

REQUEST FOR PROPOSAL

Mercy Corps Marketing Digital Asset Management System

OCT 2023

1. INTRODUCTION

Mercy Corps is a leading global organization powered by the belief that a better world is possible. In disaster, in hardship, in more than 40 countries around the world, we partner to put bold solutions into action—helping people triumph over adversity and build stronger communities from within. Now, and for the future.

See our [Who We Are](#) page for a more detailed background on our focus areas and the communities in which we work.

2. OPPORTUNITY

Our brand and photography both play critical roles in our day-to-day business operations, especially in the areas of communication, marketing and fundraising. In order to distribute brand assets, brand information, photographs, written stories, and other digital assets, Mercy Corps requires a modern, reliable and flexible digital asset management system (DAMS).

3. SCOPE OF WORK

OBJECTIVES

Mercy Corps is seeking a vendor to supply a DAMS capable of storing, organizing, and sharing our large collection of photographs, stories and brand assets (approximately 2.5TB and 200,000 assets at present day). The system's user group will include fewer than five administrator-level users, a core audience of 50-100 power users, and nearly 6,000 total users.

As part of a broad evaluation of the full strengths and weaknesses of the proposals submitted, Mercy Corps will consider in particular how applicants approach the following two key objectives:

- Distribution of Mercy Corps' brand guidance (including but not limited to a style guide, key assets, and various written information) to internal and external users through an easy-to-update, web-based portal.
 - Please see supplemental document
202310_MercyCorps_DAMS_RFP_BrandGuidanceExample.pdf
- A system that allows Mercy Corps to (manually or otherwise) catalog its collection of editorial content in great detail, allowing internal users to browse through a bank of stories (including contextual data,



story synopses, and example photos) that are connected to large numbers of supporting assets (chiefly lengthy text and photographs).

DELIVERABLES

- Reliable, cloud-based storage.
 - Usable capacity of approximately 2.5TB with the ability to quickly and affordably scale as needed.
 - Ability to efficiently manage hundreds of thousands of assets.
 - Thorough backup and data recovery systems.
- Feature-rich DAMS tool.
 - Capable digital asset management tools for efficient organization, automation, tagging, collection, curation, etc.
 - Efficient user management function allowing for the customization of user experience and access.
 - Customizable permissions and justification/approval features, including bulk and individual-asset level options.
 - Curation tools for grouping, collecting, and sharing assets between users.
 - Rich reporting and usage tracking tools.
 - Ability to integrate with existing MC platforms (e.g. Adobe CC, Drupal) in the future.
 - Ability to migrate existing assets and metadata (including custom metadata) from Mercy Corps' existing platform.
- Customizable brand portal and style guide functionality.
 - Streamlined system for sharing web-based style guide and brand information alongside key brand assets like logos and icons.
 - Ability to create multiple portals for different audiences and content/information types.
- User-friendly interface and functionality.
 - Ease of use in low-connectivity or low-computing power contexts.
 - Powerful, customizable search and filtering.
 - Expansive tools for interacting with assets including version control, asset transformation, format conversions, etc.
 - Highly controllable internal and external sharing tools.
 - Streamlined asset upload function.
- Robust security measures.
 - Integration with Mercy Corps' Okta SSO system.
 - Strong working knowledge of data protection and privacy concerns, including GDPR.
- Technical support.
 - Comprehensive knowledge base.
 - Detailed and collaborative implementation and onboarding processes.
 - Phone and email support availability (Pacific time zone).

4. RESPONDENT REQUIREMENTS

Respondents must address all the services and requirements described in this RFP.

Respondents must have the capability and capacity to meet the immediate needs of Mercy Corps as described in the RFP within the scheduled time frame, & also have the ability to address changes in scope or requirements if requested by Mercy Corps.

4.1 RFP Requirements

The following is a list of information **required** to be included with your proposal response. Offerors must submit their own independent proposal. The following information must be included in the offer of any potential offeror:

- 1) **Documents required to support Eligibility Criteria** (Section 7.2) and Tender Submittals (Section 7.3)
 - a) Proof of legal business registration / Certificate of Incorporation
 - b) Proof of good standing with its government tax authority as per the tax law in the country where incorporated / Document indicating the firm is complying with tax requirements in the country where incorporated.
 - c) Completed and signed Mercy Corps Supplier Information Form (template provided in Section 9, Addendum 1)
 - d) Completed and signed Mercy Corps Supplier Self-Certification of Eligibility Form (template provided in Section 9, Addendum 2)
 - e) A price offer using the Price Offer Sheet (template provided in Section 9, Addendum 3)
 - f) Other important documents need to be attached to support their proposal.

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.

5. CONTACT INFORMATION & TIMELINE

5.1 RFP Details

TENDER DETAILS	
Tender Name Marketing Digital Asset Management System	Tender Number HQ484
Location Portland, OR; or remote	Correspondence Language English

5.2 RFP Timeline

ACTION	TIME CONSIDERATIONS	DATE RANGE
RFP DISTRIBUTION	N/A	Tue, Oct 31
QUESTIONS DUE	1.5 weeks from RFP Distribution	Thu, Nov 9
ANSWERS SUPPLIED	One day	Fri, Nov 10

PROPOSALS DUE	Three weeks after the RFP is published	Fri, Nov 17
INTERVIEWS	One week	Mon, Dec 4 – Fri, Dec 8
SELECTION	Within one month of interviews, due to holiday season	mid-January
CONTRACTING	N/A	January-February
LAUNCH PROJECT	N/A	March
INITIAL IMPLEMENTATION	N/A	July 1, 2024

5.3 Questions

Questions about Mercy Corps' needs and the scope of work will be answered via a document distributed to all applicants on Nov 10. Written questions should be submitted to Procurement Manager, Gabriel Suarez, gsuarez@mercycorps.org by **Nov 9 at 5pm PT**. Answers will be posted on the Mercy Corps website by **Nov 10**.

5.4 Submission Instructions

Please submit your proposal in the format instructed in this document as an email to the following contact:

- gptenders@mercycorps.org
- Use the Code HQ484 at the start of the subject line
- En date of submission is 17 November by 17:00 hrs PST

We sincerely appreciate your interest and look forward to receiving your proposal.

6. CRITERIA & SUBMITTALS

6.1 Contract Terms

Mercy Corps intends to issue a Fixed Price contract to one company or organization. The successful offeror(s) shall be required to adhere to the statement of work and terms and conditions of the resulting contract. The anticipated contract is incorporated in Section 9 herein. By submitting an offer, offerors certify that they understand and agree to all the terms and clauses contained in Section 9.

6.2 Specific Eligibility Criteria

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

Eligibility Criteria:

- The offeror must be legally registered
- The offeror must be in good standing with its governing tax authority as per the tax law in the country where incorporated

6.3 Tender Submittals

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

Documents supporting the Eligibility Criteria (See Section 7.2):

- Legal Business Registration/ Certificate of Incorporation
- Document indicating the firm is complying with tax requirements in the country where incorporated.

Documents to conduct the Technical Evaluation and additional Due Diligence:

- I. **A deck (of no more than 25 slides/pages)** outlining your DAMS platform and case studies or samples of other client work, preferably including nonprofit or INGO examples. Please provide an overview of both the administrator and end user experiences using the above deliverables list as a guide. Please also describe your proposed approach to the two key objectives noted in the Scope of Work and a description of a typical implementation timeline and process. Links to demonstration sites and/or video content are also encouraged.
- II. **Price / Financial Offer** which is used to determine which offer represents the best value and serves as a basis of negotiation before award of a contract. As a Fixed-Price contract, the price of the contract to be awarded will be an all-inclusive fixed price basis, either in the form of a total fixed price or a per-unit/deliverable fixed price. No profit, fees, taxes, or additional costs can be added after contract signing. Offerors must show unit prices, quantities, and total price, as displayed in the Offer Sheet in Section 9, Addendum 3. All items must be clearly labeled and included in the total offered price.
- III. **Standard contract template** to assist in a future contracting process.

6.4 Currency

Offers should be submitted in: USD

Payments will be made in: USD

6.5 Tender Evaluation

Based on the above submittals, a Mercy Corps Tender Committee will conduct a tender evaluation process. Mercy Corps reserves the right to accept or reject any or all proposals, and to accept the offer(s) deemed to

be in the best interest of Mercy Corps. Mercy Corps will not be responsible for or pay for any expenses or losses which may be incurred by any Offeror in the preparation of their tender.

Evaluations will be conducted as described in the following subsections:

6.6 Scoring Evaluation: Trade-Off Method

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

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

Offeror(s) with the best score will be accepted as the winning offeror(s), assuming the price is deemed fair and reasonable and subject to the additional due diligence in Section 7.7.

When performing the Scoring Evaluation, the Mercy Corps Tender Committee will assign points for each criterion based on the following scale:

POINTS	RATIONALE
0	Not acceptable; has not met any part of the specified criteria
1 - 4	Has met only some minimum requirements and may not be acceptable
5	Acceptable
6 - 9	Acceptable; has met all requirements and exceeds some
10	Acceptable; has exceeded all requirements

CRITERIA	DESCRIPTION	WEIGHT (%)	POSSIBLE POINTS (0 – 10)
Technical Criteria	Does the bidder possess the necessary capabilities, qualifications and experience to execute on the above listed Objectives and Deliverables?	50	0 – 10
Implementation and Timeline	Includes the bidder's maximum delivery or completion time, bidder's	25	0– 10

	performance on similar projects, bidder's available resources for the project and the bidder's plan for management and control of the project.		
Relevant Client Experience	Case studies or samples of work with other clients in the nonprofit sector, ideally international NGO.	15	0 – 10
Costing	Pricing model.	10	0 – 10
TOTAL		100%	50

6.7 Additional Due Diligence

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

- Interview with key contacts and potential team
- Reference Checks
- Google search
- Ineligibility and Compliance checking (ICC)

All proposals become the property of Mercy Corps upon submission. All costs associated with submission of a proposal, including attending interviews, are entirely the responsibility of the respondent and shall not be chargeable to Mercy Corps. Mercy Corps accepts no responsibility for lost or late delivery of proposals. This request does not obligate Mercy Corps to contract for services and shall not be construed as authorization to proceed with services or be reimbursed for any costs.

7. GENERAL CONDITIONS FOR TENDER

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

7.1 Mercy Corps' Anti-Bribery and Anti-Corruption Statement

Mercy Corps strictly prohibits:

- *Any form of bribe or kickback in relation to its activities*
 - This prohibition includes any *request* from any Mercy Corps employee, consultant or agent for anything of value from any company or individual in exchange for the employee, consultant or agents taking or not taking any action related to the award of a contract or the contract once awarded. It also applies to any *offer* from any company or individual to provide

- anything of value to any Mercy Corps employee, consultant or agent in exchange for that person taking or not taking any action related to the award of the contract or the contract.
- *Conflicts of interests in the awarding or management of contracts*
 - If a company is owned by, whether directly or indirectly, in whole or in part, any Mercy Corps employee or any person who is related to a Mercy Corps employee, the company must ensure that it and the employee disclose the relationship as part of or prior to submitting the offer.
- *The sharing or obtaining of confidential information*
 - Mercy Corps prohibits its employees from sharing, and any offerors from obtaining, confidential information related to this solicitation, including information regarding Mercy Corps' price estimates, competing offerors or competing offers, etc. Any information provided to one offeror must be provided to all other offerors.
- *Collusion between/among offerors*
 - Mercy Corps requires fair and open competition for this solicitation. No two (or more) companies submitting proposals can be owned or controlled by the same individual(s). Companies submitting offers cannot share prices or other offer information or take any other action intended to pre-determine which company will win the solicitation and what price will be paid.

Violations of these prohibitions, along with all evidence of such violations, should be reported to:
integrityhotline@mercycorps.org

- Mercy Corps will investigate allegations fully and will take appropriate action. Any company, or individual that participates in any of the above prohibited conduct, will have its actions reported to the appropriate authorities, will be investigated fully, will have its offer rejected and/or contract terminated, and will not be eligible for future contracts with Mercy Corps. Employees participating in such conduct will have his/her employment terminated.
- Violations will also be reported to Mercy Corps' donors, who may also choose to investigate and debar or suspend companies and their owners from receiving any contract that is funded in part by the donor, whether the contract is with Mercy Corps or any other entity.

7.2 Tender Basis

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

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

7.3 Supplier Eligibility

- Suppliers may not apply, and will be rejected as ineligible, if they:
- Are not registered companies
- Are bankrupt or in the process of going bankrupt
- Have been convicted of illegal/corrupt activities, and/or unprofessional conduct
- Have been guilty of grave professional misconduct
- Have not fulfilled obligations related to payment of social security and taxes
- Are guilty of serious misinterpretation in supplying information
- Are in violation of the policies outlined in Mercy Corps Anti Bribery or Anti-Corruption Statement
- Supplier (or supplier's principals) are on any list of sanctioned parties issued by; or are presently excluded or disqualified from participation in this transaction by: the United States Government or United Nations by the United States Government, the United Kingdom, the European Union, the United Nations, other national governments, or public international organizations.
- Additional eligibility criteria, if applicable, are stated in Section 5.2 and 7.2 of this tender package.

7.4 Response Documents

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

7.5 Mercy Acceptance of Successful Response

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

7.6 Mercy Certification Regarding Terrorism

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

8. ADDENDUMS

Addendum 1: Supplier Information Form

Complete and return **Supplier Information Form** and with proposal / tender package:

SUPPLIER INFORMATION FORM	
The information provided will be used to evaluate the Company before contracting with Mercy Corps. Please complete all fields.	
Company Name	
Any other names company is operating under (Acronyms, abbreviations, aliases, etc.)	
Previous names of the company	
Address	
Website	
Phone/Fax Numbers	
Primary Contact	
# of Staff	
# of Locations	

Avg. Value of Stock on Hand (USD)	
Government - owned (yes/no)	
Name(s) of Board of Directors	
Name(s) of Company Owner(s)	
Parent companies, if any	
Subsidiary or affiliate companies, if any	

FINANCIAL INFORMATION	
Company Name	
Any other names company is operating under <i>(Acronyms, abbreviations, aliases, etc.)</i>	
Previous names of the company	
Address	

PRODUCT / SERVICE INFORMATION	
List Range of Products / Services Offered	
Basis For Pricing <i>(Catalog, List, etc.)</i>	

REFERENCES
<i>(Please include contact name, phone, & email address)</i>

Client Name	
Client Name	
Client Name	

Addendum 2: Supplier Self-Certification of Eligibility Form

Complete and return the **Self-Certification of Eligibility** form with proposal / tender package:

Self-Certification of Eligibility

We (insert company name) certify that:

- It, its affiliates and subsidiaries, owners, officers, directors and key employees (to the best of its knowledge) are not the subject of any government's sanctions, designations, donor rules or prohibitions, or laws prohibiting transactions with it/them. It is not the subject of any donor government investigation into its misconduct with any other recipient of that donors funding.
- It, its affiliates and subsidiaries, owners, officers, directors and key employees have not and do not engage in any form of terrorism or attacks on civilians and do not provide any form of material support or financial resources for individuals or organizations that do engage in any form of terrorism or deliberate attacks on civilians.
- It, its affiliates and subsidiaries, owners, officers, directors and key employees have not and do not engage in weapons or drugs manufacture, transport, sale or distribution.
- It is not in default on any material credit agreement, bankrupt or being wound up, are having its affairs administered by the courts, have entered into arrangements with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations.
- It has not been determined to be in breach of a material contract by any legal body anytime within the past 2 years.
- It pays taxes as and when due and is not currently the subject of any investigation or proceeding related to back-owed taxes.
- It provides workers compensation insurance to its workers in accordance with the laws of the countries where it operates.
- It pays social security obligations as required in the countries where it operates.
- Its owners, officers and directors have not been convicted of an offense concerning its professional conduct and have not engaged in grave professional misconduct.
- Its affiliates and subsidiaries, owners, officers, directors and key employees have not been the subject of criminal investigation or judgment for fraud, corruption, human trafficking, spying, weapons transport or smuggling, sexual exploitation or abuse, involvement in a criminal organization or any other criminal activity.
- It treats its employees with dignity and respect and maintains social operating standards, including:: working conditions and social rights: avoidance of child labor, bondage, forced labor, human trafficking or exploitation; assurance of safe and reasonable working conditions; freedom of association; freedom from exploitation, abuse, and discrimination; protection of basic social rights of its employees and Mercy Corps beneficiaries.
- To the best of its knowledge, no Mercy Corps employee, officer, consultant or other party related to Mercy Corps has a financial interest in the Company's business activities, nor is any Mercy Corps employee related to any owner, officer, director or employee of the company, and, if so, it will ensure that the relationship is disclosed to Mercy Corps and will not used for improper influence. Discovery of an undisclosed Conflict of Interest will result in immediate revocation of the Company's

Authorized Supplier status and disqualification of Company from participation in future Mercy Corps procurement.

- It understands that attempting to or agreeing to provide anything of value to any Mercy Corps employee, agent or representative for the purpose of encouraging that person to award Company a contract or take or not take any action related to any contract will result in immediate termination of any agreement. Company certifies that it does not engage in such conduct..
- It understands that Mercy Corps seeks fair and open competition and the fairest price available and that any attempt by company to subvert fair and open competition, including working with other bidders to fix prices, working to exclude competition, seeking confidential information from Mercy Corps or other bidders, using multiple related or controlled companies to give the appearance of competition, or any similar activity, will result in termination of any agreement. Company certifies that it does not engage in such conduct.
- It understands that Mercy Corps prohibits any of its partners or suppliers from bribing public officials and certifies that it does not do so.
- It is not conducting business under other names or aliases that have not been declared to Mercy Corps.

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

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

Company Name:

Name of Representative:

Title:

Signature:

Date:

Addendum 3: Price Offer Sheet

Complete and return **Statement of Services – Fixed Price Form** with submission of proposal / tender package:

STATEMENT OF SERVICES - FIXED PRICE FORM

PRICING

This is a firm and fixed price Contract. This table can be amended by the firm responding to this RFP to include cost components not identified on this list in order to align with their proposal.

Deliverable #	Deliverable Description	Deliverable Price	Total Contract Price
Annual service	Total fee per annum		
Implementation (if necessary)	Cost of implementation and onboarding, if additional on top of annual service		
Other fees (if necessary)			

Addendum 4: Sample Service Contract

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

SERVICE CONTRACT

Contract No. _____

THIS SERVICE CONTRACT entered into as of _____ by and between MERCY CORPS, 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).
- 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](https://www.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.

l. 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 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. be either Party upon written notice if a force majeure event, including any not reasonably foreseeable war, insurrection, change in law or government action or inaction, strike, natural disaster or similar event, prevents the terminating Party from being able to fulfill its obligations under this Contract; or
- f. by Mercy Corps immediately upon written notice if Mercy Corps using its sole discretion determines that Contractor has or will breach any of its warranties, covenants or representations in this Contract, in which case Mercy Corps may withhold any and all amounts owed to Contractor until such breach is remedied.

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

[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]*.

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: _____

SCHEDULE I: ADDITIONAL TERMS

Statement of Services – Fixed Price

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:

Deliverable #	Deliverable Description	Deliverable Due Date

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:

Deliverable #	Deliverable Description	Deliverable Price	Total Contract Price

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:

<p>Mercy Corps: Only the following Mercy Corps employees are authorized to agree to any amendment of this Contract:</p>	<p>Contractor: Contractor's authorized representative for all purposes is:</p>
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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.]*