

REQUEST FOR QUOTATION (RFQ)

RFQ Reference: LY23-4200465144

Date: 18 May 2023

SECTION 1: REQUEST FOR QUOTATION (RFQ) for the provision of Outdoor Generator for AL-Awinat BCP

International Organisation for Migration (IOM) kindly requests your quotation for the provision of goods, works and/or services as detailed in Annex 1 of this RFQ.

This Request for Quotation comprises the following documents:

Section 1: This request letter

Section 2: RFQ Instructions and Data

Annex 1: Schedule of Requirements

Annex 2: Quotation Submission Form

Annex 3: Technical and Financial Offer

When preparing your quotation, please be guided by the RFQ Instructions and Data. Please note that quotations must be submitted using **Annex 2: Quotation Submission Form and Annex 3 Technical and Financial Offer**, by the method and by the date and time indicated. It is your responsibility to ensure that your quotation is submitted on or before the deadline. Quotations received after the submission deadline, for whatever reason, will not be considered for evaluation.

Documents requirements of the eligibility and technical evaluation:

- Valid Company registration documents (**Eligibility**)
- Bank information (**Eligibility**)
- Signed /stamped Code of conduct (**Eligibility**)
- Completed VIS-vendor information sheet (**Eligibility**)
- Signed /stamped DOC- declaration for conformity (**Eligibility**)
- Delivery Lead Time (**Technical Evaluation**)
- Team composition and CVs of key personnel (**Technical Evaluation**)
- List of the equipment (**Technical Evaluation**)
- Company profile (**Technical Evaluation**)

Clarification on the location of delivery:

**Request for clarification on the location of delivery & the nature of location, please contact our Engineer:
Engr. Mahmoud Rezgallah (+218 926398135)**

Thank you and we look forward to receiving your quotations.

Approved by:

IOM Libya Procurement Team

SECTION 2: RFQ INSTRUCTIONS AND DATA

Deadline for the Submission of Quotation	30 May 2023, 17:00 Libya Time (+2 GMT) If any doubt exists as to the time zone in which the quotation should be submitted, refer to http://www.timeanddate.com/worldclock/ .
Method of Submission	<p>Quotations must be submitted as follows:</p> <p><input type="checkbox"/> E-tendering <input checked="" type="checkbox"/> Email <input type="checkbox"/> Courier / Hand delivery <input type="checkbox"/> Other Click or tap here to enter text.</p> <p>Bid submission address: Click or tap here to enter text.</p> <ul style="list-style-type: none"> ▪ File Format: PDF ▪ File names must be maximum 60 characters long and must not contain any letter or special character other than from Latin alphabet/keyboard. ▪ All files must be free of viruses and not corrupted. ▪ Max. File Size per transmission: 25MB ▪ Mandatory subject of email: LY23-4200465144 ▪ Multiple emails must be clearly identified by indicating in the subject line “email no. X of Y”, and the final “email no. Y of Y”. ▪ It is recommended that the entire Quotation be consolidated into as few attachments as possible. ▪ The proposer should receive an email acknowledging email receipt.
Cost of preparation of quotation	IOM shall not be responsible for any costs associated with a Supplier’s preparation and submission of a quotation, regardless of the outcome or the manner of conducting the selection process.
Supplier Code of Conduct	All prospective suppliers must read the UN Supplier Code of Conduct and acknowledge that it provides the minimum standards expected of suppliers to the UN. The Code of Conduct, which includes principles on labour, human rights, environment and ethical conduct may be found at: Supplier Code of Conduct (ungm.org) .
Conflict of Interest	UN encourages every prospective Supplier to avoid and prevent conflicts of interest, by disclosing to UN if you, or any of your affiliates or personnel, were involved in the preparation of the requirements, design, specifications, cost estimates, and other information used in this RFQ.
General Conditions of Contract	Any Purchase Order or contract that will be issued as a result of this RFQ shall be subject to the IOM General Conditions of Contract for provision of goods/services/transportation/medical services available at https://www.iom.int/do-business-us-procurement .
Eligibility	Bidders shall have the legal capacity to enter into a binding contract with IOM and to deliver in the country, or through an authorized representative.
Currency of Quotation	Quotations shall be quoted in USD
Duties and taxes	<p>The International Organization for Migration is exempt from all direct taxes, except charges for public utility services, and is exempt from customs restrictions, duties, and charges of a similar nature in respect of articles imported or exported for its official use. All quotations shall be submitted net of any direct taxes and any other taxes and duties, unless otherwise specified below:</p> <p>All prices shall:</p> <p><input type="checkbox"/> be inclusive of VAT and other applicable indirect taxes <input checked="" type="checkbox"/> be exclusive of VAT and other applicable indirect taxes</p>
Language of quotation and documentation including	English

catalogues, instructions and operating manuals	
Documents to be submitted	Bidders shall include the following documents in their quotation: <input checked="" type="checkbox"/> Annex 2: Quotation Submission Form duly completed and signed <input checked="" type="checkbox"/> Annex 3: Technical and Financial Offer duly completed and signed and in accordance with the Schedule of Requirements in Annex 1 <input type="checkbox"/> Other Click or tap here to enter text.
Quotation validity period	Quotations shall remain valid for 60 days from the deadline for the Submission of Quotation.
Price variation	No price variation due to escalation, inflation, fluctuation in exchange rates, or any other market factors shall be accepted at any time during the validity of the quotation after the quotation has been received.
Partial Quotes	<input checked="" type="checkbox"/> Not permitted <input type="checkbox"/> Permitted <i>(please specify, i.e. by LOTS only or by line item, etc)</i>
Payment Terms	<input type="checkbox"/> 100% within 30 days after receipt of goods, works and/or services and submission of payment documentation. <input type="checkbox"/> Other Click or tap here to enter text.
Contact Person for correspondence, notifications and clarifications	Focal Person: IOM Libya Procurement Team E-mail address: iomlibyaproposal@iom.int Attention: Quotations shall not be submitted to this address but to the address for quotation submission above.
Clarifications	Requests for clarification from bidders will not be accepted any later than 3 days before the submission deadline. Responses to request for clarification will be communicated via email by 28 May 2023
Evaluation method	<input checked="" type="checkbox"/> The contract will be awarded to the lowest price substantially compliant offer <input type="checkbox"/> Other Click or tap here to enter text.
Evaluation criteria	<input checked="" type="checkbox"/> Full compliance with all requirements as specified in Annex 1 <input checked="" type="checkbox"/> Full acceptance of the General Conditions of Contract <input checked="" type="checkbox"/> Comprehensiveness of after-sales services <input checked="" type="checkbox"/> Earliest Delivery /shortest lead time <input type="checkbox"/> Others <i>(for ex, environmental criteria/considerations, etc)</i>
Right not to accept any quotation	IOM is not bound to accept any quotation, nor award a contract or Purchase Order
Right to vary requirement at time of award	At the time of award of Contract or Purchase Order, IOM reserves the right to vary (increase or decrease) the quantity of services and/or goods, by up to a maximum 25% of the total offer, without any change in the unit price or other terms and conditions.
Type of Contract to be awarded	Construction Agreement
Expected date for contract award.	04 June 2023
Policies and procedures	This RFQ is conducted in accordance with Policies and Procedures of IOM
UNGM registration	IOM is encouraging all suppliers to register at the United Nations Global Marketplace (UNGM) website at www.ungm.org . The Bidder may still submit a quotation even if not registered with the UNGM, however, if the Bidder is selected for Contract award of USD 100,000 and above, the Bidder is recommended to register on the UNGM prior to contract signature. For vendors who do not have the technical means to register in UNGM, the UNGM has implemented an assisted vendor registration functionality that allows IOM procurement personnel to add local vendors to the UNGM.

ANNEX 1: SCHEDULE OF REQUIREMENTS

Technical Specifications for Goods:

Item No	Minimum technical requirements	Unit	Quantity
1	Diesel generator with capacity of 12Kva including the transportation and all needed for installation at ALAwinat BCP.	EA	3
2	Vertical Water Tank 1000 litter capacity including transportation to AL-WAINAT BCP, and all needed to have them installed on the requested location.	EA	10

Delivery Requirements

Delivery Requirements	
Delivery date and time	Bidder shall deliver the goods DAP After Contract signature.
Delivery Terms (INCOTERMS 2020)	DAP
Customs clearance (must be linked to INCOTERM)	<input checked="" type="checkbox"/> Not applicable Shall be done by: <input type="checkbox"/> Name of organisation <input type="checkbox"/> Supplier/bidder <input type="checkbox"/> Freight Forwarder
Exact Address(es) of Delivery Location(s)	21 52' 10.3"N 24 48' 23.78"E AL-Awinat BCP, Kufra, Libya
Distribution of shipping documents (if using freight forwarder)	NA
Packing Requirements	NA
Training on Operations and Maintenance	NA
Warranty Period	NA
After-sales service and local service support requirements	NA
Preferred Mode of Transport	NA
Other information	NA

ANNEX 2: QUOTATION SUBMISSION FORM

Bidders are requested to complete this form, including the Company Profile and Bidder's Declaration, sign it and return it as part of their quotation along with Annex 3: Technical and Financial Offer. The Bidder shall fill in this form in accordance with the instructions indicated. No alterations to its format shall be permitted and no substitutions shall be accepted.

Name of Bidder:	Click or tap here to enter text.	
RFQ reference:	Click or tap here to enter text.	Date: Click or tap to enter a date.

VENDOR INFORMATION SHEET¹

Please attach the latest vendor information sheet to be filled in and signed by the vendor

BIDDER'S DECLARATION OF CONFORMITY²

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I hereby represent and warrant that neither the Supplier, nor any person having powers of representation, decision-making or control over it or any member of its administrative, management or supervisory body, has been the subject of a final judgement or final administrative decision for one of the following reasons: bankruptcy, insolvency or winding-up procedures; breach of obligations relating to the payment of taxes or social security contributions; grave professional misconduct, including misrepresentation, fraud; corruption; conduct related to a criminal organisation; money laundering or terrorist financing; terrorist offences or offences linked to terrorist activities; child labour and other trafficking in human beings, any discriminatory or exploitative practice, or any practice that is inconsistent with the rights set forth in the Convention on the Rights of the Child or other prohibited practices; irregularity; creating or being a shell company.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier is financially sound and duly licensed.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier has adequate human resources, equipment, competence, expertise and skills necessary to complete the contract fully and satisfactorily, within the stipulated completion period and in accordance with the relevant terms and conditions.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier complies with all applicable laws, ordinances, rules and regulations.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier will in all circumstances act in the best interests of IOM.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that no official of IOM or any third party has received from, will be offered by, or will receive from the Supplier any direct or indirect benefit arising from the contract.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier has not misrepresented or concealed any material facts during the contracting process.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier will respect the legal status, privileges and immunities of IOM as an intergovernmental organization.

¹ [Vendor Information Sheet.xlsx](#)

² This form is mandatory to fill in and sign by every vendor who submits quotation

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that neither the Supplier nor any persons having powers of representation, decision-making or control over the Supplier or any member of its administrative, management or supervisory body are included in the most recent Consolidated United Nations Security Council Sanctions List (the “UN Sanctions List”) or are the subject of any sanctions or other temporary suspension. The Supplier will immediately disclose to IOM if it or they become subject to any sanction or temporary suspension.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier does not employ, provide resources to, support, contract or otherwise deal with any person, entity or other group associated with terrorism as per the UN Sanctions List and any other applicable anti-terrorism legislation.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that, the Supplier will apply the highest ethical standards, the principles of efficiency and economy, equal opportunity, open competition and transparency, and will avoid any conflict of interest.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I further represent and warrant that the Supplier undertakes to comply with the Code of Conduct, available at https://www.unghm.org/Public/CodeOfConduct .
<input type="checkbox"/>	<input type="checkbox"/>	It is the responsibility of the Supplier to inform IOM immediately of any change to the information provided in this Declaration.
<input type="checkbox"/>	<input type="checkbox"/>	On behalf of the Supplier, I certify that I am duly authorized to sign this Declaration and on behalf of the Supplier I agree to abide by the terms of this Declaration for the duration of any contract entered into between the Supplier and IOM.
<input type="checkbox"/>	<input type="checkbox"/>	IOM reserves the right to terminate any contract between IOM and the Supplier, with immediate effect and without liability, in the event of any misrepresentation made by the Supplier in this Declaration.

Signature: _____

Name: Click or tap here to enter text.

Title: Click or tap here to enter text.

Date: Click or tap to enter a date.

ANNEX 3: TECHNICAL AND FINANCIAL OFFER - GOODS

Bidders are requested to complete this form, sign it and return it as part of their bid along with Annex 2: Quotation Submission Form. The Bidder shall fill in this form in accordance with the instructions indicated. No alterations to its format shall be permitted and no substitutions shall be accepted.

Name of Bidder:	Click or tap here to enter text.	
RFQ reference:	Click or tap here to enter text.	Date: Click or tap to enter a date.

Currency of the Quotation: USD					
INCOTERMS: DAP					
Item No	Description	UOM	Qty	Unit price	Total price
1.	Click or tap here to enter text.				
2.	Click or tap here to enter text.				
3.	Click or tap here to enter text.				
4.	Click or tap here to enter text.				
5.	Click or tap here to enter text.				
Total Price					
Transportation Price					
Insurance Price					
Installation Price					
Training Price					
Other Charges (specify)					
Total Final and All-inclusive Price					

Compliance with Requirements

	You Responses		
	Yes, we will comply	No, we cannot comply	If you cannot comply, pls. indicate counter proposal
Minimum Technical Specifications	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.
Delivery Term (INCOTERMS)	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.
Delivery Lead Time	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.
Warranty and After-Sales Requirements	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.
Validity of Quotation	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.
Payment terms	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.
Other requirements <i>[pls. specify]</i>	<input type="checkbox"/>	<input type="checkbox"/>	Click or tap here to enter text.

Other Information:

Estimated weight/volume/dimension of the Consignment:	Click or tap here to enter text.
Country/ies of Origin: <i>(if export licence required this must be submitted if awarded the contract)</i>	Click or tap here to enter text.

I, the undersigned, certify that I am duly authorized to sign this quotation and bind the company below in event that the quotation is accepted.

<p><i>Exact name and address of the company</i></p> <p>Company Name: Click or tap here to enter text.</p> <p>Address: Click or tap here to enter text. Click or tap here to enter text.</p> <p>Phone No.: Click or tap here to enter text.</p> <p>Email Address: Click or tap here to enter text.</p>	<p>Authorized Signature:</p> <p>Date: Click or tap here to enter text.</p> <p>Name: Click or tap here to enter text.</p> <p>Functional Title of Authorised Signatory: Click or tap here to enter text.</p> <p>Email Address: Click or tap here to enter text.</p>
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VENDOR INFORMATION SHEET

Vendor No. _____
Internal to IOM

Registered Vendor Name*: Mr. _____

Other Names/Acronyms _____

Address* _____

House No _____
 Street Name _____
 ZIP/Postal Code* _____
 City* _____
 Region* _____
 Country* _____

Contact Information

Company Tel/Mobile: _____ Contact Person: _____
 Company Email: _____ Contact Person: _____
 Company Website: _____

Industry Category*:

<input type="checkbox"/> 0100 - Commercial Vendors	<input type="checkbox"/> 0500 - International Organizations - Non-UN
<input type="checkbox"/> 0200 - National CSOs	<input type="checkbox"/> 0600 - UN entities
<input type="checkbox"/> 0300 - National Government Entities	<input type="checkbox"/> 0005 - Individual Consultant/Non-Staff
<input type="checkbox"/> 0400 - International CSOs	

Business Type*:

Direct Producer/Manufacturing
 Reseller/Distributor/Service Provider

Provide Services/Goods Internationally* Yes No
Disability-inclusive* Yes Not applicable
Women-owned/controlled* At least 51% women-owned/controlled
 Less than 51% women-owned/controlled
 Not applicable
Environmental Statement* Yes No
Environmental or Energy Management System* Yes No

Notes

All fields marked with * are mandatory. The form may be returned if mandatory fields are missing/incorrect or in the wrong format (esp, Zipcode).

Vendor Name - should match IDs or registration documents.

If there is insufficient space, please use the **Other Information** section

Product Categories (check all applicable)*

<input type="checkbox"/> Agriculture, Livestock and Fisheries	<input type="checkbox"/> Fuels and Derivatives	<input type="checkbox"/> Legal and Investigation	<input type="checkbox"/> Power Supply and Electric
<input type="checkbox"/> Chemicals	<input type="checkbox"/> Furniture	<input type="checkbox"/> Logistics and Warehousing	<input type="checkbox"/> Quality Control and Environment
<input type="checkbox"/> Clothing and Luggage	<input type="checkbox"/> Hospitality, Events	<input type="checkbox"/> Media and Printing	<input type="checkbox"/> Security
<input type="checkbox"/> Construction	<input type="checkbox"/> Insurances	<input type="checkbox"/> Medical, Drugs and Pharma	<input type="checkbox"/> Social and Humanitarian Services
<input type="checkbox"/> Consultancy and Contracted Services	<input type="checkbox"/> IT and Communications	<input type="checkbox"/> NFIs – Household and Camps	<input type="checkbox"/> Tickets
<input type="checkbox"/> Finance and Administration	<input type="checkbox"/> Land and Buildings	<input type="checkbox"/> Office Equipment and Supply	<input type="checkbox"/> Tools and Machinery
<input type="checkbox"/> Food and Beverage	<input type="checkbox"/> Learning, Training and Recreation	<input type="checkbox"/> Personal Care	<input type="checkbox"/> Vehicles and Accessories

UNGM No. _____
UN Partner Portal Reference _____
Registration Date* _____
VAT Number _____

<https://www.unqgm.org/UNUser/Home>
<https://www.unpartnerportal.org>
 Country of Operations (dd-mmm-yyyy)

Licensing Auth./Type _____ **License No.:** _____ **Reg. Date:** _____ **Expiry Date:** _____
For additional licenses, please use the Other Information Section dd-mmm-yyyy dd-mmm-yyyy

Partner Entities (indicate if there are other relevant business partner accounts already registered in IOM. *Format: Account Number-Name*)

Same entity registered in another office _____
 Parent company _____
 Subsidiaries/Branches _____

Other Information:



VENDOR INFORMATION SHEET

Section II: Payment and Banking Information

Payment Details

Payment Method* Bank Transfer Check** Cash** Others** _____
Justification for Non-Bank Payment Method** _____

Notes

Payment currency of the vendor MUST be clearly marked in order to avoid additional bank charges and/or delay in payments.
Non-bank payment methods require justification.

Bank Details (mandatory if Payment Method is via Bank Transfer):

Bank Name _____
Bldg and Street _____
City _____
Postal Code _____
Country _____
Bank Account Name _____
Bank Keys _____
Account Currency _____
Bank Account No. _____

*Depending on the country

Swift Code/BIC (accounts outside U.S.A.) _____
IBAN Number (mandatory for banks in Europe) _____
Clearing No. (CHF accounts in Switzerland) _____
ABA No. for ACH (USD accounts in U.S.A.) _____
Bank Branch Code _____

Notes

If there are multiple bank accounts, please add an extra sheet, and mark the default bank account.

If awarded, please submit ID/Registration, signed IOM Supplier Code of Conduct and Proof of Banking Details to IOM

I hereby certify that the information above are true and correct. I am also authorizing IOM to validate all claims with concerned authorities.

Printed Name

Position/Title

Signature

Date



Code of Conduct for Suppliers

Global Procurement and Supply Unit

Manila Administrative Centre, Manila Philippines

IOM is strongly committed in observing the highest ethical standards in all its procurement activities. As such, this Code of Conduct for Suppliers has been prepared to provide clear summary of IOM's expectation from the suppliers in all procurement dealings, ensuring that internationally recognized procurement ethics are followed. Transparency and accountability should be strictly adhered to in all procurement activities.

IOM procurement ethics focuses on **zero tolerance on corruption, avoiding any form conflict of interest and honest representation of supplier's capabilities.**

Suppliers are strongly urged to familiarize themselves with this Code of Conduct to ensure successful working relations with IOM.

Policy on Corruption and Position on Conflict of Interest

IOM expects all contracted suppliers and companies seeking to sell goods or services to conduct their business in accordance with the highest ethical standards. Suppliers or potential suppliers must strictly comply with all rules and regulations on bribery, corruption and avoid unacceptable business practices. Hence suppliers are expected to observe the following:

- Shall not, directly or indirectly, offer to any IOM Staff money, goods or a service as a consideration or in expectation of a favorable decision, information, opinion, recommendation, vote or any other form of favoritism which qualifies as a corruption;
- Shall not directly or indirectly, offer, give or agree or promise to give to any IOM staff any gratuity for the benefit of/or at the direction or request of any Staff of IOM;
- To immediately inform the IOM Head of Office in the event that any Staff of IOM solicits or obtained or has made an attempt to obtain gratification for himself/herself or for any other persons.
- To immediately declare if any of the Company's staff and/or officers had or have any relative employed with IOM. Failure to make such declaration shall be construed as a conflict of interest and might result in the exclusion of the supplier from present and future procurement activities and/or other legal action as deemed fit by the Organization.

Representation from Suppliers

IOM expects all its suppliers to honestly declare and warrant that:

- It will comply with all rules, regulations and statutory requirements relating to the provision of the products/ services to IOM;
- It will not act in concert with other suppliers or agents when participating in a bid;



IOM • OIM

Code of Conduct for Suppliers

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Manila Administrative Centre, Manila Philippines

- It is a duly authorized/certified provider of the supplied products/services and shall not, expressly or impliedly hold itself out to be an agent/representative of a third party provider of the same products/services;
- It will only supply products that are certified to be of merchantable and satisfactory quality;
- The supplier possesses the necessary capabilities, equipment and suitable place of business to perform its obligations;
- It shall not contract out or subcontract or outsource any portion of the products/services unless prior written consent from IOM has been obtained; and
- It shall maintain the highest standards of integrity and quality of work at all times.

Applicability of the Code of Conduct

This Code of Conduct shall apply to all Suppliers, sub-contractors and to other entities acting on behalf of them (with approval of IOM).

Monitoring compliance to the Code of Conduct

To facilitate the monitoring of suppliers' compliance with this Code of Conduct, IOM expects suppliers to:

- Develop and maintain all necessary documentation to support compliance with the described standards; such documentation must be accurate and complete;
- Provide IOM's representatives with access to relevant records, upon IOM's request;
- Allow IOM's representatives to conduct interviews with the supplier's employees and with management separately;
- Allow IOM's representatives to conduct announced and unannounced site visits of supplier locations; and
- Respond promptly to reasonable inquiries from IOM's representatives in relation to the implementation of the Code of Conduct.

Secure Communication Channels

IOM has established a secure communication channel to enable the suppliers to raise their concerns confidentially and responsibly. If the supplier has questions about the Code of Conduct or wishes to report a questionable behavior or possible violation of the Code of Conduct, the Supplier is encouraged and *should* contact IOM Global Procurement and Supply Unit at email address

gpsu@iom.int or at: IOM Manila Administrative Centre

Global Procurement and

Supply Unit (formerly

Field Procurement Unit)

28th Floor Citibank Tower

8741 Paseo de Roxas, Makati City 1226, Philippines



Code of Conduct for Suppliers

Global Procurement and Supply Unit
Manila Administrative Centre, Manila Philippines

IOM will not tolerate any retribution or retaliation by anyone against a concerned Supplier who has, in good faith, sought out advice or has reported questionable behavior and/or a possible violation. IOM will take disciplinary action up to and including termination of contract for anyone who threatens or engages in retaliation, retribution or harassment of the concerned individual. Identities and contents of all information or complaints will be treated strictly confidential.

SANCTIONS

Breach of the Code of Conduct may result in actions being invoked against that supplier, in addition to any contractual or legal remedies. The actions applied will depend on the nature and seriousness of the breach and on the degree of commitment shown by the supplier in breach to its obligations under the Code of Conduct. The range of actions available to be imposed on the supplier includes but is not restricted to the following:

- Formal warnings – that the continued non-compliance will lead to more severe actions;
- Disclosure of nature of breach to all IOM subsidiaries and associate companies;
- Immediate termination of contract, without recourse;

Acknowledgment and Acceptance, to be submitted together with VIS(Vendor Information Sheet)

This is to certify that I have fully read the Supplier's Code of Conduct attached. Having fully read and understood the completed requirement of this Supplier's Code of Conduct, I hereby commit myself and my company to serve this Code of Conduct and to fully comply with all of its principles. I also certify that I am authorized by my company to sign and accept this document in its behalf.

Supplier: _____
Address: _____
Representative: _____
Signature: _____

IOM office-specific Ref. No.	
IOM Project Code	

CONSTRUCTION AGREEMENT
between the
International Organization for Migration
and
[Name of the Contractor]

This Construction Agreement is entered into between the **International Organization for Migration**, an organization part of the United Nations system, acting through its Mission in Libya, Hay Al Kuwait, Janzour, Tripoli, Libya, represented by Federico SODA, Chief of Mission (hereinafter referred to as “**IOM**”), and **[Name of Contractor]**, of [address], in [country], represented by [Name, Title of the representative of the Contractor], (hereinafter referred to as the “**Contractor**”). IOM and the Contractor are also referred to individually as a “**Party**” and collectively as the “**Parties.**”

1. Introduction and Integral Documents

- 1.1 IOM intends to engage the services of [company’s name] for the construction of [name of project and project code/ WBS Element] located at [address] (the “**Works**”). The Works are what this Agreement requires the Contractor to construct, install and turn over to IOM, as defined in the plans, specifications and Bill of Quantities).
- 1.2 The following documents form part of this Agreement and are attached as Annexes: *[add/delete as necessary]*
- (a) **Annex A** - Detailed Instruction to Bidders dated [insert date], with annexed Scope of Work, Technical Specifications, Drawings, and General Conditions of Tender;
 - (b) **Annex B** - Bid Form including Contractor’s firm and final proposal/bid dated [insert date], with detailed Bill of Quantities (“**BoQ**”) and unit cost;
 - (c) **Annex C** - Approved Work Schedule;
 - (d) **Annex D** - Accepted Notice of Award (“**NoA**”);
 - (e) **Annex E** – Warranty Letter Template; and,
 - (f) **Annex F** – IOM Terms and Conditions for European Union Funded Service Type Agreements

In the event of conflict between the provisions of any Annex and the terms of the main body of the Agreement, the latter shall prevail.

- 1.3 Any other Project documentation, agreed and signed by both Parties during the implementation of this Agreement, shall form part of this Agreement.
- 1.4 All correspondence, instructions, notes and other communications relating in any way to the performance of this Agreement will be in the English language. The English language version of the Agreement will at all times be the version of the Agreement which binds the Parties. Translations of the Agreement into languages other than English may be prepared for working purposes but will have no legally binding effect on the Parties.

- 1.5 If either Party finds any discrepancy or ambiguity in this Agreement, that Party must notify the other Party in writing. The Parties agree to consult with each other to attempt to resolve the discrepancy or ambiguity.
- 1.6 Unless otherwise advised by IOM in writing, all Project reports and other issues arising under this Agreement shall be addressed to IOM's authorized signatory of this Agreement.

2. Scope of Work

- 2.1 The Contractor shall furnish all the necessary materials, tools and equipment, labor, supervision, and other services, for the satisfactory and timely completion of the Works in accordance with this Agreement.
- 2.2 Only IOM may approve any changes, modifications, deviations, and substitutions, in the Scope of Work in accordance with Article 7 ("**Work Variation**").
- 2.3 IOM reserves the right to supply any materials, equipment, or resources, and to delete or reduce any work item, whether in whole or in part and update Annexes as necessary and a reduced Contract Price shall be agreed.

3. Contract Price

- 3.1 The total contract price (the "**Contract Price**") shall **[currency code] [amount in numbers] ([amount in words])** only, inclusive of all applicable fees, taxes and permits that may be imposed by any Government entity in connection with the execution, completion, and turnover of the Works pursuant to this Agreement.
- 3.2 The Contract Price and unit cost as outlined in Annex B shall be binding and shall not be altered in any event. The Contract Price will be modified only in cases of IOM-approved Work Variations and IOM-supplied materials as outlined in Articles 2.2 and 2.3 of this Agreement and shall be reflected in writing.
- 3.3 The liability of IOM to the Contractor is STRICTLY LIMITED to the Contract Price outlined in Article 3.1, regardless of any increase in wage or labor cost or fluctuation in the cost of materials and equipment, occurring at any time. The Contractor shall be liable for its under-estimation of the requirements of this Agreement, inflation or currency devaluation, if any.

4. Manner of Payment

- 4.1 The Contract Price shall be paid in accordance with the following payment schedule
 - (a) **(Applicable if an advance payment is made)** IOM shall release an advance payment equivalent to **[percentage]** of the Contract Price in the amount of **[currency] [insert amount in numbers] (amount in words and currency in words)** within 7 (seven) calendar days from the Contractor's signature of this Agreement and Contractor's submission of and IOM's approval of the following items:
 - i. Drawings and Technical Documents for Permit Purposes;
 - ii. Approved Detailed Construction and Workings Drawings;
 - iii. Work Schedule;

- iv. List of Sub-Contractors and Suppliers (if applicable);
- v. Unconditional Bank Guarantee equivalent to [percentage to match advance payment] percent of the Contract Price to guarantee the advance payment, if applicable.

- (b) IOM will pay the Contractor [currency code] amount in numbers (amount in words) on confirmation by IOM of satisfactory progress toward the completion of (amount)% ([amount in words] per cent) actual measured work as per Bill of Quantities at Annex B and logbook.
- (c) IOM will pay the Contractor [currency code] amount in numbers (amount in words) after the completion of 100% (one hundred per cent) of the Works and inspection and provisional acceptance of the completed Works.
- (d) The balance of 5% (five per cent) of the total Contract Price in the amount of [currency code] amount in numbers (amount in words) will be held for 3 (three) months after provisional acceptance of the completed Works in accordance with Article 10 of this Agreement and subject to the issuance by the Contractor of a warranty letter (using the template attached as Annex E).

4.2 Payments for the Works will be done in installments in accordance with the Payment Schedule above in [currency] ([currency code]) by [bank transfer] to the following bank account:

Bank Name:
Bank Branch:
Bank Account Name:
Bank Account Number:
Swift Code:
IBAN Number:

4.3 The Contractor's Progress Claims shall be submitted to and certified by IOM's appointed Project Manager who will verify the value of the work done with regard to the value of the quantities of items completed in the Bill of Quantities. The Contractor shall submit all Progress Claims with the following attachments:

- (a) Updated Financial Statement of the Project;
- (b) Statement of Completed Works;
- (c) Progress Photos; and
- (d) Contractor's Sales Invoice.

4.4 Within 7 (seven) calendar days of Contractor's submission of the Progress Claims and Statement of Completed Works and all required attachments to the Project Manager, the Project Manager shall evaluate the said Progress Claim(s). Evaluated and approved Progress Claims shall be due and payable within 10 (ten) working days from date of approval of Progress Claim. During this period of evaluation and processing of payments, the Contractor shall continue progress of the work in accordance with the Approved Work Schedule.

- 4.5 Any progress payment/s made by IOM does not imply nor signify acceptance of any portion of the accomplished work and does not waive IOM's right to enforce the Contractor's warranty as provided in Article 14.2 of this Agreement, nor to enforce penalties for delay.
- 4.6 The Contractor can only submit the final Progress Claim as per the Payment Schedule when the Contractor has satisfactorily completed and submitted:
- (a) All works, including Work Variation Orders, as stipulated in the annexed documents;
 - (b) Rectification of all reported non-conforming works;
 - (c) Completed demobilization and clean-up of site;
 - (d) Applicable materials and work test certificate/s;
 - (e) Approval duly signed by the Project Manager and by the Contractor's authorized representative that the Work is completed in accordance with drawings and specifications and in compliance with applicable laws, rules and regulations of the local and/or national government of the location where the Project is to be implemented.
- 4.7 A Certificate of Provisional Acceptance of completed Works shall be issued by IOM when each of the requirements under Article 4.6 have been fulfilled to its satisfaction.
- 4.8 A Certificate of Provisional Acceptance of terminated Works shall be issued by IOM if IOM terminates the contract in accordance with Article 26. This Certificate will indicate the Completion Rate as per Article 6.2 and the Contractor shall remain responsible for the rectification of non-conforming or defective portions of the Works in accordance with Article 14.2.
- 4.9 A Certificate of Final Acceptance shall be issued by IOM 12 (twelve) months after the date a Certificate of Provisional Acceptance of the completed or terminated Works is issued provided that any works required during the warranty period have been completed to its satisfaction.

5. Completion Period

- 5.1 The Contractor shall mobilize all necessary and appropriate resources and coordinate all work activities with IOM to ensure commencement of the Works on **[insert date]** and completion and turn-over of the Works to IOM by **[insert date]** ("**Completion Date**").
- 5.2 Where the Contractor is unable to complete the Works by the **[Completion Date]** date specified in Article 5.1, the Contractor may request a time extension in writing explaining the reasons for the delay. Any adjustment on the costs of performance security, or extension of required insurances, for the performance of the Works due to such time extension shall be for the account of the Contractor.
- 5.3 IOM shall not approve requests for time extension for reasons such as but not limited to:
- (a) Project location, conditions and restrictions identified during time of tender and award of the Agreement;
 - (b) Normal weather and climatic conditions prevailing at the site location;
 - (c) Logistics, implementation, coordination problems and other reasons within the control of the Contractor;
 - (d) Financial, operational and labor difficulties of the Contractor or any of its sub-Contractor/s or supplier/s;
 - (e) Any required rectification of non-conforming work items; and

(f) Nature and condition of terrain.

- 5.4 IOM may revise the Completion Date as stated in Article 5.1 in response to the Contractor's request for time extension caused by any of the following:
- (a) Force Majeure as described in Article 16;
 - (b) Approved Work Variation Order/s requiring additional time for completion by the Contractor, as agreed between the Parties;
 - (c) IOM's failure to make timely payments for the Works completed to IOM's satisfaction;

Provided, the requested extension shall not exceed the duration of the work stoppage or delay caused by the foregoing.

- 5.5 If the Works are not completed by the Completion Date specified in Article 5.1 the Contractor shall be liable to IOM for liquidated damages equivalent to 0.1% (one-tenth of one per cent) of the total Contract Price for each day of delay until the whole Works are completed and accepted by IOM according to Article 4.7. IOM may, at its discretion, grant a conditional time extension whereby the Works are not considered to be in delay during the time extended, but in case of non-completion within the extended period, the calculation of liquidated damages for delay outlined herein shall be from the original completion date before extension. If the Agreement is terminated by either Party after the Completion Date due to non-completion of the Works, the Contractor shall be liable to IOM for liquidated damages equivalent to 0.1% (one-tenth of one per cent) of the total Contract Price for each day from the Completion Date to the notice date of termination.

6. Work Schedule

- 6.1 Within the timeframe specified in the NoA and no later than the date of signature of this Agreement, the Contractor shall submit to IOM a work schedule (the "**Work Schedule**") showing the order and timing for all the activities in the Works.
- 6.2 The Contractor shall keep and update a daily logbook on all progress and matters relating to the Works in accordance with industry standards. The logbook shall be inspected and verified for accuracy, daily or at an interval designated by IOM, by a designated IOM staff or its authorized representatives. The logbook shall be the authoritative source of information for determining the extent of the Works completed (the "**Completion Rate**"). In case the Contractor fails to update the logbook properly with the required verification, IOM shall have the right to solely determine the Completion Rate which cannot be challenged by the Contractor.
- 6.3 The Contractor shall submit an updated Work Schedule as and when requested by IOM or its Project Manager.
- 6.4 The Contractor shall notify IOM through its Project Manager of any proposed change in the Work Schedule. Any change shall be subject to prior written approval by IOM. The Contractor shall also submit to the Project Manager for approval a revised schedule within 7 (seven) calendar days from the date of proposing the change.
- 6.5 If at any time IOM deems that Contractor's actual progress is inadequate to meet the requirements of this Agreement, IOM may notify the Contractor to take such steps as may be necessary to improve its progress. If after a reasonable period, as determined by IOM, the

Contractor still does not improve its performance, IOM may require an increase in Contractor's labour force, the number of shifts, workdays per week, overtime hours, amount of equipment, or require expedited shipment of equipment and materials, all at the Contractor's cost and without additional cost to IOM.

- 6.6 If at any time the Contractor's labor force is inactive due to unpaid wages, the Contractor shall be liable to IOM for liquidated damages equivalent to 0.1% (one-tenth of one percent) of the total Contract Price for each day of work stoppage until the entire labor force resumes work on the Project. This penalty shall be applied independently of any other sanction or penalty allowed for in this Agreement.

7. Work Variation

- 7.1 At any time during the implementation and execution of this Project, IOM reserves the right to request any alteration in any aspect of the work, as deemed necessary or appropriate by IOM in the best interest of the Project.
- 7.2 Alterations and/or modifications, whether additive or deductive, shall be conveyed to the Contractor in the form of a work variation order (the "**Work Variation Order**") duly approved and signed by IOM or its authorized representative. The Contractor shall immediately implement any Work Variation Order issued by IOM.
- 7.3 All variations shall be included in an updated Work Schedule.
- 7.4 If any work in the Work Variation Order corresponds with an item description in the BoQ, the rate in the BoQ shall be used to calculate the value of the variation. In other cases, the cost of such Work Variation Order shall be evaluated and compensated as agreed between the Parties. IOM may request the Contractor to provide a quotation for the cost of the variation.

8. Bank Guarantee for Advance Payment (IF APPLICABLE)

- 8.1 The Contractor shall, within the timeframe specified in the NoA and no later than the date of signature of this Agreement, furnish IOM with an unconditional bank guarantee in the amount equivalent to [percentage] of the Contract Price (the "**Bank Guarantee**").
- 8.2 The Bank Guarantee shall be in a form and by a bank acceptable to IOM in an amount and currency equal to the advance payment.
- 8.3 The amount of the Bank Guarantee shall not be construed as the limit of the Contractor's liability to IOM in any event.
- 8.4 The Bank Guarantee shall be effective from the date of the release of cash advance as per Article 4.1 of this Agreement until the date of the provisional acceptance as per Articles 4.7 or 4.8.

9. Performance Security (NOT APPLICABLE)

- 9.1 The Contractor shall, within the timeframe specified in the NoA, furnish IOM with a performance bond in the amount equivalent to 10% (ten percent) of the Contract Price, to be issued by a reputable bank or surety company in a form acceptable to IOM (the "**Performance Bond**").

- 9.2 The Performance Bond shall serve as the guarantee for the Contractor's faithful performance and compliance with the terms and conditions of this Agreement.
- 9.3 The amount of the Performance Bond shall not be construed as the limit of the Contractor's liability to IOM in any event.
- 9.4 The Performance Bond shall be effective from the date of commencement of the Works until the date of Provisional Acceptance as per Articles 4.7 or 4.8.

10. Retention

- 10.1 Upon issuance of the Certificate of Provisional Acceptance for completed Works as per Article 4.7, an amount equivalent to **5% (five per cent)** of the Contract Price shall be retained by IOM to be used for repairs or reconstruction of defective works due to poor workmanship and/or inferior quality of material used which are discovered within a period of **3 (three) months** from the date of Provisional Acceptance.
- 10.2 In case a Certificate of Provisional Acceptance for terminated Works has been issued as per Article 4.8, an amount equivalent to 5% (five per cent) of the Contract Price corresponding to the Completion Rate as per Article 6.2 shall be retained by IOM to use for repairs and reconstruction of defective works due to poor workmanship and/or inferior quality of material used for which the Contractor was responsible under this Agreement which are discovered within a period of 3 (three) months from the date of Provisional Acceptance.
- 10.3 The Contractor may, from the date of Provisional Acceptance and until the expiration of Retention period, request IOM to release the amount retained as per Article 10.1 or Article 10.2 by submitting an unconditional bank guarantee. Such bank guarantee shall be in a form and by a bank acceptable to IOM and in an amount and currency equal to the amount retained and effective until the expiration of Retention period.

11. Contractor's Responsibility

- 11.1 All government permits and licenses required for the execution of the Works under this Agreement shall be obtained prior to the commencement of the Works and paid for by the Contractor.
- 11.2 The Contractor shall comply with local and national building regulations imposed by appropriate government agencies, and shall keep IOM indemnified against all fines, penalties and losses incurred by reason of any breach of this clause.
- 11.3 The Contractor shall assume full responsibility for the Works under this Agreement until its final acceptance by IOM as per Article 4.9. The Contractor shall have entire control and supervision of the Works and services herein agreed upon and shall be solely liable for the salaries, wages and other employment benefits of all employees and sub-contractors. Should the Contractor breach this clause, IOM has the right to proceed against the Performance Bond or Bank Guarantee or to use the Retention Amount, without prejudice to demanding direct reimbursement from the Contractor in the event that the amount of the Performance Bond Bank Guarantee or Retention Amount is insufficient.

- 11.4 The Contractor shall be responsible for the safety of all activities on the site and for ensuring that relevant occupational health and safety laws and regulations are followed.
- 11.5 The Contractor shall be solely and fully accountable for ANY claim for losses, liabilities, injuries, or damages arising out of or in connection with the work done or to be performed under this Agreement including but not limited to any accident or injury of any of its employees or sub-contractors during the term of this Agreement , or for any injury to any person or damages or loss of properties arising from the construction or any act or omission of the Contractor or anyone in its employment, or its subcontractors.
- 11.6 The Contractor shall comply with local laws on wages and such other labor laws including all other laws, orders and regulations of any government authority in connection with the Works.
- 11.7 The Contractor shall at all times defend, indemnify, and hold harmless IOM, its officers, employees, and agents from and against all losses, costs, damages and expenses (including legal fees and costs), claims, suits, proceedings, demands and liabilities of any kind or nature to the extent arising out of or resulting from acts or omissions of the Contractor or its employees, officers, agents or subcontractors, in the performance of this Agreement. IOM shall promptly notify the Contractor of any written claim, loss, or demand for which the Contractor is responsible under this clause.

12. Inspection of Works

- 12.1 IOM reserves the right for itself and its representatives to inspect the Works, while in progress, so as to give IOM the opportunity to reject the whole or any portion thereof, which in the opinion of IOM's representative is defective or substandard.
- 12.2 The Contractor shall allow the Project Manager and other IOM representatives to access to the work site at any time.

13. Insurance

- 13.1 Without limiting the Contractor's liability pursuant to Article 11 (Contractor's Responsibility), the following insurance cover is to be provided and maintained by the Contractor for the entire duration of this Agreement:
- (a) Third party liability for any one claim or series of claims arising out of any one accident or event;
 - (b) Workmen's compensation and/or employer's liability insurance which complies with applicable legislation;
 - (c) Automobile public liability and property damage insurance; and
 - (d) Cover against loss or damage to the Works and materials during the construction.
- 13.2 The amount of coverage for each type of insurance is to be in line with relevant industry standards and in an amount acceptable to IOM.
- 13.3 Policies and certificates of insurance are to be provided to IOM prior to the commencement of the Works.

14. Warranties

- 14.1 The Contractor represents and warrants that it is financially sound and duly licensed, with the adequate labor/human resources, equipment and tools, competence, expertise and skills necessary to carry out fully and satisfactorily, within the stipulated completion period, the Works in accordance with this Agreement.
- 14.2 The Contractor guarantees and warrants the performance and completion of the design and construction work to the full and complete satisfaction of IOM. The Contractor remains responsible for the damages caused or identified within **12 (twelve) months** from the date of issuance of the Certificate of Provisional Acceptance of the Works by IOM as per Articles 4.7 or 4.8, on account of defects in the construction, or the use of materials of inferior quality furnished by it, or due to any violation of the terms of the Agreement.
- 14.3 Any work re-performed by, or any rework, repair or replacement done in satisfaction of the Contractor's obligations in relation to its warranty under this Agreement, shall automatically be re-warranted by Contractor for the remaining warranty period reckoned from the provisional acceptance, provided that in no case shall such re-warranty be less than 3 (three) months.
- 14.4 In case of any defect in workmanship or materials, which may become apparent in the course of construction, the Contractor shall, within 7 (seven) calendar days from IOM's demand, at Contractor's own cost and expense, remedy such portion of the Works done by the Contractor as in the opinion or judgment of IOM is unsound, incorrect or defective or not in accordance with the plans and specifications.
- 14.5 In case of Contractor's default, failure or refusal to carry out such order to remove and replace the unsound, incorrect or defective portion of the Works within 7 (seven) days as required by the previous clause, IOM may terminate this Agreement and/or engage the services of other persons to carry out the same. The Contractor shall bear all expenses arising there from or incidental thereto. IOM may require direct reimbursement for the cost of such action from the Contractor, deduct the expenses from any amount due to the Contractor, or deduct the amount from Performance Bond, the Bank Guarantee or the Retention Amount.
- 14.6 If any defects or imperfections are discovered by IOM and communicated to the Contractor after provisional acceptance but prior to final acceptance of the Works due to defective or improper workmanship and/or inferior quality of the material used, the Contractor shall immediately correct such defects within a period of 5 (five) days of receipt of written notice from IOM. Where the Contractor fails to act within this period, IOM may engage the services of a third party to correct the defect and hold the Contractor liable for the cost of such services. In such circumstances the Contractor shall reimburse IOM the cost of such repair, with interest at 2% (two per cent) per month from the time such expenses were incurred until fully reimbursed. The Performance Bond, Bank Guarantee and Retention, if not yet released at the time the said defects are found, may be used for this purpose.
- 14.7 The Contractor shall perform repair work with the utmost care and diligence to protect existing facilities and prevent damage thereto. In the event that damage to existing facilities is caused by such repairs, the Contractor shall repair such damage at its own expense and to IOM's satisfaction and acceptance.
- 14.8 The Contractor further warrants that:
- (a) It shall comply with all applicable laws, ordinances, rules and regulations when performing its obligations under this Agreement;

- (b) In all circumstances it shall act in the best interests of IOM;
- (c) No official or employee of IOM or any third party has received from, will be offered by, or will receive from the Contractor any direct or indirect benefit arising from the Agreement or award thereof;
- (d) It has not misrepresented or concealed any material facts in the procuring of this Agreement;
- (e) All materials used are new, legally sourced and fit for their particular purpose;
- (f) No asbestos or any other health hazard materials (lead paints etc.) will be used in the course of the construction;
- (g) The Contractor, its staff or shareholders have not previously been declared by IOM ineligible to be awarded agreements by IOM;
- (h) The Price specified in this Agreement shall constitute the sole remuneration in connection with this Agreement. The Contractor shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or the discharge of its obligations thereunder. The Contractor shall ensure that any subcontractors, as well as the officers, personnel and agents of either of them, similarly, shall not receive any such additional remuneration.
- (i) It shall respect the legal status, privileges and immunities of IOM as an intergovernmental organization, such as inviolability of documents and archive wherever it is located, exemption from taxation, immunity from legal process or national jurisdiction. In the event that the Contractor becomes aware of any situation where IOM's legal status, privileges or immunities are not fully respected, it shall immediately inform IOM.
- (j) It is not included in the most recent Consolidated United Nations Security Council Sanctions List nor is it the subject of any sanctions or other temporary suspension. The Contractor will disclose to IOM if it becomes subject to any sanction or temporary suspension during the term of this Agreement.
- (k) It must not employ, provide resources to, support, contract or otherwise deal with any person, entity or other group associated with terrorism as per the most recent Consolidated United Nations Security Council Sanctions List and all other applicable anti-terrorism legislation. If, during the term of this Agreement, the Contractor determines there are credible allegations that funds transferred to it in accordance with this Agreement have been used to provide support or assistance to individuals or entities associated with terrorism, it will inform IOM immediately who in consultation with the donors as appropriate, shall determine an appropriate response. The Contractor shall ensure that this requirement is included in all subcontracts.

14.9 The Contractor warrants that it shall abide by the highest ethical standards in the performance of this Agreement, which includes not engaging in any fraudulent, corrupt, discriminatory or exploitative practice or practice inconsistent with the rights set forth in the Convention on the Rights of the Child. The Contractor shall immediately inform IOM of any suspicion that the following practice may have occurred or exist:

- (a) a corrupt practice, defined as the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the action of IOM in the procurement process or in contract execution;
- (b) a fraudulent practice, defined as any act or omission, including a misrepresentation or concealment, that knowingly or recklessly misleads, or attempts to mislead, IOM in the procurement process or the execution of a contract, to obtain a financial gain or other benefit or to avoid an obligation or in such a way as to cause a detriment to IOM;

- (c) a collusive practice, defined as an undisclosed arrangement between two or more bidders designed to artificially alter the results of the tender process to obtain a financial gain or other benefit;
- (d) a coercive practice, defined as impairing or harming, or threatening to impair or harm, directly or indirectly, any participant in the tender process to influence improperly its activities, or affect the execution of a contract;
- (e) an obstructive practice, defined as (i) deliberately destroying, falsifying, altering or concealing of evidence material to IOM investigations, or making false statements to IOM investigators in order to materially impede a duly authorized investigation into allegations of fraudulent, corrupt, collusive, coercive or unethical practices; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or (ii) acts intended to materially impede the exercise of IOM's contractual rights of access to information;
- (f) any other unethical practice contrary to the principles of efficiency and economy, equal opportunity and open competition, transparency in the process and adequate documentation, highest ethical standards in all procurement activities.

14.10 The Contractor further warrants that it shall:

- (a) Take all appropriate measures to prohibit and prevent actual, attempted and threatened sexual exploitation and abuse (SEA) by its employees or any other persons engaged and controlled by it to perform activities under this Agreement ("other personnel"). For the purpose of this Agreement, SEA shall include:
 1. Exchanging any money, goods, services, preferential treatment, job opportunities or other advantages for sexual favours or activities, including humiliating or degrading treatment of a sexual nature; abusing a position of vulnerability, differential power or trust for sexual purposes, and physical intrusion of a sexual nature whether by force or under unequal or coercive conditions.
 2. Engaging in sexual activity with a person under the age of 18 ("child"), except if the child is legally married to the concerned employee or other personnel and is over the age of majority or consent both in the child's country of citizenship and in the country of citizenship of the concerned employee or other personnel.
- (b) Strongly discourage its employees or other personnel having sexual relationships with IOM beneficiaries.
- (c) Report timely to IOM any allegations or suspicions of SEA, and investigate and take appropriate corrective measures, including imposing disciplinary measures on the person who has committed SEA.
- (d) Ensure that the SEA provisions are included in all subcontracts.
- (e) Adhere to above commitments at all times.

14.11 The Contractor expressly acknowledges and agrees that breach by the Contractor, or by any of the Contractor's employees, contractors, subcontractors or agents, of any provision contained in Articles 14.8, 14.9, or 14.10 of this Agreement constitutes a material breach of this Agreement and shall entitle IOM to terminate this Agreement immediately on written notice without liability. In the event that IOM determines, whether through an investigation or otherwise, that such a breach has occurred then, in addition to its right to terminate the Agreement, IOM shall be entitled to recover from the Contractor all losses suffered by IOM in connection with such breach.

14.12 The Contractor's warranty obligation under this Agreement shall remain valid and existing during the warranty period, notwithstanding the handover of the Works by IOM to a third-party, and the Contractor shall remain liable for any defects in the construction, workmanship, use of substandard materials, or any violation of the terms of the Agreement during such warranty period.

15. Assignment and Subcontracting

15.1 The Contractor shall not assign or subcontract the Agreement or any work under this Agreement in whole or in part, unless agreed in writing in advance by IOM. Any subcontract entered into by the Contractor without approval in writing by IOM may be cause for termination of the Agreement.

15.2 Notwithstanding a written approval from IOM, the Contractor shall not be relieved of any liability or obligation under this Agreement nor shall it create any contractual relation between any subcontractor and IOM. The Contractor shall include in an agreement with a subcontractor all provisions in this Agreement that are applicable to a subcontractor, including relevant Warranties and Special Provisions. The Contractor remains liable as a primary obligor under this Agreement, and it shall be directly responsible to IOM for any faulty performance under any subcontract. The subcontractor shall have no cause of action against IOM for any breach of the sub-contract.

16. Force Majeure

16.1 Neither Party will be liable for any delay in performing or failure to perform any of its obligations under this Agreement if such delay or failure is caused by force majeure, which means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, blockade or embargo, strikes, Governmental or state restrictions, natural disaster, epidemic, public health crisis, and any other circumstances which are not caused by nor within the control of the affected Party.

16.2 As soon as possible after the occurrence of a force majeure event which impacts the ability of the affected Party to comply with its obligations under this Agreement, the affected Party will give notice and full details in writing to the other Party of the existence of the force majeure event and the likelihood of delay. On receipt of such notice, the unaffected Party shall take such action as it reasonably considers appropriate or necessary in the circumstances, including granting to the affected Party a reasonable extension of time in which to perform its obligations. During the period of force majeure, the affected Party shall take all reasonable steps to minimize damages and resume performance.

16.3 IOM shall be entitled without liability to suspend or terminate the Agreement if Contractor is unable to perform its obligations under the Agreement by reason of force majeure. In the event of such suspension or termination, the provisions of Article 26 (Termination) shall apply.

17. Intellectual Property

All intellectual property and other proprietary rights including, but not limited to, patents, copyrights, trademarks, and ownership of data resulting from the performance of the Services shall be vested in IOM, including, without any limitation, the rights to use, reproduce, adapt, publish and distribute any item or part thereof.

18. Independent Contractor

The Contractor, its employees and other personnel as well as its subcontractors and their personnel, if any, shall perform all Works under this Agreement as an independent contractor and not as an employee or agent of IOM.

19. Audit

The Contractor agrees to maintain records, in accordance with sound and generally accepted accounting procedures, of all direct and indirect costs of whatever nature involving transactions related to the provision of services under this Agreement. The Contractor shall make all such records available to IOM or IOM's designated representative at all reasonable times until the expiration of 7 (seven) years after the date of final payment, for inspection, audit, or reproduction. On request, employees of the Contractor shall be available for interview.

20. Confidentiality

20.1 All information which comes into the Contractor's possession or knowledge in connection with this Agreement is to be treated as strictly confidential. The Contractor shall not communicate such information to any third party without the prior written approval of IOM. The Contractor shall comply with IOM Data Protection Principles in the event that it collects, receives, uses, transfers or stores any personal data in the performance of this Agreement. This obligation shall survive the expiration or termination of this Agreement.

20.2 Notwithstanding the previous paragraph, IOM may disclose information related to this Agreement, such as the name of the Contractor and the value of the Agreement, the title of the contract/project, nature and purpose of the contract/project, name and locality/address of the Contractor and the amount of the contract/project to the extent as required by its Donor or in relation to IOM's commitment to any initiative for transparency and accountability of funding received by IOM in accordance with the policies, instructions and regulations of IOM.

21. Notices

Any notice given pursuant to this Agreement will be sufficiently given if it is in writing and received by the other Party at the following address:

International Organization for Migration (IOM)

Attn: Procurement Unit
Hay Al Kuwait, Janzour, Tripoli, Libya
Email: iomlibyaprocurement@iom.int

[Full name of the Contractor]

Attn: [Name and title/position of the Contractor's contact person]
[Contractor 's address]
Email: [Contractor 's email address]

22. Dispute Resolution

- 22.1 Any dispute, controversy or claim arising out of or in relation to this Agreement, or the breach, termination or invalidity thereof, shall be settled amicably by negotiation between the Parties.
- 22.2 In the event that the dispute, controversy or claim has not been resolved by negotiation within 3 (three) months of receipt of the notice from one party of the existence of such dispute, controversy or claim, either Party may request that the dispute, controversy or claim is resolved by conciliation by one conciliator in accordance with the UNCITRAL Conciliation Rules of 1980. Article 16 of the UNCITRAL Conciliation Rules does not apply.
- 22.3 In the event that such conciliation is unsuccessful, either Party may submit the dispute, controversy or claim to arbitration no later than 3 (three) months following the date of termination of conciliation proceedings as per Article 15 of the UNCITRAL Conciliation Rules. The arbitration will be carried out in accordance with the 2010 UNCITRAL arbitration rules as adopted in 2013. The number of arbitrators shall be one and the language of arbitral proceedings shall be English, unless otherwise agreed by the Parties in writing. The arbitral tribunal shall have no authority to award punitive damages. The arbitral award will be final and binding.
- 22.4 The present Agreement as well as the arbitration agreement above shall be governed by the terms of the present Agreement and supplemented by internationally accepted general principles of law for the issues not covered by the Agreement, to the exclusion of any single national system of law that would defer the Agreement to the laws of any given jurisdiction. Internationally accepted general principles of law shall be deemed to include the UNIDROIT Principles of International Commercial Contracts. Dispute resolution shall be pursued confidentially by both Parties. This Article survives the expiration or termination of the present Agreement.

23. Use of IOM Name, Abbreviation and Emblem

The Contractor shall not be entitled to use the name, abbreviation or emblem of IOM without IOM's prior written authorisation. The Contractor acknowledges that use of the IOM name, abbreviation and emblem is strictly reserved for the official purposes of IOM and protected from unauthorized use by Article 6ter of the Paris Convention for the Protection of Industrial Property, revised in Stockholm in 1967 (828 UNTS 305 (1972)).

24. Status of IOM

Nothing in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the International Organization for Migration as an intergovernmental organization.

25. No Waiver Clause

IOM's failure to insist upon a strict performance of any of the terms and conditions of this Agreement shall not be deemed a relinquishment of any right or remedy that IOM may have, nor shall it be construed as a waiver of Contractor's subsequent breach of this Agreement which shall continue to be in full force and effect. No waiver by IOM of any of its rights under this Agreement shall be deemed to have been made unless expressed in writing and signed by IOM.

26. Termination of Agreement

26.1 IOM may, at its option, terminate for convenience any of the work under this Agreement in whole or in part, at any time by 7 (seven) days written notice to Contractor. Such notice shall specify the Completion Rate upon termination as established by Article 6.2 and the effective date of termination. Upon receipt of such notice Contractor shall:

- (a) Immediately discontinue the Works on the date and to the extent specified in the notice and place no further purchase orders or subcontracts for materials, services, or facilities other than as may be required for completion of such portion of the Works that is not terminated;
- (b) Promptly cancel upon terms satisfactory to IOM all purchase orders, subcontracts, rentals, or any other agreement existing for the performance of the terminated work, or assign those agreements as directed by IOM;
- (c) Assist IOM in the maintenance and protection of work in progress, plant, tools, equipment, property and materials acquired by Contractor or furnished by IOM under this Agreement;
- (d) Complete performance of such portion of the Works which are not terminated; and
- (e) Perform other related tasks, which IOM may reasonably instruct, in order to effect the termination of the work.

26.2 Upon termination as per the previous clause, as the sole right and remedy of Contractor, IOM shall pay in accordance with the following:

- (a) The Contract Price corresponding to the Works performed in accordance with this Agreement prior to the date of such notice of termination;
- (b) Costs corresponding to the portion of the Works thereafter performed as specified in such notice of termination, subject to IOM's acceptance of such work;
- (c) Reasonable and documented administrative costs of settling and paying claims arising out of the termination of work under purchase orders or subcontracts, as agreed by IOM; and
- (d) Reasonable costs incurred in demobilization and the disposition of residual material and equipment, as agreed by IOM.

The Contractor shall submit within 7 (seven) calendar days after receipt of notice of termination, a written statement setting forth its proposal for an adjustment to the Contract Price to include only the incurred costs described in this clause. IOM shall review the proposal, and negotiate an equitable adjustment of the Contract Price. Other amounts paid in advance by IOM will be refunded by the Contractor within 7 (seven) days.

26.3 IOM may terminate this Agreement or any of the work under this Agreement at any time by immediate written notice to the Contractor, for causes which include but are not limited to:

- (a) The Contractor's violation of the terms and conditions of this Agreement;
- (b) Contractor's default, failure or refusal to carry out order to remove and replace the unsound, incorrect or defective portion of the Works as per Article 14.5;
- (c) Non-completion of the Works within the time agreed upon or the expiration of extension agreed upon, or delayed progress of the Works as stated in Article 6 or sub-standard work;
- (d) Institution of insolvency or receivership proceedings involving the Contractor;
- (e) If, in the judgment of IOM, the Contractor has engaged in corrupt or fraudulent practices in competing for and/or implementing the Agreement.

The written notice shall specify the Completion Rate as established by Article 6.2 upon termination, the effective date of termination, and any additional tasks that need to be performed including but not limited to those enumerated in Articles 26.1 and 26.2. Such termination shall be without prejudice to IOM's other rights and remedies in this Agreement, in law and in equity. Amounts paid in advance by IOM will be refunded by the Contractor within 7 (seven) days from the date of IOM's request.

- 26.4 Where IOM terminates this Agreement as per Article 26.3 above, all materials, plant, equipment and works financed under this Agreement shall be deemed to be the property of IOM, and the Contractor shall be liable for all the direct replacement cost incurred to IOM for the completion of the Works. The Contractor shall pay IOM the required amount within 30 (thirty) days from receipt of an invoice from IOM. The direct replacement cost shall be the difference between the remaining amount in Contract Price not paid to the Contractor upon termination including the retention amount (after the settlement of all remaining debts and obligations) and the actual cost spent by IOM for completion of the remainder of the Works plus overhead of 10% (ten per cent) for additional administrative efforts of IOM.
- 26.5 Upon any termination, the Contractor shall waive any claims for damages including loss of anticipated profits on account thereof.
- 26.6 IOM may suspend the Agreement at any time, in whole or in part. In the event of suspension of this Agreement, IOM will specify the scope of activities and/or deliverables that shall be suspended in writing. All other rights and obligations of this Agreement shall remain applicable during the period of suspension. IOM will notify the Contractor in writing when the suspension is lifted and may modify the completion date. The Contractor shall not be entitled to claim or receive any Service fee or costs incurred during the period of suspension of this Agreement.

27. Severability

If any part of this Agreement is found to be invalid or unenforceable, that part will be severed from this Agreement and the remainder of the Agreement shall remain in full force.

28. Entire Agreement

This Agreement and its Annexes embody the entire agreement between the Parties and supersedes all prior agreements and understandings, if any, relating to the subject matter of this Agreement.

29. Final Clauses

29.1 This Agreement will enter into force upon signature by both Parties. It will remain in force until completion of all obligations of the Parties under this Agreement unless terminated earlier in accordance with Article 26.

29.2 Amendments may be made by mutual agreement in writing between the Parties.

30. Special Provisions (Optional)

Due to the requirements of the Donor financing the Project, the Contractor shall agree and accept the following provisions:

[Insert all donor requirements which must be flown down to IOM's implementing partners and subcontractors. In case of any doubt, please contact LEGContracts@iom.int]

Signed in duplicate **in English**, on the dates and at the places indicated below.

For and on behalf of
The International Organization for
Migration

Signature

For and on behalf of
[Name of Contractor]

Signature

Name:
Position:
Date:
Place:

Name:
Position:
Date:
Place:

Warranty Letter

To: International Organization for Migration (IOM) – Mission in Libya

Attn:

**Project
Name/Works:**

Location:

We, [insert Contractor's name], the Contractor for the above referenced Works, guarantees and warrants the performance and completion of the design and construction work to the full and complete satisfaction of IOM.

In accordance with the Construction Agreement dated [insert date] with IOM ("Agreement"), we affirm that we will be responsible for the damages caused or identified within 12 (twelve) months from the date of issuance of the Certificate of Provisional Acceptance of the completed Works by IOM on account defects in the construction, or the use of materials of inferior quality furnished by it, or due to any violation of the terms of the Agreement.

If any defects or imperfections are discovered by IOM and communicated to us within the 12-month warranty period due to defective or improper workmanship and/or inferior quality of the material used, we shall immediately correct such defects within a period of 5 (five) days of receipt of written notice from IOM. If we fail to act within this period and IOM engages the services of a third party to correct the defect, we confirm our liability to reimburse IOM for the cost of such repair services, with interest at 2% (two per cent) per month from the time such expenses were incurred until fully reimbursed.

Any work re-performed by, or any rework, repair or replacement done in satisfaction of our warranty obligations under the Agreement, shall automatically be re-warranted by us for the remaining warranty period reckoned from the provisional acceptance, provided that in no case shall such re-warranty be less than 3 (three) months.

The warranty commences on [insert date] and expires on [insert date].

We acknowledge that IOM will issue a Certificate of Final Acceptance only upon the expiration of the 12-month warranty period and upon completion of any works required during the warranty period to the satisfaction of IOM.

For and on behalf of
[Name of Contractor]

Signature

Name:
Position:
Date:
Place: