

THE LUTHERAN WORLD FEDERATION, WORLD SERVICE
SOUTH SUDAN COUNTRY PROGRAM

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REQUEST FOR PROPOSAL

TO:
(Insert the below information)

Company Name:

Location:

Tel:

Date of issue:	27/7/2023
RFP no.:	2023-July-4000-JUBA
Contract title:	Taxi service within Juba
Closing date:	7 th August 2023
Buyer:	The Lutheran World Federation/World Service Contact person: Sediq John Tel: +211928882479 Tel: +211926119230
Please submit your quotation through e-mail to procurement.southsudan@lutheranworld.org or Hard copies to LWF office in NCA Compound - Buluk	

THE LUTHERAN WORLD FEDERATION WORLD SERVICE INVITES YOU TO SUBMIT A PROPOSAL FOR TAXI SERVICE WITHIN JUBA CITY

Dear Sir/Madam,

The Service is required for LWF operations in Juba, Central Equatoria State an intervention supported by different donors. Please find enclosed the following documents which constitute the Request for Proposal:

A – Instructions

C - Annexes:

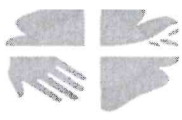
- Annex 1: Terms of Reference**
- Annex 2: Financial Offer**
- Annex 3: Vendor Information – for new candidates**
- Annex 4: General Terms and Conditions for Service Contracts – Ver2 2012**
- Annex 5: Code of Conduct for Contractors**

ACKNOWLEDGMENT

We appreciate your confirmation on the receipt of this Request for Proposal and your intention to submit an offer by e-mail to: procurement.southsudan@lutheranworld.org

Note! It is not allowed to make changes to the text in this Request for Proposal and its annexes and it is strongly recommended that this document and its Annexes are read carefully. Failure to submit your offer using the Annexes provided and providing the outlined information in this document will result in disqualification from the evaluation process.





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A. INSTRUCTIONS

In submitting a proposal, the Candidate accepts in full and without restriction the special and general conditions including annexes governing this proposal as the sole basis of a contract. The Candidates are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this Request for Proposal.

A.1. Scope of services

The Services required by the Buyer are described in the Terms of Reference in Annex 1.

The Candidate shall offer the totality of the Services described in the Terms of Reference. Candidates offering only part of the required Services will be rejected.

A.2. Cost of proposal

The Candidate shall bear all costs associated with the preparation and submission of his proposal and the Buyer is not responsible or liable for these costs, regardless of the conduct or outcome of the process.

A.3. Eligibility and qualification requirements

Candidates are not eligible to participate in this procedure if they are in one of the situations listed in article 33 of the General Terms and Conditions for Service Contracts – Ver2 2012.

As a rule, the arrival of a proposal in due time is always the candidates responsibility. Late proposals refer to any proposal arriving after the Closing date for submitting proposals, and any proposals arriving late due to a delay, for instance, in the delivery of mail or due to a technical problem related to electronic data transmission.

Candidates are also requested to certify that they comply with the Code of Conduct for Contractors.

A.4. Exclusion from award of contracts

Contracts may not be awarded to Candidates who, during this procedure:

- (a) are subject to conflict of interest
- (b) are guilty of misrepresentation in supplying the information required by the Buyer as a condition of participation in the Contract procedure or fail to supply this information

A.5. Documents comprising the Request for Proposal

The Candidate shall complete and submit the following documents with his proposal:

- a. Financial Offer (Annex 3)
- b. Vendor Information (Annex 4)
- c. C.V. highlighting the Candidates experience in the specific field of the Services and his/her specific experience in the country/region where the Services are to be performed.

The proposal and all correspondence and documents related to the Request for Proposal exchanged by the Candidate and the Buyer must be written in the language of the procedure, which is English.

A.6. Financial proposal

The Financial Proposal shall be presented as an amount in United States Dollars (USD) in the Proposal Submission Form in Annex 3.





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A.7. Validity

Proposals shall remain valid and open for acceptance for 30 days after the closing date.

A.8. Submission of proposals and closing date

Proposals must be received at the address mentioned on the front page by email or hand delivery not later than the closing date and time specified on the front page.

A.9. Administrative Compliance

The Buyer will determine whether the Proposal meets the eligibility requirements, has been properly drafted and signed and is substantially responsive to the Request for Proposal requirements. If a proposal is not substantially responsive, i.e. it contains material deviations from, or reservations to the terms, conditions and specifications of the Request for Proposal, and/or is not technically responsive, it shall be disregarded, unless the Candidate who has submitted the non-responsive proposal is authorized by the Buyer to re-submit a proposal.

A.10. Evaluation of Proposals

The evaluation method will be cost based selection. A one-stage procedure shall be utilised in evaluating the Proposals; a financial evaluation.

The Buyer will award the Contract to the Candidate whose proposal has been determined to be substantially responsive to the documents of the Request for Proposal and which has the cheapest price and mechanically good conditioned vehicle.

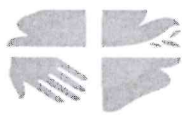
A.18. Signature and entry into force of the Contract

Prior to the expiration of the period of the validity of the proposal, the Buyer will inform the successful Candidate in writing that its proposal has been accepted and inform the unsuccessful Candidates in writing about the result of the evaluation process.

Within 5 days of receipt of the Contract, not yet signed by the Buyer, the successful Candidate must sign and date the Contract and return it to the Buyer. On signing the Contract, the successful Candidate will become the Candidate and the Contract will enter into force once signed by the Buyer.

If the successful Candidate fails to sign and return the Contract within the days stipulated, the Buyer may consider the acceptance of the proposal to be cancelled without prejudice to the Buyer's right to claim compensation or pursue any other remedy in respect of such failure, and the successful Candidate will have no claim whatsoever on the Buyer.





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A.19. Cancellation for convenience

The Buyer may for its own convenience and without charge or liability cancel the procedure at any stage.

FINANCIAL OFFER

My financial proposal for my services is as follows:

Daily price

Item description	Specifications	Qty	Unit	Cost in USD
Airport drop off or pick up	Pricing on the basis of trips, not number of passengers, for example, the cost of picking one person will be the same as cost of picking two or more people arriving at the same time	1	Trip	
Taxi hire – Full day within Juba	Provide quote for all types of taxi vehicles available in your fleet. (Your company will provide fuel, vehicle service and repairs, and driver)	1	Day	
Taxi hire- Half day within Juba	Provide quote for all types of taxi vehicles available in your fleet. (Your company will provide fuel, vehicle service and repairs, and driver)	1	Day	
Taxi hire- Hourly rate within Juba	Provide quote for all types of taxi vehicles available in your fleet. (Your company will provide fuel, vehicle service and repairs, and driver)	1	Hour	
Total price incl. taxes				

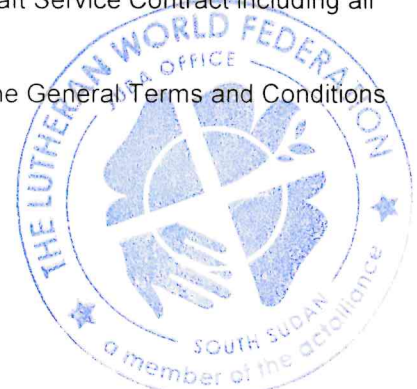
VENDOR REGISTRATION FORM

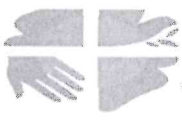
COMPANY INFORMATION	
Company Name (legal name)	
Contact Person	
Title	
Phone number,	
E-mail:	
Location	
All legal documents must be attached	

After having read your Request for Proposal no. 2020/8224/Vehicle Hire/Magiw for Vehicle Hire- Hardtop 5 Doors and after having examined the Request for Proposal, I/we hereby offer to execute and complete the services in conformity with all conditions in the Request for Proposal for the sum indicated in our financial proposal.

Further, I/we hereby:

- Accept, without restrictions, all the provisions in the Request for Proposal including the General Terms and Conditions for Service Contracts - Ver2 2012 and the draft Service Contract including all annexes.
- Certify and attest compliance with eligibility criteria of article 33 of the General Terms and Conditions for Service - Ver2 2012.





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Certify and attest compliance with the Code of Conduct for Contractors in Annex 5.

The above declarations will become an integrated part of the Contract and misrepresentation will be regarded as grounds for termination.

Date, signature and stamp:

Signed by:

The Candidate

Name of the company

Address

Telephone no.

Email

Name of contact person



ANNEX 5: GENERAL TERMS AND CONDITIONS FOR SERVICE CONTRACTS – VER2 2012

1. DEFINITIONS

In these general terms and conditions:

- a) "contract" is the agreement entered into by the Buyer and the Candidate for the performance of the services described in the terms of reference, to which these general terms and conditions are made applicable; the contract is constituted of the documents listed in the Service Contract.
- b) The Buyer's "partners" are the organisations to which the Buyer is associated or linked;
- c) "personnel" is any person assigned by the Candidate to the performance of the services or any part hereof, whether through employment, sub-contracting or any other agreement; and "key experts" are those members of the personnel whose involvement is considered instrumental in the achievement of the contract objectives;
- d) "beneficiary country" is the country where the services are to be performed, or where the project to which the services relate is located.

2. RELATIONS BETWEEN THE PARTIES

Nothing contained in the contract shall be construed as establishing a relation of master and servant or of agent and principal as between the Buyer and the Candidate. Except if otherwise provided in the contract, the Candidate shall under no circumstances act as the representative of the Buyer or give the impression that the Candidate has been given such authority. The Candidate has complete charge of the personnel and shall be fully responsible for the services performed by them.

3. SCOPE OF SERVICES

The scope of the services including the methods and means to be used by the Candidate, the results to be achieved by him and the verifiable indicators are specified in the Terms of Reference. The Candidate shall be responsible for everything which is required for the performance of the services in accordance with what is specified in the contract, or which must otherwise be regarded as forming part of the services.

4. COMPLIANCE WITH LAWS AND RESPECT OF TRADITIONS

The Candidate shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Candidate shall indemnify the Buyer against any claims and proceedings arising from any infringement by the Candidate, its personnel and their dependants of such laws and regulations.

The Candidate, its personnel and their dependants shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country.

5. CODE OF CONDUCT

The Candidate shall at all times act loyally and impartially and as a faithful adviser to the Buyer and shall perform the services with due care, efficiency and diligence, in accordance with the best professional practice.

6. DISCRETION AND CONFIDENTIALITY

The Candidate shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract without the prior consent in writing of the Buyer. It shall, in particular, refrain from making any public statements concerning the project or the services without the prior approval of the Buyer.

7. CONFLICT OF INTEREST

The Candidate shall refrain from engaging in any activity which conflicts with his obligations towards the Buyer under the contract.

The Candidate shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified in writing to the Buyer without delay. The Candidate shall replace, immediately and without compensation from the Buyer, any member of its personnel exposed to such a situation.

8. CORRUPT PRACTICES

The Candidate and the personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the contract or any other contract with the Buyer, or for showing favour or disfavour to any person in relation to the contract or any other contract with the Buyer.

The payments to the Candidate under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.

The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

The Candidate further warrants that no official of the Buyer and/or their partner has received or will be offered by the Candidate any direct or indirect benefit arising from this Contract.

9. JOINT VENTURE OR CONSORTIUM

If the Candidate is a joint venture or a consortium of two or more legal persons, all such persons shall be jointly and severally bound to fulfil the terms of the contract. The person designated by the joint venture or consortium to act on its behalf for the purposes of this contract shall have the authority to bind the joint venture or consortium.

For the purposes of performance of the contract, the joint venture or consortium shall act as, and be considered, a single person and, in particular, shall have bank account opened in its name, shall submit to the Buyer single guarantees if required, and shall submit single invoices and single reports.

The composition of the joint venture or a consortium shall not be altered without the prior written consent of the Buyer.

10. SPECIFICATIONS AND DESIGNS

The Candidate shall prepare all specifications and designs using accepted and generally recognised systems acceptable to the Buyer and taking into account the latest design criteria.

11. INFORMATION

The Candidate shall furnish the Buyer or any person authorised by the Buyer with any information relating to the services and the project as the Buyer may at any time request.

12. REPORTS

The frequency, deadlines, format and contents of the reports to be drawn up by the Candidate in relation to the performance of the contract shall be described in the Terms of Reference.

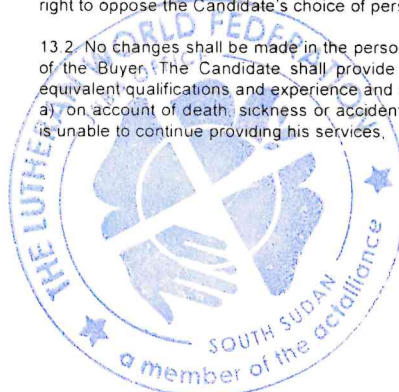
13. CANDIDATE'S PERSONNEL

13.1. The Candidate shall employ and provide such qualified and experienced personnel as are required to carry out the services, and the Candidate shall be responsible for the quality of the personnel.

The names, outputs, duties and CVs of key experts and the titles, job descriptions, minimum qualifications, estimated periods of engagement in the carrying out of the services of each of the personnel and key experts are described in the Organisation and Methodology part of the contract. The Candidate must inform the Buyer of all non-expert personnel it intends to use for the implementation of the contract. The Buyer shall have the right to oppose the Candidate's choice of personnel.

13.2. No changes shall be made in the personnel without the prior consent of the Buyer. The Candidate shall provide a replacement with at least equivalent qualifications and experience and acceptable to the Buyer if:

- a) on account of death, sickness or accident, a member of the Personnel is unable to continue providing his services,



b) any member of the personnel is found by the Buyer to be incompetent in discharging or unsuitable for the performance of his duties under the Contract,

c) for any reasons beyond the control of the Candidate, it becomes necessary to replace any member of the Personnel.

The request for replacement must be made in writing and state the reasons therefore. The Candidate shall proceed swiftly with the request and propose a replacement with at least equivalent qualifications and experience. The remuneration to be paid to the replacement cannot exceed that received by the replaced member of the personnel.

Failure by the Candidate to propose a replacement for a key expert satisfactory to the Buyer, shall give the right to the Buyer to terminate the contract.

Additional costs arising out of a replacement shall be borne by the Candidate.

13.3. Working hours

The days and hours of work of the Candidate or/and its personnel in the beneficiary country shall be fixed on the basis of the laws, regulations and customs of the beneficiary country and the requirements of the services.

13.4. Leave entitlement

Any taking of holiday leave by the personnel during the period of implementation of the contract must be at a time approved by the Buyer.

Overtime, sick leave pay and holidays leave pay are deemed to be covered by the Candidate's remuneration.

14. SUB-CONTRACTING

Except from the sub-contractors listed in the contract, the Consultant shall not subcontract to nor engage another independent Candidate to perform any part of the services without the prior written consent of the Buyer. Sub-contractors must satisfy the eligibility criteria applicable for the award of the contract.

The Buyer shall have no contractual relations with the sub-contractors. The provisions of the contract, including these general terms and conditions, and in particular article 13.2 shall, where practicable, apply to the sub-contractors and their personnel.

15. LIABILITY

At its own expense, the Candidate shall indemnify, protect and defend, the Buyer, its agents and employees, from and against all actions, claims, losses or damages arising from any act or omission by the Candidate in the performance of the services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

Approval by the Buyer of the Candidate's reports and issue of Completion Certificate shall not relieve the Candidate of its liability and shall not prevent the Buyer from claiming damages.

The Candidate shall remain liable for any breach of its obligations under the contract for such period after the services have been performed as may be determined by the law governing the contract (the "liability period"). This time limit does not however apply when the damage arises from gross negligence or wilful misconduct of the Candidate.

During the liability period, or as soon as practicable after its expiration, the Candidate shall, at its expense, upon instruction of the Buyer, remedy any deficiencies in the performance of the services. In case of default on the part of the Candidate to carry out such instructions, the Buyer shall be entitled to hire another Candidate to carry out the same, at the Candidate's expense.

16. INSURANCE

Within 20 days of signing the contract, the Candidate shall take out and maintain, at its own cost, a full indemnity insurance policy covering its professional liability under the contract and article 15 above, from the commencement date and until the end of the liability period.

Within 20 days of signing the contract, the Candidate shall take out and maintain a full indemnity insurance policy for a sum up to the higher of the

maximum amount foreseen by the legislation of the country of the Buyer and the amount foreseen by the legislation of the country in which the Candidate has its headquarters and covering, during the period of implementation of the contract, the following risks:

- a) loss of or damage to property purchased with funds provided under the contract, or produced by the Candidate;
- b) loss or damage to equipment, material and office facilities made available to the Candidate by the Buyer;
- c) civil liability for accidents caused to third parties arising out of acts performed by the Candidate, its personnel and their dependents;
- d) employer's liability and workers' compensation in respect of the personnel as well as sickness, accident or death affecting the personnel and their dependents, including the cost of repatriation on health grounds;
- e) such other insurance as required by the laws in force in the beneficiary country.

Prior to the commencement date, the Candidate shall provide evidence to the Buyer that the above insurances have been effected. During execution of the contract, the Candidate shall, when required, provide the Buyer with copies of the insurance policies and the receipts for payment of premiums.

17. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

All reports and data such as maps, diagrams, drawings, specifications, plans, statistics, calculations, databases, software and supporting records or materials acquired, compiled or prepared by the Candidate in the performance of the contract shall, with the copyright thereto, be the absolute property of the Buyer. The Candidate shall, upon completion of the contract, deliver all such documents and data to the Buyer. The Candidate may not retain copies of such documents and data and shall not use them for purposes unrelated to the contract without the prior written consent of the Buyer.

The Candidate shall not publish articles relating to the services or refer to them when carrying out any services for others, or divulge information obtained from the Buyer, without the prior written consent of the Buyer.

18. RECORDS

The Candidate shall keep separate, accurate and systematic records and accounts in respect of the services in such form and detail as is customary in the profession and sufficient to establish accurately that the number of working days and the actual reimbursable expenditure identified in the Candidate's invoice(s) have been duly incurred for the performance of the services.

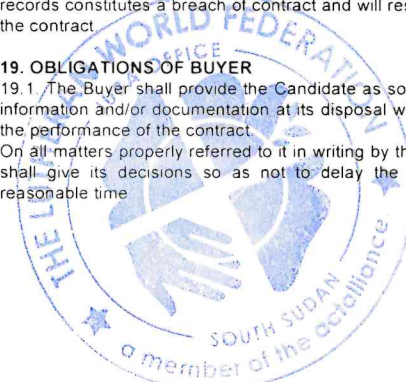
For a fee-based contract, timesheets recording the days worked by the Candidate's personnel must be maintained by the Candidate. The timesheets must be approved by the Buyer or any person authorised by the Buyer or the Buyer itself on a monthly basis. The amounts invoiced by the Candidate must correspond to these timesheets. In the case of long-term experts, these timesheets must record the number of days worked. In the case of short-term experts, these timesheets must record the number of hours worked. Time spent travelling exclusively and necessarily for the purpose of the Contract may be included in the numbers of days or hours, as appropriate, recorded in these timesheets.

Such records must be kept for a 7-year period after the final payment made under the contract. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for reimbursable expenditure. Failure to maintain such records constitutes a breach of contract and will result in the termination of the contract.

19. OBLIGATIONS OF BUYER

19.1. The Buyer shall provide the Candidate as soon as possible with any information and/or documentation at its disposal which may be relevant to the performance of the contract.

On all matters properly referred to it in writing by the Candidate, the Buyer shall give its decisions so as not to delay the services, and within a reasonable time.



19.2. The contract shall specify whether the Buyer is to provide the Candidate with equipment, facilities, counterpart personnel or specific assistance, and shall detail under which conditions. If the provision of such agreed counterpart personnel, equipment, facilities and assistance is delayed or not forthcoming, the Candidate shall endeavour to perform the Services as far as is possible. The parties shall agree on how the affected parts of the services shall be carried out, and the additional payments, if any is due, to be made by the Buyer to the Candidate as a result of additional expenditures.

20. CONTRACT PRICE AND PAYMENTS

Contracts are either "global price" or "fee-based".

20.1. Fee-based contract

In consideration of the services performed by the Candidate under the contract, the Buyer shall make to the Candidate such payments of fees and such reimbursement of costs as provided in the contract.

Fees shall be determined on the basis of time actually spent by the key experts in the performance of services at the fee rates specified in the contract. Fee rates are deemed to remunerate all the activities of the Candidate in the performance of the services and to cover all expenses and costs incurred by the Candidate which are not included in the agreed reimbursable costs.

The Buyer shall reimburse to the Candidate the reimbursable costs and expenses specified in the contract, actually and reasonably incurred in the performance of the services.

Costs and expenses which are not mentioned in the contract shall be deemed covered by the overhead of profit included in the fees.

The currency of payments of fees and reimbursable costs and applicable exchange rates are set out in the contract.

20.2. Global price contract

The global price covers both the Candidate's and its personnel's fees and all expenses to be incurred for the performance of the contract. The global price is in consideration for all obligations of the Candidate under the contract and all matters and things necessary for the proper execution and completion of the services and the remedying of any deficiencies therein.

20.3. Revision

Unless otherwise stipulated in the contract, the global price of a global price contract and the fee rates of a fee-based contract shall not be revised.

20.4. Guarantees

In the case an advance payment for fees and for reimbursable costs (fee-based contract) or a pre-financing payment (global price contract) is agreed in the contract, its payment by the Buyer shall be subject to the prior presentation by the Candidate to the Buyer of an approved performance security, advance payment or pre-financing guarantee, if so agreed and under the conditions specified in the Service Contract.

20.5. Conditions of Payment

Payments will be made by the Buyer with the frequency, instalments, time limits, amounts and currencies, and under the conditions, in particular on the contents of invoices, specified in the special conditions of the contract. Payment of the final balance shall be subject to performance by the Candidate of all its obligations under the contract and the issue by the Buyer of the completion certificate described in article 25.

20.6. Late payment

If the time periods laid down for payments by the Buyer have been exceeded by more than two months and where the Buyer cannot invoke a case of suspension or withholding of payments provided for in these terms and conditions, the Candidate may claim interest calculated on any amount due, prorate on the number of days of delay at the official bank rate of the beneficiary country (if amounts due are in the currency of that country), or at the rate applied by the European central bank (where amounts due are in Euro), plus 2% per year.

21. DELAYS IN PERFORMANCE

If the Candidate does not perform the services within the period of implementation specified in the contract, the Buyer shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day, or part thereof, which shall

elapse between the end of the period of implementation specified in the contract and the actual end of the period of implementation.

The daily rate for liquidated damages is calculated by dividing the contract value by the number of days of the period of implementation.

If these liquidated damages exceed more than 15% of the contract value, the Buyer may, after giving notice to the Candidate:

- a) terminate the contract; and
- b) complete the services at the Candidate's own expense

22. BREACH OF CONTRACT

Either party commits a breach of contract where it fails to discharge any of its obligations under the contract.

Where a breach of contract occurs, the party injured by the breach shall be entitled to the following remedies:

- a) liquidated damages; and/or
- b) termination of the contract.

In any case where the Buyer is entitled to damages, it may deduct such damages from any sums due to the Candidate or call on the appropriate guarantee.

The Buyer shall be entitled to compensation for any damage which comes to light after the contract is completed in accordance with the law governing the contract.

23. SUSPENSION OF PERFORMANCE

The Candidate shall, on the request of the Buyer, suspend the performance of the services or any part thereof for such time and in such manner as the Buyer may consider necessary.

In such event of suspension, the Candidate shall take immediate action to reduce the costs incident to the suspension to a minimum. During the period of suspension, and except where the suspension is due to any default of the Candidate, the Candidate shall be reimbursed for additional costs reasonably and necessarily incurred by it as a result of the suspension.

24. AMENDMENT OF THE CONTRACT

Substantial modifications to the contract, including modifications to the total contract amount, must be made by means of an addendum.

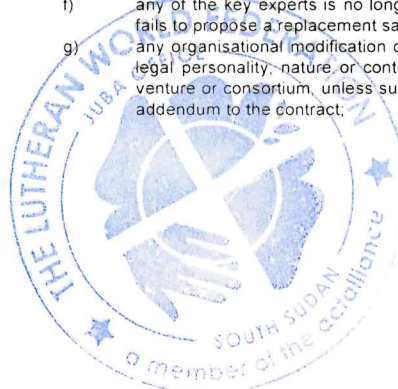
25. Completion Certificate

Upon completion of the services, and once (a) the Buyer has approved the Candidate's completion report, (b) the Buyer has approved the Candidate's final invoice and final audited statement, the Buyer shall deliver a completion certificate to the Candidate.

26. TERMINATION BY THE BUYER

26.1 The Buyer may terminate the contract after giving a 7 days' notice to the Candidate in any of the following cases:

- a) the Candidate is in breach of its obligations under the contract and/or fails to carry out the services substantially in accordance with the contract;
- b) the Candidate fails to comply within a reasonable time with the notice given by the Buyer requiring it to make good the neglect or failure to perform its obligations under the contract which seriously affects the proper and timely performance of the services;
- c) the Candidate refuses or neglects to carry out instructions given by the Buyer;
- d) the Candidate's declarations in respect of its eligibility (article 33) and/or in respect of article 31 and article 32, appear to have been untrue, or cease to be true;
- e) the Candidate takes some action without requesting or obtaining the prior consent of the Buyer in any case where such consent is required under the contract;
- f) any of the key experts is no longer available, and the Candidate fails to propose a replacement satisfactory to the Buyer;
- g) any organisational modification occurs involving a change in the legal personality, nature or control of the Candidate or the joint venture or consortium, unless such modification is recorded in an addendum to the contract.



- h) the Candidate fails to provide the required guarantees or insurance, or the person providing the underlying guarantee or insurance is not able to abide by its commitments.

26.2 Termination by Buyer for convenience

The Buyer may terminate the contract in whole or in part for its convenience, upon not less than 14 days' notice. The Buyer shall not use this right of termination in order to arrange for the services to be executed by another Candidate, or to avoid a termination of the contract by the Candidate.

27. TERMINATION BY THE CANDIDATE

The Candidate may terminate the contract after giving a 7 days' notice to the Buyer in any of the following cases:

- a) the Candidate has not received payment of that part of any invoice which is not contested by the Buyer, within 90 days of the due payment date,
- b) the period of suspension of the performance of the contract under article 23 has exceeded six months;
- c) the Buyer is in material breach of its obligations under the Contract and has not taken any actions to remedy the same within 30 days following the receipt by the Buyer of the Candidate's notice specifying such breach.

If the Candidate is a natural person, the contract shall be automatically terminated if that person dies.

28. RIGHTS AND OBLIGATIONS UPON TERMINATION

28.1. Upon termination of the contract by notice of either party to the other, the Candidate shall take immediate steps to bring the services to a close in a prompt and orderly manner and in such a way as to keep costs to a minimum.

28.2. If the Buyer terminates the contract in accordance with article 26.1 it may, thereafter, complete the services itself, or conclude any other contract with a third party, at the Candidate's expense.

The Buyer shall, as soon as is possible after termination, certify the value of the services and all sums due to the Candidate as at the date of termination. It shall, subject to article 28.1 and 28.3, make the following payments to the Candidate:

- (a) remuneration pursuant to the contract for services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable costs (if fee-based contract) for costs actually incurred prior to the effective date of termination;
- (c) except in the case of termination pursuant to article 26.1 reimbursement of any reasonable cost incident to the prompt and orderly termination of the contract;
- (d) in case of termination under article 26.2 and 27, reimbursement for the actual and reasonable costs incurred by the Candidate as a direct result of such termination and which could not be avoided or reduced by appropriate mitigation measures.
The Candidate shall not be entitled to claim, in addition to the above sums, compensation for any loss or injury suffered.

28.3. In case of termination of the contract for any reason whatsoever, any pre-financing guarantee which might have been granted to the Buyer under article 20.4, may be invoked forthwith by the Buyer in order to repay any balance still owed to the Buyer by the Candidate, and the guarantor shall not delay payment or raise objection for any reason whatever.

28.4. If the Buyer terminates the contract under article 26.1, it shall be entitled to recover from the Candidate any loss it has suffered up to that part of the contract value which corresponds to that part of the services which has not, by reason of the Candidate's default, been satisfactorily completed.

29. FORCE MAJEURE

Neither party shall be considered to be in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of signature of the contract by both parties.

The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars,

whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.

A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Buyer in writing, the Candidate shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The Candidate shall not put into effect such alternative means unless directed so to do by the Buyer.

30. APPLICABLE LAW AND DISPUTES

The contract is governed by, and shall be construed in accordance with the laws of the Buyer's country.

Any dispute or breach of contract arising under this contract shall be solved amicably if at all possible. If not possible and unless provided in the Service Contract, it shall be settled finally by court decision, which shall be held under the law of the Buyer's country. Any ruling by the court will be final and directly executable in the country of the Candidate.

31. CHILD LABOUR AND FORCED LABOUR

The Candidate (and each member of a joint venture or a consortium) warrants that it and its affiliates comply with the UN *Convention on the Rights of the Child* - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labor as described in the *Forced labor Convention* and in *the Abolition of Forced Labor Convention 105* of the International Labor Organization. Furthermore the Candidate warrants that it, and its vehicle, respect and uphold basic social rights and working conditions for its employees. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Buyer to terminate this contract immediately upon notice to the Candidate, at no cost or liability for the Buyer.

32. MINES

The Candidate and each member of the joint venture or a consortium) warrants that it and its affiliates is NOT engaged in any development, sale or manufacture of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs. Any breach of this representation and warranty shall entitle the Buyer to terminate this contract immediately upon notice to the Candidate, at no cost or liability for the Buyer.

33. INELIGIBILITY

By signing the purchase order, the Candidate (or, if a joint venture or a consortium, any member thereof) certifies that they are NOT in one of the situations listed below:

- (a) They are bankrupt or being wound up, are having their affairs administrated by courts, have entered into an agreement with creditors, have suspended business activities, are the subject of proceedings concerning house matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) They have been convicted of an offence concerning their professional conduct by a judgement that has the force of *res judicata*;
- (c) They have been guilty of grave professional misconduct proven by any means that the Buyer can justify;
- (d) They have not fulfilled obligations relating to the payment of social security contributions or payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Buyer or those of the country where the contract is to be performed;
- (e) They have been the subject of a judgement that has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Buyer or the European Community's financial interests;

- (f) Following another procurement procedure or grant award procedure financed by the European Community budget or following another procurement procedure carried out by the Buyer or one of their partners, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

34. CHECKS AND AUDITS

The Seller shall permit the Buyer or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit the Buyer or any person authorized by it, including USAID, the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the Contract is financed by USAID or the European Community budget, at any time, to have access to its financial accounting documents and to audit such records and accounts both during and after the implementation of the Contract. In particular, the Buyer may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

35. LIABILITY

Under no circumstances or for no reason whatsoever will the Back donor entertain any request for indemnity or payment directly submitted by the (Buyer's) Candidates.



ANNEX 6: CODE OF CONDUCT FOR CONTRACTORS



CODE OF CONDUCT FOR CONTRACTORS

ETHICAL PRINCIPLES AND STANDARDS

By this Code of Conduct, the Buyer applies ethics to procurement. We expect our Candidates to act socially and environmentally responsible and actively work for the implementation of the standards and principles in this Code of Conduct. The Code of Conduct is applicable for all our Candidates who supply goods, services and works to our operations and projects.

This Code of Conduct and its related principles and standards are based on recommendations from the UN Global Compact principles¹ and ECHO's Humanitarian Aid Guidelines for Procurement 2011².

General Conditions

The Code of Conduct defines the ethical requirements and standards for our Candidates, whom we expect to sign and respect the Code of Conduct, and work actively towards the implementation hereof. By signing the Code of Conduct Candidates agree to place ethics central to their business activities.

The provision of the ethical standards constitutes minimum rather than maximum standards. International and national laws shall be complied with, and where the provisions of law and the Buyer's standards address the same subject, the highest standard shall apply.

It is the responsibility of the Candidate to assure that their Candidates and sub-contractors comply with the ethical requirements and standards set forth in this Code of Conduct.

The Buyer acknowledge that implementing ethical standards and ensuring ethical behaviour in our supply chain is a continuous process and a long term commitment for which we also have a responsibility. In order to achieve high ethical standards for procurement we are willing to engage in dialogue and collaboration with our Candidates. In addition we expect our Candidates to be open and willing to engage in dialogue with us to implement ethical standards for their businesses.

Unwillingness to co-operate or serious violations of the Code of Conduct will lead to termination of contracts.

Human Rights and Labour Rights

Candidates must at all times protect and promote human- and labour rights and work actively to address issues of concern. As a minimum they are obliged to comply with the following ethical standards:

- **Respect for Human Rights** (UN Universal Declaration of Human Rights)
The basic principles of the Universal Human Rights are that all human beings are born free and equal in dignity and in rights, and everyone has the right to life, liberty and security of the person. Candidates must not flaunt their responsibility to uphold and promote the Human Rights toward employees and the community in which they operate.
- **Non exploitation of Child Labour** (UN Child Convention on the Rights of the Child, and ILO Convention C138 & C182)

Candidates must not engage in the exploitation of child labour³ and Candidates must take the necessary steps to prevent the employment of child labour. A child is defined as a person under the age of 18 and children shall not be engaged in labour that compromise their health, safety, mental and social development, and schooling. Children under the age of 15 (in developing countries 14) may not be engaged in regular work, but children above the age of 13 (in developing countries 12) can be engaged in light work if it does not interfere with compulsory schooling and is not harmful to their health and development.

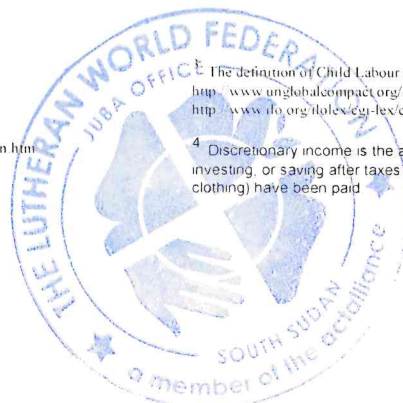
- **Employment is freely chosen** (ILO Convention C29 & C105)
Candidates must not make use of forced or bonded labour and must respect workers freedom to leave their employer.
- **Freedom of association and the right to collective bargaining** (ILO Convention C87 & C98)
Candidates must recognise workers right to join or form trade unions and bargain collectively, and should adopt an open attitude towards the activities of trade unions (even if this is restricted under national law).
- **Living wages are paid** (ILO convention C131)
As a minimum, national minimum wage standards or ILO wage standards must be met by Candidates. Additionally a living wage must be provided. A living wage is contextual, but must always meet basic needs such as food, shelter, clothing, health care and schooling and provide a discretionary income⁴ - which is not always the case with a formal minimum wage.
- **No discrimination in employment** (ILO Convention C100 & C111 and the UN Convention on Discrimination against Women)
Candidates must not practice discrimination in hiring, salaries, job termination, retiring, and access to training or promotion - based on race, national origin, caste, gender, sexual orientation, political affiliation, disability, marital status, or HIV/AIDS status.
- **No harsh or inhumane treatment of employees** (ILO Convention C105)
The use of physical abuse, disciplinary punishment, sexual abuse, the threat of sexual and physical abuse, and other forms of intimidation may never be practiced by Candidates.
- **Working conditions are safe and hygienic** (ILO Convention C155)
Candidates must take adequate steps to provide safe and hygienic working environments. Additionally workers safety must be a priority and adequate steps must be taken to prevent accidents and injury to health associated with or occurring in the course of work.
- **Working hours are not excessive** (ILO Convention C1 & C14)

¹ <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>

² http://ec.europa.eu/echo/partners/humanitarian_aid/procurement_guidelines_en.htm

³ The definition of Child Labour can be found at <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle5.html> and <http://www ilo.org/ilolex/cgi-lex/convde.pl?C138>

⁴ Discretionary income is the amount of an individual's income that is left for spending, investing, or saving after taxes and personal necessities (such as food, shelter, and clothing) have been paid



Candidates must ensure that working hours comply with national law and international standards. A working week of 7 days should not exceed 48 hours and employees must have one day off per week. Overtime shall be compensated, limited and voluntary.

- *Regular employment is provided* (ILO Convention C143)
All Work performed must be on the basis of a recognised employment relationship established through international conventions and national law. Candidates must protect vulnerable group's regular employment under these laws and conventions and must provide workers with a written contract.

International Humanitarian Law

Candidates linked to armed conflicts or operating in armed conflict settings shall respect civilian's rights under International Humanitarian Law and not be engaged in activities which directly or indirectly initiate, sustain, and/or exacerbate armed conflicts and violations of International Humanitarian Law⁵. Candidates are expected to take a 'do no harm' approach to people affected by armed conflict.

Additionally, Candidates shall not be engaged in any other illegal activity.

Involvement in Weapon Activities

The Buyer advocates for the Ottawa Convention against landmines and the Convention on Cluster Munitions against cluster bombs. Candidates shall not engage in any development, distribution, sale, or manufacturing of anti-personnel mines, cluster bombs, components, or any other weapon which feed into violations of International Humanitarian Law and Human Rights.

Protection of the Environment

The Buyer wishes to minimise the environmental damages applied to nature via our procurement activities and we expect our suppliers and Candidates to act in an environmentally responsible manner. This involves respecting applicable national and international environmental legislation and acting in accordance with the Rio Declaration.

As a minimum Candidates should address issues related to proper waste management, ensuring recycling, conservation of scarce resources, and efficient energy use.

Anti-Corruption

Corruption is by the Buyer defined as the misuse of entrusted power for private gain and it includes bribery, fraud, embezzlement and extortion. The Buyer holds a great responsibility to avoid corruption and ensure high standards of integrity, accountability, fairness and professional conduct in our business relations. Candidates are expected to have the same approach by undertaking good and fair business ethics and practices, take action to prevent and fight corruption, and abide by international conventions as well as international and national laws. To fight corruption and promote transparency, Candidates who are confronted with corrupt practices are advised to file a complaint in a Complaint Mechanism⁶.

A Candidate's involvement in any form of corrupt practice during any stage of a selection process, in relation to the performance of a contract or in any other business context is unacceptable and will lead to the rejection of bids or termination of contracts.

List of International Conventions and Treaties covered by this Code of Conduct for Contractors

- UN Universal Declaration of Human Rights, 1948; <http://www.un.org/en/documents/udhr/index.shtml>
- Un Guiding Principles on Business and Human Rights, 2011; http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- Geneva Conventions I-IV, 1949 and additional Protocols; <http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp>
- ILO Declaration on Fundamental Principles and Rights at Work, 1998; <http://www.ilo.org/declaration/lang--en/index.htm> and http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_095898.pdf
- UN Child Convention on the Rights of the Child, 1990; <http://www2.ohchr.org/english/law/crc.htm>
- C182, Worst Forms of Child Labour Convention, 1999; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C182>
- C138, Minimum Age Convention, 1973; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C138>
- C87, Freedom of Association and Protection of the Right to Organise Convention, 1948; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C087>
- C98, Right to Organise and Collective Bargaining Convention, 1949; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C098>
- C29, Forced Labour Convention, 1930; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C029>
- C105, Abolition of Forced Labour Convention, 1957; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C105>
- C131, Minimum Wage Fixing Convention, 1970; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C131>
- C100, Equal Remuneration Convention, 1951; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C100>
- C111, Discrimination (Employment and Occupation) Convention, 1958; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C111>
- The UN Convention on the Elimination of All Forms of Discrimination against Women 1979; <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- C1, Hours of Work (Industry) Convention, 1919; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C001>
- C14, Weekly Rest (Industry) Convention, 1921; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C014>
- C143, Migrant Workers (Supplementary Provisions) convention, 1975; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C143>
- C155, Occupational Safety and Health Convention, 1981; <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C155>
- The Rio Declaration on Environment and Development, 1992; <http://www.unep.org/Documents/Multilingual/Default.asp?DocumentID=78&ArticleID=1163&I=en>
- The Ottawa Convention, 1997; http://www.apminebanconvention.org/fileadmin/pdf/mbc/text_status/Ottawa_Convention_English.pdf
- The Convention on Cluster Munitions, 2007; <http://www.clusterconvention.org/files/2011/01/Convention-ENG1.pdf>
- Arms Trade Treaty, 2013; <http://www.un.org/disarmament/ATT/>

⁵ This includes pillage/looting which is the unlawful taking of private property for personal or private gain based on force, threats, intimidation, pressure and through a position of power accomplished due to the surrounding conflict.

⁶ Candidates who have signed a contract with LWF World Service, shall file a complaint through <https://www.lutheranworld.org/content/accountability>

