



TERMS AND CONDITIONS APPLICABLE TO ILO IMPLEMENTATION AGREEMENTS

1. STATUS OF THE PARTIES

- 1.1. **LEGAL STATUS OF THE PARTIES:** The International Labour Organization, represented by the International Labour Office (ILO), and the Implementing Partner (referred to individually as a “Party” and together as the “Parties”) have the following legal status:
- 1.1.1. The International Labour Organization has full juridical personality, including the ability to contract and enjoys such privileges and immunities as are necessary for the independent fulfilment of its purposes pursuant to the *Constitution of the International Labour Organisation*. Nothing in or related to the Agreement will be deemed a waiver of any of the privileges and immunities of the International Labour Organization recognized in the Convention on the Privileges and Immunities of the Specialized Agencies (1947), and relevant national and international law.
 - 1.1.2. Nothing contained in or relating to the Agreement will be construed as establishing or creating between the Parties the relationship of employer and employee.
- 1.2. **TAX EXEMPTION:** The International Labour Organization, as a United Nations Specialized Agency, enjoys a special tax status in its member States. Except with the prior written authorization of the ILO, invoices will be submitted exclusive of any amount representing taxes (including value added tax), duties or charges. Where such authorization has been provided, the Implementing Partner will provide the ILO with written evidence that payment of such taxes, duties or charges has been made. In the event any government authority refuses to recognize the ILO’s exemption from such taxes, duties or charges, the Implementing Partner will immediately consult with the ILO to determine a mutually acceptable procedure.

2. PERFORMANCE

- 2.1. **PURCHASES:** Unless otherwise instructed by the ILO, the Implementing Partner will purchase in its own name any goods and services to be procured pursuant to the Terms of Reference (TOR) or equivalent document in **Annex A** of the Implementation Agreement:
- 2.1.1. Any purchase will be conducted in a fair, transparent and competitive manner.
 - 2.1.2. The Implementing Partner will ensure that the procurement of goods and/or services that it undertakes under the Agreement, will be carried out in accordance with its own rules and regulations, subject to any instructions that the ILO may issue in order to meet conditions imposed by ILO donors. The Implementing Partner warrants that its rules and regulations meet internationally acceptable procurement standards.
 - 2.1.3. The Implementing Partner will maintain an inventory and accurate financial and other relevant records of such goods and services and provide to the ILO such records in the format set out in **Annex B** of the Implementation Agreement.
 - 2.1.4. The Implementing Partner acknowledges and agrees that the ILO hereby disclaims any and all warranties regarding the functionality or installation of such goods. The Implementing Partner is solely responsible for the installation (including any personnel, tools, materials or other goods necessary for installation), maintenance and functioning of such goods, and unless otherwise provided in **Annex A** of the Implementation Agreement, it will bear all costs. The Implementing Partner will not cause or permit any lien, claim or other encumbrance to be attached to any or all such goods and will promptly report to the ILO each loss, damage or theft of such goods.
 - 2.1.5. The ILO, no later than one (1) year after its acceptance of the Final Report as specified in the Agreement, may request the Implementing Partner to, at its own expense, hand over the goods in good condition, excluding normal wear and tear; and transfer the title and ownership of them to the ILO or any other party designated by the ILO. The obligations of the Implementing Partner under paragraph 2.1.4 will continue until such handing over and transfer of ownership has been completed.
 - 2.1.6. The provisions of paragraphs 2.1.3 to 2.1.5 will also apply to goods, which have been purchased by the ILO and delivered to the Implementing Partner pursuant to the Agreement. Upon the termination or expiration of the Agreement, the Implementing Partner will take all reasonable measures to avoid any loss of or deterioration to such goods and all such goods will be returned to the ILO in the same condition as when delivered to the Implementing Partner, excluding normal wear and tear. The return of such goods or other disposal as the ILO may direct, will be at the Implementing Partner’s expense. The Implementing Partner will compensate the ILO for actual costs of any loss of, damage to or deterioration of such goods that is beyond normal wear and tear.
- 2.2. **RESPONSIBILITY FOR PERSONNEL:**
- 2.2.1. The employees, officials, representatives, staff or subcontractors (referred to as **Personnel**) of either of the Parties will not be considered in any respect as being the employees of the other Party.



- 2.2.2. Each Party is solely responsible for the professional and technical competence of its respective Personnel, which will permit that Party to effectively perform its obligations under the Agreement.
- 2.2.3. Without prejudice to any other right or remedy available under the Agreement, the ILO reserves the right to request at any time, in writing, the withdrawal or replacement of any of the Implementing Partner's Personnel and such request will not be unreasonably refused by the Implementing Partner.
- 2.2.4. Each Party is solely responsible for all claims arising out of or relating to the engagement of its respective Personnel.
- 2.2.5. All expenditures related to the assignment of the Implementing Partner's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the Implementing Partner. All expenditures related to the assignment of the ILO's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the ILO.
- 2.3. INSURANCE:**
- 2.3.1. The Implementing Partner, for the duration of the Agreement, any extension thereof or any period following any termination of the Agreement and reasonably adequate to deal with losses, will insure its Personnel against the consequences of the following risks:
- 2.3.1.1. illness, injury and death; and
- 2.3.1.2. incapacity to work due to accident and sickness either during normal working hours or outside working hours.
- 2.3.2. Time lost as a result of the occurrence of the risks identified in subparagraphs **2.3.1.1** or **2.3.1.2** will not be chargeable to the ILO.
- 2.4. INDEMNIFICATION:**
- 2.4.1. The Implementing Partner is solely responsible for any claim or damage resulting from the negligence, acts, or omissions of its Personnel.
- 2.4.2. The Implementing Partner will indemnify and hold the ILO harmless from and against any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO, its Personnel or third-parties which may result from the performance of the Implementing Partner's obligations under the Agreement or the Implementing Partner's acts or omissions or those of the Implementing Partner's Personnel.
- 2.4.3. The Implementing Partner will immediately notify the ILO upon becoming aware of any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO or which could adversely affect the ILO.
- 2.5. **ASSIGNMENT:** The Implementing Partner may not assign, transfer, pledge or make any other disposition of the Agreement, of any part of the Agreement, or of any of the rights, claims or obligations under the Agreement except with the prior written authorization of the ILO. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, will not be binding on the ILO.
- 2.6. **SUBCONTRACTING:** In the event that the Implementing Partner requires the services of any subcontractor, the Implementing Partner will obtain the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected. The authorization and approval by the ILO of such a subcontractor does not relieve the Implementing Partner of any of its obligations under the Agreement and the Implementing Partner is solely responsible for the work performed by a subcontractor in the framework of the Agreement, including their quality. The Implementing Partner, to the same extent as for its own Personnel, will be liable for a subcontractor and its Personnel who are performing any part of the Implementing Partner's obligations under the Agreement. The terms of any subcontract will be subject to and be in conformity with the provisions of the Agreement. Except with the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected, the Implementing Partner will ensure that its subcontractor(s) do not subcontract, assign, transfer, pledge or make any other disposition of the Agreement, of any part of the Agreement, or of any of the rights, claims or obligations under the Agreement. The provisions of this paragraph apply to any subcontractor who, in turn, requires the services of a subcontractor.

3. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

3.1. PROPRIETARY ITEMS AND INTELLECTUAL PROPERTY RIGHTS:

- 3.1.1. All documents (including drawings, estimates, manuscripts, maps, plans, records, reports, recommendations) and other proprietary items (including data, devices, gauges, jigs, mosaics, parts, patterns, photographs, samples, software) (jointly referred to as

- Proprietary Items**) as well as all intellectual property rights and all other proprietary rights (including copyrights, patents, trademarks, source codes, products, processes, inventions, ideas, know-how) with regard to any materials (jointly referred to as **Intellectual Property**), developed by the Implementing Partner or its Personnel in connection with the Agreement or furnished to the Implementing Partner by or on behalf of the ILO to support the performance of the Implementing Partner's obligations under the Agreement, are the exclusive property of the International Labour Organization.
- 3.1.2. Throughout its performance of the work and, at the latest, upon its completion, the Implementing Partner will disclose to the ILO's Personnel full particulars of all source codes, products, processes, inventions, ideas, know-how, documents and any other materials developed or conceived by the Implementing Partner, alone or jointly, in connection with the Agreement and will take all necessary steps to execute all necessary documents and generally assist the ILO in securing intellectual property rights and all other proprietary rights in compliance with the requirements of applicable law.
- 3.1.3. To the extent that any Proprietary Items and Intellectual Property developed by the Implementing Partner or its Personnel in connection with the Agreement further to paragraph **3.1.1.** include any Proprietary Items or Intellectual Property of the Implementing Partner that: (i) pre-existed the performance by the Implementing Partner of its obligations under the Agreement; or (ii) it may develop or acquire, or that may have been developed or acquired, independently of the performance of the Implementing Partner's obligations under the Agreement; the Implementing Partner grants to the International Labour Organization a perpetual, royalty-free license to make unrestricted use of such Proprietary Item or Intellectual Property. The International Labour Organization will not claim any ownership interest in the Proprietary Item or Intellectual Property described in this paragraph.
- 3.1.4. The Implementing Partner undertakes to obtain, at its own expense, permission to use any third-party protected rights that are necessary for the performance of the Agreement (including a perpetual license transferable to the ILO) and, if requested, provide the ILO with evidence of such permission.
- 3.2. **CONFIDENTIAL NATURE OF PROPRIETARY ITEMS, INTELLECTUAL PROPERTY AND OTHER INFORMATION:**
- 3.2.1. Unless otherwise made public with the authorization of the ILO, Proprietary Items, Intellectual Property and other information, irrespective of what form they are, developed, collected, known, marked or received by the Implementing Partner, will be treated by the Implementing Partner as confidential and will be used by the Implementing Partner and its Personnel solely for the purposes of the Agreement. Where the Implementing Partner is required by law to disclose such Proprietary Items, Intellectual Property or other information, it will give the ILO sufficient prior notice of the request to disclose in order to allow the ILO to have a reasonable opportunity to take protective measures or such other action as may be appropriate.
- 3.3. **PUBLICITY AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL:**
- 3.3.1. The Implementing Partner may neither disclose the terms and conditions of the Agreement which is confidential, nor advertise or otherwise make public, the fact that it is an Implementing Partner to the ILO, except as provided in paragraph **3.3.3** or when authorized in advance by the ILO in writing.
- 3.3.2. The Implementing Partner may not use or reproduce the name, emblem or the official seal of the International Labour Organization or of the International Labour Office, including their abbreviations, in connection with the Implementing Partner's activities or otherwise, without the prior written authorization of the ILO.
- 3.3.3. In reporting its procurement activities, the ILO may publish (e.g. on the Internet) the Implementing Partner's name and related information about the Agreement. In such cases, the Implementing Partner is entitled to reproduce the information made public by the ILO.

4. ETHICAL CONDUCT

- 4.1. **LABOUR CLAUSES:** The Implementing Partner undertakes to respect, at all times and in all circumstances relevant to the performance of the Agreement and in relation to all its Personnel, and to ensure that its subcontractors respect:
- 4.1.1. The following principles concerning international labour standards of the International Labour Organization;
- 4.1.1.1. the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as the protection of those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively;



- 4.1.1.2. the prohibition of forced or compulsory labour in all its forms;
- 4.1.1.3. equal remuneration for men and women for work of equal value;
- 4.1.1.4. equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of the Agreement takes place;
- 4.1.1.5. the prohibition of the employment of children below fourteen (14) years of age or, if higher than fourteen (14), the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of the Agreement takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher;
- 4.1.1.6. the prohibition of the employment of persons under the age of eighteen (18) for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;
- 4.1.1.7. the payment of wages in legal tender, at regular intervals no longer than one month, in full and directly to the workers concerned. The Implementing Partner will keep an appropriate record of such payments. Deductions from wages are permitted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and the workers concerned must be informed of such deductions at the time of each payment;
- 4.1.1.8. the provision of wages, hours of work and other conditions of work not less favourable than the best conditions prevailing locally (i.e. as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or, (iii) applicable laws or regulations, whichever offers the best working conditions), for work of the same character performed in the trade or industry concerned in the area where work is carried out;
- 4.1.1.9. the need to ensure, so far as is reasonably practicable, that the workplaces, machinery, equipment and processes under their control are safe and without risk to health, and that the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health; and
- 4.1.2. All applicable laws or regulations concerning terms of employment and conditions of work, any collective agreements to which it is party, and any other related measure with which it must comply.

4.2. PERSONNEL NOT TO BENEFIT:

- 4.2.1. The ILO requires Implementing Partners to observe the highest ethical standards during the execution of their agreements with the ILO. In order to ensure the respect of these obligations, the ILO provides the following definitions:
 - 4.2.1.1. "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, another to obtain a financial or other benefit or to avoid an obligation;
 - 4.2.1.2. "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of any advantage, in order to influence improperly the actions of another;
 - 4.2.1.3. "conflict of interest" is a situation that gives rise to an actual, potential or perceived conflict between the interests of one party and another;
 - 4.2.1.4. "collusive practice" is any conduct or arrangement between two or more bidders or Implementing Partners, designed to achieve an improper purpose, including to influence improperly the actions of another or to set prices at an artificial level or in a non-competitive manner;
 - 4.2.1.5. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, another or the property of another to influence improperly the actions of another.
- 4.2.2. The Implementing Partner will not (and will ensure that its Personnel do not) place itself in a position that may, or does, give rise to a conflict between its interests and the ILO's interests during the execution of the Agreement.
- 4.2.3. If during the execution of the Agreement a conflict of interest arises, or appears likely to arise, the Implementing Partner will immediately notify the ILO in writing, setting out all relevant details, including any situation in which the interests of the Implementing Partner conflict with the interests of the ILO, or in any situation in which any ILO official, employee or person under contract with the ILO may have, or appears to have, an interest of any kind in the Implementing Partner's activities or any kind of economic or personal ties with the Implementing Partner. The Implementing Partner will take such steps as the ILO may



reasonably require to resolve or otherwise deal with the conflict to the satisfaction of the ILO.

- 4.2.4. Without prejudice to any other right or remedy available under the Agreement, any failure by the Implementing Partner to comply with the provisions of paragraphs 4.1 and 4.2, which is not rectified within sixty (60) days following receipt of a written notice from the ILO can lead to suspension or termination of the Agreement by the ILO pursuant to subparagraph 7.1.1.3 below, and/or disqualification of the Implementing Partner for a specified or indefinite period from entering into an agreement with the ILO; without any liability of any kind.

5. FULL DISCLOSURE

- 5.1. **FULL DISCLOSURE:** The Implementing Partner warrants that it has made and will make full and proper disclosure to the ILO of all relevant information relating to its activities, financial condition and ownership, prior to entering into this Agreement and for its duration, including that it is not identified on or associated with¹ any individual, groups, undertakings and entities identified on the list established by the United Nations Security Council Resolution 1267 (1267 Consolidated List);² and that it is not, nor has been, subject to any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank.

6. DELAY AND FORCE MAJEURE

6.1. DELAY:

- 6.1.1. Should the Implementing Partner encounter conditions that do not constitute *Force majeure* and which impede or are likely to impede timely performance of the Agreement (**Delay**), the Implementing Partner will immediately notify the ILO in writing with full particulars of the Delay, including its likely duration, and its cause. At the ILO's request, the Implementing Partner and the ILO will consult as soon as practicable after receipt of such notice, to evaluate any available means of mitigation or appropriate remedies provided under the Agreement.
- 6.1.2. In addition to any other right or remedy available under the Agreement, upon receiving notice of the Implementing Partner's Delay (or likely Delay) in performance, the ILO will have the right to:
- 6.1.2.1. suspend the Agreement, in whole or in part, and notify the Implementing Partner not to proceed further with its performance which has been subject to (or will be subject to) Delay;
- 6.1.2.2. withhold and/or deduct payment to the Implementing Partner for the portion of the Agreement subject to Delay; and
- 6.1.2.3. procure all or part of the work which the Implementing Partner fails to provide in a timely manner.
- 6.1.3. Without prejudice to any other right or remedy available under the Agreement, the Implementing Partner will be liable for any increase in the price payable by the ILO resulting from the procurement of the work from other sources and the ILO may apply such additional costs incurred, by deduction or otherwise, against future amounts owed by the ILO to the Implementing Partner.
- 6.1.4. Upon receipt of notice of any decision by the ILO to suspend the Agreement under subparagraph 6.1.2.1 and with respect to the suspended portion of the Agreement, the Implementing Partner will take immediate steps to reduce expenses to a minimum and will not undertake any further obligations; provided, however, that the ILO and the Implementing Partner will continue performance of the Agreement to the extent that it is not suspended or cancelled.

6.2. FORCE MAJEURE:

- 6.2.1. Neither Party will be liable to the other Party for failure to perform its respective obligations, if such failure is as a result of an unforeseeable and irresistible event, act of nature (including fire, flood, earthquake, storm, hurricane, epidemic or other natural disaster), any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force (**Force Majeure**), provided that such acts arise from causes beyond the control and without the fault or negligence of the invoking Party.
- 6.2.2. The defaulting Party will notify, as soon as possible after the occurrence of the *Force Majeure* event, the other Party in writing with full particulars of the *Force Majeure* event, including its likely duration, the estimated expenditures that will likely be incurred for the duration of the *Force Majeure* event, and any other conditions which threaten to interfere

¹ United Nations Security Council Resolution 1617 (2005) defines "associated with" and it is available at: <http://www.un.org/en/sc/documents/resolutions/2005.shtml>

² The 1267 Consolidated List is available at: <https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list>



- with the defaulting Party's performance of the Agreement.
- 6.2.3. Without prejudice to any other right or remedy available under the Agreement, if either Party is rendered unable, in whole or in part, by reason of *Force Majeure* to perform its obligations and meet its responsibilities under the Agreement and where the Force Majeure event exists beyond sixty (60) days then that Party will have the right to suspend or terminate the Agreement with a period of written notice of seven (7) days.
- 6.3. **NOTICE OF DELAY AND FORCE MAJEURE:** If notice is not received by a Party in accordance with paragraphs 6.1.1 or 6.2.2, the Party who fails to notify of the Delay or *Force Majeure* event will be liable for damages resulting from such non-receipt, except where the Delay or *Force Majeure* event also prevents transmission of the notice.

7. TERMINATION

7.1. TERMINATION BY THE ILO:

- 7.1.1. Without prejudice to any other right or remedy available under the Agreement and without the authorisation of a court or any other authorisation, the ILO may, immediately by written notice, terminate the Agreement in whole or in respect of certain parts of the work in the following events:
- 7.1.1.1. the Implementing Partner is found to have made any material or fraudulent misrepresentation in the making of or performance of the Agreement regardless of when the misrepresentation is discovered;
- 7.1.1.2. the Implementing Partner becomes bankrupt, otherwise insolvent, or the ILO reasonably determines that the Implementing Partner has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Implementing Partner to perform any of its obligations under the Agreement;
- 7.1.1.3. the Implementing Partner fails to perform any of its obligations under the Agreement including its compliance with the provisions concerning ethical conduct and full disclosure, regardless of whether this failure constitutes a material breach of the Agreement and does not rectify such failure within sixty (60) days following receipt of a written notice by the ILO;
- 7.1.1.4. the Implementing Partner is declared undesirable by the government of the country where the Implementing Partner is to perform any of its obligations under the Agreement;
- 7.1.1.5. the Implementing Partner is the subject of any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank;
- 7.1.1.6. the ILO's activities are curtailed or terminated; or
- 7.1.1.7. the ILO does not receive the necessary funds to cover the total value of the Agreement from its donor(s).
- 7.1.2. Instead of terminating the Agreement in accordance with paragraph 7.1.1, the ILO may, with the consent of the Implementing Partner, temporarily suspend the implementation of the Agreement.
- 7.1.3. Upon receipt of notice of suspension or termination by the ILO and unless otherwise instructed by the ILO, the Implementing Partner will take immediate steps to bring any work to a close in a prompt and orderly manner, will reduce expenses to a minimum and will not undertake any further obligations from the date of receipt of notice of suspension or termination.
- 7.1.4. In the event of partial termination, the Implementing Partner will continue carrying out the work under the Agreement to the extent not terminated.
- 7.1.5. The ILO will make all payments which may be due up to the effective date of termination for any work satisfactorily delivered and accepted by the ILO. If the Agreement is terminated in accordance with subparagraph 7.1.1.6 or 7.1.1.7, the Implementing Partner may also claim payment for costs it has irreversibly incurred in good faith prior to the notification of termination for the purpose of performing the work concerned by the termination.

7.2. TERMINATION BY THE IMPLEMENTING PARTNER:

- 7.2.1. Without prejudice to any other right or remedy available under the Agreement and without the authorisation of a court or any other authorisation, the Implementing Partner may terminate the Agreement immediately by written notice in the event that the ILO:
- 7.2.1.1. fails to make payments which are due under the Agreement and the ILO does not rectify such failure within a period of sixty (60) days after receipt of the Implementing Partner's written notice of default; or
- 7.2.1.2. fails in its obligations under the Agreement so as to make it unreasonable for the Implementing Partner to proceed with the performance of its obligations under the Agreement and the ILO does not rectify such failure within a period of sixty (60) days after receipt of the Implementing Partner's written notice of default.



8. PAYMENT

- 8.1. **PAYMENT:** The Implementing Partner will submit a written invoice and related supporting documentation to the ILO within thirty (30) days from the completion and acceptance by the ILO of the related reports and any other deliverable(s). Upon receipt of the Implementing Partner's written invoice and related supporting documentation, the ILO will effect payment normally within thirty (30) days, by bank transfer (the ILO will not pay through letters of credit or bank draft).
- 8.2. **PAYMENT DETAILS:** The Implementing Partner is responsible for providing the ILO with complete and accurate information necessary for the ILO to effect payment. If the ILO is unable to effect payment due to the failure of the Implementing Partner to provide complete and accurate payment details, the ILO will not be obliged to effect payment beyond the time limit referred to in paragraph 9.5.
- 8.3. **BANK CHARGES:** Bank charges are shared between the Parties (i.e. the ILO bears charges levied by its bank and the Implementing Partner bears the charges levied by its own bank).
- 8.4. **EXCHANGE RATE FLUCTUATIONS:** If, due to unforeseen circumstances, including exchange rate variations, the forecasted expenditures are expected to exceed the originally agreed programme/project budget, the ILO and the Implementing Partner will consult on the measures to be taken, including a reduction of the scope of work.

9. MISCELLANEOUS

- 9.1. **CHANGE ORDERS:** The ILO may, by written notification, increase or decrease the scope of work under the Agreement provided the stage reached in the performance of the Agreement so allows. If any such changes increase or decrease the cost of and/or the time required for the performance of any part of the Agreement, an equitable adjustment will be made in the Agreement's value or time schedule, or both, and the Agreement will accordingly be amended. Any request for consultation or claim for adjustment under this paragraph will be asserted by the Implementing Partner within thirty (30) working days from the date of receipt of the ILO's change order.
- 9.2. **AMENDMENTS:** The Parties may by mutual agreement amend the Agreement. Amendments will be effective only if in writing and when executed and delivered on behalf of the ILO and the Implementing Partner by persons duly authorized to do so.
- 9.3. **NON-WAIVER OF RIGHTS:** Termination of the Agreement in whole or in part by a Party or the failure by either Party to exercise any rights available to it, will not affect the accrued rights or claims and liabilities of either Party to the Agreement.
- 9.4. **SURVIVAL:** The obligations contained in paragraphs 2.3 (Insurance); 2.4 (Indemnification); 3.1 (Proprietary Items and Intellectual Property Rights); 3.2 (Confidential Nature of Proprietary Items, Intellectual Property and Other Information); and 3.3 (Publicity and Use of the Name, Emblem or Official Seal) survive the termination or expiration of the Agreement.
- 9.5. **LIMITATION ON ACTIONS:** Irrespective of their nature, any dispute, controversy, or claim arising out of the Agreement or the breach, termination, or invalidity thereof (other than obligations enumerated in paragraph 9.4) must be asserted within six (6) months after the termination or expiration of the Agreement or within thirty (30) days from the end date of the related ILO programme/project, whichever date is earlier.
- 9.6. **RECORDS:** The Implementing Partner will retain all records, including financial documents, related to or arising from the implementation of the Agreement during the execution of the Agreement and thereafter for a period of not less than ten (10) years from the termination or expiration of the Agreement. Where applicable, the ILO, or any person authorized by the ILO, may, at the sole discretion of the ILO, conduct a review, audit, investigation or other activity requiring access to such records and/or the Implementing Partner's Personnel during the term of the Agreement or thereafter. The Implementing Partner will grant to any such person, at a time to be agreed upon, free access to all workplaces, and will make available at any time all records and documents, including supporting documents for expenditures that have been incurred for the execution of the work.

10. SETTLEMENT OF DISPUTES

- 10.1. **AMICABLE SETTLEMENT:** The Parties will use their best efforts to amicably settle any dispute, controversy, or claim arising out of the Agreement or the breach, termination, or invalidity thereof by direct informal negotiations, including, where agreed, by referral, to an executive level of authority within the Parties. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation will take place in accordance with the Conciliation Rules then prevailing of the United Nations Commission on International Trade Law (**UNCITRAL**) or according to such other procedure as may be agreed between the Parties in writing.
- 10.2. **ARBITRATION:** Unless settled amicably under paragraph 10.1, within sixty (60) days, after receipt by one Party of the other Party's written request, any dispute, controversy or claim arising out of the Agreement, or the breach, termination or invalidity thereof, will be settled by arbitration in accordance with the UNCITRAL Arbitration Rules then prevailing. In addition:



- 10.2.1. the place of arbitration will be Geneva;
 - 10.2.2. the decisions of the arbitral tribunal will be based on general principles of international commercial law;
 - 10.2.3. the arbitral tribunal will have no authority to award punitive damages; and
 - 10.2.4. the Parties will be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim arising out of the Agreement, or the breach, termination or invalidity thereof.
- 10.3. **LANGUAGE:** The conciliation and the arbitration proceedings will be conducted in the language in which the Agreement is signed provided that it is one of the three working languages of the ILO (English, French and Spanish). In the event the Agreement is in a language other than English, French or Spanish, the conciliation or the arbitration proceedings will be conducted in English, French or Spanish.