



**MERCY CORPS**

Request for Proposal \_\_\_\_\_HQ 381 Crypto Consultancy\_\_\_\_\_

Date 24 March 2023

# CONTENTS

.....	1
I.     MERCY CORPS OVERVIEW .....	3
II.    PROJECT BACKGROUND AND CONTEXT .....	4
III.   DESIRED SERVICES & SCOPE OF WORK.....	4
IV.    EVALUATION OF PROPOSALS .....	5
V.     PROPOSAL FORMAT & REQUIREMENTS .....	5
VI.    OTHER TERMS & CONDITIONS .....	6
VII.   SAMPLE CONTRACT .....	7

# I. Mercy Corps Overview

Mercy Corps is a global team of humanitarians, working together on the front lines of today's biggest crises to create a future of possibility, where everyone can prosper.

Our mission: to alleviate suffering, poverty and oppression by helping people build secure, productive and just communities.

In more than 40 countries around the world, our nearly 6,000 team members work side by side with people living through poverty, disaster, violent conflict and the acute impacts of climate change. We're committed to creating global change through local impact — 84 percent of our team members are from the countries where they work.

We bring a comprehensive approach to every challenge, addressing problems from multiple angles. Thanks to support from our extended global community, we've provided \$4 billion in lifesaving assistance to meet the urgent needs of more than 220 million people over nearly 40 years. In addition to emergency aid, we partner with local governments, forward-thinking corporations, social entrepreneurs and people living in fragile communities to develop bold solutions that make lasting change possible.

## Through our impact, influence and innovations, in 2020 we:

- Reached nearly 37 million people in more than 40 countries.
- Raised \$60.5 million for our COVID-19 Resilience Fund and have reached 15.1 million people so far through our response.
- Provided 1.8 million people with emergency cash assistance.
- Our work in the Democratic Republic of the Congo alone reached more than 4.9 million people
- Secured \$490 million in revenue from institutional and private funders in 2019.
- Piloted the use of 3D printing to support children with disabilities in Jordan's Za'atari refugee camp.
- Sponsored the Global Fragility Act, together with a coalition of 70 grassroots organizations, which created the first-ever U.S. government strategy to tackle alarming levels of global violence around the world. The act was signed into law in December 2019 after receiving bipartisan support in Congress.
- Launched FInX with a \$10M contribution from Ripple and Rippleworks with the goal to accelerate global financial inclusion by advancing innovative, responsible distributed ledgers, digital assets, cryptocurrencies and other digital financial solutions that help people join the global economy and lift themselves out of poverty.

See more details about our impact in **2023**: <http://www.mercycorps.org>

## II. Project Background and Context

Mercy Corps seeks to hire a short-term crypto digital strategy consultant who is experienced with Crypto branding and marketing to aid in Mercy Corps' crypto philanthropy fundraising (and brand awareness) efforts. Although Mercy Corps' crypto fundraising program is relatively new, we would like to leverage our extensive work with crypto and blockchain solutions in international aid programming to build awareness of our organization within crypto and NFT communities and ultimately turn them into financial supporters. We believe that there is little, if any, overlap between our current donor base and the crypto/NFT audiences we aim to reach through this project. It is our expectation that the contents of the strategy document created by this consultant will be used by our existing digital ad agency partner to build this new audience.

Mercy Corps' Development team consists of nearly 50 fundraising professionals and support staff who annually bring in over \$100M in revenue. The team works in lockstep with the Marketing and Communications team to communicate fundraising goals and programmatic initiatives to the broader Mercy Corps audience.

## III. Desired Services & Scope of Work

### DELIVERABLES

A strategy document to be completed by June 16, 2023, that answers the following questions:

- Who is the crypto philanthropy audience? What motivates a crypto philanthropist to give? Is it driven more by an organization's mission, trusted endorsements, programs specifically tied to crypto/blockchain, or something else? What is known about the sub-set of crypto philanthropists who support international humanitarian aid work? Are there any additional items we would need to consider in distinguishing between a US crypto audience and a European crypto audience?
- What are the best channels to reach the crypto philanthropy audience, and which channels are the best for getting them to respond to a call to action? We would like to see several channels presented as viable options with any comparative strengths and weaknesses outlined.
- Within each channel, what are the most effective ways to reach this audience?
- Based on the channels where the crypto philanthropy audience lives, how do MC's current channels meet or not meet them where they are?
- What type of content best resonates with the crypto donor? (Live streaming, live audio spaces, YouTube videos, twitter threads, reddit threads, etc.)
- What ad campaign format (i.e., cadence, timing, style, etc...) best resonates with this audience?
  - Are digital ads an effective medium for reaching this audience?
- Are there other complementary activities needed to enhance the performance of digital ad placement, and how might we use them?
- What methods are most effective for stewarding and cultivating the crypto philanthropy audience once they have become donors?

The strategy document should also include:

- A summary section that recommends a cohesive digital strategy unifying the pieces described above to build awareness of Mercy Corps within the crypto and NFT communities to ultimately turn them into donors.
- Guidance on advertising budget necessary to effectively target this audience and see a return on investment, presented as a calendarized budget with multiple spend-levels presented as options.

- What is the expected ROI for placing digital ads targeting this audience? This information would help us decide whether it is a “go” or “no go” for the digital ad campaign approach.

## IV. Evaluation of Proposals

Proposals will be scored using the following technical criteria. Points for each question will range from 0 - 25 the maximum technical score is 100 points. Proposals should address each evaluation criteria.

- **Adherence to the RFP Requirements:** Did the bidder conform to all requirements and product or service specifications in the RFQ or RFP? (0-25)
- **Technical Criteria:** Includes the bidder's understanding of the service or procurement required, bidders' management plan, supplier's qualifications and bidders' overall resources. Does the supplier have the right qualifications (registration, insurance, experience)? (0-25)
- **Management Criteria:** Includes the bidder's experience on similar projects, bidder's performance on similar projects, bidder's available facilities and resources for the project and the bidder's plan for management and control of the project. (0-25)
- **Cost Criteria:** Is the cost within any pre-determined price range, such as cost estimates from a market analysis? In most cases cost is evaluated using value for money unless otherwise directed by donor requirements. (0-25)

## V. Proposal Format & Requirements

To ensure consistency across proposals, you are asked to submit your proposal in the format listed below, using the same numbering and naming logic for each response. Standard proposals of no more than 7 pages are requested and applicants are asked to include the following information:

1. Name, address, telephone number and email address for principal contact.
2. A brief outline of your organization and services offered, including:
  - Full legal name, jurisdiction of organization or incorporation and address of the company
  - Full legal name and country of citizenry of company's President and/or Chief Executive Officer, and all other officers and senior managers of the company
  - Year business was established
  - Your organization's website
3. Name and professional qualifications or personnel who would provide the services. Please include years and type of experience with fundraising and brand awareness in the crypto philanthropy sector.
4. Names, addresses, phone numbers and email addresses of at least two clients of similar industry and scope of operations as Mercy Corps (if possible) who can be contacted as **references**.
5. Work plan and timeline: Please include a description of the activities to be conducted and a proposed timeline for completion of work.
6. Project budget. Please include daily rate, hourly rate, and any other costs that may be required for this project.
7. What information do you anticipate that you would need Mercy Corps to provide to support your team in completing this project?

### CONTACT FOR INQUIRIES

All inquiries concerning this solicitation shall be addressed to the following Designated Contact:

- Gabriel Suarez / [gsuarez@mercycorps.org](mailto:gsuarez@mercycorps.org)

Please email an electronic version of your response (via e-mail), including all supporting documentation, and direct questions about the RFP to Gabriel Suarez.

All questions should be submitted in writing (via email) citing the bid section and paragraph number. Bidders should note that all clarifications and exceptions are to be resolved prior to the submission of a bid.

Only questions received during the Question-and-Answer period (as outlined in the RFP Calendar) will be addressed. No telephone questions will be answered. Official answers to the questions will be posted on Mercy Corps website at [www.mercycorps.org/tenders](http://www.mercycorps.org/tenders)

#### **RFP CALENDAR/TIMELINE**

- RFP published ...24 March 2023
- Questions and Answers period...24 March-7 April 2023
- RFP responses due ...10 April 2023
- Vendor meetings week of ... 17 April 2023
- Vendor selected and notified .....24 April 2023

## **VI. Other Terms & Conditions**

#### **WITHDRAWAL OF RFP**

Proposals may be withdrawn before the RFP submittal deadline by submitting a written request to the Contact Person. Re-submittal before the RFP submittal deadline can be made; however, they may not be re-submitted after the deadline.

#### **RFP COSTS**

All costs incurred in the preparation and presentation of proposals to the RFP shall be completely absorbed by the responding party to the RFP. All documents submitted as part of the RFP will become property of the Mercy Corps. Requests for specific material to be returned will be considered. Any material submitted that is confidential must be clearly marked as such.

#### **AWARD BASIS**

At the option of the Mercy Corps, finalists for the Agent designation may be selected for a final round of negotiations; however, applicants are encouraged to present their best offers with their initial submission. Mercy Corps reserves the right to accept or reject any and all proposals, to waive any irregularities in any proposal process, and to make an award of contract in any manner in which Mercy Corps, acting in the sole and exclusive exercise of its discretion, deems to be in Mercy Corps best interest.

#### **CONTRACTUAL DEVELOPMENT**

Once an applicant is approved as the exclusive Agent, the successful respondent will enter into a contract with the Mercy Corps. Contract discussion and negotiation will follow the award selection. Bidders must be amenable to inclusion, in a contract, of any information provided whether herein or in response to this RFP, or developed subsequently during the selection process.

#### **CONTRACT TERMS**

Firms that are selected as the exclusive Agent are eligible to enter into a service contract. Mercy Corps may terminate the contract upon written notice to the Agent of not less than thirty (30) days.

## **EQUAL OPPORTUNITY**

Mercy Corps emphasizes that all respondents will receive full consideration without regard to race, color, religion, sex, national origin, sex, disability, age or sexual orientation. Minority and women-owned firms are especially encouraged to respond to this RFP.

## **LIMITATIONS**

Mercy Corps reserves the right to reject any and all Proposals and to waive any informality in the solicitation process. Total proposal length excluding cover letter, details of professionals who will provide services, and contact information of client references, should not exceed 12 pages.

# **VII. Sample Contract**

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

Any deviations or justifications from this contract must be set out in the tender proposal with proposed alternative language.

## **SERVICE CONTRACT**

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

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

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

### **2. Delivery of Services.**

- a. Contractor will perform the Services, and Mercy Corps will pay for the Services, in accordance with the terms and conditions and within the Performance Period set forth in this Contract and the Statement of Services.
- b. Contractor will perform all Services through the services of Contractor's employees or subcontractors approved by Mercy Corps. Contractor will not delegate or subcontract any Services to be provided to Mercy Corps without Mercy Corps' prior written consent. Contractor shall require its subcontractors, agents, and others retained to perform the services to comply with all applicable terms and conditions of this Agreement in providing such services and shall remain primarily liable to Mercy Corps for the performance of such subcontractor, agent or third party approved by Mercy Corps. Contractor agrees that including the specific individuals named (if any) as Key Personnel in Schedule I is a material part of the Agreement. Contractor will not change the Key Personnel without prior notice and an amendment to this Contract specifying the change. Mercy Corps may withhold its consent to substitute personnel using its sole discretion.

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

**4. Invoicing and Payment.**

- a. Contractor will submit invoices to Mercy Corps in accordance with the invoicing schedule and invoicing delivery terms set forth in the Statement of Services (Schedule I). Final invoices must be submitted within 60 days of the end date of the Contract. Contractor recognizes that in many cases Mercy Corps' donor will not reimburse Mercy Corps for invoices submitted beyond 60 days after the termination of a contract and therefore Mercy Corps will have no obligation to pay any portion of invoices received more than 60 days after the end date of the Contract. Each invoice will include (i) the Contract Number; (ii) Contractor's name and address; (iii) a description of the Services performed, (iv) the dates such Services were performed, (v) a pricing calculation based on the payment terms, (vi) properly reimbursable expenses (if any) incurred along with receipts for such expenses (if applicable) for all individual expenses exceeding \$25 USD, and (vii) such other information as Mercy Corps may reasonably request. Invoices will only be deemed received on the date they are delivered to the Authorized Representative pursuant to the Payment Terms (see Schedule I). If Mercy Corps determines that Services that are the subject of an invoice have not been performed in accordance with the Statement of Services, Mercy Corps may dispute the invoice by sending Contractor notice of such dispute after Mercy Corps' receipt of the invoice. Such notice shall clearly state the specific Services disputed, and Mercy Corps' reason for disputing the performance of the Services. If both parties accept the dispute of the invoice, they shall agree in writing as to the steps required of Contractor to ensure that the performance of the disputed Services is subsequently completed in accordance with the Additional Terms, and the time required of Contractor to complete the Services.
- b. Except as otherwise provided in the Statement of Services, Mercy Corps will pay each invoice (or adjusted invoice if the subject of dispute) in accordance with the Payment Terms within 30 days after the later of (i) receipt of the invoice or (ii) resolution of the items set forth in the notice of disputed charges.
- c. Mercy Corps may off-set any amount it owes Contractor against any amount Contractor owes Mercy Corps.

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

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



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

- a. Contractor has full rights and authority to enter into and perform its obligations under this Contract. Contractor's performance will not violate any agreement or obligation between Contractor and any third party.
- b. Contractor has the requisite skills to perform the Services in accordance with the SOW.
- c. Contractor possesses all governmental and other certifications and licenses necessary to perform the Services. Performance by Contractor of its obligations under this Contract will not infringe on any patent, copyright, trademark, trade secret or other proprietary right of any third party.
- d. Contractor will comply with all applicable law, regulations and rules in the performance of its obligations under this Contract.
- e. Contractor has not, and will not, engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism, including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or the United Nations Security designation list ([http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml)).
- f. Contractor will comply with and train its employees in all applicable laws against bribery, corruption, inaccurate books and records, inadequate internal controls and money-laundering, including the U.S. Foreign Corrupt Practices Act and the UK Bribery Act. Contractor has not and will not offer or give any employee, agent, or representative of Mercy Corps anything of value to secure any business from Mercy Corps or influence such person to alter the terms, conditions, or performance of any contract with or purchase order from Mercy Corps, including but not limited to this Contract.
- g. Contractor, including its owners or employees, does not own, directly or indirectly, any other company that was competing for award of this Contract. Contractor did not seek or obtain confidential information related to the award of this Contract from any Mercy Corps employee, agent or representative. Contractor did not collude or conspire with any other individual or entity to limit competition for the award of this Contract, to set prices being offered or in any other way to interfere with free and open competition.
- h. Contractor is not owned in whole or in part, directly or indirectly, by any immediate or extended family member of any Mercy Corps employee, agent or representative, or, if so owned, Contractor fully disclosed such relationship and any potential conflict of interest has been waived, in writing, by Mercy Corps.
- i. Contractor has not engaged in, and will not engage in, any of the following conduct: (A) trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime); (B) procuring a commercial sex act; or (C) using forced labor.
- j. Contractor is not the subject or any governmental or donor investigation and has not been debarred or suspended by any government, governmental agency or donor.
- k. Contractor understands that it is subject to Mercy Corps' Child Safeguarding, Prevention of Sexual Exploitation and Abuse of Beneficiaries and Community Members, Anti-Trafficking and Sexual Misconduct policies (available at <https://www.mercycorps.org/who-we-are/ethics-policies>). Contractor must report any violation or suspected violation of these policies in relation to the

Contractor's activities under this contract to Mercy Corps, which may be done via its Integrity Hotline website ([mercycorps.org/integrityhotline](http://mercycorps.org/integrityhotline)). Contractor will ensure that it has the capacity to abide by these policies, that its employees and subcontractors understand these policies, and that it communicates to its employees and subcontractors the duty to report. Contractor understands and agrees that a violation of these policies may, in addition to any other remedies available under this Contract or at law, result in suspension or immediate termination of this Contract and may also result in Contractor being deemed ineligible for future contracts with Mercy Corps.

- I. Contractor and those performing services on Contractor's behalf have the necessary knowledge, qualifications, licenses, permits, ability and expertise to perform the services and comply fully with the terms of the Agreement.

**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*".
- f. Contractor warrants and represents that (i) it has the rights to any Work Product created under this Agreement; (ii) no part of the works produced or furnished by the Contractor under this Agreement will defame or libel, or infringe or violate any copyright, trade secret, trademark, patent, invention, or other proprietary or personal right of any third party; and (iii) any media containing

any digital program which is included in the works produced or furnished by Contractor will be free from defects in material and workmanship and will contain no virus or disabling device or content that could interfere with continuous performance of such computer program.

**9. Confidentiality and Data Security.** Contractor agrees and warrants that it will maintain in strict confidence Confidential Information. The term “Confidential Information” includes (i) any information Mercy Corps provides to Contractor that Mercy Corps identifies as confidential; (ii) the terms and conditions of this Agreement (including all Statements of Services); (iii) nonpublic information concerning the affairs, activities, policies, proposals, projects, employees, donors or potential donors, finances, property or method(s) of operation, trade secrets, know-how and similar information of Mercy Corps, its affiliates, as well as any third party and its affiliates with which Mercy Corps may collaborate, and (iv) any Mercy Corps information that contains personally identifiable information hereby defined as information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual (referred to as “PII”). Contractor agrees to the following:

- a. Contractor will comply with the Mercy Corps’ Responsible Data Policy and all Federal, State and applicable laws and regulations governing the confidentiality and privacy of the information provided under this Agreement.
- b. Contractor will treat Confidential Information with the same standard of care that it may use to maintain its own confidential information, provided that the standard is not negligent. This includes maintaining appropriate technical and organizational measures to protect Confidential Information against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected.
- c. Contractor agrees to the implement and follow additional data security requirements concerning PII and hereby represents and warrants the following:
  - 1) At all times during the term of this Agreement, with respect to PII, Contractor is capable of providing, and will maintain, reasonable physical, technical and administrative safeguards appropriate for any PII received from Mercy Corps, or created or received on Mercy Corps’ behalf:
  - 2) Contractor will ensure that any transmission specifically of donor data containing PII between Mercy Corps and Contractor is conducted via secure FTP or secure/encrypted email, or other mutually agreed upon secure file sharing platform; and
  - 3) Contractor will maintain sufficient procedures to detect and respond to any attempted unauthorized acquisition or use of PII in paper or electronic form or interference with information system operations affecting electronic PII.
- d. Contractor agrees to use Confidential Information only as required by to perform its services for Mercy Corps under this Agreement, and will not reveal it to a third party or use for any other purpose without the prior written consent of Mercy Corps. Except as otherwise authorized in advance by

Mercy Corps, Contractor will not provide to any third party either access to, or information about, Mercy Corps systems, platforms, and other mechanisms without the express written permission in each instance.

e. At the termination of the Agreement, Contractor will return to Mercy Corps all Confidential Information provided by Mercy Corps to Contractor, or otherwise take appropriate measures as requested by Mercy Corps to remove any copies of Confidential Information in Contractor's possession and cause its subcontractors, agents, and others involved in the services to do the same.

**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. by either Party upon written notice if a force majeure event, including any not reasonably foreseeable war, insurrection, change in law or government action or inaction, strike, natural disaster or similar event, prevents the terminating Party from being able to fulfill its obligations under this Contract; or
- 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.

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

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

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

**15. Miscellaneous.**

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

h. The warranty, representations, dispute resolution, confidentiality and indemnification provisions of this Contract will survive the termination, cancellation or expiration of this Contract.  
IN WITNESS WHEREOF, this Service Contract has been duly executed as of the date first written above.

**MERCY CORPS**

\_\_\_\_\_

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

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

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

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

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

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