

## The General Conditions of the Contract

### 1. LEGAL STATUS

The Financial Service Provider shall be considered as having the legal status of an independent financial service provider. Agents or employees of the Financial Service Provider shall not be considered in any respect as being employed or in any manner officials or staff members of the Purchaser. This Agreement does not create a partnership, a joint venture, employment relationship or an agency between Purchaser and Financial Service Provider. Financial Service Provider must not represent itself as an agent or representative of Purchaser to anyone.

### 2. ASSIGNMENT OF PERSONNEL

The Financial Service Provider shall not assign any persons other than those accepted by the purchaser for work performed under this Agreement.

### 3. OBLIGATIONS

The Financial Service Provider and all individuals assigned by it to perform services under this Agreement: (a) Shall neither seek nor accept instructions from any authority external to the Purchaser in connection with the performance of its/their Services under this agreement. (b) Shall refrain from any action which may adversely affect the Purchaser and shall fulfil its/their commitments with the fullest regard for the interests of the Purchaser. (c) Shall ensure compliance with all applicable laws of the country where the Financial Service Provider is registered as well as those in which the activities are performed. (d) Assure that all duties are conducted with integrity, free from any taint of dishonesty or corruption and that all persons are respected equally without any distinction or discrimination based on nationality, race, gender, religious beliefs, class or political opinions. (e) Shall not advertise or otherwise utilize to its/their advantage the fact that it is or has been a financial service provider with the Foodgrains Bank. (f) Shall not, in any manner whatsoever use the name, emblem or official seal of the Foodgrains Bank or any abbreviation of the name of the Foodgrains Bank in connection with its business or otherwise, except as required for the fulfilment of its contractual duties hereunder and then only with the express prior written approval of Foodgrains Bank. (g) Shall not communicate at any time to any other person (legal or natural), Government, National Society or authority external to the Purchaser any information known to it/them by reason of its/their association with the Purchaser which has not been made public, except in the course of their duties or by authorization of the Foodgrains Bank or his/her designate; nor shall Financial Service Providers or assigned individuals at any time use such information to its/their private advantage. (h) When performing the Services under this Agreement, shall act in a manner consistent with the values of the Foodgrains Bank's Standards of Conduct Policy, and shall

comply with all Foodgrains Bank rules, regulations, and policies. The Financial Service Provider acknowledges and accepts that any violation of these rules of conduct by it or any individual assigned by it to perform services on its behalf shall be considered breach of an essential term of this contract. (i) Shall provide the Services (a) in accordance with the terms and subject to the conditions set forth in this Agreement; (b) using personnel of required skill, experience, licenses, and qualifications; (c) in a timely, workmanlike, and professional manner; (d) in accordance with the highest professional standards in Financial Service Provider's field; and (e) to the reasonable satisfaction of the Purchaser. (j) The obligations set out in sub-clauses (e), (f) and (g) above shall continue upon expiration or termination of this agreement with the Purchaser.

#### **4. REPRESENTATIONS AND WARRANTIES**

The Financial Service Provider represents and warrants: (a) It is not engaged in the sale or manufacture, either directly or indirectly, of anti-personnel mines or any components produced primarily for the operation thereof. (b) To ensure the respect of internationally agreed core labour standards, e.g. the ILO core labour standards, conventions on freedom of association and collective bargaining, elimination of forced and compulsory labour, elimination of discrimination in respect of employment and occupation, and the abolition of child labour. (c) It is not engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including the requirement that children be protected from performing any work that is likely to be hazardous, to interfere with their education, or to be harmful to their health and development. (d) It respects the basic social rights and working conditions of its employees, servants, agents, and sub-service providers. (e) There are no material claims or allegations outstanding against the Financial Service Provider that might adversely affect the Foodgrains Bank or its reputation.

#### **5. FRAUD AND CORRUPTION**

(a) Financial Service Provider acknowledges that it has rules and policies to adequately implement internal controls, in regards to anti-corruption, anti-fraud, anti-bribery and other situations of misuse of funds. (b) As signatory of the Organization for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997), and the United Nations Convention Against Corruption (UNCAC, 2007), the Government of Canada is committed to the fight against corruption, fraud and bribery. Therefore, Purchaser reserves the right to take any appropriate action to address such practices, including recovering resources lost, suspending or terminating the Agreement. (c) Financial Service Provider declares and guarantees that no offer, gift or payment, consideration or benefit of any kind, which constitutes an illegal or corrupt practice, has been or will be made to anyone by Financial Service Provider, either directly or indirectly, as an inducement or reward for the award or execution of the Agreement. (d) Financial Service Provider

declares and guarantees that neither the Financial Service Provider, nor its employees involved in the Agreement: i) were convicted during a period of three (3) years prior to and since the signing of the Agreement, by a court of law in Canada or in any other jurisdiction for an offence involving fraud, bribery or corruption or; ii) are under sanction, for an offence involving fraud, bribery or corruption, imposed by a government, an international governmental organization or an organization providing development assistance. (e) Financial Service Provider declares and guarantees that it has taken all reasonable steps to assure itself that neither its contractors, brokers or other agents, nor its contractors', broker's or other agents' employees involved in the Agreement: i) were convicted during a period of three (3) years prior to and since the signing of the Contact, by a court of law in Canada or in any other jurisdiction for an offence involving fraud, bribery or corruption or; ii) are under sanction, for an offence involving fraud, bribery or corruption, imposed by a government, an international governmental organization or an organization providing development assistance. (f) Financial Service Provider shall notify Purchaser immediately of any allegation or actual case of misuse of funds fraud, bribery, corruption or financial irregularity which may involve this Agreement.

### **6. ANTI-TERRORISM**

(a) Financial Service Provider declares and guarantees that the proceeds of the Agreement shall not knowingly be used to benefit terrorist groups or individual members of those groups, or for terrorist activities, either directly or indirectly, as defined in the Criminal Code of Canada R.S.C., 1985, c. C-46 or appearing on the Consolidated United Nations Security Council Sanctions List as modified during the term of this Agreement. Financial Service Provider shall notify in writing Purchaser immediately if it is unable to complete the Agreement as a result of terrorism-related concerns. (b) Financial Service Provider is responsible for consulting all relevant lists in order to stay informed of the listed terrorist groups and their members and must ensure that the proceeds of the Agreement do not benefit any listed terrorist entity and their members, any sanctioned groups or persons.

### **7. ECONOMIC SANCTIONS AND OTHER TRADE CONTROLS**

(a) Financial Service Provider declares and guarantees that proceeds of the Agreement will not be knowingly used, either directly or indirectly, in a manner that contravenes economic sanctions imposed by Canada and enforced by regulations under the United Nations Act (R.S.C. (1985), c. U-2); the Special Economic Measures Act (S.C. (1992), c. 17); the Justice for Victims of Corrupt Foreign Officials Act (S.C. (2017), c. 21) as they are amended from time to time, or for activities that would contravene the provisions of the Export and Import Permits Act (R.S.C. (1985), c. E-19). Information on Canadian sanctions and export and import controls can be found at the following links: i) [https://www.international.gc.ca/world\\_monde/international\\_relations\\_relations\\_internationales/sanctions/index.aspx?lang=eng](https://www.international.gc.ca/world_monde/international_relations_relations_internationales/sanctions/index.aspx?lang=eng) ii) iii) (b) [https://www.international.gc.ca/world\\_monde/international\\_relations\\_relations\\_internationales/sanctions/index.aspx?lang=eng](https://www.international.gc.ca/world_monde/international_relations_relations_internationales/sanctions/index.aspx?lang=eng)

[monde/international\\_relations\\_relations\\_internationales/sanctions/types.aspx?lang=eng](http://monde/international_relations_relations_internationales/sanctions/types.aspx?lang=eng)  
[https://www.international.gc.ca/controls\\_controls/index.aspx?lang=eng](https://www.international.gc.ca/controls_controls/index.aspx?lang=eng) Financial Service Provider shall consult the above links to be aware of the foreign governments, persons and activities subject to economic sanctions and other trade controls during the term of this Agreement. (c) Financial Service Provider shall comply with the legislation and regulations related to economic sanctions and other trade controls during the term of this Agreement.

## **8. PROTECTION FROM SEXUAL EXPLOITATION AND ABUSE**

The Financial Service Provider shall refrain from and shall take appropriate measures to prohibit its employees or persons engaged by it from sexually exploiting or abusing any participants, employees, or volunteers connected with activities under the Purchaser's Contract, including: (i) exchanging any money, goods, services, offers of employment or other things of value for sexual favours or activities; (ii) engaging in sexual activity with any person under the age of 18; (iii) engaging in any activities that are humiliating, exploitative, or degrading; or (iv) engaging in any other form of sexual exploitation or abuse.

## **9. TITLE AND INTELLECTUAL PROPERTY RIGHTS**

(a) During the term of this agreement, the Financial Service Provider shall disclose to the Foodgrains Bank all ideas, inventions, business plans or any other materials developed by it during the term of this agreement as a consequence of the services provided to the Purchaser by the Financial Service Provider.

(b) The Foodgrains Bank shall be entitled to all property rights including but not limited to patents, copyrights, and trademarks, with regard to material which is made in consequence of, the services provided to the Purchaser by the Financial Service Provider. At the request of the Foodgrains Bank, the Financial Service Provider shall assist in securing such property rights and transferring them to the Foodgrains Bank in compliance with the requirements of applicable law. At the request of the Foodgrains Bank, the Financial Service Provider shall take all necessary steps, execute all necessary documents, and generally assist in securing such property rights and transferring them to the Foodgrains Bank in compliance with the requirements of applicable law. (c) All materials prepared as well as all data collected and processed in the course of the Financial Service Provider's work for the Purchaser is the property of the Foodgrains Bank. Such information cannot be used by the Financial Service Provider for any purpose other than that agreed under the terms of this agreement, without the prior written approval of Foodgrains Bank. (d) Title to any equipment and supplies which may be furnished by the Purchaser shall rest with the Foodgrains Bank and any such equipment shall be returned to the Foodgrains Bank as soon as possible, when no longer needed by the Financial Service Provider. In any event, all equipment and supplies must be returned to the Purchaser upon the termination or expiration of this agreement. Such equipment, when returned to the Foodgrains Bank, shall be in the same

condition as when delivered to the Financial Service Provider, subject to normal wear and tear. The Financial Service Provider bears all responsibility for lost or damaged equipment and supplies.

## **10. TAX EXEMPTION**

The Financial Service Provider's fee shall reflect any tax exemption to which the Purchaser is entitled by reason of any immunities which it enjoys. If it is subsequently determined that any taxes which have been included invoiced are not required to be paid, the Purchaser shall deduct the amount from the service fee or, if it has paid any such taxes, it shall be refunded by the Financial Service Provider.

## **11. DELAY AND RIGHT TO SET-OFF**

Without prejudice to Purchaser's other rights and remedies: (a) if the Services have not been completed during the agreed time period, any additional costs or damages incurred by the Purchaser due to such delay may be withheld from any amounts owed to the Financial Service Provider. (b) Purchaser may set off any claims against the Financial Service Provider under or in connection with this Agreement or in connection with any part of the Services which do not meet the requirements of this Agreement.

## **12. TERMINATION**

(a) This agreement may be terminated by the Purchaser with immediate effect at any time if the Financial Service Provider has breached any of his contractual obligations with the Purchaser or if in the reasonable opinion of the Purchaser the Financial Service Provider has brought or is reasonably likely to bring the Purchaser's reputation into disrepute. (b) In the event of the agreement being terminated prior to its due expiry date in this way, the Financial Service Provider shall be compensated on a pro rata basis for no more than the actual amount of work performed to the satisfaction of the Purchaser. Additional costs or damages incurred by the Purchaser resulting from the termination of this agreement by the Financial Service Provider or by the Purchaser in accordance with para (a) above, may be withheld from any amount otherwise due to the Financial Service Provider by the Purchaser.

## **13. BANKRUPTCY**

Should the Financial Service Provider file any petition for bankruptcy or should the Financial Service Provider make a general assignment for the benefit of its creditors, or should a receiver be appointed on account of the Financial Service Provider's insolvency, the Purchaser may under the terms of this Agreement terminate the same forthwith by giving the Financial Service Provider written notice of such termination.

## **14. FORCE MAJEURE**

Force majeure, as used herein, shall mean acts of God, laws or regulations, industrial disturbances, acts of the public enemy, civil disturbances, explosions and any other similar cause of equivalent force not caused by, nor within the control of either party, and which neither party is able to overcome. As soon as

possible after the occurrence of the force majeure and within not more than 15 days, the Financial Service Provider shall give notice and full particulars in writing to the Purchaser of such force majeure if the Financial Service Provider PAGE 25 CVA Procurement Manual | Canadian Foodgrains Bank is thereby rendered unable, wholly or in part, to perform his obligations and meet his responsibilities under this Agreement. The Purchaser shall then have the right to terminate this Agreement by giving in writing seven-day notice of termination to the Financial Service Provider, and the Financial Service Provider shall return any deposit paid by the Purchaser.

### **15. INDEMNIFICATION AND INSURANCE**

(a) The Financial Service Provider shall indemnify, hold harmless and defend at its own expense the Purchaser, and each of their respective directors, officers, agents and employees from and against all suits, claims, demands and liability of any nature or kind, including costs and expenses, arising out of acts or omissions of the Financial Service Provider or its employees in the performance of this Agreement. (b) During the term of the Agreement, the Financial Service Provider will maintain at its own expense such insurance policies for such amounts as a prudent Financial Service Provider of goods and services that are substantially similar to the Services would maintain, including Commercial General Liability Insurance and such additional insurance as may be required by Purchaser from time to time. All insurance required to be obtained must be primary. At Purchaser's request, the Financial Service Provider will: (a) provide written proof of such insurance; (b) name Purchaser as an additional insured under such insurance and contain a cross liability clause; and/or (c) require its insurer to give Purchaser 30 days' prior notice of changes to or cancellation of coverage. (c) The Financial Service Provider shall maintain adequate insurance coverage in order to indemnify the Purchaser for the full or partial loss of any amount of the funds, as a result of theft, or loss by any other means. The Financial Service Provider shall provide the Purchaser with proof of such insurance coverage on the date of the conclusion of an agreement and thereafter at the request of the Purchaser.

### **16. OFFICIALS NOT TO BENEFIT**

The Financial Service Provider represents and warrants that no official of the Purchaser has been, or shall be, admitted by the Financial Service Provider to any direct or indirect benefit arising from this Agreement or the award thereof. The Financial Service Provider agrees that breach of this provision is a breach of an essential term of this Agreement.

### **17. AUDIT**

Subject to reasonable confidentiality obligations, Purchaser will have the right to audit and inspect the records and facilities of Financial Service Provider and Financial Service Provider's agents, representatives and subcontractors used in performance of the Agreement or relating to the Services to the extent reasonably necessary to determine Financial Service Provider's compliance with the Agreement.

## **18. AMENDMENTS AND ASSIGNMENTS**

No change in or modification of this contract shall be made except by prior written agreement between the Financial Service Provider and the Purchaser's authorized representatives. The Financial Service Provider shall not assign, transfer, pledge, sub-contract or make other disposition of this Agreement or any part thereof, or of any the Financial Service Provider's rights, claims or obligations under this contract except with the prior written consent of the Purchaser.

## **19. ARBITRATION**

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration. The place of arbitration shall be in (country of project), and the language to be used in the arbitral proceedings shall be English. The arbitral tribunal shall have no authority to award punitive damages. The parties agree to be bound by any arbitration award rendered in accordance with this paragraph as final adjudication of any such dispute, controversy, or claim.

## **20. GOVERNING LAW**

This Agreement shall be governed by law of (country of project).

## **21. PRIVILEGES AND IMMUNITIES**

Nothing in or relating to this contract shall constitute or be deemed a waiver, express or implied, of any of the privileges and immunities of the Purchaser.

## **22. SEVERABILITY**

If any provision of the Agreement is held by any court to be invalid, illegal or unenforceable, either in whole or in part, that holding will not affect the validity, legality or enforceability of the remaining provisions, or any part thereof, of the Agreement, all of which will remain in full force and effect.

## **23. PRIORITY OF DOCUMENTS**

In the event of any inconsistency or conflict within the contract documents the order of priority of these documents, from highest to lowest shall be: (i) the Agreement and all schedules appended to the Agreement; and (ii) the General Terms and Conditions.

## **24. ENTIRE AGREEMENT**

This Agreement (including these General Terms and Conditions and all schedules appended to the Agreement) form the entire agreement between the parties, and no representations of the Purchaser or its agents shall be binding on the Purchaser unless the terms thereof are contained herein.

**25. COUNTERPARTS AND ELECTRONIC DELIVERY** This Agreement may be executed in one or more counterparts, each of which will be an original, and all of which together will constitute a single instrument. Further, the parties agree that this Agreement may be signed by electronic signature (e.g., DocuSign or similar electronic signature technology) and/or transmitted by electronic means, and

thereafter maintained in electronic form, and that such electronic record will be valid, and effective to bind the party so signing, as a paper copy bearing such party's handwritten signature. The parties further consent and agree that the electronic signatures appearing on this Agreement will be treated, for the purposes of validity, enforceability, and admissibility, the same as handwritten signatures.

### **26. SURVIVAL**

The following sections will survive the expiration or termination of this Agreement, regardless of the reason for its expiration or termination, in addition to any other provision which by law or by its nature should survive: 5 [Fraud and Corruption], 6 [Anti-Terrorism], 7 [Economic Sanctions and Other Trade Controls], 8 [Protection From Sexual Exploitation and Abuse], 9 [Title And Intellectual Property Rights], 10 [Tax Exemption], 15 [Indemnification and Insurance], 16 [Officials Not To Benefit], 17 [Audit]