



International Labour Organization

REQUEST FOR PROPOSAL

***Assessment of Institutional Coordination
Mechanisms of Malawi's Social Protection
Sector and Development of Recommendations for
a Strengthened Institutional Coordination
Framework***

(Reference N°SP/LSK/2017-01)

Responses to be received by [16th January 2017]



[December/2016]



Subject: Procurement of Consultancy Services to undertake an assessment of institutional coordination mechanisms of Malawi's social protection sector and the development of recommendations for a strengthened institutional coordination framework

Request for Proposal (RFP) N°: SP/LSK/2017-01

Date: 19/12/2016

Dear Sir/Madam,

The International Labour Office (hereinafter the "ILO") is pleased to invite your company to submit a Proposal for an assessment of institutional coordination mechanisms of Malawi's social protection sector and the development of recommendations for a strengthened institutional coordination framework. Specifically, the assignment is to map Malawi's non-contributory social protection institutional coordination landscape, identify strengths, weaknesses, challenges, and opportunities, and elaborate options and develop recommendations towards the strengthening of institutional coordination of Malawi's social protection sector at national, district, and community level and as further described in Annex III.

To enable you to prepare and submit a Proposal, please find enclosed the following Annexes:

- Annex I: Instructions to Bidders;
- Annex II-A: Acknowledgment of Receipt;
- Annex II-B: Certificate of Eligibility to be submitted by a Bidder in an ILO Competitive Bidding Procedure;
- Annex II-C: Bidder's Information Form;
- Annex II-D: Recent References;
- Annex II-E: Technical Proposal;
- Annex II-F: Financial Offer;
- Annex III: Terms of Reference; and
- Annex IV: Terms and Conditions applicable to ILO Contracts for Services.

Your Proposal must be received by the ILO no later than **17.00 CAT on 16/01/2017**. Late bids shall be rejected.

You may submit a Proposal to the ILO provided that your organization is qualified, able and willing to deliver the goods, works and/or services specified in this RFP. Participation in this RFP indicates acceptance of the Terms and Conditions applicable to ILO Contracts for Services provided in Annex IV. Failure to comply with the requirements of this RFP and its Annexes may render a Proposal ineligible for consideration.

You are kindly requested to acknowledge receipt of this RFP and to indicate whether or not you intend to submit a Proposal by completing and returning the form provided in Annex II-A.

We look forward to receiving your Proposal.

Yours sincerely,



[Alexio Musindo]
Director
ILO Lusaka Country Office



INSTRUCTIONS TO BIDDERS

Reference: **RFP N° SP/LSK/2017-01**

Assessment of Institutional Coordination Mechanisms of Malawi's Social Protection Sector and Development of Recommendations for a Strengthened Institutional Coordination Framework

Abstract

This document outlines the requirements for presentation of a Request for Proposal to be considered by the International Labour Office.



INSTRUCTIONS TO BIDDERS

Table of Contents

1. INTRODUCTION	7
1.1 GENERAL.....	7
1.2 ELIGIBLE BIDDERS	7
1.3 COST OF BID.....	7
1.4 RFP SCHEDULE SUMMARY.....	7
1.5 [MANDATORY] SITE VISIT / BIDDERS' CONFERENCE [WHERE NOT APPLICABLE, DELETE THIS PARAGRAPH]	7
1.6 CLARIFICATION QUESTIONS	8
2 BIDDING CONDITIONS	8
2.1 ACKNOWLEDGMENT OF RECEIPT.....	8
2.2 NUMBER OF COPIES, FORMAT AND SIGNING OF PROPOSAL	8
2.3 SUBMISSION AND RECEIPT OF PROPOSALS	8
2.4 OFFICIAL LANGUAGE	9
2.5 CORRESPONDENCE	9
2.6 NO CONSULTATION	9
2.7 CONTRACT CONDITIONS.....	10
2.8 WORK ON ILO PREMISES	10
2.9 BID CURRENCY	10
2.10 INCOMPLETE PROPOSALS	10
2.11 CHANGES TO PROPOSALS	11
2.12 MATERIAL CHANGE(S) IN CIRCUMSTANCES	11
2.13 RFP DOCUMENT, SPECIFICATIONS, DRAWINGS	11
2.14 SUB-CONTRACTING	11
2.15 PROPOSAL VALIDITY	11
2.16 NOTIFICATION OF CONTRACT AWARD	11
2.17 PUBLICITY	11
3 CONTENT OF THE PROPOSAL	11
3.1 ENVELOPE A-TECHNICAL PROPOSAL (ANNEX II-B, C, D, AND E).....	12
3.1.1 Administrative Requirements	12
3.2 ENVELOPE B-FINANCIAL OFFER (ANNEX II-F).....	13
4 EVALUATION OF PROPOSALS AND CONTRACT AWARD	13
4.1 PRELIMINARY EVALUATION	13
4.2 EVALUATION PROCESS AND CRITERIA	14
4.3 AWARD OF THE CONTRACT	15

1. INTRODUCTION

1.1 General

These instructions are provided for general information for the preparation of the Proposal for procurement of an assessment of institutional coordination mechanisms of Malawi's social protection sector and the development of recommendations for a strengthened institutional coordination framework. Specifically, the assignment is to map Malawi's non-contributory social protection institutional coordination landscape, identify strengths, weaknesses, challenges, and opportunities, and elaborate options and develop recommendations towards the strengthening of institutional coordination of Malawi's social protection sector at national, district, and community level. The Bidder is expected to examine all corresponding instructions, forms, terms and specifications contained in the RFP documents. Failure to comply with these documents will be at the Bidder's risk and may affect the evaluation of the Bid concerned.

1.2 Eligible Bidders

Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates or an individual which have been engaged by the ILO to provide consulting services for the preparation of the design specifications, and other documents to be used for the procurement of goods, works or services to be purchased under this Request for Proposal.

1.3 Cost of Bid

The Bidder shall bear all costs associated with the preparation and submission of the Bid. The ILO will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

1.4 RFP Schedule Summary

- | | |
|--|-----------------------------|
| • RFP release date: | 19/12/2016 |
| • Site visit or bidders' conference (if applicable): | N/A |
| • Clarification questions, if any, related to this RFP must be submitted to Lusaka-Proposals@ilo.org by: | 09/01/2017, COB |
| • ILO response to clarification questions by: | 11/01/2017 |
| • Proposals Receipt Deadline: | 16/01/2017 17.00 CAT |
| • Estimated Contract Signature Date: | 06/02/2017 |
| • Estimated Contract Start Date: | 06/02/2017 |

1.5 Site Visit / Bidders' Conference N/A

1.6 Clarification Questions

A prospective Bidder requiring any clarification of the RFP documents may notify the ILO in writing. The ILO's response will be provided in writing to any request for clarification received by the deadline indicated in paragraph 1.4 above. Written copies of the response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Bidders that received the RFP documents.

2 BIDDING CONDITIONS

2.1 Acknowledgment of Receipt

A prospective Bidder is requested to return promptly the Acknowledgement of Receipt form, provided in Annex II-A, duly completed and signed, even if it is not intending to submit a Proposal.

2.2 Number of Copies, Format and Signing of Proposal

The Bidder shall submit one original and [2] copies of the Proposal, clearly marking each "Original Proposal" and "Copy of Proposal" as appropriate. In the event of any discrepancy between them, the original shall prevail. The Proposal shall be typed or written in indelible ink and shall be dated and signed by the Bidder i.e. by a person or persons duly authorized to bind the Bidder to the contract. The Proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Proposal.

2.3 Submission and Receipt of Proposals

It is the responsibility of Bidder to ensure that a Proposal is submitted to the ILO strictly in accordance with the stipulations in the solicitation documents.

Proposals **must be received on or before 16/01/2017 05:00 PM CAT**. Proposals and modifications to Proposals received after the proposal receipt deadline will be rejected. Proposals must include all the documents requested in these Instructions to Bidders and shall be submitted by:

- **Registered Mail** (official postal service) to:
International Labour Office
Country Office for Zambia, Malawi and Mozambique
Lubwa Road, Rhodes Park
P.O Box 32181
Lusaka
Tel: 211 252779
10101 Lusaka
Zambia

Or
- **Hand delivered** (including by courier services) directly to the above ILO address in return for a signed and dated receipt.

Proposals submitted by any other means will be rejected.



ANNEX I

Proposals must be submitted using the double envelope system, i.e., the outer parcel containing two separate, sealed envelopes, one bearing the words **"Envelope A - Technical Proposal"** and the other **"Envelope B - Financial offer"**.

Where there is any infringement of these instructions (e.g., envelopes are unsealed or references to prices are included in the Technical offer) the Proposal will be rejected.

The outer parcel should bear the following information:

- a) the address for submission of proposals indicated above;
- b) the reference to the RFP to which the Bidder is responding;
- c) the name and address of the Bidder to enable the Proposal to be returned unopened if it is declared to have been received "late".

The pages of each of the Technical and Financial Proposal must be numbered.

The inner package shall be sealed and shall bear the name of the Bidder and be marked as follows:

RFP N° SP/LSK/2017-01
Assessment of Institutional Coordination Mechanisms of Malawi's
Social Protection Sector and Development of Recommendations for
a Strengthened Institutional Coordination Framework
CONFIDENTIAL
DO NOT OPEN BEFORE
17/01/2017 08.00 CAT

In addition, the information below should appear on both sides of the inner envelope:

CONFIDENTIAL
To be opened by the Evaluation Panel ONLY

2.4 Official Language

The Proposal and all correspondence and documents related to the Proposal shall be written in the [English] language.

2.5 Correspondence

Any communication in connection with this RFP should be addressed in writing to the E-mail address mentioned in paragraph 1.4 above. All correspondence should quote the reference number of the RFP. Bidders are requested **not** to contact the ILO after the closing time, i.e. during the RFP assessment period.

2.6 No Consultation

A Bidder shall not:

- consult, communicate or agree with any other Bidder or competitor, with regard to price or any other matter related to the RFP for the purpose of restricting competition;

ANNEX I

- disclose its price, directly or indirectly, to any other Bidder or competitor, except in the case of provision of standard public price lists;
- make any attempt to induce any other person or organization to submit or not to submit a Proposal for the purpose of restricting competition.

If a Bidder is found to be in breach of any of these instructions, the ILO reserves the right to exclude the Bidder from the procedure and reject its proposal.

Nothing in this paragraph shall restrict the right of a Bidder to form a joint venture, a consortium, a partnership or an association for the purpose of submitting a joint Tender.

2.7 Contract Conditions

Bidders are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in these RFP documents.

By submitting a Proposal, the Bidder accepts in full and without restriction these instructions. It also accepts the Terms and Conditions of ILO Contracts for Services (Annex IV) being relied on for this bidding procedure and resulting contract, irrespective of the provisions of the Bidder's own conditions of sale, which it hereby waives.

The ILO reserves the right to decline to consider without further comment any Proposal which does not accept the Terms and Conditions of ILO Contracts for Services set out in Annex IV.

2.8 Work on ILO Premises

If the Bidder's personnel are required to work on ILO premises, they shall comply with the security and safety and health arrangements established by the ILO, including applicable provisions of local laws. Where applicable, the Bidder shall be responsible for obtaining valid entry visas and work permits for its employees or sub-contractors and contract commencement may be made subject to complying with these obligations. Failure to comply with such obligations may lead to suspension of payments under and cancellation of the contract.

2.9 Bid Currency

All prices shall be quoted in US \$. If the Bid is submitted in a currency other than the Bid Currency, to facilitate evaluation and comparison, the ILO will convert all such prices in US \$ at the official UN exchange rate applying on the last day for submission of Bids.

2.10 Incomplete Proposals

ILO may reject a Proposal that does not provide all the information requested which is necessary for assessment of the Proposal by the ILO.

2.11 Changes to Proposals

Changes or amendments to Proposals will only be accepted if they are received before the deadline for receipt of Proposals and shall be submitted in accordance with the instructions given above. The envelope shall be clearly marked as "Change(s) to Proposal".

2.12 Material Change(s) in Circumstances

The Bidder shall inform the ILO of any change(s) of circumstances arising during the RFP process including, but not limited to:

- a change affecting any declaration, accreditation, license or approval;
- major re-organizational changes, company re-structuring, a take-over, buy-out or similar event(s) affecting the operation and/or financing of the Bidder or its major sub-contractors;
- a change to any information on which the ILO may rely in assessing Proposals.

2.13 RFP Document, Specifications, Drawings

The RFP Documents and any specifications, plans, drawings, patterns, samples or information issued or furnished by the ILO, are issued solely for the purpose of enabling a Proposal to be completed and may not be used for any other purpose. The RFP documents and any additional information provided to Bidders shall remain the property of the ILO.

2.14 Sub-Contracting

If sub-contracting of work to be undertaken as a result of this RFP is permitted, the ILO reserves the right to approve any sub-contractor that was not included in the RFP Submission Form and request a copy of the sub-contracting agreement between the Bidder and its sub-contractor(s).

2.15 Proposal Validity

The validity of a Proposal shall be six (6) months commencing from the time and date of the closure of Proposals stated in paragraph 2.3 above. The ILO reserves the right to request an extension of the period of validity of Proposals, and to modify or exclude any of the terms of this RFP, at its sole discretion.

2.16 Notification of Contract Award

The ILO will evaluate the Proposals based on the Bidders' responses to the requirements set out in the RFP documents. Each Bidder will be informed of the decision reached concerning the award of the contract.

2.17 Publicity

During the RFP process, a Bidder is not permitted to create any publicity in connection with the RFP.

3 CONTENT OF THE PROPOSAL

Each Proposal shall comprise the following documents:

3.1 Envelope A-Technical Proposal (Annex II-B, C, D, and E)

Bidders are requested to submit in **Envelope A-Technical Proposal** the following Forms, Annexes II-B to E.

All information must be provided as requested and all Forms must be completed for a Proposal to constitute a valid offer, which is a prerequisite for subsequent evaluation.

3.1.1 Administrative Requirements

a) Certification to be submitted by a Bidder in an ILO Competitive Bidding Procedure (Annex II-B) (also to be completed by any Bidding partners and/or associates)

The ILO expects all participants in its procurement process to adhere to the very highest standards of moral and ethical conduct and transparency, to prevent any conflict of interest and not to engage in any form of coercive, collusive, corrupt, or fraudulent practices.

b) Bidder's Information Form (Annex II-C)

The Bidder's Information Form explicitly indicates that the Bidder accepts in full and without restriction the Terms and Conditions applicable to ILO Contracts for Services.

Each Bidder shall attach to this Annex the following mandatory documents:

- 1) Certificate(s) confirming that obligations relating to the payment of social security contributions and/or the payment of taxes in accordance with the legal provisions of the country in which the Bidder is established have been fulfilled;
- 2) The proof of declaration and payment of taxes, fees and social security contributions by the Bidder should indicate the state of affairs at the end of the previous fiscal year, bearing the statement "certified true copy", the date and the signature of a person authorized to represent the company;
- 3) A copy of the last three financial statements of the Bidder, certified by independent auditors.

c) Recent References (Annex II-D)

Each Bidder must provide details of three contracts entered into during the past five years which are similar in nature to

ANNEX I

that which will arise from this RFP. The information in Annex II-D must include as a minimum:

- Client name, location and date of project;
- Description of goods provided and works or services performed;
- Contract value;
- Contact details for references.

d) Technical Proposal (Annex II-E)

- 1) The Bidder shall use Annex II-E to describe how it intends to meet the requirements described in the RFP documents and in particular the Terms of Reference provided in Annex III.
- 2) In preparing its Proposal, the Bidder shall review all RFP requirements, including any document referred to in the RFP documents, and will reflect its understanding of and approach to meeting these requirements in the Proposal.
- 3) In preparing the Technical Proposal, the Bidder shall provide details of the proposed project methodology and implementation and management plan as well as CVs of key personnel which will deliver the goods, services or the works specified in this RFP.
- 4) The Bidder may also add any other document and information to demonstrate its technical and professional capacities and competencies to fulfill the requirements as specified in the Terms of Reference.

3.2 Envelope B-Financial Offer (Annex II-F)

Bidders are requested to submit their Financial Offer in a separate envelope (**Envelope B-Financial Offer**). The Financial Offer should be presented in the format provided in Annex II-F. The Bidder must also provide price breakdown information to support its Financial Offer.

All Financial Offers must be established and submitted net of any direct taxes or customs duties. As an international organisation, the ILO is exempt from all taxes and duties.

The ILO is not bound to accept the lowest priced offer from any Bidder, nor give any reason for rejecting a proposal.

4 EVALUATION OF PROPOSALS AND CONTRACT AWARD

4.1 Preliminary Evaluation

Prior to the detailed evaluation of each Proposal, the ILO will undertake a preliminary examination. Proposals will not be considered for further evaluation in cases where:

- a) They are incomplete (i.e. do not include all required documents as specified in Annex I, Instructions to Bidders, paragraph 3: Content of the Proposal);
- b) The Original Proposal is not signed by the duly authorized individual of the organization/company, as specified in Annex



ANNEX I

- I, Instructions to Bidders, paragraph 2.2: Number of Copies, Format and Signing of Proposal;
- c) Technical and financial documents have not been submitted in separate sealed envelopes and/or pricing information is included in the Technical Proposal envelope, as specified in Annex I, Instructions to Bidders, paragraph 2.3: Submission and Receipt of Proposals;
 - d) The validity period of the Proposal is not in accordance with the requirements of the RFP as specified in Annex I, Instructions to Bidders, paragraph 2.15: Proposal Validity.

4.2 Evaluation Process and Criteria

Proposals will be reviewed and evaluated by an Evaluation Panel, to determine compliance with the requirements specified in the RFP.

A two-stage procedure will be utilized in evaluating the Proposals, with evaluation of each Technical Proposal being completed prior to any Financial Offer being opened and compared. Financial Offers will be opened only for Bidder submissions that meet or exceed the minimum technical score of 70 (70 percent) of the obtainable score during the evaluation of Technical Proposals. Where the assessment of a Technical Proposal results in the minimum specified score not being achieved, the corresponding Financial Offer will not be eligible for further consideration.

Each Technical Proposal is evaluated on the basis of its responsiveness to the Terms of Reference (TOR).

During the second stage of the evaluation, the Financial Offers of all Bidders which have attained at least the minimum score during the technical evaluation will be compared.

ANNEX I

The proposals will be evaluated according to the criteria described below:

- (a) Depth and quality of response to the RFP;
- (b) Technical compliance with the Terms of Reference;
- (c) The qualifications and experience of proposed key personnel;
- (d) The proposed implementation and management plan;
- (e) The overall cost.

The process of evaluating the proposals will be based on the following percentage combination of Technical and Financial elements:

	Percentage
Technical Proposal	70%
Financial Offer	30%
Total	100%

4.3 Award of the Contract

The ILO will award the contract to the Proposal (Technical and Financial) which represents best value for money, i.e. achieving the highest overall score.

The ILO reserves the right to accept or reject any Proposal in whole or in part, to annul the solicitation process and reject all Proposals at any time prior to the issue of the purchase order, without thereby incurring any liability to the affected Bidder(s) or any obligation to provide information on the grounds for the ILO's decision(s).

The award of the contract arising from this RFP will be made at the absolute discretion of the ILO. The ILO's decision to award the contract to a preferred Bidder is final and shall not be questioned by any Bidder.

The Contract or the benefit of the Contract shall not be assigned, sub-contracted or otherwise transferred by the successful Bidder in whole or in part, without ILO's prior written consent, to be given at its sole discretion.

FORMS TO BE COMPLETED
AND
TO BE SUBMITTED BY THE BIDDER

- ANNEX II-A: Acknowledgement of Receipt
- ANNEX II-B: Certification to be submitted by a Bidder in
an ILO Competitive Bidding Procedure
- ANNEX II-C: Bidder's Information Form
- ANNEX II-D: Recent References
- ANNEX II-E: Technical Proposal
- ANNEX II-F: Financial Offer



ACKNOWLEDGEMENT OF RECEIPT

To be returned to:

*ILO Country Office for Zambia,
Malawi and Mozambique
Lubwa Road, Rhodes Park
P.O Box 32181
Lusaka
Tel: 211 252779
10101
Lusaka
Zambia*

Fax:

E-mail: Lusaka-Proposals@ilo.org

Reference: **RFP N° SP/LSK/2017-01**

**Assessment of Institutional Coordination Mechanisms of Malawi's
Social Protection Sector and Development
of Recommendations for a Strengthened
Institutional Coordination Framework**

- ☐ WE ACKNOWLEDGE RECEIPT OF ALL TENDER DOCUMENTS FOR THE
ABOVEMENTIONED RFP
(Note: In event of missing elements, contact the ILO Office
mentioned above)
- ☐ WE INTEND TO SUBMIT A PROPOSAL
- ☐ WE WILL NOT BID FOR THE FOLLOWING REASONS:

.....
.....

Signature:

COMPANY STAMP

Name:

Position:

Tel/Fax:

E-mail:

Date:



**CERTIFICATION TO BE SUBMITTED BY A BIDDER
IN AN ILO COMPETITIVE BIDDING PROCEDURE**

**RFP N° SP/LSK/2017-01 - Assessment of Institutional Coordination
Mechanisms of Malawi's Social Protection Sector and Development of
Recommendations for a Strengthened Institutional Coordination Framework**

Date: 19/12/2016

The ILO expects all participants in its procurement process to adhere to the very highest standards of moral and ethical conduct and transparency, to prevent any conflict of interest and not to engage in any form of coercive, collusive, corrupt, or fraudulent practices.

With respect to its proposal submitted in response to the ILO's Invitation to Bid/Request for Proposal mentioned above, the Bidder hereby certifies that:

1. The prices in its proposal have been arrived at independently without consultation, communication or agreement with any other interested companies, competitor or potential competitor with a view to restricting competition.
2. No attempt has been made or will be made by the Bidder to influence any other Bidder, organization, partnership or corporation to either submit or not submit a proposal.
3. The Bidder will not offer, solicit or accept, directly or indirectly, any gratuity, gift, favour, entertainment, promises of future employment or other benefits to or from anyone in the ILO.
4. The Bidder (parent company and/or any subsidiaries) is not identified on, or associated with any individual, groups, undertakings and entities identified on, the list established pursuant to UN Security Council Resolution 1267 (Consolidated List).¹
5. The Bidder (parent company and/or any subsidiaries) will not use the funds received under any contract with the ILO to provide support to individuals, groups, undertakings or entities associated with terrorism.
6. The Bidder (parent company and/or any subsidiaries) is not the subject of any form of sanction imposed by an organization or body within the United Nations System, including the World Bank.

The ILO reserves the right to cancel or terminate with immediate effect and without compensation any offer of or contract arising from this bidding procedure in the event of any misrepresentation in relation to the above certifications.

Definitions of terms used in this declaration:

"coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, another or the property of another to influence improperly the actions of another.

¹ The Consolidated List can be found at the website:
http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml.



ANNEX II-B

"*collusive practice*" is any conduct or arrangement between two or more bidders or contractors, designed to achieve an improper purpose, including to influence improperly the actions of another or to set prices at an artificial level or in a non-competitive manner;

"*conflict of interest*" is a situation that gives rise to an actual, potential or perceived conflict between the interests of one party and another;

"*corrupt practice*" is the offering, giving, receiving or soliciting, directly or indirectly, of any advantage, in order to influence improperly the actions of another;

"*fraudulent practice*" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, another to obtain a financial or other benefit or to avoid an obligation;
The undersigned certifies/y to be duly authorized to sign this Certification on behalf of the Bidder.

Name and Position

Signature

Date



BIDDER'S INFORMATION FORM

I, the undersigned, by submitting this Proposal, hereby confirm that these instructions are accepted in full and without restriction, including the proposed ILO Contract being used for this bidding procedure and resulting contract.

1. SUBJECT	
Request for Proposal:	[N°XXXXXXX]
Requirements:	

2. BID SUBMITTED BY A SINGLE ECONOMIC OPERATOR	
Bidder:	[Insert Full Name of the entity submitting a bid]

3. BIDDER INFORMATION ¹	
Corporate Name:	
Legal Status:	
Authorised Capital:	
Headquarters Address:	
Place of Business Address:	
Telephone:	
Fax:	
Trade Registered N°:	
VAT N°:	
UNGM Registration N°: ²	
Date established:	
Permanent Workforce:	
Number of Secondary Offices:	
Names of Main Managerial Staff:	1) 2) 3)
Names and Job Positions of Person Authorized to represent the Company:	1) 2) 3)
Certification (if any):	
Accreditation (if any):	[Type and Validity]

Turnover, Net Income for the past Three Financial Years:				
[Currency]	Year 1 [i.e. 2013]	Year 2 [i.e. 2014]	Year 3 [i.e. 2015]	Average
Turnover				
Net Income (+/-)				
Comments				

¹ This information shall be provided by **each** member of the consortium and any subcontractor(s).

² Bidders not yet registered with UNGM are encouraged to do so as soon as possible. More information on the registration process are available at <https://www.ungm.org/Vendor/Registration>



ANNEX II-C

4. SUMMARY OF WORK DISTRIBUTION			
	Name	Scope of Work/Tasks/Sub-Tasks	% of the Proposal Price
[Bidder]			
[if applicable]			
[Sub-contractor]			
[Sub-contractor]			
[Sub-contractor]			

5. MANDATORY DOCUMENTS
As requested in Annex I, Instructions to Bidders, paragraph 3.1.1 b): Bidder's Information Form, the following documents are attached to this form: a) Certificate(s) conforming that obligations relating to the payment of social security contributions and/or the payment of taxes in accordance with the legal provisions of the country in which the Bidder is established have been fulfilled; b) The proof of declaration and payment of taxes, fees and social security contributions by the Bidder should indicate the state of affairs at the end of the previous fiscal year, bearing the statement "certified true copy", the date and the signature of a person authorized to represent the company; c) A copy of the last three financial statements by the Bidder, certified by independent auditors.

COMPANY STAMP

Signature:

Name:

Position:

Tel/Fax:

E-mail:

Date:



**RECENT REFERENCES
RELEVANT EXPERIENCE WITHIN THE PAST FIVE YEARS**

Each Bidder will provide, in the sample table below, the reference information of at least three (3) projects carried out by it which are of a similar nature to that which will arise from this RFP. The information must include as a minimum:

- Client name, location, and date of execution;
- Description of project and specifically the work done by the Bidder in the project;
- The Contract value;
- Contact details for checking references.

	Client Name, Location, and Date of Execution	Description of the Project and the Work performed	Contract Value (Currency)	Contact Details for Reference Check
1				
2				
3				

Bidders are reminded that the references provided may be checked and the outcome of their feedback taken in consideration during the technical evaluation. Bidders must ensure that the provided contact details of the proposed referees are complete, detailed and updated.



TECHNICAL PROPOSAL

TO BE RETURNED ON BIDDER'S LETTERHEAD

- i. The Bidder shall use Annex II-E to describe how it intends to meet the requirements described in the RFP documents and in particular the Terms of Reference provided in Annex III.
- ii. In preparing its Proposal the Bidder shall review all RFP requirements, including any document referred to in the RFP, and will reflect its understanding of and approach to meeting these requirements in the Proposal.
- iii. In preparing the Technical Proposal, the Bidder shall provide details of the proposed project methodology and implementation and management plan as well as the CVs of key personnel which will contribute to the project.
- iv. The Bidder may also include in this Annex other documents and information to demonstrate its technical and professional capacities and competencies to fulfill the requirements of the Terms of Reference.



FINANCIAL OFFER

TO BE RETURNED ON BIDDER'S LETTERHEAD

Having examined this Request for Proposal including its Annexes, and having examined all conditions and factors which might in any way affect the cost or time of performance thereof, we, the undersigned, offer to execute and complete the Works or the Services, in accordance with the Terms and Conditions applicable to ILO Contracts for Services for the following Total Contract Price, net of any direct taxes or customs duties and other import taxes:

Task	Description	Lump Sum in US \$ (Excluding VAT)
1		
2		
3		
TOTAL		

Attached to this Annex is the proposed cost breakdown for each of the above tasks.

Additional Services

Compensation for any additional services to this RFP shall be calculated on the basis of the rates below:

Position	Rate per day in US \$		
	Based at Contractor's Office	Based at ILO	Visiting ILO (<6 consecutive days)
[Insert Title]			
[Insert Title]			
[Insert Title]			
Comments			

COMPANY STAMP

Signature:

Name:

Position:

Tel/Fax:

E-mail:

Date:



TERMS OF REFERENCE

Annex III Terms of Reference

Assessment of Institutional Coordination Mechanisms of Malawi's Social Protection Sector and Development of Recommendations for a Strengthened Institutional Coordination Framework

1. Background

Despite significant economic growth over the last decade, poverty and vulnerability in Malawi has only declined minimally or, in some cases, actually increased. Poverty in Malawi is both widespread and deep, with 51 per cent of Malawians living below the national poverty line and 75 per cent below the international poverty line of USD 1.25 a day.

The Government of Malawi has identified social protection as a key strategy to support economic growth, reduce poverty, and promote equity and human rights. The Government sees social protection as part of a broader set of policies on macroeconomic stability, enterprise and employment development, health and education; aimed at reducing risk and vulnerability and encouraging pro-poor growth.

In this spirit, the Government has designed the National Social Support Policy (NSSP) to define Malawi's strategy on extending social protection coverage to the nation's poor and vulnerable households. The NSSP reflects a comprehensive view of social protection outlines the Government's vision and strategies to reduce poverty and vulnerability in an integrated, coherent, coordinated, and sustainable manner, prioritizing the reduction of extreme poverty and emphasizing long-term and predictable interventions.

To operationalize strategies and objectives laid out in the NSSP the Ministry of Finance, Economic Planning and Development (MoFEPD) designed the Malawi National Social Support Programme (MNSSP) in 2012. The MNSSP aims to



ANNEX III

strengthen coherence and coordination between social protection instruments aimed at:

1. Reaching the poorest families with welfare interventions;
2. Protecting and building productive assets of the ultra-poor families to help build their resilience in the event of shocks; and
3. Supporting moderately poor and vulnerable households to enhance their income-generation capacities; and
4. Ensuring linkages amongst interventions.

The MNSSP includes five programmatic pillars implemented by different line ministries with policy oversight and guidance provided by the Ministry of Finance, Economic Planning and Development (MoFEPD):

1. Social Cash Transfer Programme (SCTP);
2. Public Works Programmes (PWP);
3. Village Savings and Loans Programmes (VSL);
4. School Feeding Programmes (SF), and
5. Micro-finance Programmes (MF).

The Social Cash Transfer (SCT) Programme is an unconditional transfer targeted to ultra-poor and labour-constrained households. The objectives of the SCT are to reduce poverty and hunger, and to increase school enrolment. Transfer amounts vary by household size and number of children enrolled in school. The basic transfer varies between MK 1,700 and MK 3,700 per month, depending on the size of the households with a bonus of MK 500 per month for each child enrolled in primary school, and by MK 1000 for each child in secondary school. The SCT is funded by the Government and a group of donor agencies, receives technical support from UNICEF, as well as Ayala Consultants, and is implemented by the Ministry of Gender, Children, Disability, and Social Welfare (MoGCDSW) and District Councils.

Public Works Programme (PWP) are conditional cash transfer programmes targeted to ultra-poor with labour. The main implementer of PWP in Malawi is the Local Development Fund (LDF). The main objectives of the PWP are to increase incomes and food security of poor households and create productive community assets. The LDF PWP is implemented at national scale and targets about 570,000 households in 2015/16 and 240,000 households in subsequent three years (same beneficiaries). Transfer amounts per beneficiary is MK 5,820 per cycle, with four cycles per year. The PWP is funded by the Government and the World Bank and implemented through the LDF and District Councils together with the Ministry of Local Governance and Rural Development (MoLGRD). In addition, the Ministry of Agriculture, Irrigation and Water Development (MoAIWD) provides technical support.

Village Savings and Loans Programmes (VSL) aim at reducing household vulnerability to shocks and increasing income generation capacity via investments. It is supported by NGOs. The groups are self-formed. VSL groups are based on a member contribution of cash, which is used as a deposit for future short-term loans provided to participants. The level of contribution and interest rates charged for loans vary across groups, since each group is free to set its own operating guidelines. VSL programmes are implemented



ANNEX III

independently by various NGOs and CSOs and fall under the auspices of the Ministry of Industry and Trade (MoIT). Limited coordination structures exist at the national and district level.

School Meals Programmes (SMP) are implemented by a variety of implementers with different feeding and procurement modalities. The main implementers are the World Food Programme, Mary's Meals, and the Government. WFP and Mary's Meals serve a fortified corn-soya porridge to all children in targeted schools and during the lean season WFP additionally provides a monthly take-home ration of maize to girls and orphan boys in standards 5 to 8. Government implements decentralised school meals in selected schools, mainly through a community production model. SMP are mainly donor funded, with the WFP and Mary's Meals contributing the most. In addition, a significant number of NGOs and CSOs also run SMP. The Ministry of Education, Science, and Technology is the line ministry in charge of SMP.

Financial sector development and financial inclusion is considered by the Government as an important tool for economic development and poverty reduction. It is considered essential in increasing agricultural productivity and production, expanding micro and small enterprises, creating employment, increasing household income and smoothing consumption. The NSSP considers Micro-finance Programmes key in "promoting the poor to move out of poverty, by increasing their access to finance, thereby enabling expansion of their income earning opportunities" (NSSP, 2012). The MNSSP's micro-finance pillar focuses on strengthening the outreach capacity of poverty-focused MFI and, strengthening of the operations and management capacity of MFI to improve efficiency of microfinance services.

In 2006, the Government introduced the Farm Input Subsidy Programme (FISP) against the background of bad weather impacting on production, prolonged food shortage and high input prices in absence of soft farm input loans for smallholder farmers. The primary purpose of the programme was to increase resource poor smallholder farmers' access to improved agricultural farm inputs in order to achieve food self-sufficiency and to increase their income through increased food and cash crop production. Until 2015/16 the programme covered around 50% of smallholder farmers (1.5 million households). Transfers amount to two vouchers allowing purchase of 100 kg of fertilizer and 5-8 kg of seeds at heavily discounted prices. In 2014/15, the transfer value was MK 29,400/hh/year. In 2015, Government announced a reduction of MK 28 billion from the MK 68 billion budget allocated to FISP. With the reduced financing, FISP is expected to reduce its coverage to 900,000 beneficiaries. In addition, the Government announced other reforms to the programme including: a) a redesigned focus on farmers with more than five hectares of land and emphasis irrigation farming; b) a random selection of farmers, given that the amount required for the eligible farmers exceeds funds available for the programme; c) a reduction in the subsidy level.

Besides FISP, there are a number of agricultural and livelihood enhancement programmes being implemented at district level such as conservation farming, livestock pass-on schemes, irrigation farming amongst others. Currently, the integration of watershed management with public works programmes is being piloted in four districts implementing public works programmes namely: Phalombe, Dedza, Mchinji and Nkhatabay.

In addition, over the past years, Government, with financial and logistical support from donors and development partners, has supported a significant number of households with food or cash emergency assistance in response to acute food insecurity crises due to climatic and economic shocks. In 2015/16 the number of vulnerable people in need of food or cash assistance was assessed by the Malawi Vulnerability Assessment Committee (MVAC) to be 2.8



ANNEX III

million people. For 2016/17 the MVAC estimated 6.8 million Malawians to require assistance.

A. Institutional coordination of Malawi's social protection sector

* The MNSSP, designed in 2012, recognizes to the need to develop a coherent coordination framework. It defines the following key actors and structures with respect to oversight and policy and technical coordination of social protection in Malawi:

* Cabinet Committee on the Economy and Public Sector Reforms: The Cabinet Committee on the Economy discusses social support issues before they are presented to the Cabinet for decisions.

* Ministry Finance, Economic Planning and Development (MoFEPD: The Ministry of Finance, Economic Planning and Development (MoFEPD) is the coordinating agency and secretariat for the National Social Support Programme (NSSP). The Ministry strives to harmonise the implementation of the policy and programme with the Ministry of Local Government and Rural Development (MoLGRD) through the establishment of integrated institutions at the Local Authority and community levels.

* National Social Support Steering Committee (NSSSC: The NSSSC, comprising of Principal Secretaries from key line ministries, heads of missions of development partners, and civil society, is responsible for matters of policy and resource mobilization. The NSSSC is chaired by the Chief Secretary to the Government.

* National Social Support Technical Committee (NSSTC): The NSSTC is responsible for providing technical direction and recommendations on programme implementation. The NSSTC comprises of Directors and is chaired by the Secretary for Economic Planning and Development.

* Ministry of Local Government and Rural Development (MoLGRD: District Councils are responsible for coordinating and implementing social support activities at the district level, together with Civil Society Organisations. District Councils will therefore coordinate all the implementing partners, including Government sectors and the Civil Society. At the local level, Area Development Committees (ADC) and Village Development Committees (VDC) will work with Community Social Support Committees (CSSC) to oversee implementation of social support activities with special emphasis on targeting. ADCs and VDCs are to form Social Support Subcommittees.

A key challenge of the institutional coordination framework of the MNSSP is the fragmentation of district level MNSSP coordination and implementation structures. All five MNSSP programmes have separate committees at the District Council and this is frequently reported to be source of inefficiency and overburdens district staff.

Not included in the MNSSP but a key actor within Malawi's social protection system is the Department of Disaster Management Affairs (DODMA), seated at the Ministry of Finance, Economic Planning and Development (MoFEPD), which coordinates and directs the annual humanitarian response to food and nutrition insecurity (MVAC response). At district level, District Commissioners, together with dedicated officers at the District Executive Committee (DEC), coordinate Disaster Risk Management (DRM) activities through



ANNEX III

District Civil Protection Committees, Area Civil Protection Committees, and Village Civil Protection Committees.

In addition, the Ministry of Agriculture, Irrigation, and Water Development (MoAIWD) is a very important stakeholder within the agriculture, resilience, livelihoods sector and aligning Malawi's social protection system more closely to this sector is considered key in increasing productivity, incomes, and resilience of poor and vulnerable Malawians.

The MNSSP is coordinated by the Ministry of Finance, Economic Planning and Development (MoFEPD) but programme implementation is the responsibility of various line ministries. For instance, the Ministry of Education, Science and Technology (MoEST) is the leading Government agency implementing School Meals Programme. The Ministry of Gender, Children, Disability and Social Welfare (MoGCDSW) is tasked with implementing the Social Cash Transfer Programme. The Ministry of Local Government and Rural Development (MoLGRD) leads the implementation of Public Works Programmes. Micro-Finance Programme and Village Savings and Loans Programmes are implemented by NGOs and coordinated through the Reserve Bank of Malawi (RBM) and the Ministry of Industry and Trade (MoIT) respectively.

B. MNSSP review and institutional coordination

In 2016, MoFEPD has launched the review of the MNSSP that is expected to lead to the design of a new framework programme for social protection to start on 2017.

Throughout the review, Government and development partners noted that, despite existing coordination structures and the Government's intention to strengthen coordination of the sector, MNSSP programmes remain implemented in relative isolation. Stakeholders recognized that ineffective and fragmented coordination and implementation structures at national, district, and community level have contributed to limited exploitation of linkages and synergies, and have left programmatic 'silos' intact.

For instance, each of the MNSSP programme is implemented through separate committees at district level, with limited coordination despite often overlapping memberships. Further, different line ministries are in charge of implementing MNSSP programmes, resulting in fragmentation, degrees of institutionalization, and limited oversight from the District Commissioner's office. It was noted that coordination challenges are persisting both within the Government and amongst donors and development partners.

Stakeholders stressed the need to strengthen coordination mechanisms of the non-contributory social protection sector and better integrate MNSSP programmes amongst themselves, as well as with the broader social protection sector, including the humanitarian response to acute food insecurity (MVAC response) and relevant agricultural, resilience, and livelihood interventions.

Another important outcome of the MNSSP review process is the apparent separation of finance and planning roles within the social protection sector. The donor driven nature of Malawi's social protection sector helped shape a system that institutionally separates financing of policies and interventions from programming and implementation.

In addition it should be noted that Malawi is undergoing a long-term process of political and administrative decentralization, increasing the responsibilities and autonomy of District Councils vis-a-vie the central Government. Consequently, District Councils, which are headed by elected



ANNEX III

Councillors and administratively supported by District Commissioners and District Council staff, are increasingly responsible for the planning, budgeting, and implementation of Government services, including the provision of social protection.

C. The design of the successor programme to the Malawi National Social Support Programme (MNSSP)

The current MNSSP has expired in June 2016 and, after a thorough review of the programme, a successor programme is to be developed starting January 2017. The process is designed to be an inclusive and consultative process that aims for strong Government and stakeholder ownership.

The design phase of the MNSSP II will start with stakeholder consultations and discussions in to-be-determined thematic workstreams. These workstreams will, for instance, discuss the alignment of regular social protection and the humanitarian response to food and nutrition insecurity, the alignment of social protection programmes with resilience and agricultural livelihoods interventions, and the development of effective institutional frameworks and implementation systems.

In late March, stakeholders are to jointly create a successor programme to the MNSSP at a co-creation workshop, where outcomes of all workstreams are being brought together into a coherent programme draft document. The proposed study of institutional coordination of Malawi's social protection sector is expected to contribute to the development and inform discussion in various workstreams, as well as the co-creation workshop.

2. Objective of the Assignment

In light of the above, the Ministry of Finance, Economic Planning and Development (MoFEPD) has identified the need to assess the coherence, effectiveness, and efficiency of existing coordination structures of Malawi's social protection sector and define reforms that can strengthen sector coordination.

The purpose of this assignment is to support the Ministry of Finance, Economic Planning and Development (MoFEPD) in conducting such review of the coherence, effectiveness, and efficiency of existing institutional coordination mechanisms of Malawi's social protection sector, in particular those of the Malawi National Social Support Programme (MNSSP), elaborate options and advise on the most suitable institutional arrangements for the MNSSP II, based on existing institutional structures, programmes, capacities, needs.

The specific objectives of the assignment will be to support MoFEPD to:

1. Map Malawi's non-contributory social protection institutional coordination landscape, focussing on MNSSP coordination structures at national, district and community level, as well as institutional coordination structures between the MNSSP and key institutions of Malawi's humanitarian



ANNEX III

response to food insecurity (MAVAC) and relevant intuitions of the agriculture, resilience, and livelihoods sector.

2. Identify needs, challenges, and opportunities related to the institutional coordination of Malawi's non-contributory social protection sector in the context of decentralization.

a. The analysis is to consider both vertical and horizontal dimensions of coordination.

b. Areas to be assessed should include: Coordination of policy and planning; Coordination of implementation; Coordination of management of social protection services (systemic issues)

3. Elaborate options and develop recommendations towards the strengthening of institutional coordination of Malawi's social protection sector, based on existing institutional structures, programmes, capacities, and needs of Malawi's non-contributory social protection sector using the MNSSP institutional coordination structure as a starting point and addressing the following issues:

a. Outline, roles and responsibilities of institutional structures for enhanced coordination and linkages (information flows; accountability and reporting lines) at national level.

b. Outline, roles and responsibilities of institutional structures for enhanced coordination and linkages (information flows; accountability and reporting lines) at at district and sub-district levels.

i. Institutional coordination structures at district and sub-district levels are a particular focus of the assignment, focusing on their effectiveness, efficiency, and integration into the overall social protection coordination structure.

c. Measures to ensure adequate information and accountability flows between social protection institutional structures, including between national, district and community level

d. Linkages between social protection institutional structures and other relevant institutions outside the social protection sector (e.g. humanitarian response, agriculture, resilience and livelihoods sector)

e. Share best practice with respect to institutional structures for coordination in the social protection sector from countries in the region. It will help consider the possible options.

The development of recommendations to strengthen institutional coordination are to be developed in line with outcomes of the re-design of the MNSSP II, which will start in January 2017.

3. Methodology

A qualitative research design is suggested for this assignment. Research methodology should include focus group discussion with national, district and community level coordinating bodies, as well as social protection beneficiaries. In addition, at the national level semi-structured interviews



ANNEX III

are to be conducted with key informants from a select number of ministries, non-governmental organisations, developing partners, and donors.

Special attention will be paid to experiences and lessons learned in Malawian districts that implement or pilot innovative institutional coordination structures, such as Phalombe, Dedza, and Nkathabay. For instance, with FAO support, the Government implements harmonized social support committees in Phalombe. In Dedza, and Nkathabay, as part of the piloting of the Unified Beneficiary Registry (UBR), the Social Cash Transfer (SCT) and Public Works Programmes (PWP) are implemented through joint social support committees. A key component of the study will be to critically assess these pilots and captures lessons learned.

In addition, reference should be made to international best practice on coordination of social protection coordination is expected, particularly in the region.

The study is structured around two distinct but interlinked phases. First, the consultant(s) will undertake an assessment of Malawi's social protection institutional framework and, second, policy options and recommendations for Malawi's social protection sector institutional framework will be developed, based on the findings of the assessment, as well as existing structures, needs, and capacities. A key component of the study will be to critically assess these pilots and captures lessons learned.

In addition, reference should be made to international best practice on coordination of social protection coordination is expected, particularly in the region.

4. Deliverables

Phase 1: Assessment of Malawi's social protection institutional structures

- 1) Desk review of key programme and policy documents - February, 2017
- 2) Short inception report with detailed project plan and schedule of consultations - February 10th, 2017
- 3) Stakeholders consultations at national, district, and community level; Mapping of Malawi's social protection institutional coordination structures ; Identification of coordination needs, challenges, and opportunities related the institutional coordination of Malawi's social protection sector - February 30th, 2017.
- 4) Draft assessment report on Malawi's social protection institutional framework - March 30th, 2017.
- 5) High level validation of coordination assessment -Early April, 2017.
- 6) Final assessment report on Malawi's social protection institutional structures - April 15th, 2017.

Phase 2: Elaborating options and developing recommendations towards the strengthening of institutional coordination of Malawi's social protection sector

- 1) Elaborating options and develop recommendations towards the strengthening of institutional framework of Malawi's social protection sector, based on



ANNEX III

existing structures, programmes, capacities, and needs of Malawi's social protection sector - April, 2017.

2) Stakeholders consultations at national, district, and community level - May, 2017.

3) Draft report outlining options and recommendations to strengthen Malawi's social protection institutional framework - May 15th, 2017.

4) High level consultation and validation of recommendations - End May, 2017

5) Final report outlining detailed recommendations to strengthen Malawi's social protection institutional framework - June 15th, 2017.

5. ILO Responsibilities

ILO will support the consultants with the provision of relevant documents on Malawi's social protection sector, facilitate meetings of the consultants



ANNEX III

with Malawian stakeholders, and provide administrative and logistical support for consultations and workshops.

6. Duration and location

The research is expected to take place in Lilongwe, Malawi, as well as various Malawian districts and rural communities.

The research is to start on the February 6th, 2017, and is to be finalized by June 30th, 2017.

8. Reporting

The consultant will report to Director of the Poverty and Social Protection Division of the Ministry of Finance, Economic Planning and Development, Harry Mwamlima, and the ILO Technical Advisor on Social Security, Luca Pellerano.

9. Fee and payments

ILO terms and conditions shall apply to the payment of full fees of this assignment based on the consultant's background and experience.

The payment schedule for the above mentioned assignments will be as follows:

Payment 1: Inception report with detailed project plan and schedule of consultations (20 percent of total contract value).

Payment 2: Draft assessment report on Malawi's social protection institutional structures (20 percent of total contract value).

Payment 3: Final assessment report on Malawi's social protection institutional structures (20 percent of total contract value).

Payment 4: Draft report outlining detailed recommendations to strengthen Malawi's social protection institutional coordination (20 percent of total contract value).

Payment 5: Final report outlining detailed recommendations to strengthen Malawi's social protection institutional coordination (20 percent of total contract value).

10. Team Profile

The institution/consultant(s) recruited for the assignment should have the following profile:

Skills and knowledge:

- Knowledge and skills in planning, monitoring and evaluation of social protection programmes;
- Familiar with the situation of poverty and vulnerability in Southern Africa, and particularly in Malawi;
- Familiar with the functioning of public sector in Southern Africa, and particularly in Malawi;
- Familiar with approaches to social protection/social development strategic planning, institutional coordination or programming;



ANNEX III

- Proven skills and experiences to facilitate wide ranging consultations across sectors;
- Strong analytical and writing skills.

Experience:

- 10 years progressively responsible professional work experience in social policy/development/protection programmes;
- 3 years of progressively responsible professional work experience with social protection policy development and implementation in Southern Africa;
- 3 years of progressively responsible professional work experience with development of strategic, institutional, coordination or organizational reviews or plans.
- Previous work in Malawi in social development is an asset.

**TERMS AND CONDITIONS APPLICABLE TO ILO CONTRACTS
FOR SERVICES**

1. THE PARTIES

- 1.1. LEGAL STATUS OF THE PARTIES:** The International Labour Organization, represented by the International Labour Office (ILO), and the Contractor (referred to individually as a "Party" and together as the "Parties") have the following legal status:
- 1.1.1. The International Labour Organization has full juridical personality, including the ability to contract and enjoys such privileges and immunities as are necessary for the independent fulfilment of its purposes pursuant to the *Constitution of the International Labour Organisation*. Nothing in or related to the Contract will be deemed a waiver of any of the privileges and immunities of the International Labour Organization recognized in the Convention on the Privileges and Immunities of the Specialized Agencies (1947), and relevant national and international law.
 - 1.1.2. The Contractor is an independent contractor. Nothing contained in or relating to the Contract will be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent.

2. CONTRACT DOCUMENTS AND VALIDITY

- 2.1. NATURE OF THE CONTRACT:**
- 2.1.1. The Contract constitutes the complete and exclusive agreement between the Parties. It supersedes all proposals, verbal or written arrangements or agreements, and any other communications by one of the Parties or between the Parties relating to the Contract.
 - 2.1.2. The Contract is composed of the following documents listed in their order of precedence:
 - 2.1.2.1. **Purchase Order/Contract Document**, including any specific conditions;
 - 2.1.2.2. Terms and Conditions applicable to ILO Contracts for Services (**Annex 1**); and
 - 2.1.2.3. Any other document explicitly listed in the Purchase Order/Contract Document and attached to it (i.e., **Annex 2, 3**, etc).
 - 2.1.3. Unless otherwise included in any of the documents listed in paragraph **2.1.2.**, the terms of business, conditions of contract, general reservations published or issued by the Contractor or written in any correspondence or documents emanating from the Contractor will not form part of the Contract.
- 2.2. VALIDITY:** The Contract will expire upon fulfilment by the Parties of their respective obligations or otherwise in accordance with its provisions.
- 2.3. NON-EXCLUSIVITY:** The ILO may contract for works or services (referred together to as "Services") of the same or similar kind and quality described in the Contract from any other source at any time.
- 2.4. COMMUNICATIONS:** Communications (e.g., notices, documents) will be addressed to:

INTERNATIONAL LABOUR OFFICE
Procurement Bureau (PROCUREMENT)
4 Route des Morillons
CH 1211 Geneva 22
Switzerland
Facsimile: + (41) (22) 798 85 29
Phone: + (41) (22) 799 76 02
e-mail: procurement@ilo.org

3. PRICE AND PAYMENT

- 3.1. PRICE AND CURRENCY:** The price and currency specified in the Contractor's offer are firm and not subject to revision. The ILO's financial liability under the Contract is restricted to the price and currency indicated in the Purchase Order/Contract Document.



ANNEX IV

- 3.2. **PAYMENT:** Upon receipt of the Contractor's written invoice and any related supporting documentation, the ILO will effect payment, normally within thirty (30) days, by bank transfer (the ILO will not pay through letters of credit or bank draft). The written invoice will be sent to the addressee specified in the Purchase Order/Contract Document and will contain the:
- 3.2.1. number of the Purchase Order/Contract Document that it relates to;
 - 3.2.2. invoiced amount (without the rounding of currency decimals and exclusive of VAT, duties or charges); and
 - 3.2.3. date of the completion of Services.
- In no event will complete or partial payment by the ILO, in and of itself, constitute acceptance of the Services.
- 3.3. **TAX EXEMPTION:** The International Labour Organization, as a United Nations Specialized Agency, enjoys a special tax status in Switzerland and in other member States. Except with the prior written authorization of the ILO, invoices will be submitted exclusive of any amount representing taxes (including value added tax), duties or charges. Where such authorization has been provided, the Contractor will provide the ILO with written evidence that payment of such taxes, duties or charges has been made. In the event any government authority refuses to recognize the ILO's exemption from such taxes, duties or charges, the Contractor will immediately consult with the ILO to determine a mutually acceptable procedure.

4. PERFORMANCE

- 4.1. **ITEMS FURNISHED BY THE CONTRACTOR:** The Contractor is solely responsible for the arrangement, provision and operation of all equipment, supplies, related support services and personnel (including any related costs so incurred) necessary for the performance of the Contractor's obligations under the Contract.
- 4.2. **ITEMS FURNISHED BY THE ILO TO THE CONTRACTOR:** Where goods and equipment (referred together as "Goods") are funded or provided by the ILO to the Contractor to support the performance of the Contractor's obligations under the Contract, the following terms apply:
- 4.2.1. The Contractor acknowledges and agrees that the ILO hereby disclaims any and all warranties regarding the functionality or installation of such Goods. The Contractor is solely responsible for the installation (including any personnel, tools, materials or other Goods necessary for installation), maintenance and functioning of all the Goods funded or provided by the ILO under the Contract.
 - 4.2.2. The Contractor will promptly report to the ILO each loss, damage or theft of such Goods.
 - 4.2.3. Title to the Goods that may be funded or provided by the ILO to the Contractor will be retained by the ILO. The Contractor will not cause or permit any lien, claim or other encumbrance to be attached to any or all such Goods, or to any other item that is the subject matter of the Contract.
 - 4.2.4. Upon the termination or expiration of the Contract, all such Goods will be returned to the ILO in the same condition as when delivered to the Contractor, excluding normal wear and tear. The return of such Goods, or other disposal as the ILO may direct, will be at the Contractor's expense. Upon termination or expiration of the Contract, the Contractor will take all reasonable measures to avoid any loss of or deterioration to such Goods. The Contractor will compensate the ILO for actual costs of any loss of, damage to or deterioration of such Goods that is beyond normal wear and tear.
- 4.3. **INSTALLATION, MAINTENANCE, TRAINING:** Where installation, maintenance (ongoing or as specified in the Purchase Order/Contract Document) or training is required, the following terms apply:
- 4.3.1. The Contractor, in a timely manner, will arrange for and provide all equipment, supplies, related support services and personnel necessary to complete the installation, maintenance or training.
 - 4.3.2. All costs related to the installation, maintenance or training will be borne by the Contractor.
 - 4.3.3. The ILO and the Consignee will be permitted to monitor the installation or maintenance work, as well as to oversee the training.



ANNEX IV

- 4.3.4. In addition, where training is required the Contractor will train any persons identified by ILO or the Consignee in the installation, operation, maintenance, etc. of the Services described in the Contract.
- 4.4. **ACCESS:** If some or all of the contractual obligations will be performed on ILO premises, the ILO will facilitate access to its premises in line with requirements for such performance. The Contractor will comply with ILO security requirements and any other relevant ILO rules, regulations and guidelines while on ILO premises, as well as with the instructions given by designated ILO officials.
- 4.5. **RESPONSIBILITY FOR PERSONNEL:**
- 4.5.1. The employees, officials, representatives, staff or subcontractors (**Personnel**) of either of the Parties will not be considered in any respect as being the employees or agents of the other Party.
- 4.5.2. Each Party is solely responsible for the professional and technical competence of its respective Personnel, which will permit that Party to effectively perform its obligations under the Contract.
- 4.5.3. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to request at any time, in writing, the withdrawal or replacement of any of the Contractor's Personnel and such request will not be unreasonably refused by the Contractor.
- 4.5.4. Each Party is solely responsible for all claims arising out of or relating to the engagement of its respective Personnel.
- 4.5.5. All expenditures related to the assignment of the Contractor's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the Contractor. All expenditures related to the assignment of the ILO's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the ILO.
- 4.6. **INSURANCE:**
- 4.6.1. The Contractor, for the duration of the Contract, any extension thereof or any period following any termination of the Contract and reasonably adequate to deal with losses, will insure its Personnel against the consequences of the following risks:
- 4.6.1.1. illness, injury and death; and
- 4.6.1.2. incapacity to work due to accident and sickness either during normal working hours or outside working hours.
- 4.6.2. Time lost as a result of the occurrence of the risks identified in subparagraphs 4.6.1.1 or 4.6.1.2 will not be chargeable to the ILO.
- 4.6.3. The Contractor for the duration of the Contract, any extension thereof or any period following any termination of the Contract and reasonably adequate to deal with losses, warrants that it is insured with a coverage for a sufficient amount for the use of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor, as well as that it carries comprehensive civil liability insurance with regard to third-parties, including the ILO and its Personnel, in respect of physical injury, damage to property or theft, as well as the direct or indirect effects thereof, including the unavailability of premises and loss of production.
- 4.6.4. Where required by the ILO and as specified in the Purchase Order/Contract Document (except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by the ILO), the Contractor's insurance policies will:
- 4.6.4.1. name the ILO as an additional insured under the liability policy/policies, including, if required, as a separate endorsement under the Contractor's policy/policies;
- 4.6.4.2. include a waiver of subrogation of the Contractor's insurance carrier's rights against the ILO; and
- 4.6.4.3. provide that the ILO will receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage.
- 4.6.5. The Contractor will take out any other insurance required by the ILO and as specified in the Purchase Order/Contract Document.



ANNEX IV

4.6.6. Upon written request by the ILO, the Contractor will provide the ILO with a copy of the general and specific conditions of the insurance policy/policies required under the Contract.

4.7. INDEMNIFICATION:

4.7.1. The Contractor is solely responsible for any claim or damage resulting from the negligence, acts, or omissions of its Personnel.

4.7.2. The Contractor will indemnify and hold the ILO harmless from and against any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO, its Personnel or third-parties which may result from the performance of the Contractor's obligations under the Contract or the Contractor's acts or omissions or those of the Contractor's Personnel.

4.7.3. The Contractor will immediately notify the ILO upon becoming aware of any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO or which could adversely affect the ILO.

5. ASSIGNMENT AND SUBCONTRACTING

5.1. **ASSIGNMENT:** The Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of the ILO. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, will not be binding on the ILO.

5.2. **SUBCONTRACTING:** In the event that the Contractor requires the services of any subcontractor, the Contractor will obtain the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected. The authorization and approval by the ILO of such a subcontractor does not relieve the Contractor of any of its obligations under the Contract and the Contractor is solely responsible for the Services provided by a subcontractor in the framework of the Contract, including their quality. The Contractor, to the same extent as for its own Personnel, will be liable for a subcontractor and its Personnel who are performing any part of the Contractor's obligations under the Contract. The terms of any subcontract will be subject to and be in conformity with the provisions of the Contract. Except with the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected, the Contractor will ensure that its subcontractor(s) do not subcontract, assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract. The provisions of this paragraph apply to any subcontractor who, in turn, requires the services of a subcontractor.

6. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

6.1. PROPRIETARY ITEMS AND INTELLECTUAL PROPERTY RIGHTS:

6.1.1. All documents (including drawings, estimates, manuscripts, maps, plans, records, reports, recommendations) and other proprietary items (including data, devices, gauges, jigs, mosaics, parts, patterns, photographs, samples, and software) (jointly referred to as **Proprietary Items**), either developed by the Contractor or its Personnel in connection with the Contract or furnished to the Contractor by or on behalf of the ILO to support the performance of the Contractor's obligations under the Contract, are the exclusive property of the International Labour Organization; and, will be used by the Contractor and its Personnel solely for the purposes of the Contract.

6.1.2. All intellectual property rights and all other proprietary rights (including copyrights, patents, trademarks, source codes, products, processes, inventions, ideas, know-how) with regard to any materials (jointly referred to as **Intellectual Property**), either developed by the Contractor or its Personnel in connection with the Contract or furnished to the Contractor by or on behalf of the ILO to support the performance of the Contractor's obligations under the Contract, are the exclusive



ANNEX IV

- property of the International Labour Organization; and, will be used by the Contractor and its Personnel solely for the purposes of the Contract.
- 6.1.3. During the course of development, Proprietary Items and Intellectual Property developed or utilized by or furnished to the Contractor will be made available for use and inspection by the ILO, upon request at reasonable times and in reasonable places.
- 6.1.4. Such Proprietary Items and Intellectual Property will be delivered only to ILO authorized officials on completion of the Contract.
- 6.1.5. The Contractor will disclose, throughout its performance, to the ILO's authorized officials full particulars of all source codes, products, processes, inventions, ideas, know-how, documents and any other materials developed or conceived by the Contractor, alone or jointly, in connection with the Contract.
- 6.1.6. At the request of the ILO, the Contractor will take all necessary steps to execute all necessary documents and generally assist the ILO in securing intellectual property rights and all other proprietary rights in compliance with the requirements of applicable law.
- 6.1.7. To the extent that any Intellectual Property due to the ILO under paragraph 6.1.2 includes any intellectual property:
- 6.1.7.1. of the Contractor that: (i) pre-existed the performance by the Contractor of its obligations under the Contract; or (ii) it may develop or acquire, or that may have been developed or acquired, independently of the performance of the Contractor's obligations under the Contract; or
- 6.1.7.2. of a third-party;
- the Contractor grants to the International Labour Organization a perpetual, royalty-free license to make unrestricted use of such intellectual property. The International Labour Organization will not claim any ownership interest in the intellectual property described in subparagraphs 6.1.7.1 or 6.1.7.2.
- 6.1.8. The Contractor undertakes to obtain, at its own expense, permission to use any third-party protected rights that are necessary for the performance of the Contract and, if requested, provide the ILO with evidence of such permission.
- 6.1.9. In the event that any Proprietary Items or Intellectual Property provided to the ILO by the Contractor are for some reason enjoined or found to infringe any rights of a third-party, or in the event of a settlement, are enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, will promptly:
- 6.1.9.1. procure for the ILO the unrestricted right to continue using such Proprietary Items and Intellectual Property provided to the ILO;
- 6.1.9.2. replace or modify the Proprietary Items and Intellectual Property provided to the ILO, or part thereof, with the equivalent or better Proprietary Items and Intellectual Property, or part thereof, that are non-infringing; or,
- 6.1.9.3. refund to the ILO the full price paid by the ILO for the right to have or use such Proprietary Items and Intellectual Property or part thereof.

6.2. CONFIDENTIAL NATURE OF AND RESPONSIBILITY FOR PROPRIETARY ITEMS, INTELLECTUAL PROPERTY AND OTHER INFORMATION:

- 6.2.1. Unless otherwise made public with the authorization of the ILO, Proprietary Items, Intellectual Property and other information, irrespective of what form they are, developed, collected, known, marked or received by the Contractor, will be treated by the Contractor as confidential and be used only for the purposes of the Contract.
- 6.2.2. The Contractor will not communicate at any time to any other person, government or entity external to the ILO, any Proprietary Items, Intellectual Property or other information known by reason of its association with the ILO, which has not been made public, except with the authorization of the ILO; nor will the Contractor at any time use such information for private advantage or in any manner prejudicial to or incompatible with the interests of the ILO. Where the Contractor is required by law to disclose such Proprietary Items, Intellectual Property or other information, it will give the ILO sufficient prior notice of the request to disclose in order to allow the ILO to have a reasonable



ANNEX IV

opportunity to take protective measures or such other action as may be appropriate.

6.2.3. The Contractor will be responsible for such Proprietary Items, Intellectual Property and other information. In case of loss of or damage to any Proprietary Items, Intellectual Property or other information the Contractor may be required to:

6.2.3.1. replace or repair the lost or damaged Proprietary Items, Intellectual Property or other information; or

6.2.3.2. provide compensation to the ILO for the cost of replacing or repairing the lost or damaged Proprietary Items, Intellectual Property or other information.

6.3. PUBLICITY AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL:

6.3.1. The Contractor may neither disclose the terms and conditions of the Contract nor advertise or otherwise make public the fact that it is a Contractor to the ILO.

6.3.2. The Contractor may not use or reproduce the name, emblem or the official seal of the International Labour Organization or of the International Labour Office, including their abbreviations, in connection with the Contractor's business or otherwise.

6.3.3. In reporting its procurement activities, the ILO may publish (e.g., on the internet) the Contractor's name and amount of the Contract.

7. ETHICAL CONDUCT

7.1. LABOUR CLAUSES: The Contractor undertakes to respect, at all times and in all circumstances relevant to the performance of the Contract and in relation to all its Personnel, and to ensure that its subcontractors respect:

7.1.1. The following principles concerning international labour standards of the International Labour Organization:

7.1.1.1. the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as the protection of those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively;

7.1.1.2. the prohibition of forced or compulsory labour in all its forms;

7.1.1.3. equal remuneration for men and women for work of equal value;

7.1.1.4. equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of the Contract takes place;

7.1.1.5. the prohibition of the employment of children below fourteen (14) years of age or, if higher than fourteen (14), the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of the Contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher;

7.1.1.6. the prohibition of the employment of persons under the age of eighteen (18) for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;

7.1.1.7. the payment of wages in legal tender, at regular intervals no longer than one month, in full and directly to the workers concerned. The Contractor shall keep an appropriate record of such payments. Deductions from wages are permitted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and the workers concerned must be informed of such deductions at the time of each payment.

7.1.1.8. the provision of wages, hours of work and other conditions of work not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or, (iii) applicable laws or regulations, whichever offers the best working conditions), for work of the same character performed

ANNEX IV

- in the trade or industry concerned in the area where work is carried out;
- 7.1.1.9. the need to ensure, so far as is reasonably practicable, that the workplaces, machinery, equipment and processes under their control are safe and without risk to health, and that the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health; and
- 7.1.2. All applicable laws or regulations concerning terms of employment and conditions of work, any collective agreements to which it is party, or any other related measure with which it must comply.
- 7.2. PERSONNEL NOT TO BENEFIT:**
- 7.2.1. The ILO requires bidders and contractors to observe the highest ethical standards during the procurement process and the execution of contracts. In order to ensure the respect of these obligations, the ILO provides the following definitions:
- 7.2.1.1. "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, another to obtain a financial or other benefit or to avoid an obligation;
- 7.2.1.2. "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of any advantage, in order to influence improperly the actions of another;
- 7.2.1.3. "conflict of interest" is a situation that gives rise to an actual, potential or perceived conflict between the interests of one party and another;
- 7.2.1.4. "collusive practice" is any conduct or arrangement between two or more bidders or contractors, designed to achieve an improper purpose, including to influence improperly the actions of another or to set prices at an artificial level or in a non-competitive manner;
- 7.2.1.5. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, another or the property of another to influence improperly the actions of another.
- 7.2.2. The Contractor will not (and will ensure that its Personnel do not) place itself in a position that may, or does, give rise to a conflict between its interests and the ILO's interests during the procurement process or the execution of the Contract.
- 7.2.3. If during any stage of the procurement process a conflict of interest arose or during contract execution a conflict of interest arises, or appears likely to arise, the Contractor will immediately notify the ILO in writing, setting out all relevant details, including any situation in which the interests of the Contractor conflict with the interests of the ILO, or in any situation in which any ILO official, employee or person under contract with the ILO may have, or appears to have, an interest of any kind in the Contractor's business or any kind of economic or personal ties with the Contractor. The Contractor will take such steps as the ILO may reasonably require to resolve or otherwise deal with the conflict to the satisfaction of the ILO.
- 7.2.4. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to disqualify the Contractor for a specified or indefinite period from participating in the procurement process of the ILO or contracting with the ILO, if it is shown that the Contractor has, directly or indirectly, employed fraudulent, corrupt, collusive or coercive practices or failed to disclose a conflict of interest.

8. FULL DISCLOSURE

- 8.1. FULL DISCLOSURE:** The Contractor warrants that it has made and will make full and proper disclosure to the ILO of all relevant information relating to its business activities, financial condition and ownership, prior to entering into this Contract and for its duration, including that it is not identified



ANNEX IV

on or associated with⁴ any individual, groups, undertakings and entities identified on the list established by the United Nations Security Council Resolution 1267 (**1267 Consolidated List**)⁵; and that it is not, nor has been, subject to any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank.

9. DELAY, FORCE MAJEURE AND LIQUIDATED DAMAGES

9.1. DELAY:

- 9.1.1. Should the Contractor encounter conditions that do not constitute *Force majeure* and which impede or are likely to impede timely performance of the Contract (**Delay**), the Contractor will immediately notify the ILO in writing with full particulars of the Delay, including its likely duration, and its cause. At the ILO's request, the Contractor and the ILO will consult as soon as practicable after receipt of such notice, to evaluate any available means of mitigation or appropriate remedies provided under the Contract.
- 9.1.2. In addition to any other right or remedy available under the Contract, upon receiving notice of Contractor's Delay (or likely Delay) in performance, the ILO will have the right to:
 - 9.1.2.1. suspend the Contract, in whole or in part, and notify the Contractor not to proceed further with its performance which has been subject to (or will be subject to) Delay;
 - 9.1.2.2. withhold and/or deduct payment to the Contractor for the portion of the Contract subject to Delay; and
 - 9.1.2.3. procure all or part of the Services which the Contractor fails to provide in a timely manner.
- 9.1.3. Without prejudice to any other right or remedy available under the Contract, the Contractor will be liable for any increase in the price payable by the ILO resulting from the procurement of the Services from other sources and the ILO may apply such additional costs incurred, by deduction or otherwise, against future amounts owed by the ILO to the Contractor.
- 9.1.4. Upon receipt of notice of any decision by the ILO to suspend the Contract under subparagraph **9.1.2.1** and with respect to the suspended portion of the Contract, the Contractor will take immediate steps to reduce expenses to a minimum and will not undertake any further obligations; provided, however, that the ILO and the Contractor will continue performance of the Contract to the extent that it is not suspended or cancelled.

9.2. FORCE MAJEURE:

- 9.2.1. Neither Party will be liable to the other Party for failure to perform its respective obligations, if such failure is as a result of an unforeseeable and irresistible event, act of nature (including fire, flood, earthquake, storm, hurricane, epidemic or other natural disaster), any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, (**Force Majeure**) provided that such acts arise from causes beyond the control and without the fault or negligence of the invoking Party.
- 9.2.2. The defaulting Party will notify, as soon as possible after the occurrence of the *Force Majeure* event, the other Party in writing with full particulars of the *Force Majeure* event, including its likely duration, the estimated expenditures that will likely be incurred for the duration of the *Force Majeure* event, and any other conditions which threaten to interfere with the defaulting Party's performance of the Contract.
- 9.2.3. Without prejudice to any other right or remedy available under the Contract, if either Party is rendered unable, in whole or in part, by reason of *Force Majeure* to perform its obligations and meet its responsibilities under the Contract and where the *Force Majeure* event exists beyond sixty (60) days then that Party will have the right to

⁴ United Nations Security Council Resolution 1617 defines "associated with" and it is available at <http://www.un.org/sc/committees/1267/resolutions.shtml>.

⁵ The 1267 Consolidated List is available at http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml.



ANNEX IV

suspend or terminate the Contract with a period of written notice of seven (7) days.

- 9.3. **NOTICE OF DELAY AND FORCE MAJEURE:** If notice is not received by a Party in accordance with paragraphs 9.1.1 or 9.2.2, the Party who fails to notify of the Delay or *Force Majeure* event will be liable for damages resulting from such non-receipt, except where the Delay or *Force Majeure* event also prevents transmission of the notice.
- 9.4. **LIQUIDATED DAMAGES:** Without prejudice to any other right or remedy available under the Contract, the Parties agree that if the Contractor breaches the Contract, including a Delay in performance of the Contractor's obligations under the Contract, it will be impractical or difficult to quantify the damages suffered by the ILO. The Parties, therefore, agree that in the event of such a breach by the Contractor, the Contractor will pay to the ILO, as liquidated damages, a sum equal to three-tenths of one (0.3) per cent of the Contract price for each day of delay until actual delivery or performance, up to a maximum of ten (10) per cent of the Contract price. Each Party acknowledges and agrees that the liquidated damages amount specified herein are intended to reasonably compensate the ILO and not intended to punish the Contractor. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to recover such liquidated damages by deduction or otherwise, against future amounts owed by the ILO to the Contractor.

10. TERMINATION

10.1. TERMINATION BY THE ILO:

- 10.1.1. Without prejudice to any other right or remedy available under the Contract and without the authorisation of a court or any other authorisation, the ILO may terminate the Contract immediately by written notice in the event that the Contractor:
- 10.1.1.1. is found to have made any material or fraudulent misrepresentation in the making of or performance of the Contract regardless of when the misrepresentation is discovered;
 - 10.1.1.2. becomes bankrupt, otherwise insolvent, or the ILO reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract;
 - 10.1.1.3. fails to perform contractual obligations or to satisfy any guarantees or warranties it has made under the Contract and does not rectify such failure within sixty (60) days following receipt of a written notice by the ILO;
 - 10.1.1.4. is declared undesirable by the government where the Contractor is to perform any of its obligations under the Contract;
 - 10.1.1.5. is the subject of any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank; or
 - 10.1.1.6. the ILO's activities are curtailed or terminated.
- 10.1.2. Upon receipt of notice of termination by the ILO, the Contractor will take immediate steps to bring any Services to a close in a prompt and orderly manner, will reduce expenses to a minimum and will not undertake any further obligations from the date of receipt of notice of termination.
- 10.1.3. If the Contract should be terminated by the ILO, the ILO will make all payments which may be due up to the effective date of termination for any Services satisfactorily delivered or performed and accepted by the ILO.

10.2. TERMINATION BY THE CONTRACTOR:

- 10.2.1. Without prejudice to any other right or remedy available under the Contract and without the authorisation of a court or any other authorisation, the Contractor may terminate the Contract immediately by written notice in the event that the ILO:
- 10.2.1.1. fails to make payments which are due under the Contract and the ILO does not rectify such failure within a period of sixty (60) days after receipt of the Contractor's written notice of default; or
 - 10.2.1.2. fails in its contractual obligations so as to make it unreasonable for the Contractor to proceed with the performance of its obligations under the Contract and the ILO does not rectify such failure within



ANNEX IV

a period of sixty (60) days after receipt of the Contractor's written notice of default.

11. WARRANTY

11.1. WARRANTY OF SERVICES:

- 11.1.1. The Contractor warrants that any Services provided in accordance with the Contract will meet the specifications, timeframes and related requirements set forth in the Contract. All materials and workmanship utilized in performing the Services under the Contract will be of the respective kind(s) described in the Contract and free from defects. Materials not conforming to the specifications in the Contract will not be used in performance of the Services without prior written approval of the ILO.
- 11.1.2. If the Services do not meet the requirements referred to above, the Contractor will, at its sole expense, either by repair or replacement, correct, promptly modify or change any faulty workmanship materials, parts and equipment supplied by it to the extent necessary to satisfy the above warranty.
- 11.1.3. If any defect or failure in the Services cannot be rectified by remedial measures within the period agreed by the ILO and the Contractor, the Contractor will be considered to be in default and in addition to exercising any suspension or termination rights set forth in the Contract, the ILO has the right to independently replace or repair the Services and the Contractor will be obligated to reimburse the ILO for all the additional costs so incurred, including by deduction or otherwise, against future amounts owed by the ILO to the Contractor.

12. MISCELLANEOUS

- 12.1. **CHANGE ORDERS:** The ILO may, by written notification, increase or decrease the scope of Services of the Contract provided the stage reached in the performance of the Contract so allows. If any such changes increase or decrease the cost of and/or the time required for the performance of any part of the Contract, an equitable adjustment will be made in the Contract's price or time schedule, or both, and the Contract will accordingly be amended. Any request for consultation or claim for adjustment under this paragraph will be asserted by the Contractor within thirty (30) working days from the date of receipt of ILO's change order.
- 12.2. **AMENDMENTS:** The Parties may by mutual agreement amend the Contract. Amendments will be effective only if in writing and when executed and delivered on behalf of the ILO and the Contractor by persons duly authorized to do so.
- 12.3. **NON-WAIVER OF RIGHTS:** Termination of the Contract in whole or in part by a Party or the failure by either Party to exercise any rights available to it, will not affect the accrued rights or claims and liabilities of either Party to the Contract.
- 12.4. **SURVIVAL:** The obligations contained in paragraphs 4.6 (Insurance); 4.7 (Indemnification); 6.1 (Proprietary Items and Intellectual Property Rights); 6.2 (Confidential Nature of and Responsibility for Proprietary Items, Intellectual Property and Other Information); 6.3 (Publicity and Use of the Name, Emblem or Official Seal); and 11.1 (Warranty of Services) survive the termination or expiration of the Contract.
- 12.5. **LIMITATION ON ACTIONS:** Irrespective of their nature, any dispute, controversy, or claim arising out of the Contract or the breach, termination, or invalidity thereof (other than obligations enumerated in paragraph 12.4) must be asserted within six (6) months after the termination or expiration of the Contract.

13. SETTLEMENT OF DISPUTES

- 13.1. **AMICABLE SETTLEMENT:** The Parties will use their best efforts to amicably settle any dispute, controversy, or claim arising out of the Contract or the breach, termination, or invalidity thereof by direct informal negotiations, including, where agreed, by referral, to an executive level of authority within the Parties. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation will take place in accordance with the Conciliation Rules then prevailing of the United Nations Commission on



ANNEX IV

International Trade Law (**UNCITRAL**) or according to such other procedure as may be agreed between the Parties in writing.

- 13.2. **ARBITRATION:** Unless settled amicably under paragraph 13.1, within sixty (60) days, after receipt by one Party of the other Party's written request, any dispute, controversy or claim arising out of the Contract, or the breach, termination or invalidity thereof, will be settled by arbitration in accordance with the UNCITRAL Arbitration Rules then prevailing. In addition:
- 13.2.1. the place of arbitration will be Geneva;
 - 13.2.2. the decisions of the arbitral tribunal will be based on general principles of international commercial law;
 - 13.2.3. the arbitral tribunal will have no authority to award punitive damages; and
 - 13.2.4. the Parties will be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim arising out of the Contract, or the breach, termination or invalidity thereof.
- 13.3. **LANGUAGE:** The conciliation and the arbitration proceedings will be conducted in the language in which the Contract is signed provided that it is one of the three working languages of the ILO (English, French and Spanish). In the event the Contract is in a language other than English, French or Spanish, the conciliation or the arbitration proceedings will be conducted in English, French or Spanish.