**MASTER SERVICE AGREEMENT  
  
Contract No. \_\_\_\_\_\_\_**

THIS MASTER SERVICES 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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Contractor**”) is as follows:

1. **Master Agreement; Specific Services**. From time to time, Mercy Corps may request services from Contractor. For each occasion on which Contractor is willing to provide requested services, the parties will enter into a task order (“**Task Order**” or “**TO**”) which will describe the services to be performed and the period for performance and which will be substantially in the form attached hereto as Exhibit A. Contractor must notify Mercy Corps within the Task Order Offer Period time specified in Schedule I if it accepts a Task Order, rejects a Task Order or requires changes to a Task Order. Mercy Corps may reject any acceptance or request for changes that Mercy Corps receives after the Task Order Offer Period has expired.
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: Task Order Offer Period, Authorized Representative, Key Personnel, Payment Terms, Services, TO and Scope of Work (SOW). “**Agreement**” means this Master Services Agreement and Schedule I, in each case as amended, modified or supplemented from time to time. Other terms may be defined throughout this Agreement as specified.
3. **Delivery of Services**.
   1. Contractor will perform the Services, and Mercy Corps will pay for the Services, in accordance with the terms and conditions set forth in this Agreement and each TO.
   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 the Additional Terms is a material part of the Agreement. . Contractor will not change the Key Personnel without prior notice and an amendment to the Additional Terms specifying the change. Mercy Corps may withhold its consent to substitute personnel using its sole discretion.
4. **Compliance with TOs and Changes to TOs.** Services will be provided strictly in accordance with each TO. 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 a TO by written notice to Contractor specifying the changes. Unless mutually agreed, a change to a TO by Mercy Corps does not apply to 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 TO or Payment Terms or both, if such adjustment is set forth in an amendment signed by Mercy Corps’ and Contractor’s Authorized Representative.
5. **Non-Exclusivity.** This Agreement is not intended to create an exclusive relationship between the parties. Unless the Additional Terms specify a minimum purchase of services, Mercy Corps is not obligated to issue any Task Order to Contractor. If the Additional Terms specify a minimum purchase of services, Mercy Corps shall be obligated only to issue a TO(s) for the minimum purchase amount.
6. **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 Additional Terms. Each invoice will include (i) the Contract Number and TO number; (ii) Contractor’s name and address; (iii) a description of the Services performed, (iv) the dates such Services were performed, (v), if applicable per the Additional Terms, an itemization of the specified increments of time worked, (vi), if applicable per the Additional Terms, properly reimbursable expenses (if any) incurred along with receipts for such expenses; and (vii) such other information as Mercy Corps may reasonably request. Invoices will only be deemed received on the date they are delivered to Mercy Corps’ Authorized Representative pursuant to the Payment Terms. If Mercy Corps determines that Services that are the subject of an invoice have not been performed in accordance with the Additional Terms, 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 Additional Terms, 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.
7. **Taxes, Duties and Expenses**.
   1. Except as otherwise provided in the Additional Terms, Contractor is responsible for all expenses incurred by it in performing under this Agreement 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 receipt for such taxes. Mercy Corps will use reasonable efforts to minimize any taxes withheld to the extent allowed by law.
   2. In the event the Additional Terms do allow for reimbursement of Contractor expenses, such expenses must be listed as acceptable expenses in the Additional Terms or the Task Order and fully documented with receipts and any other documentation reasonably necessary for Mercy Corps to determine the costs were reasonable and properly incurred.
8. **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 Agreement. 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 this Agreement.
   3. Contractor possesses all governmental and other certifications and licenses necessary to perform the Services in accordance with this Agreement. Performance by Contractor of its obligations under this Agreement 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 Agreement.
   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 Agreement.
   7. Contractor, including its owners or employees, does not own, directly or indirectly, any other company that was competing for award of this Agreement or any TO. Contractor did not seek or obtain confidential information related to the award of this Agreement or any TO 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 Agreement or any TO, 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 <http://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.
9. **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.
10. **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 TO, (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 10.
    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 Agreement.
    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.
11. **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](https://dldocs.mercycorps.org/ResponsibleDataPolicy.pdf) and all Federal, State and applicable laws and regulations governing the confidentiality and privacy of the information provided under this Agreement If Contractor will be processing Confidential Information of persons that are subject to General Data Protection Regulation (GDPR), then Contractor shall complete and adhere to Schedule III to this agreement, including providing Mercy Corps with a complete and accurate list of data sub-processors that will be utilized as part of Contractor operations. Mercy Corps reserves the right to reject any sub-processors that, in its sole discretion, it deems inadequate to comply with the terms herein related to data processing.

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.

1. **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 Agreement, any failure by Contractor to fully perform its obligations under this Agreement or any breach by Contractor 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.
2. **Termination and Remedies.** 
   1. Provided no TO is outstanding and remains to be performed by either party, this Agreement may be terminated by either party upon 30 days prior written notice to the other party.
   2. Any TO 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 the Additional Terms 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 the Additional Terms;
      4. 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;
      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 Agreement; 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 Agreement, 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 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, 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.

If Mercy Corps determines that Contractor 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, terminate this Agreement.

**[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*].

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 Agreement for the purpose of making audits, examinations, excerpts and transcriptions for a period of seven years following the completion of the final TO issued by Mercy Corps under this MSA.
3. **Additional Donor Terms and Conditions**. The Donor Terms (if any) are incorporated in this Agreement 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 Agreement (including any Additional Terms of TO) or any other document between Contractor and Mercy Corps, the Donor Terms will prevail.
4. **Miscellaneous**.
   1. 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.
   2. 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.
   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 the Additional Terms. 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 Agreement.
   5. 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.
   6. 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.
   7. 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.
   8. The warranty, representations, dispute resolution, confidentiality and indemnification provisions of this Agreement will survive the termination, cancellation of expiration of this Agreement.
   9. In the event that there is a conflict in term between this Master Services Agreement and any TO, the terms in the Master Services Agreement shall prevail unless the changed terms in the TO specifically state the section of the Master Services Agreement or Additional Terms that the TO is changing, in which case the new terms in the TO shall prevail only as to that TO.

IN WITNESS WHEREOF, this Master Services 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:** This Agreement shall have an effective date of XXX and, unless earlier terminated in accordance with Section 13, an expiration date of XXX *[1 year]*.
2. **Offer Period:** [xxx] business days (“**Task Order Offer Period**”).
3. **Services:** In accordance with the terms of the Agreement, 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 outlines the general tasks which will be requested for under task orders. Include a detailed description of the individual deliverable(s)/Task Orders, if known, the standard the work must be completed to, any specifications, how it must be completed, etc. Deliverables, if known, should be as tightly defined as possible to ensure that we receive the intended value and so as to limit miscommunication and litigation. If deliverables are not yet known, be as descriptive as possible as to the types of work or deliverables that will be done. If possible, use illustrative deliverables or task orders.]*

The term “**Services**” means all services, including delivery of all deliverables, described in all Task Orders**.**

1. **Pricing:** *[include type of pricing, e.g. fixed price per TO, fixed price per deliverable type, cost reimbursable, or fixed daily rates plus expenses, etc. Refer to the Service Agreement template for more guidance regarding Cost Reimbursable or Time and Materials pricing.]*
2. **Invoicing & Payment Terms: [**Upon acceptance of each Task Order or deliverable] [Within *[X]* days at the end of each month] Contractor will submit an Invoice in accordance with pricing as specified in the Agreement. 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**”).
3. **Key Personnel:** *[if applicable, include a list of the Contractor’s personnel (either by name or position, ideally both) that are key to the bargain and the project and that the Contractor cannot change without prior approval. If not applicable, note “Not Applicable” here.] (the “Key Personnel”).*
4. **Reimbursable Expenses:** *[If applicable, include a description of the expenses that the Contractor can incur and charge Mercy Corps for above and beyond the price for services. If not applicable, note “Not Applicable” here].*
5. **Authorized Representatives and Contact Information:** 
   1. **Mercy Corps:**  Only the following Mercy Corps employees are authorized to agree to any amendment of the Agreement, a new Task Order or an amendment to a Task Order:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Attn:\_\_\_\_\_\_\_\_\_\_\_\_\_   
Fax:\_\_\_\_\_\_\_\_\_\_\_\_\_  
Email: \_\_\_\_\_\_\_\_\_\_\_\_\_

Only the following Mercy Corps employees are authorized to receive invoices, accept or reject Services or sign SCRs.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Attn:\_\_\_\_\_\_\_\_\_\_\_\_\_   
Fax:\_\_\_\_\_\_\_\_\_\_\_\_\_  
Email: \_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. **Contractor:** Contractor’s authorized representative for all purposes is:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Attn:\_\_\_\_\_\_\_\_\_\_\_\_\_   
Fax:\_\_\_\_\_\_\_\_\_\_\_\_\_  
Email: \_\_\_\_\_\_\_\_\_\_\_\_\_

1. **Termination for Convenience Notice Period**: \_\_\_\_\_\_\_\_\_\_\_ (the **“Termination Notice Period”).**
2. **Donor Terms**: *[If applicable, include the following statement here:* The Donor Terms set forth in Schedule II to the Agreement are hereby incorporated in the Agreement by reference*].*

**SCHEDULE II**

**DONOR TERMS**

**INSTRUCTION TO DELETE AFTER READING**

**Add the appropriate “Donor Terms”:**

1. For USG, DFID, and EU donors, access the Required Contract Provisions[here](https://library.mercycorps.org/search?ln=en&p=%22required+contract+provisions%22&f=&rm=&ln=en&sf=title&so=a&rg=25&fti=0&fti=0) in the Digital Library.
2. For GAC, UN, or other donor funding, please reach out to the HQ Compliance Help Desk for assistance.
3. For agreements that incorporate multiple donors, please review each donor’s terms and incorporate them into the Agreement. If there is a conflict between donor terms, please contact HQ Compliance Help Desk for assistance.

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**SCHEDULE III**

**Data Protection Standard Contractual Clauses**

The latest data protection standard contractual clauses can be found at <http://dldocs.mercycorps.org/DataProtectionStandardContractClauses.pdf>

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**INSTRUCTION TO DELETE AFTER READING**

**There are 3 options for Exhibit A:**

**- Fixed Price**

**- Cost Plus Fixed Fee (Cost Reimbursement)**

**- Time & Materials – Fixed Labor Rates**

**Please complete the appropriate option and delete the other options.**

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**EXHIBIT A**

**FORM TASK ORDER - FIXED PRICE**

**Task Order No. \_\_\_\_\_\_\_\_\_\_**

1. **Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.
2. **Master Service Agreement No.**:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.
3. **Statement of Work (the “SOW”):** In accordance with the terms of the above-referenced Master Services Agreement, Contractor agrees to perform the following services in the following manner:
   1. Task Order 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]
   2. Deliverables: The Contractor shall deliver the following deliverables in accordance with the schedule set in Section 4 below:
      1. Deliverable 1: [Include a description of the individual deliverable, making sure they fit within the SOW stated in Schedule I of the MSA.
      2. Deliverable 2: [add additional deliverables as needed]
4. **Performance Period:** This Task Order shall have an effective date of XXX and, unless earlier terminated in accordance with Section 13 of the Agreement, an expiration date of XXX**.** The individual due dates of each deliverable are as follows:

|  |  |  |
| --- | --- | --- |
| Deliverable  # | Deliverable Description | Deliverable Due Date |
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1. **Price:** This is a fixed price Task Order. Mercy Corps agrees to pay Contractor no more than *[describe the price per deliverable]* for services rendered under this Task Order.Payment for deliverables will be made according to the schedule below: *[Refer to the Service Agreement template for more guidance regarding Cost Reimbursable or Time and Materials payment and pricing terms.]*

|  |  |  |  |
| --- | --- | --- | --- |
| Deliverable  # | Deliverable Description | Deliverable Price | Total Price |
|  |  |  |  |
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|  |  |  |
|  |  |  |

IN WITNESS WHEREOF, this Task Order has been duly executed by the parties’ Authorized Representatives as of the date written below.

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

**MERCY CORPS CONTRACTOR**

Name: Name:

Title: Title

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

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| --- | --- | --- | --- | --- |
| For Mercy Corps internal purpose only | | | | |
| PR Number | Fund Code | GL Account | LIN Code | Office Code |
|  |  |  |  |  |

**EXHIBIT A**

**FORM TASK ORDER - COST PLUS FIXED FEE**

**Task Order No. \_\_\_\_\_\_\_\_\_\_**

1. **Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.
2. **Master Service Agreement Contract No.**:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.
3. **Statement of Work (the “SOW”):** In accordance with the terms of the above-referenced Master Services Agreement, Contractor agrees to perform the following services in the following manner:
   1. Task Order 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 objectives of the Agreement. Be as specific as possible. If tangible work products are to be produced, those may be listed here as well.*]
4. **Performance Period:** This Task Order shall have an effective date of XXX and, unless earlier terminated in accordance with Section 13 of the Agreement, an expiration date of XXX**.**
5. **Price:** This is a cost plus fixed fee task order with a ceiling amount of XXX. Contractor may not exceed this amount without advanced, written approval from Mercy Corps via an amendment signed by both parties.

Contractor agrees to perform the Services within the performance period in accordance with the pricing standards listed below.

1. The following itemized budget sets for the estimates for reimbursement of costs for individual line items of cost providing the Services and deliverables specified in this Agreement. Contractor may not exceed the estimated costs for any individual line item of cost shown in the itemized budget without prior written approval from Mercy Corps. *[If we want to give Contractor more budget flexibility, we may replace the final sentence with, “Mercy Corps restricts the transfer of funds among individual line items of cost when the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget, as last approved by Mercy Corps. Transfers between line items to exceed 10 percent of the total budget must be approved in advance and in writing by Mercy Corps.”]*

*Insert the contract budget below with the appropriate direct line items (similar to what Mercy Corps would include in a budget summary)*

|  |  |
| --- | --- |
| ***Line Item*** | ***Amount*** |
| *Labor* |  |
| *Fringe* |  |
| *Travel and Transportation* |  |
| *XXX* |  |
| *XXX* |  |
| *Fixed Fee* |  |
| ***Grand Total*** |  |

b. Labor: Contractor will only charge Mercy Corps for its costs in paying the wages and standard, generally applicable to all employees, benefits for its employees for the time period that they are directly and solely working on the Services, not to include any management, administrative or overhead work associated with the direct work. Contractor will keep a record of all of the names of its direct labor employees with each employee’s date and time of start and stop of all work charged to Mercy Corps under this Agreement, wages, and benefits costs for such employees and will include such records with invoice submissions. Each of Contractor’s employees whose time is charged to this Agreement must sign a timesheet certifying and agreeing to the number of hours worked on the Services. As with other records, Mercy Corps may request additional records and direct confirmation from Contractor’s employees at any time and may withhold or dispute payment until the records and/or confirmation are provided and verified.

c. Other Direct Costs: If necessary to complete the Services, Contractor also agrees to procure and provide all materials or other direct cost items necessary to complete the Services and to charge Mercy Corps for only the actual costs incurred by Contractor for other direct costs incurred in performing the Services. Contractor will use its best efforts to obtain the best possible prices for all other direct costs, including, when reasonable, obtaining multiple competing bids and selecting the item with the best value. Any materials that cost in excess of *[amount and currency -contact your Head of Finance for donor-related thresholds]* must be presented to Mercy Corps for its written approval prior to Contractor purchasing the item(s). Contractor must obtain receipts for all costs it charges to Mercy Corps hereunder that are above $25 USD and include them in invoice submissions. Mercy Corps may request additional documentation regarding prices paid, quality, and contractual arrangements at any point and may withhold or dispute payment for any costs until such documentation is provided. Likewise, if Contractor makes purchases at rates that Mercy Corps reasonably determines exceed local market rates for the materials, Mercy Corps may choose to only reimburse Contractor for verified market rates in the local market.

d. Indirect Costs: Pending establishment of revised provisional or final indirect cost rates, allowable indirect costs shall be reimbursed on the basis of the following negotiated provisional or pre-determined rates and the appropriate bases: *[Insert the established indirect rate that has been agreed on by both parties. This will either be in the form of a NICRA (preferred) or other negotiated indirect rate that has occurred based on financial proof of rates.]*

Contractor shall make no change to its established rate nor to its established method of classifying or allocating indirect costs without prior written approval from Mercy Corps. Mercy Corps will not be obligated to pay any additional amount without prior agreement and written approval.

e. Fixed Fee: In addition to reimbursement for Contractor’s labor, other direct costs, and indirect costs, Mercy Corps will pay Contractor a fixed fee equal to *[amount and type of currency].* This amount will be allocated as a percentage of costs incurred on a monthly basis with each invoice. Any remaining unrecovered fee will be reconciled at the end of the Agreement. Should the total costs incurred under this Agreement be substantially lower than the ceilings established above, Mercy Corps reserves the right to reassess the fee amount and renegotiate it to a lower amount with Contractor to avoid overpayment.

IN WITNESS WHEREOF, this Task Order has been duly executed by the parties’ Authorized Representatives as of the date written below.

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

**MERCY CORPS CONTRACTOR**

Name: Name:

Title: Title

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| For Mercy Corps internal purpose only | | | | |
| PR Number | Fund Code | GL Account | LIN Code | Office Code |
|  |  |  |  |  |

**EXHIBIT A**

**FORM TASK ORDER - TIME & MATERIALS - FIXED LABOR RATES**

**Task Order No. \_\_\_\_\_\_\_\_\_\_**

1. **Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.
2. **Master Service Agreement Contract No.**:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**.
3. **Statement of Work (the “SOW”):** In accordance with the terms of the above-referenced Master Services Agreement, Contractor agrees to perform the following services in the following manner:
   1. Task Order 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 objectives of the Agreement. Be as specific as possible. If tangible work products are to be produced, those may be listed here as well.*]
4. **Performance Period:** This Task Order shall have an effective date of XXX and, unless earlier terminated in accordance with Section 13 of the Agreement, an expiration date of XXX**.**
5. **Price:** This is a time and materials task order with a ceiling amount of XXX. Contractor may not exceed this amount without advanced, written approval from Mercy Corps via an amendment signed by both parties.

Contractor agrees to perform the Services within the performance period through direct labor at the following specified fixed rates:

a. Labor Rates: Mercy Corps will pay Contractor fixed *daily/hourly* rates set forth in the table below. The rates will remain in effect for the entire Agreement term. Each fixed *daily/hourly* rate set forth below is “loaded” and includes salary cost, payroll costs, indirect costs applicable to labor, and profit/fee (if any). Fixed *daily/hourly* rates must not include or be applied to costs covered as Materials, such as travel and transportation or other direct costs.

The following are the fixed *daily/hourly* rates under this Agreement: *[List all positions/labor categories under which the Agreement services will be provided. Include the rate in whatever currency the Agreement is in.]*

|  |  |  |
| --- | --- | --- |
| **Position/Labor Category** | **Daily/Hourly Rate** *[insert currency here]* | ***Daily/Hourly Rate Y2*** *[if the Agreement is more than one year, you may want to allow for salary increases in Y2.]* |
| Position/Category 1 | Daily Rate |  |
| Position/Category 2 | Daily Rate |  |
| Position/Category 3 | Daily Rate |  |

Contractor is limited to a total of *X days/hours* *[specify here if you wish to further limit the days/hours of specific positions]* and may not exceed this cap without advance, written approval by Mercy Corps. Contractor will only charge Mercy Corps for the time period that its employees are directly and solely working on the Services and will not charge time for management, general overhead or administration, such costs being built into the labor rates. Contractor will keep a record of all of the names of its direct labor employees with each employee’s date and time of start and stop of all work charged to Mercy Corps under this Agreement. Contractor may only charge for employee time if the position/category is listed in the table above, which Contractor may amend from time-to-time with written approval from Mercy Corps’ Authorized Representative. If the applicable time increments noted above are by the hour, Contractor may only charge Mercy Corps for increments of half an hour rounded to the nearest half-hour increment. If the applicable time increments noted above are by the day, Contractor may only charge Mercy Corps for full days worked. A full day requires a minimum of 7 hours of work time in a 24 hour day, but may extend to as many hours as an employee works in a 24 hour day. Each of Contractor’s employees whose time is charged to this Agreement must sign a timesheet certifying and agreeing to the number of hours worked on the Services. Timesheets must be included with invoices as backup documentation. As with other records, Mercy Corps may request additional records and direct confirmation from Contractor’s employees at any time and may withhold or dispute payment until the records and/or confirmation are provided and verified.

b. Materials: If necessary to complete the Services, Contractor also agrees to procure and provide all materials necessary to complete the Services and to charge Mercy Corps for only the actual costs incurred by Contractor for materials actually used in performing the Services. Contractor will use its best efforts to obtain the best possible prices for all materials, including, when reasonable, obtaining multiple competing bids and selecting the item with the best value. Any materials that cost in excess of *[amount and currency --contact your Head of Finance for donor-related thresholds]* must be presented to Mercy Corps for its written approval prior to Contractor purchasing the item(s). Contractor must obtain receipts for all materials it charges to Mercy Corps hereunder whose costs exceed $25 USD. These receipts must be included in all invoice submissions as backup documentation. Mercy Corps may request additional documentation regarding prices paid, quality, contractual arrangements at any point and may withhold or dispute payment for any materials until such documentation is provided. Likewise, if Contractor purchases materials at rates that Mercy Corps reasonably determines exceed local market rates for the materials, Mercy Corps may choose to only reimburse Contractor for verified market rates in the local market. The maximum amount that Contractor may charge Mercy Corps for materials under this Agreement is *[amount].* Contractor will be responsible for the costs of any materials required to complete the deliverables that exceed this maximum amount.

IN WITNESS WHEREOF, this Task Order has been duly executed by the parties’ Authorized Representatives as of the date written below.

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

**MERCY CORPS CONTRACTOR**

Name: Name:

Title: Title

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| PR Number | Fund Code | GL Account | LIN Code | Office Code |
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