

## AFRICIAN CITIES PHASE 1 SUBCONTRACT ("Subcontract")

### BETWEEN

- (1) **THE UNIVERSITY OF MANCHESTER** whose registered office is at Oxford Road, Manchester M13 9PL, United Kingdom (hereinafter referred to as the "Lead") in this instance acting through Professor Diana Mitlin of the School of Environment, Education and Development and International Rescue Committee.
- (2) **International Rescue Committee** whose administrative address is: 122 East 42nd Street, New York, New York 10168-1289, USA to be addressed to: Aska Pickering, Deputy Vice President, Awards Management Unit (hereinafter referred to as the "Partner");

Each a "Party" and together the "Parties"

- A The University of Manchester as the Lead Party, has entered into an agreement ('Main Agreement') with The Secretary of State for International Development at the Foreign Commonwealth and Development Office, Abercrombie House, East Kilbride, G75 8EA, United Kingdom ("FCDO"); to undertake the project "African Cities" ('Project'). A copy of the Main Agreement is attached at Schedule 1.
- B The Project is divided into a number of phases, this Subcontract is to cover the work to be carried under Phase 1 only as more fully detailed in Schedule 2.
- C At the end of Phase 1, a further agreement will be put into place to formalise the arrangements for the remainder of the Project.
- D The Lead has pleasure in offering the Partner a Subcontract for the Phase 1 activities as set out in Schedule 2, subject to the terms and conditions set out in this Subcontract.

The terms and conditions of the Subcontract are as follows:

### 1 TERMS OF REFERENCE AND SERVICES TO BE SUPPLIED

1.1 The Partner shall provide the Phase 1 activities in connection with the Project as set out in Schedule 2 and subject to the terms and conditions of the Main Agreement, including working with the Lead on this Project as specifically outlined using all due diligence, skill and care.

1.2 The Partner shall furnish the Lead with such information relating to the achievement of the Project milestones and financial reporting as the Lead may at any time reasonably request and in good time to report the same to FCDO in compliance with the Main Agreement. All reports and information to be provided by the Partner shall comply with provisions of the Main Agreement.

1.3 This Subcontract shall be regarded as though it were a complementary agreement to the Main Agreement. Nothing contained herein shall be so construed or interpreted in any way as to diminish or alter the rights of FCDO as set out in the Main Agreement.

## **2 CONDITIONS**

2.1 This Subcontract is to be construed for all purposes as a contract for the supply of services and not as a contract of service. The Partner will not be the servant of the Lead or otherwise in the Lead's employment.

2.2 The Partner will be responsible for ensuring all insurance is in place appropriate and sufficient for the Partner's role on the Project.

2.3 Nothing in this Agreement shall create, imply or evidence any partnership or joint venture between the Lead and the Partner or the relationship between them of principal and agent.

## **3 DURATION**

This Subcontract shall take effect from 1 October 2020 for a period of six (6) months and shall terminate on 31 March 2021, unless prematurely terminated in accordance with Clause 8 below.

## **4 INTELLECTUAL PROPERTY OWNERSHIP**

4.1 "Background Intellectual Property" means any Intellectual Property made available by either Party for use in the Project or necessary to exploit the Foreground Intellectual Property, but not (in either case) directly arising from and developed in the course of the Project and belonging to such Party or to which such Party has rights which permits its use in the Project and to exploit the Foreground Intellectual Property. "Intellectual Property" means all intellectual and industrial property rights including without limitation patents, know-how, trade marks, registered designs, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks and copyright (including, without limitation, copyright in drawings, plans, specifications, designs and computer software), database rights, topography rights, any rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world. "Foreground Intellectual Property" means any Intellectual Property arising from and developed in the course of the Project.

4.2 Each Party shall own and continue to own the Background Intellectual Property vested in it at the commencement of this Subcontract, and nothing in this Subcontract shall transfer those rights to another party under this Subcontract.

4.3 It is not anticipated that any Foreground Intellectual Property will arise as part of the Phase 1 Project activities, in the event that any Foreground Intellectual Property is generated, it will remain with or belong to the Lead, and Partner will execute all formal documents necessary or desirable in order to assign to the Lead all rights in Foreground Intellectual Property which may otherwise vest or have vested in Partner. The Lead has reserved the sole right to determine whether any patent or similar protection shall be applied for or whether the results of the work shall be published.

4.4 The Lead shall grant the Partner, a non-exclusive, irrevocable, sub-licensable, royalty-free licence to use the Foreground Intellectual Property for non-commercial use, including for educational, charitable and research purposes.

## **5 CONFIDENTIALITY**

5.1 “Confidential Information” means all secret or not generally known information or information which is not easily accessible to others or of a commercially sensitive nature disclosed or made available in any way by one Party to the other for use in connection with the Project that (a) is clearly and conspicuously marked as “confidential” or with a similar designation; (b) is identified by one Party as confidential and/or proprietary before, during, or promptly after presentation or communication; or (c) is disclosed in a manner in which the disclosing Party reasonably communicated, or the receiving Party should reasonably have understood under the circumstances, that the disclosure should be treated as confidential, whether or not the specific designation “confidential” or any similar designation is used.

5.2 The Partner agrees to use all reasonable endeavours to keep confidential and not to disclose to any third party any Confidential Information, any information, know-how or intellectual property acquired in connection with this Subcontract, the results of and any information relating to the work undertaken as part of this Subcontract.

5.3 The obligations in this Clause 5 shall survive the termination of this Subcontract but will not apply to any information which:

- a) was known to Partner prior to disclosure; or
- b) was or becomes part of the public domain through no fault of Partner; or
- c) becomes available to Partner by an unconnected third party with the lawful right to make such disclosure; or
- d) it is required to be disclosed by law.

5.4 Neither Party shall use the name or logo of the other in any press release or product advertising, or for any other commercial purpose, without the prior written consent of the other. Provided however, that reports to FCDO on the Project shall not be regarded as a breach of this Subcontract.

## **6 PAYMENT**

The Lead shall pay to Partner in consideration of the work to be carried out on the Phase 1 Project under this Subcontract the sum as set out in Schedule 3 inclusive of any applicable VAT. Payment hereunder shall be made within 30 days of receipt of an invoice, submitted in accordance with Schedule 3 and subject always to compliance with the FCDO Main Agreement.

## **7 INDEMNITY**

7.1 In respect of the work carried out under this Subcontract, the Parties shall indemnify each other and their servants and agents against all damages, losses, claims, costs and expenses for which it becomes legally liable as a result of bodily injuries to persons and/or damage to material property to the extent that this shall arise out of any negligent act or omission committed by or on behalf of the Party during the course of the Project work provided that notice in writing shall be given as soon as practicable of any such action or claim brought made or threatened against the other Party and the Party shall not settle, adjust or compromise such action or claim without consultation with the other Party.

7.3 The liability of either Party for any breach of this Subcontract or arising in any other way out of the subject matter of this Subcontract, will not extend to any punitive, exemplary, incidental or consequential damages or losses including (without limitation) loss of profits.

7.4 The aggregate liability of one Party (whether in contract or for negligence or breach of statutory duty or otherwise howsoever) to the other Party for any loss or damage of whatsoever nature and howsoever caused shall be limited to the maximum sum of funding for the Partners activities under this Subcontract as set out in Schedule 3.

## **8 TERMINATION**

8.1 This Subcontract is terminable by either party upon the giving of 1 (one) months' notice in writing and otherwise be terminated upon occurrence of the following events:

- a) The termination of the Main Agreement by FCDO;
- b) If for any reason the Partner shall be unable or unwilling to carry out the Phase 1 activities as set out in this Subcontract to the satisfaction of the Lead, in which event the Lead shall be entitled to terminate this Subcontract with immediate effect.
- c) If either Party shall commit any breach or default in any terms or conditions of the Subcontract and fails to remedy or begin to remedy such breach or default within 30 (thirty) days after receipt of written notice thereof from the other Party, the Party giving notice may terminate this Subcontract by sending written notice of termination in writing to the other Party to such effect, and such termination shall be effective as of the date of receipt of such notice.

## **9 ASSIGNMENT AND SUBCONTRACTING**

The Partner may not assign or subcontract any obligation, benefit or interest herein without the prior written consent of the Lead and FCDO.

## **10 AMENDMENTS**

Amendments or changes to this Subcontract shall be made in writing and signed by the duly authorised representatives of the Parties.

## **11 CONTRADICTION**

If there is any contradiction between this Subcontract and the Main Agreement, the terms and conditions of the Main Agreement shall take precedence.

## **12 RIGHTS OF THIRD PARTIES**

Nothing in this Subcontract is intended to confer on any person any right to enforce any term of this Subcontract which that person would not have but for the Contracts (Rights of Third Parties) Act 1999.

**13 DISPUTES AND GOVERNING LAW**


13.1 If any dispute arises out of this Subcontract the Parties will first attempt to resolve the matter informally through their respective Project representatives. If the dispute can still not be resolved, the matter will be escalated to a representative from each Party with authority to resolve such a dispute. If the dispute can be resolved within a reasonable time not exceeding two (2) months from the date the informal process is requested by notice in writing, the Parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.

13.2 This Subcontract shall be governed by the laws of England and Wales, both Parties agree to submit to the non-exclusive jurisdiction of the English Courts.


This Subcontract may be executed and exchanged electronically by pdf and will constitute an original binding agreement.

**AS WITNESS** the hands of authorised signatories for the Parties on the date first mentioned above.

**For and on behalf of The University of Manchester (“Lead”)**

**Name:** Dr Andrew Walsh  
**Title:** Director of Research & Business Engagement  
**Signature:**   
**Date:** 10 March 2021

**For and on behalf of International Rescue Committee, Inc. (“Partner”)**

**Name:** **Oscar Raposo**  
**Title:** **Chief Financial Office**  
**Signature:**   
**Date:** February 19, 2021

## Schedule 1

### The Main Agreement



African Cities  
Research Centre...

## Schedule 2

### Terms of Reference

#### Phase 1 Project Activities

The International Rescue Committee (IRC) are one of eight partners in the African Cities Research Consortium (ACRC) led by The University of Manchester, UK. This is a 6 year programme funded by the UK Government's Foreign, Commonwealth and Development Office (FCDO) with £32.1 million grant. The initial phase of this partnership is an inception phase from 1 October 2020 to 31 March 2021, in which significant planning and background work will be undertaken. This will lay the foundation for an agreed future programme of work and a Collaboration Agreement between partners.

In the Inception Phase, IRC will:

- Contribute to planning activities, including sending representative(s) to the three partnership-wide meetings planned during the Inception, sending a senior representative to the (virtual) Strategic Alignment Group meetings and a representative to participate in the Operations Group planning meetings.
- Write a City Scoping Study on **Maiduguri** as outlined in the attached terms of reference, by 26 February 2021, and revise following review by 12 March 2021.
- Review the City Scoping Studies for Nairobi and Kampala written by other Consortium members.
- Contribute to the ACRC's strategy on how to work in fragile situations.

Upon receipt of an invoice IRC will be paid £19,425, following the full signature of this subcontract.

All deliverables must be completed by 31 March 2021.

## Schedule 3

### Schedule of Payment

The Lead shall pay to Partner in consideration of the work to be carried out under this Subcontract the gross sum up to a maximum as set out below over the period of the Project as detailed below.

<b>Maximum Total Subcontract Funding:</b>	£19,425 (nineteen thousand, four hundred and twenty five pounds sterling)
<b>Details of payment schedule:</b>	An invoice shall be submitted on full signature of this subcontract.
<b>Period of work:</b>	1 October 2020 to 31 March 2021

Invoices should quote Ref. No. R125419 and a Purchase Order Number that will be issued by The University of Manchester – requested from Julie Rafferty. Partner should consider that an invoice that does not contain purchase order number as requested by the Lead will not be paid.

Invoices should be raised and sent to the following address:

The University of Manchester  
Accounts Payable LG15  
John Owens Building, Oxford Road  
Manchester, M13 9PL  
United Kingdom

A copy of the invoice should be sent to the following address:

FAO: Julie Rafferty  
Arthur Lewis Building, 2<sup>nd</sup> Floor  
The University of Manchester  
M13 9PL  
[julie.rafferty@manchester.ac.uk](mailto:julie.rafferty@manchester.ac.uk)