

ANNEX 1 –

IDLO GENERAL TERMS AND CONDITIONS

FOR THE PROCUREMENT OF SERVICES

GENERAL TERMS AND CONDITIONS FOR THE PROCUREMENT OF SERVICES [CONTRACTS]

The present General Terms and Conditions for the Procurement of Services (hereinafter referred to as “General Terms and Conditions”) set forth the general terms and conditions applicable to the Parties under the Contract.

1. GENERAL STANDARDS OF PERFORMANCE

- (a) The Contractor shall carry out its work with due diligence and efficiency, conform to a high standard of moral and ethical conduct, and exercise such skill and care in the production of the Services as is consistent with generally accepted professional standards.
- (b) The Contractor shall keep accurate and systematic records of its work.
- (c) The Contractor shall promptly furnish IDLO with any such information relating to the Services as IDLO may from time to time reasonably request.
- (d) The Contractor shall neither seek nor accept instructions from any authority external to IDLO in connection with the performance of the Services under the Contract.
- (e) The Contractor shall refrain from any action which may adversely affect IDLO and shall fulfill its commitments with the fullest regard to the interests of IDLO.
- (f) IDLO reserves the right to require original receipts and to audit the Contractor’s accounts and records in the event that it has a good faith reason to believe that the Contractor has acted in violation of the Supplier’s Code of Conduct or applicable law.

2. PERSONNEL

- (a) As the Contractor has legal status independent of IDLO, it shall be responsible for the professional and technical competence of its employees, officials, agents and representatives (hereinafter referred to as the “Contractor’s Personnel”) and/or subcontractors and will select, for work under the Contract, reliable individuals who shall perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.
- (b) Should IDLO determine that an individual employed or subcontracted by the Contractor has violated these standards or the terms of the Contract, IDLO shall so inform the Contractor, who will take immediate steps to remove said individual from work under this Contract, without prejudice to its requirement for satisfactory completion of said work.
- (c) If the Contractor has undertaken that the Services shall be performed by the individual(s) named in the Contract or otherwise agreed in writing by IDLO, this being an essential element of the Contract, the Contractor may not replace said individuals by others, without the prior written consent of IDLO. Should IDLO authorize such a replacement, the Contractor undertakes to carry out replacement by other persons of equivalent competency, who will be trained by the Contractor at its own costs so that they are immediately operational.
- (d) The Contractor’s Personnel :
 - (i) Shall comply with all the terms and obligations of the Contract;
 - (ii) Shall not be considered in any respect as being employees, consultants, agents or affiliates of IDLO;
 - (iii) Shall not have any power to commit IDLO in respect of any obligation or expenditure whatsoever;
 - (iv) Shall not be conferred any privilege or immunity that IDLO and its personnel enjoy as an intergovernmental organization;

3. DELIVERY AND SUPERVISION

- (a) The Contractor shall provide the Services at the place specified in the Contract, and within the delivery period stipulated in the Contract.
- (b) The Coordinator as defined in the Contract, shall oversee the Contractor's delivery of the Services and verify that the Contractor carries out the tasks specified in this Contract and in accordance with the Coordinator's specific directions and recommendations over the course of the Contract.
- (c) In case of any impediment, which may result in the Contractor not abiding by the terms of the Contract, the Contractor shall immediately notify the Coordinator; such notification shall not release the Contractor from fulfilling its obligations under the Contract. IDLO may, at its discretion, however, accept deviations from the terms of the Contract without prejudice to any other rights and remedies set forth herein.

4. EXAMINATION AND ACCEPTANCE

- (a) Before any payment, with the exception of advance payment if any, IDLO shall examine the Services. If they are deemed acceptable, IDLO shall proceed with the payment as defined in the Contract. The Contractor shall provide, when applicable and possible, all facilities for any such examination.
- (b) If the Contractor incurs costs or expenses because of IDLO's examination on the premises of IDLO, or elsewhere, the Contractor may ask for reimbursement of duly documented and justified costs.
- (c) In case of rejection of the Services provided, IDLO will communicate the grounds for rejection and timeframe for addressing IDLO's concerns. The Contractor will make every effort to address IDLO's concerns within the given timeframe. A new examination may also be carried out by the representatives of both Parties if promptly requested by the Contractor and before IDLO exercises any legal remedies. The Contractor shall bear the expenses of such an examination.
- (d) The examinations shall be carried out in good faith.
- (e) The sole individual or individuals authorized to accept the Services provided under this Contract, on behalf of IDLO, are specified in the Contract.

5. PAYMENT

- (a) Unless expressly stipulated otherwise in the Contract, IDLO shall make payment by means of a bank remittance, within thirty (30) days of acceptance of the Services by IDLO, and upon receipt of the corresponding invoice and any other documents specified in the Contract.
- (b) The price of the Services shall be firm for the entire duration of the Contract and as stated in the Contract, and may not be increased, except by the express and written agreement of IDLO.
- (c) IDLO shall not pay any charge for late payment unless this has been expressly agreed to in writing.
- (d) Payment shall not be made for Services that have not been accepted as provided for in Article 5 of these General Terms and Conditions. Payment alone by IDLO shall not be deemed to be acceptance of services.
- (e) Advance payment shall only be made if expressly authorized by IDLO in the Contract and only where normal commercial practice or the interests of IDLO so require.

6. PERFORMANCE SECURITY

If IDLO so requests in the Contract, the Contractor shall guarantee the due fulfillment of its obligations under the Contract by providing an unconditional and irrevocable bank guarantee serving as Performance Security from an established bank of good standing for an amount corresponding to 10% of the Contract value (exclusive of tax).

7. TAXES

- (a) The Contractor shall be personally responsible for the payment of taxes, charges or other levies, if any, with respect to compensation or other payments received from IDLO.
- (b) IDLO maintains a number of bilateral agreements in which countries confer upon IDLO certain privileges and immunities, including tax exemption. The Contractor's price shall be net of any taxes or customs duties that would normally be payable for the Services in the absence of such exemption.

If it is subsequently determined that any taxes and duties from which IDLO is exempted have been included in the price paid by IDLO, the amount of such taxes and duties shall be refunded by the Contractor. In the event that the Contractor's price includes taxes or customs duties for which IDLO is exempt, IDLO may deduct such amount from the Contract price and payment of such corrected amount shall constitute full payment by IDLO.

- (c) In countries where IDLO is not tax-exempt and where Services are provided, the price shall include all taxes due by IDLO under the fiscal legislation of such countries.

8. TITLE TO EQUIPMENT SUPPLIED BY IDLO

Title to any equipment and supplies that may be furnished by IDLO shall rest with IDLO and any such equipment shall be returned to IDLO upon termination of this Contract or when no longer needed by the Contractor. Such equipment, when returned to IDLO shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate IDLO for equipment determined to be damaged or degraded beyond normal wear and tear.

9. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS

- (a) The Contractor guarantees that the Services and specific deliverables provided by it are unencumbered by any third party's proprietary rights.
- (b) All intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to the deliverables, products or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of this Contract, shall belong exclusively to IDLO. At IDLO's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to IDLO.

10. CONFIDENTIALITY

- (a) The Contractor shall not use any information acquired or developed in the course of this Contract for any purpose not authorized in writing by IDLO.
- (b) The Contractor is required to exercise the utmost discretion during the performance of the Contract. The Contractor may not communicate to any other person, government, or authority external to IDLO any information known to it by reason of its contractual relationship with IDLO which has not previously been made public, except with the written authorization of IDLO. Nor shall the Contractor at any time use such information to private advantage.
- (c) The Contractor shall be liable for any breach of confidentiality or any indirect disclosure that could harm the interests of IDLO. The extent of any such liability shall be directly proportional to the extent of the damage caused.
- (d) All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of IDLO, shall be treated as confidential, and shall be returned and/or delivered only to authorized IDLO officials in completion of work under this Contract.

11. ADVERTISING

Unless authorized in writing by IDLO, the Contractor shall not advertise or otherwise make public the fact it is supplying services to IDLO. The Contractor shall not use the name, emblem, or official seal of IDLO or any abbreviation of the names of IDLO for advertising or for any other promotional purpose.

12. SOCIAL AND HUMAN RIGHTS

The Contractor shall respect fundamental social and human rights, and shall abide by the IDLO Supplier Code of Conduct and the IDLO Anti-Fraud and Anti-Corruption Policy.

In addition, the Contractor:

- represents and warrants that neither it nor any of its affiliates or subcontractors is engaged in any practice inconsistent with the rights set forth in the Convention of the Rights of the Child which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development;
- warrants that neither it, nor any of its affiliates or subcontractors is engaged in the sale or manufacture of anti-personnel mines or of components used in the manufacture of such mines;

- confirms that neither it, its staff, nor any other recipients of funds under this Contract, has not, and further warrants that neither it, its staff, nor any other recipients of funds under this Contract, will support or fund, directly or indirectly, any drug trafficking or terrorism related activities, and further warrants that neither its staff, nor any other recipients of funds under this Contract will commit violations of human rights;
- further warrants that neither it, nor any of its affiliates or subcontractors is involved in the transportation or provision of services of human beings for purposes deemed illegal in either the country of origin, sale or delivery of the goods being provided under this contract;
- warrants that no official or employee of IDLO has been or shall be admitted by it to any direct or indirect benefit arising from this Contract or the award thereof.

13. SUB-CONTRACTING, THIRD PARTIES

- (a) The Contractor shall not, without the prior and express written approval of IDLO, assign, transfer, pledge, or make other disposition of this Contract or any part thereof, or any of the Contractor's rights or obligations arising out of the Contract to third parties or sub-contract any part of the work required under this Contract to third parties.
- (b) In the event that IDLO authorizes the Contractor to sub-contract part or all of the obligations under the Contract to third parties, the Contractor shall nonetheless remain bound by its obligations to IDLO under the Contract.
- (c) The Contractor shall be required to include in any sub-contract provisions enabling IDLO to enjoy the same rights and guarantees in relation to subcontractors as it enjoys in relation to the Contractor. However, the Contractor shall insert no language in any subcontract asserting or implying a direct relationship between IDLO and said subcontractor.
- (d) The terms of any sub-contract shall nonetheless be subject to the provisions of this Contract.

14. INSURANCE

- (a) The Contractor shall insure against all risks or loss, damage or injury caused by the Contractor, the Contractor's Personnel, or by any person acting on behalf of the Contractor during the performance of the Contract.
- (b) The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.
- (c) The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees or subcontractors to cover claims for personal injury or death in connection with this Contract.
- (d) The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury or loss of or damage to property, arising from or in connection with the provision of the Services or the operation of vehicles, boats, airplanes, or other equipment owned or leased by the Contractor or the Contractor's Personnel or subcontractors performing work or services in connection with this Contract.
- (e) The Contractor shall, upon IDLO's request, provide IDLO with satisfactory evidence of the insurance required under this Article.

15. WARRANTY

- (a) The Contractor warrants that it is appropriately licensed to conduct business in the place of performance and is not the subject to any investigation or claim that could adversely affect Contract implementation and that the services are: (a) of the quality, quantity, and description required by the Contract; and (b) free from any right or claim of a third party, including rights or claims based on copyright, patent, or other industrial or intellectual property rights.
- (b) Breach of this warranty may result in Contract termination as allowed for in this Contract, and/or result in the Contractor being backlisted from the IDLO supplier database or other databases to which IDLO subscribes or contributes to.

16. CONTRACT DELAY

IDLO may at its discretion, accept deviations from the deadline specified in the Contract, without prejudice to any other rights and remedies, and deduct from the price stipulated in the Contract, as penalties, a sum equivalent to 1% per day of the contractual price of the delayed Services for each day of delay up to a

maximum 15 days. After 15 days, IDLO has an option to terminate the Contract without incurring any liability for termination charges or any other liability of any kind.

17. LIABILITY AND INDEMNITY

- (a) IDLO shall neither be held liable, nor accept any claim for loss, damage, or injury sustained by the Contractor or the Contractor's Personnel.
- (b) The Contractor shall indemnify, protect and defend, at its own expense, IDLO and its agents and employees, from and against any and all actions, claims, losses or damages arising out of acts or omissions of the Contractor or the Contractor's Personnel in and relating to the performance of the Contract.

18. FORCE MAJEURE

- (a) In the event of any cause constituting force majeure, the affected Party (the "Affected Party") shall, as soon as possible, give notice and full particulars in writing to the other Party (the "Other Party"), of such occurrence or cause. On receipt of this notice, the Other Party shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Affected Party of a reasonable extension of time, suspension or termination of the Contract under the terms and conditions provided for in Article 20. It is only once the condition of force majeure has been agreed by the Other Party, who shall not unreasonably deny it, that the Affected Party shall be relieved from liability for non-performance of its obligations.
- (b) Force majeure as used herein means any unforeseeable and irresistible act arising from causes beyond the control and without the fault or negligence of the Affected Party that renders the Affected Party unable wholly or in part, to perform its obligations and meet its responsibility under the Contract. Such act shall include, but is not limited to: modification of laws or regulations, strikes, lock-out or other industrial disturbances, acts of terrorism, wars (whether declared or not declared), blockades, embargoes, insurrections, riots, civil disturbances, explosions, epidemics, landslides, earthquakes, storms, lightning, floods and washouts.

19. NON-WAIVER OF RIGHTS

Failure of, or delay by, IDLO in the exercise of any rights or remedies provided by the Contract shall not be deemed a waiver of any rights of IDLO, and shall not release the Contractor from fulfilling its obligations.

20. TERMINATION

- (a) **Termination of part of the Services**
Without prejudice to the provisions on force majeure in these General Terms and Conditions, if the Contractor fails to provide any or all of the Services fully in accordance with the terms and conditions of the Contract including the time period specified, IDLO may, by notice given in writing, terminate the performance of such parts or part thereof as to which there has been default without incurring liability or termination charges of any kind. In case payments were made in advance, the Contractor shall reimburse IDLO for Services fully or partially not provided.

(b) Termination of Contract for breach by the Contractor

IDLO shall have the right to terminate the Contract immediately without prior notice and indemnity, and demand the payment of any sums already paid to the Contractor if the Contractor is in breach of the Contract. In particular the following events are regarded as a breach of the Contract:

- (i) the Contractor ceases operations wholly or for a large part; or
- (ii) does not comply with any conditions of the Contract; or
- (iii) submits false, materially inaccurate or misleading, or incomplete information; or
- (iv) offers incentives, inducements or other benefit to any IDLO employees, including consultants and agents; or
- (v) does not provide the Services or provides them in unsatisfactory in terms of quality, timing and manner.

The Contractor shall immediately inform IDLO of the occurrence of any of the above events.

In such a case, the Contractor shall be bound to compensate IDLO for all damage, costs, and loss of interest, including all amounts due until the original termination date of the Contract, as well as all costs incurred by IDLO in legal and non-legal proceedings, including those for legal assistance, as a consequence of having to terminate the Contract. IDLO shall have the right to withhold any amount due under the present Article from any amount otherwise due to the Contractor from IDLO under this or any other contract.

IDLO may procure the Services from other sources and may hold the Contractor liable for any excess cost occasioned thereby, including transactional costs.

The provisions set forth in the present Article do not exclude the right of IDLO to exercise other legal rights, including its right to impose liquidated damages or, to demand payment or compensation for damages.

IDLO, at its own discretion, is legally and without intervention by the courts entitled to carry out itself or to have carried out any contractual obligation for which the Contractor is in default, at the full expense and risk of the Contractor.

(c) Termination of Contract at the initiative of IDLO

IDLO may terminate the Contract for any reason with thirty (30) days' written notice. Upon receipt of notice of termination by IDLO, the Contractor shall take immediate steps to bring the work or service to a close in a prompt and orderly manner. The Contractor shall reduce expenses to a minimum and shall not undertake any further commitments under the Contract from the date of receipt of such a notice. The Contractor shall be entitled to pro-rata payment for any Service or Deliverable delivered prior to such termination.

21. AMENDMENTS AND ADDITIONS TO THE CONTRACT

- (a) IDLO personnel named or identified in the Contract are subject to change at any time without necessitating an amendment to the Contract. The Contractor shall be notified of any changes via mail or email, as soon as practicable.
- (b) All other provisions of the Contract and the Annexes thereto may be amended or supplemented only by means of a supplementary written agreement signed by the authorized representatives of the Parties.

22. PRIVILEGES AND IMMUNITIES

Nothing contained in the Contract or any course of dealing between the Parties shall be deemed a waiver, express or implied, of any privilege or immunity that IDLO enjoys as an international organization.

23. APPLICABLE LAW

Given the status of IDLO as an intergovernmental organization, the Parties expressly agree that the Contract shall be governed exclusively by the terms and conditions of the Contract, to the exclusion of any single national system of law. However, the Contractor shall comply with all applicable laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

24. SETTLEMENT OF DISPUTES

- (a) Except as otherwise provided in the Contract, any dispute between IDLO and the Contractor concerning the interpretation and performance of this Contract shall be settled by negotiation between the Parties.
- (b) If the dispute cannot be settled in accordance with paragraph (a) above or by another agreed mode of settlement, the matter shall, at the request of either Party, be settled by arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of signature of the Contract. The appointing authority for the arbitrator shall be the Secretary-General of the Permanent Court of Arbitration. The forum of the arbitration shall be Rome, Italy. The language of the arbitration shall be English. The number of arbitrators shall be one.
- (c) Any arbitration award rendered in accordance with paragraph (b) above shall be final and binding on the Parties.
- (d) Apart from arbitration, there is no other means of dispute settlement available to the Parties, unless they otherwise agree.

25. SURVIVAL OF TERMS

The provisions of this Contract which, by their nature, should remain in effect beyond the termination or expiry of the Contract, including, but not limited to obligations under Articles 8, 9, 10, 11, 14, 17 and 24 of the General Terms and Conditions shall survive without any time limit.

26. CONTRACT EXECUTION

This Contract, including any amendments may be executed in counterparts, which, when taken together, will constitute one Contract. Copies of this Contract will be equally binding as originals and faxed, or scanned and e-mailed counterpart signatures will be sufficient to evidence execution, though IDLO may require the Contractor to execute an original signed Contract.