



IOM International Organization for Migration
OIM Organisation Internationale pour les Migrations
OIM Organización Internacional para las Migraciones

Nigeria

**REQUEST FOR QUOTATIONS (RFQ)
AND
GENERAL INSTRUCTION TO SUPPLIERS (GIS)**

Project : **Customs Clearing and Forwarding Services**
Ref. No : **RFQ- NG10-19-575**
Date : **20th May 2019**

1. Introduction

The International Organization for Migration (**IOM**) is an intergovernmental organization established in 1951 and is committed to the principle that humane and orderly migration benefits both migrants and society.

IOM Abuja office is requesting proposals from qualified vendors interested in supporting the mission by providing **Customs Clearing and Forwarding services** for IOM for a minimum period of 12 months.

2. Background and objective

IOM Abuja office is located on No 11 Haile Selassie Street, Asokoro.

The Scope of Services shall include customs clearing of IOM imports and exports from and through air and seaports in Nigeria, forwarding and delivery of said shipments to designated IOM destinations on and when required basis. Terms of Reference (TOR) are attached for your reference (Annex 1).

3. General information and guidelines for the proposal

The proposal must include the below information and details.

- Availability of necessary equipment, facilities, qualified personnel, expertise and other means necessary to perform the task of customs clearance, freight forwarding, transportation and related services in accordance with best commercial practices.

4. Considerations for work implementation

The below consideration must be followed during the implementation,

- i. Customs clearing and forwarding of IOM shipments is considered core to the running of IOM Abuja office. The organization's procedures must be followed to expedite the process.
- ii. A well-designed work plan must be agreed on with IOM on how the work will be carried out.
- iii. The work plan must ensure minimum delays in clearing IOM shipments.

5. Corrupt, Fraudulent, and Coercive Practices

IOM requires that all IOM Staff, manufacturers, suppliers or distributors, observe the highest standard of ethics during the procurement and execution of all contracts. IOM shall reject any proposal put forward by Suppliers, or where applicable, terminate their contract, if it is determined that they have engaged in corrupt, fraudulent, collusive or coercive practices. In pursuance of this policy, IOM defines for purposes of this paragraph the terms set forth below as follows:

- Corrupt practice means the offering, giving, receiving or soliciting, directly or indirectly, of any thing of value to influence the action of the Procuring/Contracting Entity in the procurement process or in contract execution;
- Fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, the Procuring/Contracting Entity in the procurement process or the execution of a contract, to obtain a financial gain or other benefit to avoid an obligation;
- Collusive practice is an undisclosed arrangement between two or more bidders designed to artificially alter the results of the tender procedure to obtain a financial gain or other benefit;
- Coercive practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any participant in the tender process to influence improperly its activities in a procurement process, or affect the execution of a contract

6. Conflict of Interest

All Suppliers found to have conflicting interests shall be disqualified to participate in the procurement at hand. A Supplier may be considered to have conflicting interest under any of the circumstances set forth below:

- A Supplier has controlling shareholders in common with another Supplier;
- A Supplier receives or has received any direct or indirect subsidy from another Supplier;
- A Supplier has the same representative as that of another Supplier for purposes of this quotation;
- A Supplier has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the Quotation of another or influence the decisions of the Mission/Procuring Entity regarding this quotation process;
- A Supplier submits more than one Quotation in this Quotation process;
- A Supplier who participated as a consultant in the preparation of the design or technical specifications of the Goods and related services that are subject of this quotation process.

7. Eligible Suppliers

Only Suppliers that are determined to be qualified shall be considered for award.

8. Cost of Preparing the Quotation

The Supplier shall bear all costs associated with the preparation and submission of his Quotation and IOM will not in any case be responsible and liable for the costs incurred.

9. Errors, omissions, inaccuracies and clarifications

The documents and forms requested for the purpose of soliciting Quotations shall form part of the Contract; hence care should be taken in completing these documents.

Suppliers shall not be entitled to base any claims on errors, omissions, or inaccuracies made in the Quotation Documents.

Suppliers requiring any clarifications on the content of this document may notify the IOM in writing to procurementabuja@iom.int and cc nmaina@iom.int and iabdullahi@iom.int

10. Confidentiality and Non-Disclosure

All information given in writing to or verbally shared with the Supplier in connection with this General Instruction is to be treated as strictly confidential. The Supplier shall not share or invoke such information to any third party without the prior written approval of IOM. This

obligation shall continue after the procurement process has been completed whether or not the Supplier is successful.

11. IOM's Right to Accept any Quotation and to Reject any and all Quotations

IOM reserves the right to accept or reject any Quotation, and to cancel the procurement process and reject all Quotations, at any time prior to award of contract, without thereby incurring any liability to the affected Supplier/s or any obligation to inform the affected Supplier/s of the ground for IOM's action.

12. Requirements

a. Quotation Documents

The following shall constitute the Quotation Documents to be submitted by the Suppliers:

Quotation Form / Financial Proposal. The Quotation should cover the charges for scheduled services.

The quotation should also include;

- i. Price list as per attached template (Annex 2). This should be signed and stamped
- ii. Payment terms
- iii. Company profile: should include but not limited to:-
 - Company contacts and physical address
 - Proof that the company is an institution operating in the field of logistics with proven expertise in customs clearance and forwarding of cargoes
 - Accreditation or an on-going accreditation by the Nigerian Customs (custom licence) is a requirement.
 - Business testimonials from other clientele you have offered the services to.
 - Business registration (CAC) certificate
 - Bank details
 - Vendor Information Sheet (attached)

b. Quotation Form

The Quotation Form and other required documents shall be duly signed and accomplished and typewritten or written in indelible ink. Any correction made to the prices, rates or to any other information shall be rewritten in indelible ink and initialed by the person signing the Quotation Form.

The language of the Quotation shall be in **English** and prices shall be quoted in **NGN exclusive of VAT**.

Prices quoted by the Supplier shall be fixed during Supplier performance of the contract and not subject to price escalation and variation on any account, unless otherwise approved by IOM. A submitted quotation with an adjustable price quotation will be treated as non-responsive and will be rejected.

14 Validity of Quotation Price

The Quotation shall remain valid for a **minimum period of 30 days**, after the deadline for submission.

In exceptional circumstances, prior to expiry of the period of validity of quotations, IOM may request that the Suppliers extend the period of validity for a specified additional period. The request and the response there to shall be made in writing. A supplier agreeing to the request will not be required or permitted to modify its quotation.

15. Documents Establishing Supplier's Eligibility and Qualification

The Supplier shall furnish, as part of its Quotation, documents establishing the Supplier's eligibility to submit Quotation and its qualifications to perform the contract if its Quotation is accepted. The IOM's standard Vendors Information Sheet (Annex 3) shall be used for this purpose.

16. Submission of Quotation Documents

Quotation must be submitted in a sealed envelope **Clearly indicating the RFQ number on top of the envelop**. The Supplier must seal the original and copy of the Quotation Documents as stated in item 9.1 (Quotation Documents) and shall be addressed to

Procurement & Logistics Dept
International Organization for Migration (IOM)
11 Haile Selassie Street, Asokoro Abuja

Quotation shall be submitted by Thursday 4th June 2019 to the above address. Late Quotations will not be accepted.

17. Site Visit

IOM encourage interested bidder to do Site Visit on.....N/A

18. Opening of Quotations.

IOM reserve the right to conduct opening of Quotations without the presence of the bidders

19. Acceptance of Quotations.

IOM is not bound to take an immediate decision on the acceptability or unacceptability of Quotations at the time of their opening.

20. Rejection of Quotations

Quotation can be rejected for the following reasons:

- (a) the Supplier is currently under list of blacklisted suppliers;
- (b) the Supplier offer imposes certain basic conditions unacceptable to IOM
- (c) the offered price is above the approved budget

IOM is not bound to accept any offer received and reserves the right to waive any minor defect in an offer, provided, however, that such minor defect (i) does not modify the substance of the offer and (ii) does not change the relative ranking of the Suppliers.

21. Evaluation of Quotations

IOM shall evaluate and compare the Quotations on the basis of the following:

- (a) Compliance with technical specifications including delivery requirement
- (b) Price

Arithmetical errors will be corrected on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the Supplier does not accept the correction of the errors, its Quotation will be rejected. If there is a discrepancy between words and figures, the amount in words will prevail.

22. Post Qualification

Prior to award, post-qualification will be carried out by IOM to further determine the selected Supplier's technical and financial capability to perform the contract. IOM shall verify and validate any documents/information submitted and shall conduct ocular inspection of the office, plant and equipment.

23. Award of Contract

The Supplier that has submitted the lowest evaluated Price, substantially responsive to the requirements of this General Instruction and who has been determined to be qualified to perform the contract shall be selected and awarded the contract.

24. Delivery Site and Period of Delivery

The service should be delivered at the following delivery site/s:

The garage of the contractor which should be secure, well equipped and with qualified personnel within the City of Abuja

25. Liquidated Damages

If the Supplier fails to deliver any or all of the service within the period specified in Clause 17 above, a penalty payment of 0.1% of the price of the undelivered service for every day of breach of the delivery schedule by the Supplier will be requested.

26. Payment

Payment shall be made only upon IOM's acceptance of the service, and upon IOM's receipt of invoice describing the service delivered¹.

27. Warranty

Warranty shall be quoted based on the standard warranties provided by the manufacturer unless specified in the Technical Specifications of this General Instruction. A Warranty Certificate shall be provided by the Supplier.

28. Settlement of Dispute:

The United Nations Commission on International Trade Law (UNCITRAL) arbitration rules will apply for any dispute, controversy or claim that will arise in relation to the procurement process

Terms of Reference (Annex 1)

Customs Clearing and Forwarding services for IOM Nigeria Shipments

The provider shall perform Customs clearance services at the entry ports/Seaports/Airports in Nigeria on behalf of IOM, as assigned and as directed by IOM. In so doing, the following conditions shall apply: -

- For each shipment, IOM will provide the agent with a copy of all relevant document (invoice, Bill of Lading/Airway Bill, Packing list etc) giving description and relevant particulars of the goods, point of origin, destination, name and address of supplier, terms of delivery, special handling instructions among other required details.
- The customs clearance charge from the agent shall include all Customs entry, customs examinations, delivery/security expenses; haulage and agency fees. Such charges shall not include taxes, excises and or duties imposed by governmental authorities. IOM shall provide the agent with necessary papers from governmental agencies that approves exemption.
- The agent shall clear and deliver consignments within 10 working days of receipt of all approved clearance documentation from the consignee, excluding periods of port congestion.
- The agent shall be responsible of using the right equipment, facilities, qualified personnel, expertise and other means necessary to perform the task of customs clearance, freight forwarding, transportation and related services in accordance with best commercial practices
- The agent shall maintain and provide a daily status update regarding each clearance assignment including the estimated date of delivery to the destination.
- The agent shall return all empty containers to the port, except where otherwise directed, immediately after unpacking.
- The agent shall notify IOM within 24 hours of receipts of approved clearance documentation, of delays within the port or in the customs clearance process.
- The delivery points for shipments will be as directed by IOM.
- The agent shall be responsible for any pre-loading/offloading truck demurrage except where that latter is expressly caused by IOM.
- The agent shall bring to the attention of IOM, within 24hrs of observation, all cargo discrepancy/short-landed cargoes.

- The agent shall pre-release consignments as and when directed by IOM.
- The agent shall be responsible for payment, on behalf of IOM, of all shipping company and terminal charges in the first instance billed back to IOM.
- The agent shall, on completion of clearance and delivery, present bills to IOM accompanied by the necessary proofs of delivery (PODs), for payment.
- The agent shall attach to all bills, receipts of payment of all shipping company and terminal charges paid on behalf of IOM.
- The agent shall be responsible for processing all container deposit and demurrage refunds due to IOM, where applicable, with the shipping companies.
- The agent shall promptly inform IOM for purpose of approval, of any situation under the contract that may occasion additional financial obligation.
- The agent shall be responsible for damage to and /or loss of cargo while in transit (in the agent's care) prior to delivery, or while in storage under the agent's custody. The agent is required to hold valid insurance to cover any claims arising from negligence or improper handling and any such claims resulting in damage or loss of cargo/consignment under their custody.
- IOM does not guarantee any minimum volume of cargo to be handled by the agent at any port of entry.

PRICE SCHEDULE (Annex 2)***Inbound shipment by Air***

Preparation of documents, Clearance, Loading/Uploading and transportation to following destination: -	Cost (Naira) for Up to 100kg Volumetric weight	Cost (Naira) for 101-500kg Volumetric weight	Cost (Naira) for over 500kg Volumetric weight
IOM Lagos			
IOM Abuja			
IOM Maiduguri			

NB: It is assumed that clearance is done at the closest airport to the IOM office

Particulars	Cost (Naira)
20' Container (FCL) Clearing and transportation up to:- IOM Lagos IOM Abuja IOM Maiduguri	
40' Container (FCL) Clearing and transportation up to:- IOM Lagos IOM Abuja IOM Maiduguri	
LCL Charges up to 5CMB delivered: - IOM Lagos IOM Abuja IOM Maiduguri	

LCL Charges over 5CMB delivered: - IOM Lagos IOM Abuja IOM Maiduguri	
Vehicle by driving Clearing and transportation up to destination: - IOM Lagos IOM Abuja IOM Maiduguri	

Note 1: All prices/rates quoted must be exclusive of all taxes, IOM is exempt from taxes.

Note 2: Estimates for reimbursable costs (where the agent pays on behalf of IOM) should be listed separately.

Note 3: Prices above should be inclusive of Terminal handling Charges, Insurance, Loading and Lashing, custom clearance, transportation up to said destination. Exclusive of VAT

Name and Signature of Company Representative

Company Stamp



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VENDOR INFORMATION SHEET (VIS)

Name of the Company _____

Address Leased Owned Area: _____sqm

House No _____
 Street Name _____
 Postal Code _____
 City _____
 Region _____
 Country _____

Contact Numbers/Address

Telephone Nos. _____ Contact Person: _____

Fax No. _____

E mail Address _____ Website: _____

Location of Plant/Warehouse Leased Owned Area: _____sqm

Business Organization Corporation Partnership Sole Proprietorship

Business License No.: _____ Place/Date Issued: _____ Expiry Date _____

No. of Personnel _____ Regular _____ Contractual/Casual _____

Nature of Business/Trade

<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Authorized Dealer	<input type="checkbox"/> Information Services
<input type="checkbox"/> Wholesaler	<input type="checkbox"/> Retailer	<input type="checkbox"/> Computer Hardware
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Trader	Importer	Service Bureau
<input type="checkbox"/> Site Development/ Construction	<input type="checkbox"/> Consultancy	<input type="checkbox"/> Others _____ _____

Number of Years in business: _____

Complete Products & Services

Payment Details

Payment Method Cash Check Bank Transfer Others

Currency Loc.Currency USD EUR Others

Terms of Payment 30 days 15 days 7 days upon receipt of invoice

Advance Payment Yes No % of the Total PO/Contract

Bank Details:

Bank Name	_____
Bldg and Street	_____
City	_____
Country	_____
Postal Code	_____
Country	_____
Bank Account Name	_____
Bank Account No.	_____
Swift Code	_____
Iban Number	_____

Key Personnel & Contacts *(Authorized to sign and accept PO/Contracts & other commercial documents)*

Name	Title/Position	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Companies with whom you have been dealing for the past two years with approximate value in US Dollars:

Company Name	Business Value	Contact Person/Tel. No.
_____	_____	_____
_____	_____	_____
_____	_____	_____

Have you ever provided products and/or services to any mission/office of IOM?

Yes No

If yes, list the department and name of the personnel to whom you provided such goods and/or services.

Name of Person	Mission/Office	Items Purchased
_____	_____	_____
_____	_____	_____
_____	_____	_____

Do you have any relative who worked with us at one time or another, or are presently employed with IOM? If yes, kindly state name and relationship.

_____	_____	_____
_____	_____	_____
_____	_____	_____

Trade Reference

Company	Contact Person	Contact Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

Banking Reference

Bank	Contact Person	Contact Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

IOM is encouraging companies to use recycled materials or materials coming from sustainable resources or produced using a technology that has lower ecological footprints.

REQUIREMENTS CHECK LIST

Please submit the following documents together with the Information Sheet:

No	Document	For IOM use only	
		Submitted	Not Applicable
1	Company Profile (including the names of owners, key officers, technical personnel)		
2	Company's Articles of Incorporation, Partnership or Corporation, whichever is applicable, including amendments thereto, if any.		
3	Certificate of Registration from host country's Security & Exchange Commission or similar government agency/department/ministry		
4	Valid Government Permits/Licenses		
5	Audited Financial Statements for the last 3 years*		
6	Certificates from the Principals (e.g. Manufacturer's Authorization, Certificate of Exclusive Distributorship, Any certificate for the purpose, indicating name, complete address and contact details)		
7	Catalogues/Brochures		
8	List of Plants/Warehouse/Service Facilities		
9	List of Offices/Distribution Centers/Service Centers		
10	Quality and Safety Standard Document / ISO 9001		
11	List of all contracts entered into for the last 3 years (indicate whether completed or ongoing) *		
12	Certification that Non-performance of contract did not occur within the last 3 years prior to application for evaluation based on all information on fully settled disputes or litigation		
13	For Construction Projects: List of machines & equipment (include brand, capacity and indication if the equipment are owned or leased by the Contractor)		

* For Competitive Biddings, number of years may increase depending on the estimated contract amount.

** Indicate if an item is not applicable. Failure to provide any of the documents mentioned above will result in automatic "failed" rating.

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

Received by:

Signature

Printed Name

Position/Title

Date

Signature

Printed Name

Position/Title

Date

FOR IOM USE ONLY

Purchasing Organization _____
Account Group _____

Industry 001 002 003

where 001 - Transportation related to movement of migrants
002 - Goods (e.g. supplies, materials, tools)
003 - Services (e.g. professional services, consultancy, maintenance)

Vendor Type Global Local

IOM office-specific Ref. No.:	
IOM Project Code:	
LEG Approval Code / Checklist Code	

SERVICE AGREEMENT
Between
the International Organization for Migration
And
[Name of the Service Provider]
On
[Type of Services]

This Service Agreement is entered into by the **International Organization for Migration**, an organization which is part of the United Nations system, Mission in [XXX], [Address of the Mission], represented by [Name, Title of Chief of Mission etc.], hereinafter referred to as “**IOM**,” and **[Name of the Service Provider]**, [Address], represented by [Name, Title of the representative of the Service Provider], hereinafter referred to as the “**Service Provider**.” IOM and the Service Provider are also referred to individually as a “**Party**” and collectively as the “**Parties**.”

1. Introduction and Integral Documents

- 1.1 The Service Provider agrees to provide IOM with [insert brief description of services] in accordance with the terms and conditions of this Agreement and its Annexes, if any.
- 1.2 The following documents form an integral part of this Agreement: [add or delete as required]
 - (a) **Annex A** - Bid/Quotation Form
 - (b) **Annex B** - Price Schedule
 - (c) **Annex C** - Delivery Schedule and Terms of Reference

2. Services Supplied

- 2.1 The Service Provider agrees to provide to IOM the following services (the “**Services**”):

[Outline services to be provided. Where relevant, include location and how frequently etc. services are to be provided. List all the deliverables and their date of submission, if applicable. Description needs to be as detailed as possible to provide for a reliable

yardstick to measure compliance. It may be necessary to attach a description of the Services as an Annex.]

- 2.2 The Service Provider shall commence the provision of Services from [date] and fully and satisfactorily complete them by [date].
- 2.3 The Service Provider agrees to provide the Services required under this Agreement in strict accordance with the specifications of this Article and any attached Annexes.

3. Charges and Payments

- 3.1 The all-inclusive Service fee for the Services under this Agreement shall be [currency code] [amount in numbers] ([amount in words]), which is the total charge to IOM.
- 3.2 The Service Provider shall invoice IOM upon completion of all the Services. The invoice shall include: [services provided, hourly rate, number of hours billed, any travel and out of pocket expenses, (add/delete as necessary)]
- 3.3 Payments shall become due [insert number of days in numbers] ([write figure in words]) days after IOM's receipt and approval of the invoice. Payment shall be made in [Currency code] by [bank transfer] to the following bank account: [insert the Service Provider's bank account details].
- 3.4 The Service Provider shall be responsible for the payment of all taxes, duties, levies and charges assessed on the Service Provider in connection with this Agreement.
- 3.5 IOM shall be entitled, without derogating from any other right it may have, to defer payment of part or all of the Service fee until the Service Provider has completed to the satisfaction of IOM the services to which those payments relate or when IOM reasonably suspects that the Service Provider is in breach of any of the provisions in the Agreement and/or pending a compliance review by IOM and/or the Donor.

4. Warranties

- 4.1 The Service Provider warrants that:
 - (a) It is a company financially sound and duly licensed, with adequate human resources, equipment, competence, expertise and skills necessary to provide fully and satisfactorily, within the stipulated completion period, all the Services in accordance with this Agreement;
 - (b) It shall comply with all applicable laws, ordinances, rules and regulations when performing its obligations under this Agreement;
 - (c) In all circumstances it shall act in the best interests of IOM;
 - (d) No official of IOM or any third party has received from, will be offered by, or will receive from the Service Provider any direct or indirect benefit arising from the Agreement or award thereof;
 - (e) It has not misrepresented or concealed any material facts in the procurement of this Agreement;

- (f) The Service Provider, its staff or shareholders have not previously been declared by IOM ineligible to be awarded agreements by IOM;
- (g) It has or shall take out relevant insurance coverage for the period the Services are provided under this Agreement;
- (h) The Price specified in this Agreement shall constitute the sole remuneration in connection with this Agreement. The Service Provider 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 Service Provider shall ensure that any subcontractors, as well as the 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 Service Provider becomes aware of any situation where IOM's legal status, privileges or immunities are not fully respected, it shall immediately inform IOM.
- (j) 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 terrorism legislation. If, during the term of this Agreement, the Service Provider 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 Service Provider shall ensure that this requirement is included in all subcontracts.

4.2 The Service Provider 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 Service Provider 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 destroy, 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 present 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.

4.3 The Service Provider 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. Failure to comply with (a)-(d) shall constitute grounds for immediate termination of this Agreement.

4.4 The above warranties shall survive the expiration or termination of this Agreement.

5. Assignment and Subcontracting

- 5.1 The Service Provider shall not assign or subcontract the activities under this Agreement in part or all, unless agreed upon in writing in advance by IOM. Any

subcontract entered into by the Service Provider without approval in writing by IOM may be cause for termination of the Agreement.

- 5.2 In certain exceptional circumstances by prior written approval of IOM, specific jobs and portions of the Services may be assigned to a subcontractor. Notwithstanding the said written approval, the Service Provider shall not be relieved of any liability or obligation under this Agreement nor shall it create any contractual relation between the subcontractor and IOM. The Service Provider 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 Service Provider remains bound and liable thereunder and it shall be directly responsible to IOM for any faulty performance under the subcontract. The subcontractor shall have no cause of action against IOM for any breach of the subcontract.

6. Delays/Non-Performance

- 6.1 If, for any reason, the Service Provider does not carry out or is not able to carry out its obligations under this Agreement and/or according to the project document, it must give notice and full particulars in writing to IOM as soon as possible. In the case of delay or non-performance, IOM reserves the right to take such action as in its sole discretion is considered to be appropriate or necessary in the circumstances, including imposing penalties for delay or terminating this Agreement.
- 6.2 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*, such as civil disorder, military action, natural disaster and other circumstances which are beyond the control of the Party in question. In such event, the Party will give immediate notice in writing to the other Party of the existence of such cause or event and of the likelihood of delay.

7. Independent Contractor

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

8. Audit

The Service Provider agrees to maintain financial records, supporting documents, statistical records and all other records relevant to the Services in accordance with generally accepted accounting principles to sufficiently substantiate all direct and indirect costs of whatever nature involving transactions related to the provision of Services under this Agreement. The Service Provider shall make all such records available to IOM or IOM's designated representative at all reasonable times until the expiration of 7 (seven) years from the date of final payment, for inspection, audit, or reproduction. On request, employees of the Service Provider shall be available for interview.

9. Confidentiality

- 9.1 All information which comes into the Service Provider's possession or knowledge in connection with this Agreement is to be treated as strictly confidential. The Service Provider shall not communicate such information to any third party without the prior written approval of IOM. The Service Provider 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. These obligations shall survive the expiration or termination of this Agreement.
- 9.2 Notwithstanding the previous paragraph, IOM may disclose information related to this Agreement, such as the name of the Service Provider 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 Service Provider 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.

10. 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.

11. 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: [Name of IOM contact person]

[IOM's address]

Email: [IOM's email address]

[Full name of the Service Provider]

Attn: [Name of the Service Provider's contact person]

[Service Provider's address]

Email: [Service Provider's email address]

12. Dispute resolution

12.1. 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.

12.2 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.

12.3 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.

12.4 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.

13. Use of IOM Name

The official logo and name of IOM may only be used by the Service Provider in connection with the Services and with the prior written approval of IOM.

14. Status of IOM

Nothing in or relating to the 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.

15. Guarantee and Indemnities

15.1 The Service Provider shall guarantee any work performed under this Agreement for a period of 12 (twelve) months after final payment by IOM under this Agreement.

15.2 The Service Provider 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 Service Provider or its employees, officers, agents or subcontractors, in the performance of this Agreement. IOM shall promptly notify the Service Provider of any written claim, loss, or demand for which the Service Provider is responsible under this clause. This indemnity shall survive the expiration or termination of this Agreement.

16. Waiver

Failure by either Party to insist in any one or more instances on a strict performance of any of the provisions of this Agreement shall not constitute a waiver or relinquishment of the right to enforce the provisions of this Agreement in future instances, but this right shall continue and remain in full force and effect.

17. Termination

17.1 IOM may terminate or suspend this Agreement at any time, in whole or in part.

17.2 In the event of termination of this Agreement, IOM will only pay for the Services completed in accordance with this Agreement unless otherwise agreed. Other amounts paid in advance, if any, will be returned to IOM within 7 (seven) days from the date of termination.

17.3 Upon any such termination, the Service Provider shall waive any claims for damages including loss of anticipated profits on account thereof.

17.4 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 Service Provider in writing when the suspension is lifted and may modify the completion date. The Service Provider shall not be entitled to claim or receive any Service fee or costs incurred during the period of suspension of this Agreement.

18. 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.

19. Entirety

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

20. Special Provisions (Optional)

Due to the requirements of the Donor financing the Project, the Implementing Partner 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]

21. Final clauses

- 21.1 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 17.
- 21.2 Amendments may be made by mutual agreement in writing between the Parties. Amendment of the provisions of Article 2.2 (Service commencement/completion dates) or Article 3.1 (Service fee) shall be made through an amendment to this Agreement signed by both Parties.

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

For and on behalf of
The International Organization
for Migration

For and on behalf of
[Full name of the Service Provider]

Signature

Signature

Name
Position
Date
Place

Name
Position
Date
Place