

INVITATION TO REQUEST FOR PROPOSAL

<Bidder name and address>

Date of issue:	18 th – May - 2026
RFP no.:	LWF-SOM-RFP-774-33-2026
Contract title:	Provision of Consultancy Services –Clerk of Works for LWF Somalia Sub-program
Proc ref #,	RQ00000774
Closing Date:	23 rd May, 2026
Buying Organization:	THE LUTHERAN WORLD FEDERATION P.O BOX 40870 - 00100 NAIROBI GITANGA ROAD- OPPOSITE BRAEBURN SCHOOL Contact person: The Procurement Office Email: procurement.kismayo@lutheranworld.org ONLY
<p>Please note that the proposals shall be submitted online via the LWF Kenya- Somalia e-procurement Portal here https://kenya-somalia.lwfprocurements.org/ . Proposals submitted through any other portal/ means shall not be accepted. NOTE: All Clarification Questions Should be Sent to procurementfollowup.kismayu@lutheranworld.org copying procurement.Kismayo@lutheranworld.org</p>	

THE LUTHERAN WORLD FEDERATION INVITES YOU TO SUBMIT A PROPOSAL FOR THE PROVISION OF CONSULTANCY SERVICES – CLERK OF WORKS FOR LWF SOMALIA SUB PROGRAM.

Dear Sir/Madam,

The Service is required - Provision of Consultancy Services – Clerk of Works for LWF Somalia Sub-program.

A – Instructions to Bidders

B – Annexes:

- 1) Terms and Reference
- 2) Technical Offer
- 3) Financial offer
- 4) Vendor Registration Form
- 5) General Terms and Conditions for Service Contracts – Ver4 2012
- 6) 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 via the LWF Kenya- Somalia e-procurement Portal here <https://kenya-somalia.lwfprocurements.org/> .

Note! It is not allowed to make changes to the text in this Invitation to Request for Proposal and its annexes and it is strongly recommended that this Invitation to Request for Proposal 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.

A. INSTRUCTIONS TO BIDDERS

In submitting a proposal, the Bidder accepts in full and without restriction the conditions including annexes in this Request for Proposal as the sole basis of a contract. The Request for Proposals 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 LWF Kenya Somalia are described in the Terms of Reference in Annex 1.

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

A.2. Cost of Request for Proposal

The Bidder shall bear all costs associated with the preparation and submission of his/her proposal and LWF Kenya Somalia is not responsible or liable for these costs, regardless of the conduct or outcome of the process.

A.3. Clarification of Request for Proposal documents and additional information

Bidder s may submit questions in writing at the latest on the date specified in the timetable in article A.4, specifying the Request for Proposal no., and the contract title. Questions and information regarding the interpretation of this Invitation to Request for Proposal must be requested in writing to the e-mail: procurementfollowup.kismayu@lutheranworld.org.

Any clarification of the Request for Proposal given by LWF Kenya Somalia will be submitted to all Bidders at the latest on the date specified in the timetable. If LWF Kenya Somalia provides additional information on the Request for Proposal, such information will be sent in writing to all other prospective Bidders s at the same time.

Any prospective Bidder seeking to arrange individual meetings during the Request for Proposal period with either LWF Kenya Somalia and/or any other organisation with which LWF Kenya Somalia is associated or linked may be excluded from the tender procedure. Bidder s are not allowed to approach LWF Kenya Somalia for verbal clarification.

A.4. Planned timetable

LWF Kenya Somalia reserves the right to alter the dates and time in the following timetable, in which case all Bidder s will be informed in writing and a new timetable will be provided.

	Date	Time
Deadline for request for any clarifications from LWF	20th May 2026	2 PM
Last date on which clarifications are issued by LWF	21 st May 2026	12 PM
Deadline for submission of quotes (closing date)	23 rd May 2026	5:00 PM
Contract award		

All times are in the time zone of Somalia.

A.5. Eligibility and qualification requirements

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

Bidders shall in the Request for Proposal Submission Form attest that they meet the above eligibility criteria. If required by the LWF Kenya Somalia, the Bidder whose Request for Proposal is accepted shall further provide evidence satisfactory to LWF Kenya Somalia of its eligibility through certificates issued by competent authorities in its country of establishment or operation, or, if such certificates are not available, through a sworn statement.

As a rule, the arrival of a Request for Proposal in due time is always the Bidder s responsibility. Late Request for Proposals refer to any Request for Proposals arriving after the Closing date for submitting

Request for Proposals, but before the Request for Proposal opening event and any Request for 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.

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

To give evidence of their capability and adequate resources Bidders shall provide the information and the documents requested in the Request for Proposal.

A.6. Exclusion from award of contracts

Contracts may not be awarded to Bidders who, during the procurement procedure:

- (a) are subject to conflict of interest; and/or
- (b) are guilty of misrepresentation in supplying the information required as a condition of participation and eligibility in the Request for Proposal procedure or fail to supply this information.

A.7. Language of Request for Proposals

The Request for Proposals, all correspondence and documents related to the Request for Proposal exchanged by the Bidder and LWF Kenya Somalia must be written in **English**.

A.8. Documents comprising the Request for Proposal

The Bidder shall complete and submit the following documents with his/her Request for Proposal:

- 1) Technical Offer
- 2) Financial offer
- 3) Vendor Information
- 4) The General Terms and Conditions for Service Contracts – Ver4 2012. (Annex 5)
- 5) The Code of Conduct for Contractors (Annex 6)

A.9. Technical Offer

Your Technical offer shall clearly state if the offered services fully comply with the Terms and Specifications (Annex 1). Clearly state and disclose any differences with the specifications requested.

Price information may not be included in the Technical offer and will result in disqualification of the offer.

A.10. Financial proposal

The Financial Proposal shall be presented as an amount in **US Dollars - USD** in the Financial Offer (Annex 3). The price proposed by the Bidder shall not be subject to adjustments except as otherwise provided in the conditions of the Contract.

The remuneration of the Candidate under the Contract shall be determined as follows

Global price: The Bidder shall indicate in his/her proposal his/her proposed global remuneration for the performance of the Services. The Bidder shall be deemed to have satisfied himself/herself as to the sufficiency of his/her proposed global remuneration, to cover both his/her fee rate, including overhead, profit, all his/her obligations, sick leave, overtime and holiday pay, taxes, social charges, etc. and all expenses (such as transport, accommodation, food, office, etc.) to be incurred for the performance of the Contract. The proposed global remuneration shall cover all obligations of the successful Bidder under the Contract (without depending on actual time spent on the assignment) and all matters and things necessary for the proper execution and completion of the Services and the remedying of any deficiencies therein.

A.11. Validity

Request for Proposals shall remain valid and open for acceptance for **90** days after the closing date for the submission of Request for Proposals.

A.12. Submission of Request for Proposals and closing date

Your offer must bear the company official letterhead and shall comprise of a sealed envelope, with the content of two main sets of documents, also referred to as the ‘Two- envelope system’:

- The Technical Offer
- The Financial Offer

Request for Proposals must be received at the address mentioned below by e-mail, not later than the closing date and time specified in the timetable article A.4. Any Request for Proposals received after this time will not be considered. All Request for Proposals must be submitted in one original, marked “original.

Offers shall be submitted via the LWF Kenya- Somalia e-procurement Portal here <https://kenya-somalia.lwfeprocurements.org/>

Offers must clearly state in the subject field: **LWF Somalia Sub-program – Clerk of Works.**
It is your responsibility to obtain a receipt or an e-mail confirmation for a timely submitted offer.

Request for Proposals **submitted to other e-mail addresses or physical addresses will result in disqualification** of the Offer. Request for Proposals may not be altered or withdrawn after the deadline has passed.

IMPORTANT: Price information may NOT be included in the Technical Offer and will result in disqualification of the offer.

A.13. Evaluation of Request for Proposals – Administrative Compliance

Prior to the Technical and Financial evaluation of the Request for Proposals, all offers will undergo an administrative compliance control, to ascertain whether the Request for Proposals meet the eligibility requirements and are substantially responsive with the Request for Proposal document administrative requirements. I.e. have the Request for Proposals been properly signed, received timely at the correct location/e-mail address and have the Request for Proposals respected the two-envelope system and submitted the mandatory and requested documents and information.

If a Request for Proposal is not administratively compliant i.e. it contains material deviations from or reservations to the terms, conditions and specifications in the Request for Proposal, it shall not be considered further.

A.14. Technical Evaluation of Request for Proposals and Award Criteria

Request for Proposals determined to be administratively compliant will proceed for the Technical evaluation of offers.

The Technical evaluation committee will examine the technical appropriateness of each Request for Proposal and score offers against the indicated criteria and weights in below Technical Evaluation Table.

Technical evaluation		Maximum Points	Candidate				
			A	B	C	D	E
Technical Approach							
1	Proposed structure, design, and approach to conducting the survey, demonstrating clear methodology and alignment with the evaluation objectives	<25>					
2	Timeline or Gantt chart of the activities required for execution, ensuring a realistic and achievable schedule	<10>					
3	Green and sustainable practices – Annex SER 09 Checklist for Green and Sustainable Procurement.	<05>					
Sub-total Technical Approach		<40>					
Capability Statement							

1	Demonstrate the necessary organizational systems and personnel to successfully comply with the contract requirements and accomplish the expected results.	<15>					
Sub-total Capability Statement		<15>					
Past Performance							
1	Inclusion of at least three relevant past performance examples of similar projects, showcasing expertise and success in similar assignments.	<05>					
2	References provided by past clients for these examples and their evaluation of the bidder's ability to deliver on time and within quality and budget expectations.	<05>					
Sub-total Past Performance		<10>					
Personnel/Staffing							
1	Qualifications and past relevant experience of the lead consultant and up to 3 team members proposed to perform the requirements of this scope of work	<15>					
Sub-total Past Personnel/Staffing		<15>					
This solicitation is open to individuals in Somalia.							
<i>Only offers that receive a technical evaluation score of 65 and above points (out of 80) will be considered for oral and cost evaluation.</i>							
Total Technical Score		<80>					

A.15. Oral Interviews;

Bidders whose proposals pass the technical evaluation may be invited for oral interviews to assess their suitability and validate the technical reports submitted. These interviews will be organized by LWF. The scores from the technical evaluation and oral interviews will be combined to determine the **final technical score**.

A.16. Financial evaluation (20 Marks)

Request for Proposals determined to be administratively and technically compliant with a **technical score of 65 marks and above, will be financially evaluated by the procurement committee** and checked for any arithmetic errors. Where there is a discrepancy between the amounts in the figures and words, the amount in words will govern. Where there are discrepancies between the unit price and the line item total, derived from multiplying the unit rate by the quantity, the unit rate as quoted will govern. If a Bidder refuses to accept the correction, his Request for Proposal will be rejected.

Each proposal shall be given a financial score. The lowest Financial Proposal (Fm) will be given a financial score (Sf) of 20 points. The formula for determining the remaining financial scores shall be the following:

$Sf = 20 \times Fm/F$, in which
Sf is the financial score
Fm is the lowest price and
F is the price of the proposal under evaluation

A.17. Overall Evaluation and Award of Contract

Request for Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights of <80>% for the technical proposal; and <20>% for the offered price. Each Request for Proposal's overall score shall therefore be: $St \times <80>\% + Sf \times <20>\%$.

LWF Kenya Somalia will award the contract to the Bidder whose Request for Proposal has been determined to be substantially responsive to the Request for Proposal and technically compliant, and

who has obtained the highest overall score, provided further that the Bidder has demonstrated the capability and resources to carry out the contract effectively.

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

Prior to the expiration of the Request for Proposal validity period, LWF Kenya Somalia will inform the successful Bidder in writing that its Request for Proposal has been accepted and inform the non-successful Bidder s in writing about the result of the evaluation process.

Within 7 days of receipt of the Contract, not yet signed by the LWF Kenya Somalia, the successful Bidder must sign and date the Contract and return it, to the LWF Kenya Somalia. On signing the Contract, the successful Bidder will become the Candidate and the Contract will enter into force once signed by the LWF Kenya Somalia.

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

A.19. Performance Guarantee

N/A

A.20. Cancellation for convenience

LWF Kenya Somalia may for its own convenience and without charge or liability cancel the Request for Proposal process at any stage.

C. ANNEXES

ANNEX 1: TERMS OF REFERENCE

TERMS OF REFERENCE FOR SUPERVISION OF CONSTRUCTION ACTIVITIES – CLERK OF WORKS.

Introduction and background









The Lutheran World Federation (LWF) is an international humanitarian organization with a global presence in Africa, Asia, Europe, and Central America. LWF's global headquarters are in Geneva, Switzerland. The LWF Kenya Somalia Program is headquartered in Nairobi, Kenya, to serve both the Kenya and Somalia country programs.

The Lutheran World Federation provides quality humanitarian assistance to displaced and affected communities and focuses on three priority programmatic areas: **Quality Services**, covering the areas of education and WASH, with primary focus on education; LWF provides other life-saving humanitarian assistance occasioned by natural disasters (drought, floods, etc.) through quick impact projects in its areas of operations. **Protection and social cohesion**: protection services to support vulnerable and at risk persons with major focus on child protection, persons with specific needs (PWDs, older persons), child mothers, and women at risk, and also supporting community social cohesion/peace building activities and **Climate and Resilient Livelihoods**: climate friendly livelihood interventions in crop and animal production, vocational skills training and development, enterprise development, micro-finance and business development skills training. More information about the LWF Kenya-Somalia program can be obtained.

Purpose of the TOR

The Terms of Reference outlines the responsibilities, scope, and expected outputs of the Clerk of Works engaged to supervise construction activities under LWF-Somalia's sub-program in Dhobley (Diif village) and Kismayo (Luglow IDP – Halgan settlement). It provides a framework to ensure that all work is carried out in line with engineering standards, safety regulations, and humanitarian principles. The Clerk of Works will prepare all technical documentation (BOQs, designs, and drawings), review Bills of Quantities, verify material quality and quantity, monitor contractor performance, and produce structured progress and final reports. They are also expected to minimize variations by applying up-to-date market prices and conducting timely market assessments through procurement offices. These measures ensure effective coordination, transparency, and the delivery of durable infrastructure that upholds protection and dignity for conflict-affected communities in Jubaland.

Objectives of the Assignment

-  Provide technical supervision of construction and rehabilitation works.
-  Ensure adherence to approved designs, specifications, and safety codes.
-  Develop, review, and validate Bills of Quantities with contractors (during and before Request for Proposals).
-  Ensure site visits and investigations by contractors prior to engagement are conducted and appropriate documentation done.
-  Conduct timely project review meetings with the contractors and ensure timelines and quality standards are adhered to.
-  Monitor material quality and verify compliance with standards.
-  Deliver timely reports on progress, challenges, and corrective actions.
-  Strengthen contract management and documentation systems.

Scope of Work

Geographical area: The consultancy will be carried out across Jubaland State and other regions of Somalia where LWF implements construction and infrastructure activities. At present, the work is

concentrated in Kismayo (Luglow IDP – Halgan settlement) and Dhobley (Diif village) districts of Jubbaland. However, the scope may expand to additional districts and settlements in Somalia as new projects are approved and rolled out.

Dates: The work will commence from **28th May- 31st June 2026**.

Planned construction works: May–June 2026:

- ✚ Supervision and quality assurance for the construction of a **10 km pipeline extension in Dhobley (Diif village)**, including animal troughs and a water kiosk with fencing.
- ✚ Supervision and quality assurance for the construction of a **500 m pipeline extension in Kismayo (Luglow IDP – Halgan settlement)**, including a water point with six nozzles, chain-link fencing, and a **50 cm RCC elevated water tank**.
- ✚ Supervision and quality assurance for the construction of **one community waste management pit** in the Luglow area of Kismayo, to be used by Halgan settlement and its surrounding areas.
- ✚ Supervision and quality assurance for the supply and installation of **150W solar streetlights** in Kismayo (Halgan IDP settlement in Luglow) and Dhobley (Midnimo of the larger Danwaag section).
- ✚ Supervision and quality assurance for the construction of **five (5) disability-friendly and forty-three (43) non-disability-friendly semi-permanent latrines in Kismayo (Luglow IDP – Halgan settlement)**.
- ✚ Supervision and quality assurance for the construction of **forty-one (41) transitional shelters in Kismayo (Luglow IDP – Halgan settlement)**.
- ✚ Any other relevant works assigned by the Somalia Team Leader.

Methodology

The Clerk of Works will apply a phased approach to supervision:

Pre-Construction

- ✚ Develop and review BoQs, drawings, and specifications with contractors.
- ✚ Conduct site assessments and confirm readiness or otherwise.
- ✚ Verify proposed materials through supplier checks and sample approvals.
- ✚ Review the contractor’s health and safety guidelines and compliance with the required standards
- ✚ Hold inception meetings with contractors and project staff.

Construction

- ✚ Undertake daily site inspections to monitor progress (including old construction works to support PMER unit during their monitoring exercise).
- ✚ Supervise workmanship and enforce compliance with codes and regulations.
- ✚ Conduct material quality control through sampling and on-site tests.
- ✚ Maintain a site logbook documenting activities and corrective actions.
- ✚ Organize and supervise skilled and casual laborers (through the suppliers).
- ✚ Facilitate coordination meetings with contractors and stakeholders.
- ✚ Contractor works and invoice verification before any payments are made.

Monitoring and Reporting

- ✚ Prepare structured reports (daily logs, weekly summaries, monthly updates).
- ✚ Track contractor performance against timelines and quality benchmarks using their contractual agreements.
- ✚ The Clerk of Works reports to the Somalia Team Leader, while working closely with the Projects Coordinator, Procurement, PMER, Finance, and contractors.
- ✚ Provide compliance reports on health, safety, and environmental standards.
- ✚ Maintain a filing system for all construction-related documentation through procurement and related offices.

- ✚ Update project leadership regularly through quarterly and annual reports.

Post-Construction

- ✚ Conduct final inspections and quality assurance checks.
- ✚ Validate completion against BoQs and specifications.
- ✚ Prepare and submit a Final Completion Report.
- ✚ Preparation of the vendor's completion certificate post defect liability period.
- ✚ Support handover ceremonies and community sensitization on facility use and maintenance

Segregation of Duties / Conflict of Interest.

- ✚ All technical designs, Bills of Quantities (BOQs), and related documentation prepared or reviewed by the Clerk of Works must be submitted to LWF for review and approval before any procurement or payment processing can take place.
- ✚ The Clerk of Works' role does not replace LWF's authority to approve technical documentation.

- ✚ Clerk of works is required to declare any direct or indirect relationships with contractors, suppliers, or other parties engaged in the supervised work. Any potential conflict of interest must be disclosed immediately to LWF.

Deliverables

- ✚ Inception Report with work plan and methodology
- ✚ Developed, reviewed, and validated BoQs with contractor sign-off
- ✚ Site inspection reports
- ✚ Compliance reports on safety and environmental standards
- ✚ Photographic progress documentation
- ✚ Progress reports (daily, weekly, monthly)
- ✚ Material quality assurance reports
- ✚ Technical documentation (drawings, specifications, BoQs)
- ✚ Defects/snag lists
- ✚ Contractor performance evaluation reports
- ✚ Payment verification notes
- ✚ Project Closure
- ✚ Handover reports
- ✚ Defect liability follow-up reports
- ✚ Final Completion Report

Qualifications, Competencies, and Experience

- ✚ Bachelor's degree in civil/Structural Engineering or related field.

- ✚ 3–5 years' experience in engineering design, construction supervision, and project management.

- ✚ Strong knowledge of construction materials, methods, and safety standards.

- ✚ Experience in humanitarian or development projects in Somalia is an advantage.

- ✚ Ability to work in challenging field environments.

Technical Competencies

- ✚ Proficiency in AutoCAD, ArchiCAD, and Civil 3D.
- ✚ Solid understanding of construction methods, materials, and safety requirements.
- ✚ Knowledge of building codes, regulations, and standards.
- ✚ Strong project management skills: planning, coordination, and timely delivery.
- ✚ Effective communication and interpersonal skills for engaging contractors, engineers, and officials.
- ✚ Problem-solving ability to identify issues and develop practical solutions.
- ✚ Attention to detail in reviewing plans, technical drawings, specifications and contracts.
- ✚ Sound decision-making on design or material changes.
- ✚ Flexibility to adapt to evolving regulations and field conditions.
- ✚ Fluent in written and spoken English.

How to Apply

Interested consultants should submit their technical and financial proposals, with the email subject line clearly marked 'LWF Somalia Sub-program – Clerk of Works,' no later than **23rd of May 2026 at 5:00 PM** Eastern Africa Time.

Please note that the proposals shall be submitted online via the LWF Kenya- Somalia e-procurement Portal here: <https://kenya-somalia.lwfprocurements.org> Proposals submitted through any other portal/ means shall not be accepted.

NOTE: All Clarification Questions Should be Sent to procurementfollowup.kismayu@lutheranworld.org copying procurement.kismayo@lutheranworld.org .

ANNEX 2: FINANCIAL OFFER

The financial proposal for the required services is as follows: **(Attach YOUR Financial Proposal with clear breakdown)**

GLOBAL PRICE

	Currency	Amount
Global price (fees and expenses)		
VAT or other tax on services		
Total price incl. taxes		

VENDOR REGISTRATION FORM

COMPANY INFORMATION				
Company Name (legal name)				
Street name and no.				
Postal code, city, country				
Phone number, E-mail:				
Website				
Director (Name)				
Other contact (Title and Name)				
Other Branches location:				
Year of Establishment:				
Number of full-time employees:				
SECTOR OF ACTIVITIES, EXPORT AND REPRESENTATION				
Please list your core supplies/services/works offered:				
Countries with Registered Office:				
Countries with Representation:				
Please list your core supplies/services/works offered:				
Nature of Business (tick in one box below):				
<u>Importer:</u>	<u>Wholesaler:</u>	<u>Retailer:</u>	<u>Manufacturer:</u>	<u>Authorised agent:</u>
<u>Consultant:</u>	<u>Candidate:</u>			
REFERENCES (within the last 5 (five) years)				
Name and country of customer:	Type of contract:	Value:	Year:	Contact name, phone, E-mail:
PAST EXPERIENCE:				
Vendors experience with similar service contracts and his/her specific experience in the country/region where the service are to be delivered:				
Number of similar service contracts currently underway:				
CERTIFICATES ETC.				

Have you previously offered your services to other NGOs, to UN organizations and/or other international organizations? If yes, please enclose the details and value of contracts.		
Does your company have CSR related policies in place – e.g. health and safety policy, HR policy, staff policy, climate policy. Is your company a member of the UN Global Compact?		
Does your company have a Code of Conduct?		
List of international quality assurance certification held by your company (a copy of each certificate shall be enclosed):		
List of local and national quality assurance certification held by your company (a copy of each certificate shall be enclosed):		
FINANCIAL INFORMATION		
Please provide a copy of your last financial statement.		
Please provide a copy of the last three years audited accounts and six (6) months current bank statements.		
Has your Company been credit rated? If so, what was the rating?		
Please provide Annual income and total value of sales for the last 3 years (in EUR):		
Fiscal year	INCOME SALES KES	Export sales KES
20__		
20__		
20__		
Bank name:		
Bank account no.:		
Account name:		
Bank swift/BIC address:		
Street name and no.:		
City and postal code:		
Country:		
Direct phone no.:		

The Request for Proposal is valid for a period of **90** days after the closing date in accordance with article A.14. Validity.

After having read your Request for Proposal no. **LWF-SOM-RFP-774-33-2026. Provision of Consultancy Services –Clerk of Works for LWF Somalia Sub-program** dated **18th May, 2026**, 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.

On behalf of the company, I/we hereby:

- Accept, without restrictions, all the provisions in this Request for Proposal including the General Terms and Conditions for Service Contracts - Ver2 2012 and the Draft Service Contract including all annexes.
- Provided that a contract is issued by LWF Kenya Somalia Program, I/we hereby commit to perform all services described in the Terms of Reference, Annex 1 within the time frame described in our Technical Offer, Annex 2.
- Certify and attest compliance with eligibility criteria of article 33 of the General Terms and Conditions for Service Contracts - Ver2 2012.
- Certify and attest compliance with the Code of Conduct for Contractors in Annex 6.

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

- In the event the Contract is awarded to us, we request that payments under the contract be made to the following account:

Name of Bank:
Account Number:
Address of Bank:
Account name:
Swift Code:

Date, Signature and stamp:

The Bidder

Name of the company:
Address:
Telephone no.:
Email:
Name of contact person:

ANNEX 3: 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 LWF Kenya Somalia 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 LWF Kenya Somalia's "partners" are the organisations to which LWF Kenya Somalia 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 LWF Kenya Somalia and the Candidate. Except if otherwise provided in the contract, the Candidate shall under no circumstances act as the representative of LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia. It shall, in particular, refrain from making any public statements concerning the project or the services without the prior approval of the LWF Kenya Somalia,

7. CONFLICT OF INTEREST

The Candidate shall refrain from engaging in any activity which conflicts with his obligations towards LWF Kenya Somalia 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 LWF Kenya Somalia without delay. The Candidate shall replace, immediately and without compensation from the LWF Kenya Somalia, 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 LWF Kenya Somalia, or for showing favour or disfavour to any person in relation to the contract or any other contract with the LWF Kenya Somalia.

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 LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia.

10. SPECIFICATIONS AND DESIGNS

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

11. INFORMATION

The Candidate shall furnish the LWF Kenya Somalia, or any person authorised by LWF Kenya Somalia with any information relating to the services and the project as LWF Kenya Somalia 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 LWF Kenya Somalia of all non-expert personnel it intends to use for the implementation of the contract. LWF Kenya Somalia 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 LWF Kenya Somalia. The Candidate shall provide a replacement with at least equivalent qualifications and experience and acceptable to LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia, shall give the right to LWF Kenya Somalia 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 LWF Kenya Somalia.

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

14. SUBCONTRACTING

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 LWF Kenya Somalia. Sub-contractors must satisfy the eligibility criteria applicable for the award of the contract.

LWF Kenya Somalia 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 LWF Kenya Somalia, 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 LWF Kenya Somalia of the Candidate's reports and issue of Completion Certificate shall not relieve the Candidate of its liability and shall not prevent LWF Kenya Somalia 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 LWF Kenya Somalia, remedy any deficiencies in the performance of the services. In case of default on the part of the Candidate to carry out such instructions, LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia;
- 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 LWF Kenya Somalia that the above insurances have been affected. During execution of the contract, the Candidate shall, when required, provide LWF Kenya Somalia 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 LWF Kenya Somalia. The Candidate shall, upon completion of the contract, deliver all such documents and data to the LWF Kenya Somalia. 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 LWF Kenya Somalia.

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 LWF Kenya Somalia, without the prior written consent of the LWF Kenya Somalia.

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 LWF Kenya Somalia, or any person authorised by LWF Kenya Somalia or LWF Kenya Somalia 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 LWF KENYA SOMALIA

19.1. LWF Kenya Somalia 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, LWF Kenya Somalia shall give its decisions so as not to delay the services, and within a reasonable time.

19.2. The contract shall specify whether LWF Kenya Somalia 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 LWF Kenya Somalia 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, LWF Kenya Somalia 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.

LWF Kenya Somalia 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 a prepayment 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 LWF Kenya Somalia shall be subject to the prior presentation by the Candidate to LWF Kenya Somalia of an approved performance security, prepayment 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 LWF Kenya Somalia 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 LWF Kenya Somalia of the completion certificate described in article 25.

20.6. Late payment

If the time periods laid down for payments by LWF Kenya Somalia have been exceeded by more than two months and where LWF Kenya Somalia 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, pro rata 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, LWF Kenya Somalia 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, LWF Kenya Somalia 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 LWF Kenya Somalia is entitled to damages, it may deduct such damages from any sums due to the Candidate or call on the appropriate guarantee.

LWF Kenya Somalia 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 LWF Kenya Somalia, suspend the performance of the services or any part thereof for such time and in such manner as LWF Kenya Somalia 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) LWF Kenya Somalia has approved the Candidate's completion report, (b) LWF Kenya Somalia has approved the Candidate's final invoice and final audited statement, LWF Kenya Somalia shall deliver a completion certificate to the Candidate.

26. TERMINATION BY THE LWF KENYA SOMALIA

26.1 LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia;
- 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 LWF Kenya Somalia 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 LWF Kenya Somalia;
- 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 LWF Kenya Somalia for convenience

LWF Kenya Somalia may terminate the contract in whole or in part for its convenience, upon not less than 14 days' notice. LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia, 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) LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia 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.

LWF Kenya Somalia 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 LWF Kenya Somalia under article 20.4, may be invoked forthwith by LWF Kenya Somalia in order to repay any balance still owed to LWF Kenya Somalia by the Candidate, and the guarantor shall not delay payment or raise objection for any reason whatever.

28.4. If LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia.

30. APPLICABLE LAW AND DISPUTES

The contract is governed by and shall be construed in accordance with the laws of the LWF Kenya Somalia'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 LWF Kenya Somalia'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 labour as described in the *Forced Labour Convention* and in the *Abolition of Forced Labour Convention 105* of the International Labour Organization. Furthermore, the Candidate warrants that it, and its affiliates, 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 LWF Kenya Somalia to terminate this contract immediately upon notice to the Candidate, at no cost or liability for the LWF Kenya Somalia.

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 LWF Kenya Somalia to terminate this contract immediately upon notice to the Candidate, at no cost or liability for the LWF Kenya Somalia.

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 LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia 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 LWF Kenya Somalia 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 Candidate shall permit LWF Kenya Somalia or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit LWF Kenya Somalia or any person authorized by it, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the contract is financed by 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 provision of the services. In particular, it 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 (LWF Kenya Somalia's) Candidates.



CODE OF CONDUCT FOR CONTRACTORS

ETHICAL PRINCIPLES AND STANDARDS

ANNEX 4: CODE OF CONDUCT FOR CONTRACTORS

By this Code of Conduct, LWF Kenya Somalia 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 LWF Kenya Somalia'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.

LWF Kenya Somalia acknowledges 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,

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 Labouré 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.

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)
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

LWF Kenya Somalia 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

LWF Kenya Somalia 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 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 LWF Kenya Somalia defined as the misuse of entrusted power for private gain and it includes bribery, fraud, embezzlement and extortion. LWF Kenya Somalia 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.

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.

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--an/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 on 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&l=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/>

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