**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**.
	1. 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.
	2. 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**.
	1. 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.
	2. 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.
	3. Mercy Corps may off-set any amount it owes Contractor against any amount Contractor owes Mercy Corps.
5. **Taxes, Duties and Expenses**.
	1. 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.
	2. 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.
	1. 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.
	2. Contractor has the requisite skills to perform the Services in accordance with the SOW.
	3. 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.
	4. Contractor will comply with all applicable law, regulations and rules in the performance of its obligations under this Contract.
	5. 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>).
	6. 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.
	7. 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.
	8. 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.
	9. 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.
	10. 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.
	11. 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). 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.
	12. 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**.
	1. “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.
	2. 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.
	3. 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.
	4. 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.
	5. 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*”.
	6. 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.

1. **Termination.** This Contract may be terminated under the following circumstances:
	1. by both Parties on mutual written agreement of the Parties;
	2. by either Party for its convenience with written notice and after the Termination Notice Period specified in Schedule I has expired;
	3. 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;
	4. 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;
	5. be either Party upon written notice if a force majeure event, including any not reasonably foreseeable war, insurrection, change in law or government action or inaction, strike, natural disaster or similar event, prevents the terminating Party from being able to fulfill its obligations under this Contract; or
	6. by Mercy Corps immediately upon written notice if Mercy Corps using its sole discretion determines that Contractor has or will breach any of its warranties, covenants or representations in this Contract, in which case Mercy Corps may withhold any and all amounts owed to Contractor until such breach is remedied.

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

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

1. **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.
2. **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.
3. **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.
4. **Miscellaneous**.
	1. 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.
	2. 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.
	3. 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).
	4. Time is of the essence of each and every obligation of Contractor under this Contract.
	5. 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.
	6. 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.
	7. 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.
	8. The warranty, representations, dispute resolution, confidentiality and indemnification provisions of this Contract will survive the termination, cancellation of expiration of this Contract.

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

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

**SCHEDULE I: ADDITIONAL TERMS**

**Statement of Services – Fixed Price**

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| **1. Services and Statement of Work**: In accordance with the terms of the Contract, Contractor agrees to perform the following services in the following manner. a. Background: [*Include background information on the program(s) under which this contract falls, identifying where in the program objectives these services will be supporting. Describe the context in which the contract will be working. This may be similar to what was included in the RFQ/RFP.]*b. Scope of Work: *[Include a narrative description of the work being performed under this contract that fully outlines all of the tasks required to achieve the deliverables. Substantial discretion should be given to the Contractor on how the deliverables are achieved. Therefore, this section should only specify steps without which the Contractor could not possibly produce acceptable deliverables.]*c. Deliverables: The Contractor shall deliver the following deliverables in accordance with the schedule set in Section 2 below: i. Deliverable 1: *[Include a detailed description of the individual deliverable, the standard the work must be completed to, any specifications, how it must be completed, what the physical submission of said deliverable will be, etc. Deliverables should be as tightly defined as possible to ensure that we receive the intended value and so as to limit miscommunication and litigation]* ii. Deliverable 2:  iii. Deliverable 3: *[add additional deliverables as needed].*The term “Services” means all services, including delivery of all deliverables, described in this clause, which is the scope of work (the “SOW”).  |
| **2. Performance Period:** The start date of this Contract is XXX and, unless earlier terminated in accordance with Section 11, has an end date of XXX. The individual due dates of each deliverable are as follows:

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

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| --- | --- | --- | --- |
| **Deliverable #** | **Deliverable Description** | **Deliverable Price** | **Total Contract Price** |
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| **Invoicing and Payment Terms: *[****Upon written acceptance by Mercy Corps of each Services deliverable] [Upon completion of the Contract]* Contractor will submit an Invoice in accordance with pricing as specified in the Contract. Mercy Corps will make payment to Contractor for all sums not in dispute within 30 days of receipt of Contractor’s invoice(s) (the “Payment Terms”). |
| **Key Personnel:** *[if applicable, include a list of the Contractor’s personnel that are key to the bargain and the project and that the Contractor cannot change without prior written approval. If not applicable, note “Not Applicable” here.] (the “Key Personnel”).*  |

**Authorized Representatives and Contact Information:**

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| --- | --- |
| **Mercy Corps**: *Only the following Mercy Corps employees are authorized to agree to any amendment of this Contract:*  | **Contractor**: *Contractor’s authorized representative for all purposes is:*  |
| *Only the following Mercy Corps employees are authorized to receive invoices, accept, or reject Services or sign SCRs.*  |

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

**Donor Terms**: [*If applicable, include the following statement here: The Donor Terms are set forth in Schedule II are hereby incorporated in this Contract by reference.]*

**SCHEDULE II**

**Donor Terms**

**SCHEDULE II: DONOR TERMS**

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

1.1 The Service Provider acknowledges that Mercy Corps has reporting obligations to its donors.  Accordingly, the Service Provider consents to Mercy Corps sharing information about the Service Provider or the Services with its donors, including but not exclusively, the US Department of State, the European Union, the Foreign Commonwealth and Development Office (FCDO) and the United Nations as required

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

1.3 Mercy Corps, its donors, including but not exclusively, the US Department of State, US Agency for International Development, the Inspector General of the United States, the Comptroller General of the United States, the European Union, the Foreign Commonwealth and Development Office (FCDO) and the United Nations or any of their duly authorized representatives have the right of timely and unrestricted access to the location where the Service Provider is based or any location where the services are being implemented and to any books, documents, papers and records (including in electronic format), of the Service Provider that are pertinent to this Contract, in order to make monitoring, evaluation, audit, examinations, excerpts and transcripts and copies of such documents. This right also includes timely and reasonable access to a Service Provider’s personnel for the purpose of interview and discussion related to such documents.   Such verification or audit may take place at any time during this Contract and up to seven years after final payment made under this Contract.

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

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

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

* 1. Contractor must disclose, in a timely manner, in writing to Mercy Corps all violations of US government criminal law involving fraud, bribery or gratuity violations potentially affecting this Contract.

Mercy Corps will share such disclosures with:

U.S. Agency for International Development

Office of the Inspector General

P.O. Box 657

Washington, DC 200044-0657

Phone: 1-800-230-6539 or 202-712-1023

Email: ig.hotline@usaid.gov

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

1.6 The Service Provider shall take all reasonable precautions to avoid any conflict of interests and shall inform Mercy Corps without delay of any situation constituting or likely to entail a conflict of interests.

There is a conflict of interests where the impartial and objective exercise of the functions, tasks and activities under this Contract is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another person or party.

1.7 The Service Provider acknowledges that under no circumstances nor for any reason whatsoever will MC Donors, including but not exclusively, the US Department of State, US Agency for International Development, the European Union, the Foreign Commonwealth and Development Office (FCDO) and the United Nations, be held liable for damages as a result of or responsible for in relation to the work pursuant to the activities of the Service Provider under this Contract

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

In addition, the Contractor must not engage in and must verify that no support or resources are provided to individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (online at: http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx) or the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/aq\_sanctions\_list.shtml)

1.9 The Service Provider certifies that it will not and has not used any funds received directly or indirectly from the U.S. Government to pay to any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of U.S. Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this Contract or any other U.S. government funded project.

1.10 The Service Provider certifies that neither it nor its principals are presently excluded or disqualified from participation in this transaction by any US Government department or agency.

1.11 The Contractor or its employees, or any Subcontractor or its employees, must not engage in any of the following conduct:

(i) Trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime) during the period of this Contract;

(ii) Procure a commercial sex act during the period of this Contract;

(iii) Use forced labor in the performance of the Contract; or

(iv) Commit acts that directly support or advance trafficking in persons, including the following acts:

a. Destroying, concealing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;

b. Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:

* exempted from the requirement to provide or pay for such return transportation by Mercy Corps under this award; or
* the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action;

c. Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;

d. Charging employees’ recruitment fees; or

e. Providing or arranging housing that fails to meet the host country housing and safety standards.

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

1.12 The Service Provider acknowledges that Mercy Corps must comply with its donors’ principles of Ethical Procurement including adhering to the minimum ethical standards of the avoidance of child labour, and the respect of basic social rights and working conditions based on international labour standards.

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

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

1.15 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements

* + - * 1. The Contractor must not require its employees or sub-contractors to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict employees or sub-contractors from lawfully reporting waste, fraud, or abuse related to the performance of this contract to Mercy Corps or to USAID’s Office of the Inspector General.
				2. The Contractor must notify current employees and sub-contractors that prohibitions and restrictions of any preexisting internal confidentiality agreements or statements covered by this provision, to the extent that such prohibitions and restrictions are inconsistent with the prohibitions of this provision, are no longer in effect.
				3. If Mercy Corps, the donor or other authorized officials of the donor determines that the Contractor is not in compliance with the requirements of this provision, Mercy Corps may, at its sole discretion, suspend or terminate the contract. Further, Mercy Corps may, at its sole discretion, decide not pay a portion or all of amounts invoiced or expenditures incurred, as applicable, by the Contractor with funds provided under this contract, and also may require the Contractor to refund a portion or all of any amounts paid to the Contractor under this contract.
				4. Definitions:

Terms in this clause will have the meaning defined in this section or as defined in 2 CFR 200.

“Internal confidentiality agreement or statement” means a confidentiality agreement or any other written statement that the Contractor requires any of its employees or sub-contractors to sign regarding nondisclosure of recipient information, except that it does not include confidentiality agreements arising out of civil litigation or confidentiality agreements that Contractor employees or sub-contractors sign at the behest of a US government agency.

* + - * 1. The Contractor must include this provision, including this paragraph (e), in subawards and sub-contracts funded under this contract.

1.16 The contractor is required to not discriminate against any beneficiaries in implementation of this contract, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the benefits provided through this contract on the basis of any factor not expressly stated in the contract. This includes, for example, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, disability, age, genetic information, marital status, parental status, political affiliation, or veteran's status. Nothing in this provision is intended to limit the ability of the contractor to target activities toward the assistance needs of certain populations as defined in the contract.

1.17 The Contractor agrees to incorporate the terms of “schedule II” word-for-word in all of its sub-contracts funded under this Contract, if any**.**