P3.S3.a.T2 Model Consultancy Agreement

**CONSULTANCY AGREEMENT**

*Comments: This document is a consultancy agreement. It can be used as an example/sample and adapt to the needs of your program. Please follow the recommendations of your legal department.*

**BETWEEN**

**<** **NAME OF THE CONSULTANCY FIRM/TRAINING INSTITUTION/RESEARCH CENTER … >**

**and**

**<NATIONAL SOCIETY, NGO>**

##### Regarding Consultancy Services

This contract is made and entered into force on this <day> of <month> of >20xx>, by and between <NAME OF THE CONSULTANCY FIRM/TRAINING INSTITUTION/RESEARCH CENTER/… > – <country>, a <private research, consulting, and training institution, research center, …>, duly incorporated under the laws of <country> with its Registered office at <address> (hereinafter called ‘the Consultant’)

And

The <NS, NGO>, functioning as <an auxiliary to the Government in its humanitarian activities as per XX>, acting in <country> “…” (hereafter called the ‘Client’).

**WHEREAS** the client, within the framework of the project/program <project/program name>, funded by <donor> in order to promote productive activities (micro-entrepreneurships) in the <area>, with <target group/s>. It has been planned to carry out a training process for people with an entrepreneurial spirit and entrepreneurs with minimal or no experience, which will allow them to design or adapt their products/services according to the current context. After training, entrepreneurs will receive support to prepare their business plans and economic proposals[[1]](#footnote-1).

**WHEREAS** the Client wishes to retain the consultancy services for the training of microentrepreneurs in the formulation of basic business models and business plans and support for the preparation of their business plans and economic proposals[[2]](#footnote-2).

Now the Parties hereby agree as follows:

1. **Consultancy relationship**

During the term of this Agreement the Consultant agrees to provide the Client with consultancy services as set out in the attached Terms of Reference (marked as Attachment <01>) and the Proposal submitted by the Consultant to the Client and which is accepted and approved by the Client and shall use his best efforts and due diligence to perform the services. The payments shall be determined to the satisfactory results accepted by the Client.

**The attached:**

The Proposal submitted by the Consultant to the Client (Attachment <02>) forms an integral part of this Agreement.

1. **Contract period**

This contract shall start on <day> of <month> 20XX>and shall be completed by <day> of <month> 20XX, according to the calendar set out in the Proposal submitted by the Consultant

1. **Fees**

The Consultant shall be paid on the following basis:

a) The total fee of the consultancy (excluding Value Added Tax[[3]](#footnote-3)) will be <amount> <currency> as per the budget attached to the Proposal (Attachment <02>).

1. The First payment amounting <amount> <currency> (<XX>%) will be paid within <number> working days after signing of this agreement and receiving the <documents indicated in the ToR>
2. The Second payment amounting <amount> <currency> (<XX>%) will be paid within <number> working days after delivery of the following products <as indicated in the ToR>
3. One last payment amounting <amount> <currency> (<XX>%) will be paid <number> working days after the presentation of the following products <as indicated in the ToR>

For this last payment, an evaluation of the work presented by the consulting company should be carried out by the team of the <National Society>. For all payments, the acceptance certificate of all the corresponding deliverables must be attached, which will have been reviewed by the Unit of <responsible unit> of the National Society.

1. It is the responsibility of the Consultant to cover its own costs of <rental or use of venues, materials, snacks for participants, virtual spaces, mobilization, accommodation, …> and any other item that is necessary for the provision of the service.
2. In the event of the Consultant failing to submit the products <as indicated in the ToR>, for the satisfaction and requirement of the Client, the Client shall have no obligation to continue with the Consultant under the provisions of this Agreement, according to the Clause 1 and without indemnity.

1. **Legal status**

The Consultant shall be considered as having the legal status of an independent contractor and shall not be considered in any way as being employed by the Client or in any manner a staff member or official of the Client. He/ she will not have any authority to enter into contracts or bind the Client or create any obligations for the Client without the prior written authorization of the Client.

Any Representative of the Consultant assigned to do any work for the Client would continue for all purposes to be the employee or servant of the Consultant and not that of the Client. The Consultant shall be responsible for all wages, EPF, ETF and other benefits payable to such Representative and in the event of any claim being made by such Representative against the Client the Consultant shall indemnify and keep the Client saved harmless against all such claims.

1. **Obligations of the parties**

The Consultant agrees to abide by the following conditions *(example)*

1. The Consultant shall neither seek nor accept instructions from any authority external to the Client in connection with the performance of the services under this contract.
2. The Consultant shall refrain from any action which may adversely affect the Client and shall fulfil its commitments with the fullest regard for the interests of the Client.
3. The Consultant shall not advertise or otherwise make public the fact that it is or has been a contractor with the Client, except as otherwise agreed with the Client.
4. The Consultant shall not, in any manner whatsoever use the name, emblem or official seal of the Client or any abbreviation of the name of the Client in connection with its business or otherwise, except as required for the fulfilment of the contractual duties hereunder and then only with the express prior written approval of the Representative of the Client or his or her designate.
5. The Consultant shall not communicate at any time to any other person (legal or natural), Government, National Society or authority external to the Client any information known to it by reason of its association with the Client which has not been made public, except in the course of their duties or by authorization of the Representative of the Client or his designate; nor shall the Consultant at any time use such information for its private advantage.
6. The obligations set out in clause (c), (d), and (e) above shall continue upon termination of this agreement with the Client.
7. The Client shall evaluate and monitor the progress of the Project and shall give all the necessary approvals to the Consultant when necessary.
8. The Client shall make the due payments to the Consultant as agreed when necessary.
9. **Title rights**
10. During the term of this Agreement, the Consultant shall disclose to the Client all ideas, inventions, business plans or any other materials developed by it during the term of the agreement as a consequence of the services provided to the Client by the Consultant.
11. The Client shall be entitled to all property rights including but not limited to patents, copyrights and trademarks, with regard to material which bears a direct relation to, or is made in consequence of, the services provided to the Client by the Consultant. At the request of the Client, the Consultant shall take all necessary steps, execute all necessary documents and generally assist in securing such property rights and transferring them to the Client in compliance with the requirements of applicable law.
12. All materials prepared as well as all data collected and processed in the course of the Consultant’s work for the Client is the property of the Client. Such information cannot be used by the Consultant for any purpose, other than that agreed under the terms of this contract, without the prior written approval of the Client.
13. **Delay**

*(example*)

Without prejudice to clause 8 (b) below, if the services have not been completed during the agreed time period, the Consultant shall pay delay damages to the Client for this default. These delay damages shall be <0.50%> of the total fee per natural day, which shall be paid for every day which shall elapse between the relevant time for completion and the date stated in the certificate of completion of services. However, the total amount due shall not exceed <20%> of the total fee. These damages, and any additional costs or damages incurred by the Client due to such delay may be withheld from any amounts owed to the Consultant.

1. **Termination of contract**

*(example)*

1. This contract may be terminated at any time by either party before the expiry date of the contract by giving written notice to the other party. The period of notice shall be one month.
2. This contract may be terminated immediately by the Client, if the Consultant or any of its Assigned Personnel commits a breach of this Agreement which is not rectified within <5> working days, or if in the reasonable opinion of the Client the Consultant, its Representative or any of its Assigned Personnel has brought or is reasonably likely to bring the “NGO” reputation into disrepute.
3. This Contract may be terminated immediately by the Client as per Clause 3 f) of the Contract.
4. In the event of the contract being terminated prior to its due expiry date, the Consultant shall be compensated on a *pro rata* basis for no more than the actual amount of work performed to the satisfaction of the Client. The Consultant shall compensate the Client for any costs or damages incurred by the Client resulting from the early termination of the contract under clauses a) or b) above for reasons attributable to the Consultant. These costs or damages may be withheld from any amount otherwise due to the Consultant by the Client.
5. **Indemnity and insurance**
6. The Consultant shall indemnify, hold harmless and defend at his/her own expense, the Client, its 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 act or omissions of the Consultant, its employees, directors or agents in the performance of this contract.
7. During the field research he/she takes full responsibility for his/her acts, and shall fully indemnify and hold harmless the Client for any losses or claims, except to the extent that such loss is directly attributable to the negligence of the indemnified party.
8. In signing this contract, the Consultant represents and warrants that he/she is in full compliance with the law of the country of residence. The Client assumes no responsibility for the insurance coverage of the Consultant nor for payment of any tax or other social charges which may be owed by the Consultant on account of the work for the Client.
9. **Client privileges and immunities**

Nothing in or relating to this contract shall be deemed a waiver of any of the privileges and immunities of the Client.

1. **Arbitration**

Any dispute, controversy or claim arising out of or relating to the contract, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules at present in force of which the Parties have taken due notice. The place of arbitration shall be Colombo, Sri Lanka.

The arbitration award shall be final and any recourse to another tribunal excluded.

1. **Amendments and assignments**

No change in or modification to this contract shall be made except by prior written agreement between the Client and the consultant. The consultant shall not assign, transfer, pledge, sub-contract or make other disposition of this contract or any part thereof, or of any of the consultant’s rights, claims or obligations under this contract except with the prior written consent of the Client.

1. **Officials not to benefit**

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

**Signed on behalf of the Client**

<Full name>,

<Title>

<National Society/NGO>

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Signature

Date: <day> of <month> 20XX>

**Signed on behalf of the Consultant**

<Full name>,

<Title>

< The Consultancy Firm>

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Signature

Date: <day> of <month> 20XX>

**Witness**

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Signature Date:

**Attachments:**

Attachment <01> - Terms of Reference

Attachment <02> - Proposal

1. If it were a contest, it could be added, for example: “The ventures will be chosen by (proposal selection committee) depending on your business plan ”or another formula that suits the selection criteria. [↑](#footnote-ref-1)
2. In your case [↑](#footnote-ref-2)
3. Indicate as applicable [↑](#footnote-ref-3)