

## 1. Invitation to Tender.

<b>Tender Name:</b> Rehabilitation for 10 water hand pump sources in three localities	<b>Tender No:</b> GRD-1015
Location: <a href="#">Gedarf, Sudan.</a>	Correspondence Language(s): <b>English/Arabic</b>
Brief Summary Description of Project: Rehabilitation for 10 water hand pump sources in three localities	

<b>Tender Package Available from:</b> <b>22-March-2023 at 8:00AM</b>	<b>Tender Package Pickup Location:</b> <b>Mercy Corps Khartoum office- Riyadh Area Makah St. or online Mercy Corps Gedaref Office- Almedan area/ Alsowra St. at <a href="http://www.sudanbid.com">www.sudanbid.com</a></b>
<b>Deadline for Offer Submission:</b> <b>28-March-2023:30 PM</b>	<b>Submit Offers to:</b> <b>Mercy Corps Khartoum office- Riyadh Area Makah St, or Mercy Corps Gedaref Office- Almedan area/ Alsowra St. through email to <a href="mailto:sd-tenders@mercy Corps.org">sd-tenders@mercy Corps.org</a>.</b>

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

<b>Questions and Answers (Q&amp;A)</b>	
If any, Submit Questions in writing to: <a href="mailto:sd-tenders@mercy Corps.org">sd-tenders@mercy Corps.org</a>	
Last Day for Questions: <b>23-March-2023 3:30PM</b>	Questions will be answered by: <b>26-March-2023 3:30PM</b>
Questions will be answered through: <a href="mailto:sd-tenders@mercy Corps.org">sd-tenders@mercy Corps.org</a>	

<b>Documentation Checklist</b>		
These documents are contained within this tender package:	<ul style="list-style-type: none"> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> <li>✓</li> </ul>	<ul style="list-style-type: none"> <li>Invitation to Tender</li> <li>General Conditions for Tender</li> <li>Criteria and Submittals</li> <li>Price Offer Sheet</li> <li>Supplier Information Form</li> <li>Scope of Work/Technical Specifications/BoQ</li> <li>Sample Contract</li> </ul>

## 2. General Conditions for Tender

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

### 2.1 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 bids 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.
- *Any form of exploitation, abuse, human trafficking or internal sexual misconduct*  
Mercy Corps requires its partners to adhere to its Safeguarding policies including the its policies on Child Safeguarding, Prevention of Sexual Exploitation and Abuse of Beneficiaries and Community Members, Anti-Trafficking and Sexual Misconduct (available at <https://www.mercycorps.org/who-we-are/ethics-policies>). Companies will be expected to ensure that they have the capacity to abide by these policies, that their employees and subcontractors understand these policies, and that they communicate to its employees and subcontractors the duty to report any violation or suspected violation. Mercy Corps will not engage with a company that is found to be in violation of these policies.

Violations of these prohibitions, along with all evidence of such violations, should be reported to:

<http://mercycorps.org/integrityhotline>

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.

## **2.2 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 bids. Furthermore, Mercy Corps reserves the right to reject any and all offers, if such action is considered to be in the best interest of Mercy Corps.

## **2.3 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 3.2 of this tender package.

#### **2.4 Response Documents**

Offerors must submit an offer in their own format and ensure it contains all the required documents and information specified in this tender. Where an itemized Price Offer Sheet is included in the tender package, the offeror must complete and submit it with the rest of their offer.

#### **2.5 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.

#### **2.6 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.

### 3. Criteria & Submittals

#### 3.1 Contract Terms

Mercy Corps intends to issue a Fixed Price contract to one or several company(ies) or organization(s). 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 6](#) herein. By submitting an offer, offerors certify that they understand and agree to all of the terms and clauses contained in [Section 6](#).

#### 3.2 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
- The offeror has a bank account in the Business name

#### 3.3 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:

- Legal Business Registration
- Latest Tax Registration Certificate
- Bills of Quantity
- Work plan
- Company’s profile
- Engineer’s CV at least 3

##### Documents to conduct the Technical Evaluation and additional Due Diligence:

- Company Profile, 2-page max
- References from previous work projects (including contact information Minimum three)
- Key Personnel CVs, 3-page max per personnel
- List of personnel that are going to work on the project including their CVs at least 2 CVs.
- Work plan and delivery time.
- Recommendation/reference letters from current/past customers
- Price offer with payment terms and conditions.
- Detailed Product Specifications/ISO Certificates,

- Detailed after sales technical support and period of coverage
- Detailed warranty period for each photoelement and equipment added to project as well as services which are not considered as items

### Price Offer:

The Price offer is used to determine which offer represents the best value and serves as a basis of negotiation before award of a contract. 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 4. All items must be clearly labeled and included in the total offered price.

Offerors must include VAT and customs duties in their offer

### 3.4 Currency

Offers should be submitted in: SDG/USD \_\_\_\_\_

Payments will be made in: SDG/USD \_\_\_\_\_

### 3.5 Tender Evaluation (LPTA Selection Method)

Based on the above submittals, a Mercy Corps Tender Committee will conduct a tender evaluation process. Mercy Corps reserves the right to accept or reject any or all bids, and to accept the offer(s) deemed to be in the best interest of Mercy Corps. MC 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:

#### 3.5.1 Technical Evaluation

##### *Lowest Price, Technically Acceptable (LPTA)*

Mercy Corps Tender Committee will conduct a technical evaluation which will grade technical criteria on a pass/fail basis. Supplier's bids **must meet the minimum technical standard** established here in order to receive a passing mark. Any offerors who receive a failing mark on any criteria will be automatically disqualified from the tender process.

Only offerors who pass all criteria will move on to the next round of evaluation.

Pass/fail technical criteria are as follows:

Technical Criteria	Pass or Fail?
The Business/Company should have been in operation for a Minimum of 1 year.	
Work Plan and Delivery Time	
Completed Bill of Quantity with Correct Calculations	
Previous Experience in wash	
Company Profile two Pages Max.	
List of staff that are going to work on the Project Including their CVs.	
At least 3 Recommendation Letters and Reference list from previous Contracts (including contact information)	

### 3.5.2 Financial Evaluation and Price/Cost Analysis

All suppliers who passed all technical criteria will move on to the financial evaluation where the lowest price offer(s) 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 3.5.3](#).

### 3.5.3 Additional Due Diligence

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

- Reference Checks
- List of equipment to complete the work.

## 4. Offer Form

**Offerors must submit their own independent offer including at least (but not limited to):**

- All documents requested in the “Eligibility Criteria” section of this Tender Package
- All documents requested in the “Tender Submittals” section of this Tender Package
- All information listed in the “Documents Comprising the Bid” section below



**All offers must be duly signed (including position and full name of the signer) and stamped, with the date of completion.**

### ***Documents Comprising the Bid***

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

- Cover Letter** explaining interest to be a contracted vendor or supplier. The content of the cover letter shall include the following information:
  - A detailed specification of the offered goods, services and/or works
  - Warranty (if necessary and appropriate)
  - Delivery time
  - Price validity date (for this purpose and as stated on the advertisement, quote given shall remain unchanged for 180 working days)
- A Price Offer detailing the unit price only using the **Price Offer Sheet** template provided in section 7
- Completed and signed Mercy Corps **Supplier Information Form** (template provided in section 7)
- Other important documents offeror feels need to be attached to support their bid

The original bid shall be signed by the offeror or a person or persons duly authorized to bind the offeror to the contract. Financial offer pages of the bid shall be initialed by the person or persons signing the bid and stamped with the company seal.

Any interlineations, erasures, or overwriting shall be valid only if they are initialed by the person or persons signing the bid.



## 5. Scope of Work/Technical Specifications

### Scope of Work for Rehabilitation of 10 hand pumps in Gedaref State

#### **Mercy corps- BHA (Bridge) program**

This scope of work was prepared to interdict to the type of activities that the contractor will take for the rehabilitation of a total of hand pumps in Basunda, Galabat and Al qurisha localities in Gedaref State. The contractor should follow this scope of work to complete the hand pumps rehabilitation projects.

1. The total of 10 hand pumps has different needs, based on the attached BOQs of each boreholes and the contractor(s) may need to add additional spares part or fittings didn't mention in the BOQs based on repair & maintenance of the hand pump required.
2. The contractor(s) should consider the labour cost and VAT% in his prices, for removing all the part of the old hand pump and install the new one based on BOQs of each hand pump.
3. Site visit is mandatory for all the contractors who would wish to participate. This is to enable them physically to assess the hand pumps and get a better understanding of the kind of work that needs to be done.
4. Upon completion of the mandatory site visit, the contractor(s) will be required to write BOQs for all the materials and works required and submit to Mercy corps. The BOQs will be the basis of selection of a contractor for the rehabilitation project.
5. The contractor(s) will be required to personally manage the rehabilitation works. The contractor cannot leave the work to a Sub Contractor.
6. The contractor(s) will work with the supervision of Mercy corps –BHA engineer and has to involve the local WASH committees and pump mechanics from the start of the rehabilitation of each pump in order for the community to participate, feel ownership and take responsibility for the future repair and maintenance.
7. The contractor(s) has to show all the materials /parts he/she is changing and rehabilitating on all the hand pumps to all WASH committees and pump mechanics for their future knowledge in purchasing the required spares and tools. Mercy corps' Engineer is responsible to supervise the activities and make sure old and non-functional parts are not returned to the boreholes.
8. The contractor(s) has to provide the changed spare parts and tools to the community and take the picture of these spares and or videos of the changed spares parts and tools to Mercy corps as a proof of completion and satisfaction.

9. If the rehabilitation involves to a civil work, construction then, the contractor must make sure that all drainage and apron concrete works have to be under (MCE and WES Design Standard)
10. Together with the Mercy corps' Engineer, show the final completion of rehabilitation work to the community (WASH committees and pump mechanics) then get the community leader signature and stamp on the Mercy corps handover format from the community leader/s.
11. The contractor(s) has to provide the final completion report backed up with photos and or videos as well as handover document to the MCE and WASH committee as mentioned in the above item number 6 as a proof of work completion and satisfaction before the final payment is made.
12. Encourage the community and WASH committees to participate in fencing the hand pumps while rehabilitating the hand pumps. This is not an obligation for the contractor but willingness to push the community to do so for their own benefit.

## 1. Concrete work:

- a. Construct new reinforce Concrete slab with 2m diameter and 0.20m thickness, mix 1:3:6
- b. Construct new drainage line within 5 to 10 m length width 0.15 m, 0.15 m high away from water pump area.
- c. This work includes labor and materials (cement, sand, gravel, water) plus any necessary tools.

## 2. Pump:

- a. Install pipes 1 ¼" of 3 m length galvanize,
- b. Install of connection rod 3/8",
- c. Hex Bolt +Nut +Washer +Chain,
- d. Repair the head pump,
- e. New Cylinder Assembly (complete),
- f. New water tank with spout
- g. Inspection cover
- h. Pump handle assembly



- i. Sealing Rings
- j. Bearing, axle bolts and nut
- k. Pedestal

Works should be done as per standard technical specifications, approved by MC engineers.

**NB:** Mercy corps reserves the right to award some or the entire rehabilitation works.

**The contractor will be required to clean all the areas after completing the project from any construction materials or any other waste materials.**

## **6. Sample Contract**

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

### **Sample Contract**

#### **INTERMEDIATE WORKS CONTRACT**

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

THIS WORKS 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” or “MC”), and \_\_\_\_\_ (“Contractor”) is as follows

**1. 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 Contract by this reference. The following additional defined terms are included in Schedule I: Authorized Representative, Owner,

*Tender (GRD-1015) Intermediate Work Contract No: [GRD-133]*



Payment Terms and Subcontractor Percentage Limit. “**Contract**” means this Works Contract as amended, modified or supplemented from time to time together with its Schedules and appendixes (if any). “**Statement of Work**” means the Statement of Work attached as Schedule II. “**Work**” or “**Works**” means all the goods and services described in the Statement of Work. Other terms may be defined throughout this Contract as specified.

**2. The Work.** Contractor, together with its Subcontractors (if any), will fully execute and complete the Work in accordance with the terms and conditions set forth in this Contract. The Contractor will perform and complete the Work strictly in accordance with this Contract. Contractor warrants that all Work will be completed in strict adherence to the approved design and engineering plans, any relevant government issued permits and authorizations, and any Mercy Corps approved Bills of Quantity as applicable per the Statement of Work collectively the “**Specifications**”). Each Statement of Work will list out the documents that will be used as the Specifications. No deviation, substitution or change is permitted without Mercy Corps’ prior written consent following the Change Order processes required in this Contract.

### **3. Subcontractors.**

- a. Contractor is only allowed to subcontract components of the work if Schedule I indicates that subcontracting is allowed. “**Subcontractor**” means a person or entity that has a direct contract with Contractor (or with another Subcontractor) to perform a portion of the Work or to supply materials or equipment for the Work. “**Subcontract**” means an agreement between Contractor and a subcontractor. ‘**Contractor cannot leave any part of this job to any sub-contractor.**’
- b. Even when allowed, Contractor must notify in writing MC’s Authorized Representative in advance of any subcontractor it intends to hire. MC’s authorized representative may reject any subcontractor if MC has reasonable grounds to believe that the subcontractor is not qualified to perform the work, is charging more than the market rate or would violate any of the warranties and representations in this Contract. In no event will Contractor be reimbursed or paid by Mercy Corps for any amounts paid or owed to subcontractors that exceeds the Subcontracting Percentage Limit in Schedule I.
- c. Contractor will be solely responsible, and Mercy Corps will not have responsibility, for all aspects of safety related to the Work. Contractor will take all necessary precautions for the safety of, and will provide protection to prevent damage, injury or loss to, persons or property whether it be their own, Mercy Corps’ or community.
- d. Contracts with Subcontractors will require each Subcontractor to be bound by the terms of this Contract to the extent of the Work to be performed by such Subcontractor and to assume toward Contractor all the obligations and responsibilities that Contractor, by this Contract, assumes toward Mercy Corps. **No Sub-contractor for this project**

### **4. Risk of Loss to Contractor and Subcontractor Property.**



Contractor will bear the risk of any loss, damage, or destruction of its own property, whether rented or owned. Contractor agrees to hold Mercy Corps harmless from any such loss or destruction to Contractor or its subcontractor's loss or destruction of property.

#### **5. Insurance and Bonding.**

Contractor will comply with the insurance and bonding requirements, if any, set forth on Schedule I attached hereto.

#### **6. Liens.**

Contractor will promptly pay (and secure the discharge of any liens asserted by) all persons furnishing labor, equipment, materials, or other items in connection with the performance of the Work for which Mercy Corps has paid (including, but not limited to, workers and Subcontractors). Contractor will furnish to Mercy Corps such releases of liens and claims and other documents as Mercy Corps may request from time to time to evidence such payment (and discharge). Nothing in this Contract will create any obligation on the part of Mercy Corps to pay or to see to the payment of any moneys due any Subcontractor.

#### **7. Change Orders.**

Mercy Corps may unilaterally, for any reason it chooses, or upon request of the Contractor and agreement from Mercy Corps suspend or decrease the scope of Contractor's performance under this Contract by written notice to Contractor, or, with Contractor's agreement, increase the scope of Contractor's performance under this Contract (each, a "**Change Order**"). Unless mutually agreed, a Change Order does not apply to change Work timely completed before the date of the Change Order. 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 Statement of Work or Payment Terms or both, if such adjustment is set forth in a Change Order signed by Mercy Corps' Authorized Representative. If the State of Work uses unit pricing, a Change Order may not alter the unit prices identified in the Statement of Work.

#### **8. Inspection Rights and Final Acceptance.**

- a. Mercy Corps and Owner (if applicable) will have access to the site of the Work and the right to inspect the Work at all times. If at any time an inspection by Mercy Corps or owner determines that Contractor or its subcontractors are in breach of any provision in this Contractor including any failure to adhere to the Specifications, Mercy Corps will use its best efforts to timely report such breach to contractor. No inspection by Mercy Corps will relieve Contractor from its obligation to complete the Work in strict adherence with this Contract and its Specifications or waive any right or remedy that Mercy Corps has against Contractor as a result of the breach.
- b. Mercy Corps will use its best efforts conduct a final inspection of the work with Contractor.



## **9. 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 Payment Terms in Schedule I. Each invoice will include (i) the Contract Number; (ii) Contractor's name and address; (iii) a description of the Work performed, (iv) the information required by the Payment Terms and Statement of Work to be included in each invoice, and (v) 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 the Work that is the subject of an invoice has not been performed in accordance with the Statement of Work, Mercy Corps may dispute the invoice by sending Contractor notice of the disputed amount and the reasons for the dispute within 10 working days after Mercy Corps' receipt of the invoice.
- b. Except as otherwise provided in the Payment Terms and Statement of Work, 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 disputed by Mercy Corps.

**10. Taxes, Duties and Expenses.** Except as otherwise provided in the Statement of Work, Contractor is responsible for all expenses incurred by it in performing under this Contract and all taxes, duties, permit fees and other governmental charges with respect to performance and completion of the Work. 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.

**11. Representations, Warranties and Additional Covenants.** Contractor represents and warrants to Mercy Corps and covenants with Mercy Corps as follow and agrees that Owner is a third-party beneficiary of these representations, warranties and covenants:

- 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 Work.
- c. Contractor possesses all governmental and other certifications and licenses necessary to perform the Work.
- d. Contractor will, and will cause each Subcontractor to, comply with all applicable law, regulations and rules in the execution and performance of the Work.



- e. (i) Contractor has visited the project site where the Work is to be performed and become familiar with the local conditions (including existing structures) under which the Work is to be performed, (ii) the Payment Terms are reasonable compensation for the Work, (iii) the time set forth in the Statement of Work for performing the Work is adequate and reasonable, (iv) Contractor has satisfied itself as to the nature, location, character, quality and quantity of the Work and the labor, materials, equipment, goods, supplies, work, services, and other items to be furnished; and (v) contractor understands the Specifications and will comply with their requirements.
- f. All materials and equipment furnished under this Contract will be of good quality and new, the Work will be performed in a skilled, high quality, and workmanlike manner, the Work will be free from defects not inherent in the quality required or permitted, and the Work will be performed and completed strictly in accordance with the requirements of this Contract.
- g. Contractor will keep the project site and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Contract, and will remove such items from the project site upon completion of the Work.
- h. Contractor has not, and will not, engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism, including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or the United Nations Security designation list ([http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml)).
- i. 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.
- j. Contractor 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.
- k. Contractor and its subcontractors are 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.

- l. Contractor has not engaged in, and will not engage in, any of the following conduct: (i) trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime); (ii) procuring a commercial sex act; or (iii) using forced labor.
- m. 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.
- n. Contractor [or supplier] 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 ([www.mercycorps.org/integrityhotline](http://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.

**12. 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 Work. Neither party will be deemed an agent or partner of the other party.

**13. Confidentiality.** Contractor will maintain, and cause each of its Subcontractors, employees and others it involves in performing its obligations under this Contract to maintain, the confidentiality of: (i) any information Mercy Corps provides to Contractor that Mercy Corps identifies as confidential; (ii) the terms and conditions of this Contract; and (iii) nonpublic information regarding Mercy Corps' policies and practices. Upon Mercy Corps' request, Contractor will return to Mercy Corps all confidential information provided by Mercy Corps to Contractor

**14. Indemnification.** Contractor will indemnify Mercy Corps and Owner and each of their 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 in the case of a claim by Owner against Mercy Corps, a claim brought by Owner), Subcontractor or Contractor arising out





of, contractor, its employees, contractors or agents negligent acts or omissions or willful misconduct or arising out of any failure by Contractor or any Subcontractor to fully perform its obligations under this Contract or any breach by Contractor or any Subcontractor 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.

**15. Termination and Remedies.** 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 the Additional Terms 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 the Additional Terms;
- 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 for Contractor's convenience, Mercy Corps will not be obligated to pay Contractor for any partially completed work. In the event of termination due to Contractor's breach, Mercy Corps will not be obligated to pay Contractor for any partially completed work. Mercy Corps may secure substitute performance and Contractor will be responsible for Mercy Corps costs in obtaining substitute performance and any additional costs necessary to ensure full and satisfactory completion of the Work. In addition, as time is of the essence and Mercy Corps' losses and the loss to its beneficiaries would be difficult to quantify, if Schedule I allows for Mercy Corps to charge liquidated damages, for each calendar day beyond the completion date in the Statement of Work that the Works remain uncompleted, Mercy Corps may charge liquidated damages in the amount specified in Schedule



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 Contract, Mercy Corps may, in addition to any other remedies for such breach available at law or in equity, terminate this Contract.

**16. 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.

**17. 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.

**18. Additional Donor Terms and Conditions.** The Donor Terms (if any) set forth on Schedule III attached hereto 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 this Contract or any other document between Contractor and Mercy Corps, the Donor Terms will prevail

**19. 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. This Contract will be binding upon and inure to the benefit of the successors and assigns of the parties; provided, however, that, except with respect to Subcontractors (to the extent permitted hereunder), Contractor will not assign any right or obligation under this Contract (including the right to receive monies due) without the prior written consent of Mercy Corps, and 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 agreements and understandings, oral or written, relating to the subject matter hereof.
- g. No failure on the part of Mercy Corps to exercise, and no delay in exercising, any right, power, privilege or remedy under this 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.
- i. In the event that the terms of this Works Contract and any Schedule, appendix or attachment (if any), the terms in the Works Contract shall prevail unless conflicting terms specifically state the section of the Works Contract that they are replacing and state an intent to override or amend the Works Contract and are signed by both parties.



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

MERCY CORPS	_____
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

# Tender Package — Request for Bid (RFB)

## SCHEDULE I

### Additional Terms

#### 1. Payment Terms:

(a) Pricing: This is a fixed price contract. Contractor will fully and completely perform the Work and Mercy Corps will have no obligation to pay any Contractor expenses, costs, fees, taxes or penalties no matter how incurred. Mercy Corps obligation is only to pay Contractor: (“**Contract Value**”).

(b) Invoicing and Payment Schedule: Contractor will submit an Invoice in accordance with pricing as specified in the Contract.

iii. Retention, Hold-Back and Final Invoice and Payment: Mercy Corps will hold back from each payment invoiced as retention to ensure full and final completion of the Work (“**Retention**”). Contractor will not invoice Mercy Corps for this amount until the Work has been fully completed and finally accepted by Mercy Corps. Mercy Corps will withhold this final payment for xxx days after final acceptance and receipt of the final invoice. If during this period Mercy Corps becomes aware of a breach of this Contract by Contractor, Mercy Corps will not be obligated to pay the Retention amount until such breach is corrected and after deducting any damages, including, if applicable, liquidated damages from the Retention amount.

2. **Is Subcontracting Allowed: No Subcontractor for this project**

3. **Subcontractor Percentage Limit:**

4.

#### 5. Authorized Representatives and Contact Information:

##### Mercy Corps:

a. Change Orders: Only the following Mercy Corps employees are authorized to agree to any Change Order or other amendment of this Contract:

\_\_\_\_\_

\_\_\_\_\_

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

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

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

b. Invoices; Accept/Reject Work: Only the following Mercy Corps employees are authorized to receive invoices, accept or reject Work:

\_\_\_\_\_

\_\_\_\_\_

# Tender Package — Request for Bid (RFB)

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

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

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

## 6. Contractor’s Required Insurance Policies and Limits:

a. Commercial General Liability Insurance: Contractor is required to maintain contractor’s liability insurance with a per occurrence policy limit of at

7. b. Workers Compensation Insurance: Contractor must maintain insurance sufficient to cover its workers for any on the job injuries and sufficient to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract. Contractor must also require that its subcontractors maintain adequate workers’ compensation insurance.

d. Additional Insurance Required by Mercy Corps Donor: If applicable, see the Donor Terms for any additional donor mandated insurance requirements.

## 8. Bonds:

Prior to beginning work or issuing its first invoice, Contractor must provide Mercy Corps with the following bonds:

a. Payment Bond: payment bond in an amount equal to One Hundred Percent (100%) of the total contract value (“Payment Bond”) shall either be in the form supplied by Owner or shall be in such other form as approved by Owner.

b. Performance Bond: A performance bond in an amount equal to One Hundred Percent (100%) of the total contract value.

c. Maintenance (or Warranty) Bond: A maintenance or warranty bond in an amount equal to 5% of the total contract value and which will remain in effect for a period of at least two years after final acceptance and payment by Mercy Corps.

Payment, Performance and Maintenance Bonds must reference this Contract, and must allow Mercy Corps to draw against them in an appropriate amount as determined by the Mercy Corps using its sole discretion, when any damages to Mercy Corps or Owner results from the Contractor’s services pursuant to this Contract, or



# Tender Package — Request for Bid (RFB)

Contractor’s malfeasance, misfeasance, or breach of this Contract. The purpose of these bonds is to secure the performance of and the compliance with this Contract by and between the Contractor and Mercy Corps; the bond shall not be transferable.

## 9. Liquidated Damages:

Are liquidated damages applicable to the Contract?

If yes, liquidated damages will be calculated as follows:

**10. Termination for Convenience Notice Period:** \_\_\_\_\_ (the “Termination Notice Period”).

**11. Donor Terms:** The Donor Terms set forth in Schedule III to the Contract are hereby incorporated in the Contract by reference.

# Tender Package — Request for Bid (RFB)

## SCHEDULE II

### Statement of Work

**Work and Statement of Work:** In accordance with the terms of the Contract, Contractor agrees to perform the following work in the following manner.

- a. Background:
- b. Scope of Work
- c. Deliverables: The Contractor shall deliver the following deliverables in accordance with the schedule set in Section below:
  - i. Deliverable 1:
  - ii. Deliverable 2:
- d. Specifications and Contract Documents: The Work will be completed in strict adherence to the specifications, including design specifications, engineering specifications, safety specifications, materials specifications and quantities, construction schedules and inspections schedules etc, in the following contract documents (“**Specifications**”):

The term “**Work**” means all services and goods, including delivery of all deliverables, described in this clause, which is the statement of work (the “**SOW**”).

**Performance Period:**

Start Date: \_\_\_\_\_

*Deliverable Date 1*

*Deliverable Date 2:*

Completion Date: \_\_\_\_\_

## 7. Attachments to the Tender Package

### Attachment 1 -Supplier Information Form

Company Name	
Any other names company is operating under (Acronyms, Abbreviations, Aliases)	



# Tender Package — Request for Bid (RFB)

Previous names of the company	
Address	
Website	
Phone/Fax Numbers	Phone: _____ Fax: _____
Primary Contact	Name: _____ Phone Number: _____ Email Address: _____
# of Staff	
# of Locations	
Avg. Value of Stock on Hand (USD)	
Government - owned (yes/no)	
Name(s) of Board of Directors	
Name(s) of Company Owner(s)	
Parent companies, if any	
Subsidiary or affiliate companies, if any	

# Tender Package — Request for Bid (RFB)

## Supplier Self-Certification of Eligibility

Company certifies that:

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



# Tender Package — Request for Bid (RFB)

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

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

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

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

Name of Representative: \_\_\_\_\_

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**I \_\_\_\_\_ an employee of Mercy Corps having completed and reviewed this form confirm the accuracy of information provided:**

Name \_\_\_\_\_

# Tender Package — Request for Bid (RFB)

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date\* \_\_\_\_\_

**-Attachment 2**

**-Price Offer Sheet /**

**Bills of Quantity Attached**