejects a Purchase Order or requires changes to a Purchase Order.

**2. Additional Terms and Defined Terms**. Additional Terms are specified in Schedule I hereto (the “**Additional Terms**”). The terms in Schedule I are incorporated in this Agreement by this reference. The following additional defined terms are included in Schedule I: Authorized Representative, Delivery Date, Delivery Location, Delivery Terms, Donor Terms, Goods, Packing Requirements, Pricing, and Specifications. **“Agreement”** means this Master Purchase Agreement, the Additional Terms in Schedule I and each Purchase Order, in each case, as amended, modified or supplemented from time to time. Additional terms may be defined throughout this Agreement.

**3. Purchase and Sale of Goods**. Supplier will sell to Mercy Corps, and Mercy Corps will purchase and pay the Price(s) for, the Goods in accordance with the terms and conditions set forth in this Agreement and each Purchase Order. The Prices stated in the Additional Terms shall remain valid and apply to all Purchase Orders issued under this Agreement

**4. Non-Exclusivity.** This Agreement is not intended to create an exclusive relationship between the parties. Unless the Additional Terms specify a Minimum Quantity of Goods, Mercy Corps is not obligated to issue any Purchase Order(s) to Supplier. If the Additional Terms specify a Minimum Quantity of Goods, Mercy Corps shall be obligated only to issue a PO(s) for the Minimum Quantity.

**5. Specifications**. The Goods must strictly comply with or exceed the Specifications listed in Schedule I. No deviation, substitution or change is permitted without Mercy Corps’ prior written consent.

**6. 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.

**7. 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 Agreement. 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 and Purchase Order 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 Agreement, 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 Agreement 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 Agreement. Mercy Corps will in no event pay for quantity above the amount provided for in this Agreement 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.

**8. 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, Purchase Order 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.

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

**10. 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.

**11. 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 Agreement 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 receipt 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 Agreement.

**12. 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 the Inspection, Acceptance and Delivery clause of this Agreement and delivery of an invoice that fully complies with the requirements specified in this Agreement. Supplier may only include Goods on an invoice 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 via the Payment Terms (e.g., name of representative to address payment to, address, bank account information as applicable for the method of payment); (5) the Contract Number and Purchase Order number; (6) packing slip number; (7) taxes and duties (only if payable by Mercy Corps per the terms of this Agreement); (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 pursuant to the Payment Terms.

b. Mercy Corps will make payment in accordance with the Payment Terms 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 Agreement. 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.

**13. 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 Agreement. 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 Agreement. 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 Agreement.

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 Agreement.

g. Supplier, including its owners or employees, does not own, directly or indirectly, any other company that was competing for award of this Agreement or any Purchase Order. Supplier did not seek or obtain confidential information related to the award of this Agreement or any Purchase Order 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 Agreement or any Purchase Order, 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, in writing, 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 or any governmental or donor investigation and has not been debarred or suspended by any government, governmental agency or donor.

**14. 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.

**15. 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 Agreement; 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.

**16. 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 Agreement, any failure by Supplier to fully perform its obligations under this Agreement or any breach by Supplier of any of its representations and warranties under this Agreement, 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.

**17. Termination and Remedies.**

a. Provided no Purchase Order is outstanding and remains to be performed by either party, this Agreement may be terminated by either party at any time upon written notice to the other party.

b. Any Purchase Order may be terminated under the following circumstances:

 i. by both Parties on mutual written agreement of the Parties;

 ii. by either Party for its convenience with written notice and after the Termination Notice Period specified in the Additional Terms has expired;

 iii. 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 Supplier for the Goods;

 iv. by either Party due to the non-terminating Party’s breach of this Agreement and failure to correct such breach within 15 days prior notice of such breach;

 v. 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 Agreement; or

 vi. by Mercy Corps immediately upon written notice if Mercy Corps using its sole discretion determines that Supplier has or will breach any of its warranties, covenants or representations in this Agreement, in which case Mercy Corps may withhold any and all amounts owed to Supplier until such breach is remedied.

In the event termination is due to Mercy Corps’ breach of this Agreement, 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 Supplier 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 Agreement, Mercy Corps may, in addition to any other remedies for such breach available at law or in equity, (i) terminate this Agreement; (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 13(j), withhold payment until such investigation, suspension or debarment is lifted; and (v) if Supplier breaches any of Section 13(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.

**[ALTERNATIVE CLAUSE If USING LIQUIDATED DAMAGES -DELETE OF NOT APPLICABLE]:** [If Mercy Corps determines that Supplier has or will breach any of its warranties, covenants or representations in this Agreement, Mercy Corps may terminate this Agreement. Supplier’s breach of its obligations under this Agreement will result in Mercy Corps incurring damages in an amount that will be difficult to establish and leave Mercy without an adequate remedy. Accordingly, the parties agree that the following liquidated damages are reasonable in light of the anticipated harm caused by any such breach: [*insert dollar amount or other formula for determining the amount of damages*].

**18. 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.

**19. 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 Agreement for the purpose of making audits, examinations, excerpts and transcriptions for a period of seven years following the completion of the final PO issued by Mercy Corps under this MPA.

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

**21. Miscellaneous**.

a. This Agreement 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 Agreement (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 Agreement.

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 in the applicable Purchase Order. 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 Agreement.

e. If any provision of this Agreement 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 Agreement.

f. Except as otherwise provided above, this Agreement may be amended or modified only by a written document signed by both parties. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements 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 Agreement 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 Agreement 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 Agreement will survive final acceptance of the Goods, payment of the purchase price and the termination, cancellation of expiration of this Agreement.

i. In the event the terms of the Master Purchase Agreement conflict with any term in the Additional Terms or any PO, the terms in the Master Purchase Agreement shall prevail over the terms of the Additional Terms or PO unless the contradictory terms in the Additional Terms or PO specifically state that they are intended to override or amend the terms of the Master Purchase Agreement and specifically state the term(s) of the Master Purchase Agreement being amended or overridden. In the event that the terms of the Additional Terms and PO conflict, the terms in the Additional Terms shall prevail unless the terms of the PO specifically state that they are intended to override or amend the Additional Terms and specifically state the term(s) in the Additional Terms being amended or overridden.

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

|  |  |
| --- | --- |
| **MERCY CORPS**By: Name: Title:   | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_By: Name: Title:   |

**SCHEDULE I**

**ADDITIONAL TERMS**

**1. Term of the Agreement: *[****1 year]* or until the final Purchase Order agreed to prior to the end of the [*1 year*] term has been fully completed and final payment made, whichever is later.

**2. Description of the Goods:** *[This can be a broader description that allows folks to understand what type of goods are being purchased, e.g. stationary, vehicles, office desks, etc.]*

**3. Specifications:** The Goods must all strictly adhere to the following specifications: [*The specifications should include make, model, part number, dimensions, size weight, key component materials, location of manufacture, etc. – As much details as possible to ensure that the supplier must deliver precisely the same products that were reviewed by the bid review committee and without any substitution. You may attach brochures, catalogues or other company materials that describe the goods in detail].*

**4. Pricing:**

a. **Unit Price(s):** *[Include the prices for each Good covered by the MPA. You may attach a company catalogue or other similar company issued material and reference that as an additional Schedule.]*

The Prices for the Goods shall remain valid and shall neither go up or down during the term of this Agreement.

**5. Minimum and/or Maximum Quantity (if any):** *[Only use a minimum quantity when doing so is necessary to secure more favorable terms from suppliers.] [If not applicable, simply state “Intentionally Omitted.”]*

**6. Additional Invoicing and/or Payment Terms (if any):** *[If applicable, include any invoicing or payment terms that differ from the standard MPA and include the following statement: “To the extent necessary to ensure consistency between these terms and the terms of the Master Purchase Agreement, in the event of inconsistency the terms in this clause shall prevail.”] [If not applicable, simply state “Intentionally Omitted.”]*

**7. Packing Requirements**: *[Include a precise description of all packing and labeling requirements if any ]* (the **“Packing Requirements”**).

**8. Delivery Location:** Will be as specified in the individual PO form(the **“Delivery Location”**).

**9. Delivery Terms:** *[Include the standard transportation/shipping and unloading terms for goods coming from the supplier, e.g. freight pre-paid, or IncoTerms Exworks, etc.].*

**10. Authorized Representatives and Contact Information:**

a. **Mercy Corps:**  Only the following Mercy Corps employees are authorized to agree to any amendment of this Purchase Order and any related Change Order:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_

Only the following Mercy Corps employees are authorized to accept or reject Goods or sign on any GRN with respect to this Purchase Order.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_

b. **Supplier:** Supplier’s authorized representative for all purposes is:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_

**11. [Liquidated Damages**: [*If applicable, insert dollar amount or other formula for determining the amount of damages* if there is a breach of this Purchase Order.]

**12. [Donor Terms**: *[If applicable, include the following statement here:* The terms set forth in Schedule II (the **“Donor Terms”**) are hereby incorporated in this Purchase Order by reference.]

With their signatures below the Parties do hereby agree to the Additional Terms to the Master Purchase Agreement stated herein.

**DATED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

|  |  |
| --- | --- |
| **MERCY CORPS**By: Name: Title:   | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_By: Name: Title:   |

**7. Attachments to the Tender Package**

**Attachment 1 -Supplier Information Form template**

***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 |  |

**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:

1. 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 back-owed 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:

**2 -Price Offer Sheet template as attached .**