

DRAFT TEARFUND CONSULTANT FRAMEWORK AGREEMENT
Promoting Fair & Peaceful Elections

Parties:

(1) **“Tearfund”**: Tearfund, (a company incorporated in England and registered under number 00994339) whose registered office is at 100 Church Road, Teddington, Middlesex TW11 8QE. For the purposes of this contract, the member of staff representing Tearfund will be [redacted].

(2) The **“Consultant”** : [Name and address]

Terms:

1. Term

- 1.1. The commencement date of this agreement shall be [redacted] and it shall continue for a period of three (3) years.
- 1.2. Tearfund may extend this Agreement by a further period of up to one (1) year by giving written notice to the Consultant of its wish to extend this Agreement.

2. Entire Agreement

- 2.1. This Agreement document, duly authorized by the Consultant and by Tearfund, constitutes the entire Agreement between Tearfund and the Consultant and supersedes all communications, negotiations and agreements (whether written or oral) of the parties made prior to the commencement of this Agreement. This Agreement is based on the Consultant’s submission for the tender for Promoting Fair & Peaceful Elections Consultancy (tender ref: TF-UK-2020-07).
- 2.2. The mechanism for the commencement of any work as part of this Agreement is through a Purchase Order. Neither party is obligated to conduct any activity unless and until a Purchase Order has been issued by Tearfund and accepted by the Consultant. Upon the signing of the Purchase Order by both parties, all of the obligations of both parties as specified in this Agreement come into effect. Any work undertaken by the Consultant under this Agreement (“the Services”) shall be detailed in each individual Purchase Order by means of completing Schedule 1, the Terms of Reference, each time.
- 2.3. Tearfund shall direct award individual projects to different Consultants who have a place on this Framework Agreement, based on the suitability of Consultants demonstrated in their original tender submission. This will be determined by the Consultant who can provide the best value for money for Tearfund for the individual project in question, with respect to quality and price.

3. Duties

- 3.1. Unless prevented by ill health or accident and subject to the terms of this agreement, the Consultant for the period of this agreement shall with all due skill and care provide the Services. In case of illness or accident preventing the Consultant from delivering the Services, the Consultant shall promptly notify Tearfund of such illness or accident
- 3.2. With Tearfund’s prior written approval, the Consultant may appoint a suitably qualified substitute to perform the Services on the Consultant’s behalf, provided that the substitute shall be required to enter into direct undertakings with Tearfund, including with regard to confidentiality. If Tearfund accepts the substitute, the Consultant shall continue to invoice Tearfund in accordance with Clause 4 below and the Consultant shall be responsible for the remuneration of (and any expenses incurred by) the substitute. For the avoidance of doubt, the Consultant will not be paid for any period during which neither the Consultant nor any substitute

provides the Services.

- 3.3. The Consultant shall have no authority (and shall not hold himself out as having authority) to commit Tearfund to any legally binding commitments or contracts or to interfere with the running of Tearfund's affairs or business or without Tearfund's prior written permission incur any expenditure in the name of or on the account of Tearfund.

4. Fees and expenses

- 4.1. In consideration of the delivery of the Services by the Consultant, Tearfund will pay to the Consultant a consultancy fee of £[amount] per day exclusive of VAT (the "Fee"). The Consultant shall present to Tearfund a monthly invoice for the Fee together with an expense claim form.
- 4.2. The monthly invoice for the Fee shall detail the days which the Consultant has worked for the client during the preceding month and any VAT payable (if applicable). The expense claim form shall detail those expenses agreed in advance as necessary for the proper performance of the Services and only such expenses shall be reimbursed by Tearfund.
- 4.3. Payment of the Fee and any expenses properly payable under Clause 3.2 above will be made within 30 days of receipt of a monthly invoice and / or expense claim form submitted by the Consultant and accompanied by receipts or vouchers relating to the expenses for which reimbursement is claimed.
- 4.4. Subject to clause 11.2, if the Consultant is required to travel abroad then the Consultant shall be responsible for any necessary insurances, inoculations and immigration requirements.
- 4.5. Where the outputs delivered are of a standard below that which Tearfund considers acceptable, or where the Consultant fails to fully observe the terms of reference in Schedule 1 or contractual obligations, Tearfund reserves the right to make an appropriate reduction in the Fee paid following discussion with the Consultant.
- 4.6. Tearfund shall be entitled to deduct from the Fee (and any other sums) due to the Consultant any sums which the Consultant owes to tearfund at any time.

5. Consultant's obligations

- 5.1. The Consultant shall carry out the Services in an expert and diligent manner and to the best of his ability and promptly and faithfully comply with and observe all lawful and proper requests which may be made by Tearfund and in particular throughout the term of this agreement, the Consultant will, when required, give to Tearfund such written or verbal advice or information regarding the delivery of any of the Services as Tearfund may require. The Consultant shall provide any equipment necessary for the provision of the Services.
- 5.2. The Consultant must make every effort to adhere to the timetable / schedule of work as laid down in the terms of reference contained in the document at Schedule 1.
- 5.3. The Consultant shall behave in a manner consistent with Tearfund's ethos and comply with Tearfund's policies in relation to the following policy areas of Tearfund:

5.4. Safeguarding

- 5.4.1. The Consultant must ensure that their behaviour promotes and allows all people, with particular emphasis on children and vulnerable adults/adults at risk, to live free from:

- Harm and Abuse, (Physical, sexual (including sexual harassment) and emotional (including the abuse of power / trust and coercion)
- Exploitation - (physical & sexual)

- Neglect
- Discrimination
- Human Trafficking

5.5. Fraud, Loss and Bribery

5.5.1. Tearfund considers that fraud is knowingly making an untrue or misleading representation with the intention of making a gain for oneself or another or causing a loss, or risk of loss, to another. Bribery is defined as giving, requesting or accepting a financial or other advantage to encourage or reward another person for improper behaviour. Bribery is a form of corruption which is defined as 'any abuse of a position of trust in order to gain an unfair advantage'.

5.5.2. The Consultant shall commit to conducting all aspects of their work fairly, openly and honestly and in accordance with the highest ethical and legal standards. This includes a commitment to implementing and enforcing effective systems to counter fraud, bribery and corruption.

5.5.3. The Consultant shall always try to minimise fraudulent and non-fraudulent losses that affect Tearfund.

5.5.4. The Consultant shall comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010.

5.6. Whistleblowing

5.6.1. If the Consultant discover information which they believe shows serious malpractice, unacceptable practices or wrongdoing by Tearfund employees or anyone associated with work provided under this Agreement, with no fear of reprisal the Consultant has the right to report serious legitimate concerns of a whistleblowing nature to Tearfund anonymously. This should be done by using the following email address whistleblowing@tearfund.org which is monitored by the Whistleblowing Officer and the Legal Team at Tearfund.

5.7. Information Security

5.7.1. The Consultant is responsible for the security of Tearfund information and Tearfund assets used as part of this contract and must take appropriate and authorised measures to protect this information and assets.

5.7.2. The Consultant must store all information relating to this contract in secure locations.

5.7.3. The Consultant must not remove or disable security protection put in place by the Tearfund IT team.

5.7.4. Sensitive or personal information must not be processed or stored without Tearfund IT approved security in place and must be on a secure Tearfund IT supplied device.

5.7.5. Any important information which should remain secure must be encrypted at all times.

5.7.6. If the Consultant is using any non-Tearfund procured device to access Tearfund information, this device must be adequately protected by well known trusted security measures. If the Consultant is unclear on any points relating to Information Security, they should request further clarification from their Tearfund contact.

5.8. Global Security

5.8.1. In all matters of personal and/or corporate security the Consultant will strictly adhere to the policy and guidelines as set out by Tearfund. The Consultant will be informed of security

procedures during a briefing prior to the start of the overseas assignment. Breaches of the security policy and guidelines will be considered as justification to terminate the contract. In any emergency Tearfund will take all reasonable steps to assist the Consultant and the Consultant accepts that there shall be no legal liability on Tearfund for the consequence of events outside its control. Tearfund will take all reasonable steps to provide protection for the Consultant but all parties recognise that there are inherent risks in a relief situation and Tearfund shall not be required to do more than what is reasonably necessary and possible in the circumstances.

5.8.2. The Consultant shall, if applicable, complete and return the Declaration at Schedule 2.

6. Other activities

6.1. Nothing in this agreement shall prevent the Consultant from being engaged, concerned or having any financial interest in any other business, trade, profession or occupation during the period of this agreement provided that:

6.1.1. such activity does not cause a breach of any of the Consultant's obligations under this agreement or in the reasonable opinion of Tearfund conflict with or materially impact upon his ability to deliver the Services.

6.1.2. the Consultant shall give priority to the provision of the Services to Tearfund over any other business activities undertaken by the Consultant during the course of this agreement.

6.1.3. where the cost of travel for the Consultant to work away from his home country is paid by Tearfund under the terms of this agreement the Consultant may not perform other engagements during the period of travel without prior permission from Tearfund.

7. Data protection

7.1. The Consultant consents to Tearfund and / or any third party nominated by Tearfund and bound by a duty of confidentiality processing (which includes but is not limited to obtaining, recording, using and holding) all or any personal data relating to the Consultant (in manual, electronic or any other form) for legal, personnel, administrative and management purposes and in particular to the processing of any "sensitive personal data" as defined in Data Protection Legislation.

7.2. The Consultant consents to Tearfund making such information available to regulatory authorities, governmental or quasi-governmental organisations and consents to the transfer of such information to any country whether within or outside the European Economic Area.

7.3. Each of Tearfund and the Consultant hereby agrees to comply in full with all applicable data protection legislation (including the General Data Protection Regulation, Regulation 2016/679/EU ("the **GDPR**") on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, or any national UK legislation substantively implementing such Regulation in the event that the Regulation is not directly applicable in the UK and other applicable data protection rules, regulations or otherwise whether pursuant to applicable law) ("**Data Protection Legislation**")

7.4. For the purposes of this clause 7, defined terms have the meaning prescribed under this Agreement or pursuant to the Data Protection Legislation.

7.5. **Shared Personal Data** means the Personal Data shared by Tearfund with the Consultant for the purposes of the Consultant discharging its obligations under this Agreement, which shall include but shall not be limited to:

7.5.1. Name;

7.5.2. Email Address;

7.5.3. Telephone number;

7.5.4. Photographs;

- 7.5.5. Job Title;
- 7.5.6. Sensitive personal information relating to religion/belief/political opinions/race;
- 7.5.7. Social media identifier

in relation to the following categories of Data Subject

- 7.5.8. Employees/Former Employees
- 7.5.9. Volunteers
- 7.5.10. Contractors/Consultants
- 7.5.11. Visitors
- 7.5.12. Partners
- 7.5.13. Beneficiaries

- 7.6. The Parties hereby agree to enter into such further agreements as may be reasonably necessary for either or both Parties to comply with applicable Data Protection Legislation.
- 7.7. Tearfund will act in the capacity of Data Controller of any Shared Personal Data Processed by the Consultant in the performance of the Agreement. The consultant shall act as a Data Processor.
- 7.8. The Consultant acknowledges that this applies to all forms of processing (electronic, manual, database etc) and the purpose of processing such personal data is:

- 7.8.1 Administration:
 - 7.8.1.1 Business/Charitable purposes
 - 7.8.1.2 Employees (including applicants, volunteers and freelancers)
- 7.8.2 Provision of Services (including but not limited to monitoring activities and report writing).

- 7.9. The Consultant agrees that it shall:

- 7.9.1. process such personal data only on and subject to the instructions of Tearfund;
- 7.9.2. implement such technical and organisational security measures as are reasonably necessary to comply with all the security obligations of the Data Protection Legislation;
- 7.9.3. notify Tearfund of the Consultant's intention to appoint any sub-processor pursuant to Clause 6 of this Agreement provided that, if Tearfund does not object to the appointment of the proposed sub-processor, the sub-processor is engaged pursuant to a written agreement which contains the same obligations of processors in respect of personal data as are set out in this Clause 6;
- 7.9.4. take appropriate technical and organisational measures to enable Tearfund to respond to any request for the exercise of an individual right;
- 7.9.5. not cause or permit the Shared Personal Data to be transferred outside the EEA without the prior written consent of and on the basis of documented instructions from Tearfund;
- 7.9.6. assist Tearfund to comply with Tearfund's obligations under the GDPR to process personal data securely, to respond to a personal data breach, to undertake data protection impact assessments and to engage in any mandatory consultation with a supervisory authority;
- 7.9.7. only process personal data for the duration of the agreement and at the election of Tearfund, return or destroy all personal data held or processed by or on behalf of the

Consultant upon request, including each copy of such data unless retention of a copy is required by applicable law or regulation;

7.9.8. inform Tearfund without undue delay by email to databreach@tearfund.org and with a telephone call to confirm receipt, and, in any event, with 24 hours, of the occurrence of a personal data breach; and

7.9.9. without prejudice to the foregoing, comply with any obligation directly applicable to a processor under the GDPR.

7.10. Tearfund shall have the right but not the obligation, subject to the provision of reasonable notice, to audit the Consultant's compliance with this Agreement and in particular its compliance with this Clause 6. The Parties shall provide all reasonable assistance to each other, including access to, and the assistance of, all relevant employees. Each of the Parties shall pay its own costs in connection with any such audit.

7.11. In this Clause 6, the terms "data processor" or "processor", "data controller" or "controller", "personal data", "personal data breach", "supervisory authority" and "data protection impact assessment" shall have the meaning set out in the GDPR, or any national UK legislation implementing such Regulation, as applicable.

8. Status

8.1. The Consultant warrants and represents to Tearfund that s/he is an independent contractor. Nothing in this agreement shall render the Consultant an employee, agent or partner of Tearfund and the Consultant will not hold himself/herself out as such.

8.2. The Consultant undertakes to Tearfund that s/he will duly pay the tax and National Insurance contributions which are due from him/her whether in the United Kingdom or elsewhere in relation to the payments to be made to him/her pursuant to this agreement.

8.3. The Consultant shall be fully responsible for and indemnify Tearfund against any liability, assessment or claim for taxation whatsoever arising from or made in connection with the performance of the Services (where such recovery is not prohibited by law) and any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Consultant or any substitute against Tearfund arising out of or in connection with provision of the Services. Tearfund may satisfy such indemnity (in whole or in part) by way of deduction from any payment due to the Consultant.

9. Confidential information and Tearfund Property

9.1. The Consultant will not at any time during the existence of this agreement or at any time thereafter use or disclose to any person or cause to be so used or disclosed any confidential information about the business or affairs of Tearfund or any of its business contacts or about any other confidential matters which may come to the Consultant's knowledge in the course of providing the Services, except as is necessary to properly perform the Services or with the consent of Tearfund or as required by a court of competent jurisdiction. For the purposes of this clause confidential information means any information or matter which is not in the public domain and which relates to the affairs of Tearfund or any of its business contacts.

9.2. All documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the business or affairs of Tearfund or its business contacts and any equipment, keys, hardware or software provided for the Consultant's use by Tearfund and any data or documents (including copies) produced, maintained or stored by the Consultant on Tearfund's or the Consultant's computer systems or other electronic equipment (including mobile phones if provided by Tearfund) remain the

property of Tearfund ("**Tearfund Property**").

9.3. At any time during the course of this agreement, the Consultant will promptly on request return all and any Tearfund Property in his possession to Tearfund.

10. Intellectual Property

10.1. The Consultant hereby assigns to Tearfund all existing and future intellectual property rights (including, without limitation, patents, copyright and related rights) and inventions arising from providing the Services to Tearfund. The Consultant agrees promptly to execute all documents and do all acts as may, in the opinion of Tearfund, be necessary to give effect to this Clause 8.

10.2. The Consultant hereby irrevocably waives all moral rights under the Copyright, Designs and Patents Act 1988 (and all similar rights in other jurisdictions) which he has or will have in any existing or future works.

10.3. The Consultant may at the absolute discretion of and with the written permission of Tearfund make use of any visual images created by the Consultant for Tearfund in the course of the provision of the Services provided that the Consultant shall continue to comply with Tearfund's images use policy with regards to content and taste whether or not this agreement has expired or been terminated.

11. Termination

11.1. Tearfund may terminate this agreement at any time by giving 3 months' written notice to the Consultant.

11.2. This agreement will terminate automatically without any requirement for notice or payment in lieu of notice in the event that the Consultant shall die.

11.3. Tearfund may by written notice summarily terminate this agreement or any contracts agreed under this framework agreement with immediate effect with no liability to make any further payment to the Consultant (other than in respect of any accrued fees or expenses at the date of termination) in the event that:

11.3.1. The Consultant becomes bankrupt or compounds with his creditors or is convicted of any criminal offence either in the UK or any other country (other than road traffic offences);

11.3.2. The Consultant conducts himself in any manner which in the reasonable opinion of Tearfund brings or is likely to bring them and / or Tearfund into disrepute or which in Tearfund's reasonable opinion is prejudicial to its interests;

11.3.3. The Consultant is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of 15 working days during the term of this agreement;

11.3.4. The Consultant provides false information in his registration documentation,

11.3.5. The Consultant is in material breach of any of his obligations under this agreement or any agreement supplemental to it or the Consultant wilfully neglects after notice in writing served on them by Tearfund to provide or remedy any default in providing the Services; or

11.4. The expiration or earlier termination of this agreement or any contracts made under this agreement shall not affect such of its provisions as are expressed to operate or have effect afterwards or any right of legal action which has accrued to either party in respect of any breach of this agreement by the other party.

11.5. Any delay by Tearfund in exercising its rights to terminate this agreement or any contracts under this agreement shall not constitute a waiver of those rights.

12. Obligations on termination

12.1. On the expiration or earlier termination of this agreement or contracts made under this agreement, the Consultant shall immediately deliver to Tearfund any original or copy documents obtained by them in the course of providing the Services together with all Tearfund Property in his possession or under his control. The Consultant shall also irretrievably delete any information relating to Tearfund's business stored on any magnetic or optical disk or memory and all matter derived from such sources which are in his possession or under his control outside Tearfund's premises.

13. Insurance and liability

13.1. The Consultant shall have personal liability for and shall indemnify Tearfund for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the Consultant, or any substitute engaged by the Consultant, of the terms of this agreement, including any negligent or reckless act, omission or default in the provision of the Services and shall maintain in force during the period of this agreement adequate insurance cover with reputable insurers acceptable to Tearfund. The Consultant shall ensure in addition if so required by Tearfund that the level of cover and other terms of insurance are acceptable to and agreed by Tearfund.

13.2. If the Consultant is required to travel abroad, Tearfund shall provide personal accident and business travel insurance for the Consultant in the provision of the Services on such terms as Tearfund shall from time to time decide and subject always to the terms and conditions of any such insurance scheme. Any travel abroad will be subject to appropriate safeguarding and security clearance.

13.3. If the Consultant is required to travel abroad they will provide the Tearfund Security Manager with the completed certificate at Schedule 2 prior to travel. Tearfund will advise the Consultant if the security training is sufficient for the country being visited or whether additional training is required in line with Tearfund's safety and security policies and procedures. If further training is required Tearfund may assist with arranging this but the cost will be borne by the Consultant.

14. Notices

14.1. Any notice to be given by one party to the other shall be in writing and shall be validly given if:

- 14.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service to the address at the start of this agreement; or
- 14.1.2. sent to the correct email address of the party to be served and the sender has a copy of email receipt notification to prove safe receipt by the party to be served.

14.2. Any notice shall be deemed to have been received:

- 14.2.1. if delivered by hand, on signature of a delivery receipt;
- 14.2.2. if sent by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; or
- 14.2.3. if sent by email, on the next Business Day after transmission

15. Third Party Rights

This agreement is personal between Tearfund and the Consultant and neither may sell, assign or transfer any duties, rights or interest created under this agreement without the prior written consent of the other. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement and no person other than the Consultant and Tearfund shall have any rights under it. The rights of the parties to terminate, rescind or agree to any variation, waiver or settlement under this agreement are not subject to the consent of any person that is not a party to this agreement.

16. Variation

No variation of this agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

17. Definitions

In this agreement "Tearfund" includes any company which for the time being is the holding company of Tearfund or a subsidiary of such company or of Tearfund ("subsidiary" and "holding company" having the same meaning as in section 1159 of the Companies Act 2006).

18. Governing Law and Jurisdiction

This agreement and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with the law of England and Wales. The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of this agreement.

Signed

Date

[Name of Contract Owner]
For and on behalf of Tearfund

Signed

Date

[CONSULTANT]

Schedule 1
Terms of Reference

To be confirmed for each individual project.

Schedule 2 Declaration
[to be used for international consultancy assignments only]

I [Name], have been contracted by Tearfund to provide consultant services in [Country] under the terms of an agreement dated [Date].

I confirm that:

1. I am fit to travel, and have advised Tearfund of any current injuries or significant ongoing medical conditions.
2. I have provided evidence of the safety and security training that I have received in the last 3 years, and Tearfund's Safety and Security Manager has confirmed this is sufficient for the country to be visited.

Signed

Date