

IMA WORLD HEALTH TERMS AND CONDITIONS

1. CONFIDENTIALITY

Contractor acknowledges that any information obtained in performing this Contract regarding IMA WORLD HEALTH's operations, products, services, policies, systems, programs, procedures, employees, strategies, research, budgets, proposals, finances, plans, donor or business relationships, or any other aspect of its business that is not generally known to the public, is confidential and proprietary. During and after the Term, Contractor will hold such information confidential and will not:

(i) use such information for any purpose other than performance of this Contract; or (ii) disclose such information, directly or indirectly, to anyone outside IMA WORLD HEALTH, without in each instance the prior written consent of IMA WORLD HEALTH.

2. COMMUNICATIONS

IMA will be responsible for all communications with the Donor on issues related to the Project. The Contractor will not communicate directly with the Donor concerning the Project and will always channel communications regarding the Project through IMA.

3. TERMINATION

This Contract may be terminated by either Party at any time prior to or at the scheduled expiration date with or without cause by issuance of a thirty (30) days written notice. In the event of such termination, IMA World Health will pay the Contractor for the actual amount of services rendered up to the point of termination.

Termination for Default. IMA World Health may terminate the Agreement at any time, or from time to time, in whole or in part, by written notice effective on the later of the date of the notice or the effective date specified in the notice, if any one or more of the following should occur:

(I) Contractor becomes insolvent or makes a general assignment for the benefit of creditors;

(II) A petition under any bankruptcy act or similar statute is filed by or against Contractor;

(III) Contractor fails to make all products available within the time provided in

quotations received in response to the Request for Quotations.

(IV) Contractor fails to perform an obligation under any provision of this Contract, or so fails to make progress as to substantially endanger performance of this Contract in accordance with this terms, provided that, Contractor fails to remedy any such condition within twenty (30) days from the receipt of a written notice from IMA World Health concerning the existence of the failure; or

(V) Contractor's financial condition becomes such as to endanger completion of performance (subject to the same provision as Contract paragraph (IV) above).

B. Termination for Convenience. IMA World Health shall have the unilateral right, at any time and from time to time, to terminate for convenience (regardless of whether the Contractor is in breach of any obligation under this Contract), effective on the later of the date of the notice or the effective date stated in the notice, all or any portion of the Contract, by the issuance of written notice to the Contractor. Upon receipt of the notice, Contractor shall immediately discontinue performance and shall comply with IMA World Health's instructions concerning completed and partially completed deliveries.

Termination for convenience shall not affect IMA World Health's obligations with respect to items delivered prior to such termination. For any products already manufactured and not delivered, both contractor and IMA World Health shall equally share any associated manufacturing costs where applicable.

4. PROHIBITION ON ADVERTISING

The Contractor shall not advertise or otherwise make public that it is furnishing services to IMA WORLD HEALTH without specific permission of IMA WORLD HEALTH in each instance.

5. INTELLECTUAL PROPERTY

Contractor warrants that the use or supply by IMA World Health of the goods sold under this Contract does not infringe any patent, design, trade-name or trade-mark. In addition, the Contractor shall, pursuant to this warranty, indemnify, defend and hold IMA World Health harmless from any actions or claims brought against IMA World Health pertaining to the alleged infringement of a patent, design, trade-name or trade-mark arising in connection with the goods sold under this Contract.

6. INDEMNIFICATION

Each Party shall indemnify, defend and hold harmless the other Party and any

affiliated and controlling entities of such Party, and the directors, employees, officers, agents, sub-Contractors, licensors and suppliers from and against all third party liabilities, claims, suites, demands, actions, fines, damages, losses, costs and expenses (including reasonable attorney's fees) ("Claims") for injury to or death of any person or damage to or loss of improvements to real property or tangible personal property to the extent caused by or resulting from such Party's negligent acts or omissions or willful misconduct, except to the extent caused by the Indemnitee.

7. FORCE MAJEURE

A. If the Contractor fails to perform any of its obligations under this Contract due to a force majeure event, the Contractor shall, to such extent, not be liable to the IMA WORLD HEALTH for any excess costs directly arising from such failure to perform, and the availability for sampling schedule shall be deemed extended by the duration of that event, provided that the Contractor notifies the IMA WORLD HEALTH in writing, within ten (10) days after the beginning of the force majeure event, of the failure(s) and the cause(s) thereof. The term "force majeure event" is defined as a cause, not in existence on the Effective Date of the Contract that is beyond the control and without the fault or negligence of the Contractor, of a type whose occurrence was not reasonably foreseeable at the time the Contract was executed. Examples of force majeure events include, without limitation, the sovereign acts of governments, fires, floods, epidemics, revolutions, quarantine restrictions, freight embargoes, or prolonged unusually severe weather conditions. A delay by an approved assignee or sub-Contractor shall not constitute a force majeure event, unless the cause of the delay, if it had occurred directly to the Contractor, would have qualified as such an event.

B. Notwithstanding the occurrence of a force majeure event, the Contractor, unless otherwise directed by the IMA WORLD HEALTH in writing, shall continue to perform its obligations under this Contract to the maximum extent practicable. In addition, the Contractor shall seek, at no additional cost, all reasonable alternative means of performance not precluded by the force majeure event.

C. The occurrence or continuation of a force majeure event shall not, by itself, entitle the Contractor to any increase in the prices stated in this Contract.

8. PROHIBITION OF TERRORISM ACTIVITIES

- a) As a acceptance of this Contract, the Contractor hereby certifies that it has not provided and will not provide material support or resources to any individual or entity that it knows, or has reason to know, is an individual or entity that advocates, plans, sponsors, engages in, or has engaged in terrorist activity, including but not limited to the individuals and entities listed in the Annex to Executive Order 13224 and other such individuals and entities that may be later designated by the United States under any of the following authorities: § 219 of the Immigration and Nationality Act, as amended (8 U.S.C. § 1189), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.), the

National Emergencies Act (50 U.S.C. § 1601 et seq.), or § 212(a)(3)(B) of the Immigration and Nationality Act, as amended by the USA Patriot Act of 2001, Pub. L. 107- 56 (October 26, 2001) (8 U.S.C. §1182). The Contractor further certifies that it will not provide material support or resources to any individual or entity that it knows, or has reason to know, is acting as an agent for any individual or entity that advocates, plans, sponsors, engages in, or has engaged in, terrorist activity, or that has been so designated, or will immediately cease such support if an entity is so designated after the date of the referenced Contract.

- b) For purposes of this certification, "material support and resources" includes currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
- c) For purposes of this certification, "engage in terrorist activity" shall have the same meaning as in section 212(a)(3)(B)(iv) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1182(a)(3)(B)(iv)). For purposes of this certification, "entity" means a partnership, association, corporation, or other organization, group, or subgroup.
- d) This certification is an express term and condition of the Contract and any violation of it shall be grounds for unilateral termination of the Contract by IMA WORLD HEALTH prior to the end of its term.

9. GOVERNING LAW

- a) The governing language of the Contract shall be English, and all notices and other communications relating or pursuant to the provisions of the Contract (including, without limitation, those in connection with issues, settlement of disputes) shall be in English.
- b) The Contract, its formation, and the facts and circumstances surrounding its making and performance, shall be interpreted in accordance with the following, listed in order of precedence: (1) the express terms and conditions of the Contract, and (2) the laws in effect in **Washington DC**.

10. SETTLEMENT OF DISPUTES

a) Amicable Settlement: Issues

The Parties shall exert their best efforts, in good faith, to consult together to resolve all issues that may arise in connection with this Contract, its formation, or the surrounding facts and circumstances, in an equitable and mutually satisfactory manner. An issue that cannot be resolved in this way shall be treated as a disagreement under Article b) below ("Disagreement").

b) Arbitration: Disagreements and Disputes

- i. In the event of a Disagreement arising under or relating to this Contract, its formation, or the surrounding facts and circumstances, either Party (the "Initiating Party") may submit to the other Party (the "Receiving Party") a written statement, specifically designated as a Notice of Disagreement, briefly describing the nature of the problem, the position of the Initiating Party regarding the problem, a narrative of the material facts and arguments in favor of the Initiating Party's position, and a statement of the actions or other relief requested.
- ii. Within thirty (30) days after receipt of a Notice of Disagreement, the Receiving Party shall issue a written decision ("Decision"), designated as such, with supporting findings and reasons, and promptly communicate the same to the Initiating Party.
- iii. Within ninety (30) days after the issuance of a Decision, either Party may deem the disagreement to be a dispute ("Dispute") and refer it to arbitration. All Disputes arising under or relating to this Contract, its formation, or the surrounding facts and circumstances, -- regardless of their legal nature, category, or amount -- shall be finally settled under the international arbitration rules of the American Arbitration Association ("AAA"), as then in effect, by one or more arbitrators appointed in accordance with the said rules and the provisions of this Article.
- iv. In any AAA arbitration, the Parties agree as follows: (1) each Party shall bear its own costs, and the AAA's costs and fees shall be assessed as the arbitrator deems appropriate; (2) the place of arbitration shall be Washington DC., or any other location on which the Parties may subsequently agree; (3) the language of all proceedings, communications, and the award, shall be English; (4) the Parties shall mutually agree on a single arbitrator (failing which, either Party may request the AAA to make a designation); (5) unless otherwise agreed in writing by the Parties, the arbitrator shall decide the case solely upon submission of written documentation and statements, examining such materials and resolving the matter by issuance of a written decision which may include a monetary award (but not a penalty, however described), as appropriate.
- v. The procedures of this Article shall be the sole and exclusive method for resolution of all Disagreements and Disputes in connection with this Contract, its formation, and the facts and circumstances surrounding its making and performance. Parties specifically represent and warrant that an arbitration award issued pursuant to this Article will be enforceable under laws of Contractor's country. Any such award shall be final and binding on the Parties. Judgment may be entered upon the award in a court of competent jurisdiction, or application may be made to such court for a judicial acceptance of the award and an order for enforcement.

- vi. Notwithstanding the existence of a Disagreements or Dispute under this Sub Article, or of an issue pursuant to Sub Article 9.a) and b), the Parties shall, unless otherwise mutually agreed in writing by the Parties, continue to perform their obligations under the Contract.
- vii. If a judicial proceeding is brought (1) to resolve a Dispute subject to arbitration hereunder, or (2) to challenge the validity of an award rendered hereunder, each defendant in that proceeding, if it prevails, shall receive its costs, fees and reasonable attorneys' fees, including costs and fees on appeal. If a Party fails to comply with an award rendered hereunder, and the other Party is forced to seek enforcement of the award in court, each plaintiff in that proceeding, if it prevails, will be entitled to receive its costs, fees and reasonable attorneys' fees, including costs and fees on appeal.
- viii. The arbitral tribunal shall have no authority to award punitive damages.

11. ASSIGNMENT AND INSOLVENCY

- a) The Contractor shall not, except after obtaining the written consent of IMA WORLD HEALTH, assign, transfer, pledge or make other disposition of this Contract, or any part thereof, or any of the Contractor's rights or obligations under this Contract.
- b) Should the Contractor become insolvent or should control of the Contractor change by virtue of insolvency, IMA WORLD HEALTH may, without prejudice to any other rights or remedies, immediately terminate this Contract by giving the Contractor written notice of termination.

12. CHANGES & AMENDMENTS

Changes in the terms, conditions, or specifications stated in this Contract may be made only by Contract between the parties. Neither party may assign its rights or responsibilities under this Contract without the prior written consent of the other party.

13. RIGHTS OF IMA WORLD HEALTH

In case of failure by the Contractor to fulfill its obligations under the terms and conditions of this Contract or to make delivery of all or part of the goods/supplies by the agreed delivery date or dates, IMA WORLD HEALTH may, after giving the Contractor reasonable notice to perform and without prejudice to any other rights or remedies, exercise one or more of the following rights:

- a. Procure all or part of the services from other sources, in which event IMA WORLD HEALTH may hold the Contractor responsible for any excess cost occasioned thereby.

- b. Cancel this Contract without any liability for termination charges or any other liability of any kind to IMA WORLD HEALTH.

14. RELATIONSHIP

It is understood and agreed that the Contractor is furnishing the goods and/or services under this Contract as an independent entity, and nothing contained in this Contract will create any association, partnership, joint venture, employer-employee or agent-principle relationship. The relationship established by this Contract shall be solely between IMA and the Contractor; with the Contractor retaining full and complete liability for the actions or inactions of any subcontractors or agents.

15. INSURANCE

In addition to any other insurance coverage required by Law, the Contractor shall, at all times during the period of performance of this Contract, carry and maintain adequate insurance to cover any and all claims, losses or damages arising from activities conducted for the purposes of this Contract.

16. INSEPTION & ACCEPTANCE

The Contractor shall only tender for acceptance those items that conform to the requirements of this Contract. Acceptance of goods/deliverables is understood to take place either upon signature of a goods received note by an authorized individual, or upon written email confirmation sent by an authorized individual. IMA reserves the right to inspect or test any supplies or services that have been tendered for acceptance. IMA may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in Contract price. If repair/replacement or reperformance will not correct the defects or is not possible, IMA may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services.

17. TRAFFICKING IN PERSONS/PROHIBITED LABOR

IMA has a zero tolerance policy regarding all forms of trafficking in persons, including but not limited to: Forced labor, sex trafficking, bonded labor, debt bondage among migrant laborers, involuntary domestic servitude, forced or indentured child labor, and child soldiers. Contractor and employees, lower-tier contractors and/or consultants of the Contractor shall not engage in any form of trafficking in persons during the period of performance of this Contract. Additional information can be obtained from IMA Contracting Officer.

The Contractor shall not use the labor of any person undergoing a sentence of imprisonment imposed in any court of the United States or its outlying territories in performance of this Contract nor shall the Contractor knowingly furnish to IMA any products mined, produced, or manufactured by such labor. Should any products provided be found to have been provided in violation of this clause the Contractor shall immediately refund any amounts paid by IMA for said Products.

18. CODE OF CONDUCT FOR THE PROTECTION OF BENEFICIARIES OF ASSISTANCE FROM SEXUAL EXPLOITATION AND ABUSE IN HUMANITARIAN RELIEF OPERATIONS

As a condition of this Contract, the Contractor agrees to adhere to a code of conduct for the protection of beneficiaries of assistance from sexual exploitation and abuse in humanitarian relief operations conducted hereunder consistent with the six core principles listed below set forth by the UN Interagency Standing Committee on Protection from Sexual Exploitation and Abuse in Humanitarian Crises:

- (a) Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination of employment.
- (b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defense.
- (c) Exchange of money, employment, goods or services for sex, including sexual favors or other forms of humiliating, degrading or exploitative behavior is prohibited. This includes exchange of assistance that is due to beneficiaries.
- (d) Sexual relationships between humanitarian workers and beneficiaries are strongly discouraged since they are based on inherently unequal power dynamics. Such relationships undermine the credibility and integrity of humanitarian aid work.
- (e) Where a humanitarian worker develops concerns or suspicions regarding sexual abuse or exploitation by a fellow worker, whether in the same humanitarian aid agency or not, he or she must report such concerns via established agency reporting mechanisms.
- (f) Humanitarian workers are obliged to create and maintain an environment that prevents sexual exploitation and abuse and promotes the implementation of their code of conduct. Managers at all levels have particular responsibilities to support and develop systems that maintain this environment.

19. ANTI-BRIBERY/KICKBACK/LOBBYING CERTIFICATION

By signing this Contract, the Contractor hereby certifies that the Contractor or any agents thereof:

- a) have not and will not pay, offer to pay, or authorize the payment directly or indirectly of any monies or things of value to any government official or employee, or to any political party or candidate for political office for the purpose of influencing any act or decision of such official or of the Government.

b) are not and will not become an official or employee of the Government during the term of this Contract.

c) have not and will not solicit or attempt to solicit any additional personal compensation, credit, gift, gratuity, or thing of value directly or indirectly, from any IMA employee in order to obtain or retain business or direct business to any person.

d) have not and will not include, directly or indirectly, the amount of any bribes or kickbacks in the price of this Contract and will notify IMA immediately if any IMA staff member requests any form of gift, commission, or personal discount.

In no event shall IMA be obligated under this Contract to take any action or omit to take any action which IMA believes in good faith would cause it to be in violation of any laws, including without limitation the U.S. Foreign Corrupt Practices Act.

20. OTHER COMPLIANCE

The Contractor shall comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Contract. Including, but not limited to:

i Equal Opportunity,

ii Affirmative Action
for Workers with
Disabilities,

iii The Prohibition of
Segregated Facilities,

iv Service Contract Act of 1965

v All applicable local labor laws

vi The anti-boycott laws administered by the U.S. Commerce and Treasury
Departments

vii Any proclamation, Executive order, or statute administered by OFAC, and OFAC's
implementing regulations at 31 CFR chapter V

viii International Traffic in Arms Regulations, 22 C.F.R. Parts 120 *et seq.*; the Export
Administration Regulations, 15 C.F.R. Parts 730 *et seq.*; and the Foreign Asset
Control Regulations, 31 C.F.R. Chapter V

ix All applicable standards, orders or regulations issued pursuant to the Clean Air Act

(42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).

x The Cargo Preference Act of 1954 (46 U.S.C. App. 1241(b))

xi 49 U.S.C. 40118, the "Fly America Act"

Contractor shall be held responsible for ensuring that all subcontractor and/or agents performing work under this Contract comply with all applicable Federal, State, and local laws, executive orders, rules and regulations applicable to its performance under this Contract.

xii. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

xiii. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

i. Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

ii. Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).

21. TAXES

As a registered non-profit corporation IMA is exempt from Sales and Value Added Taxes. The Contractor shall exclude any such taxes from the Contract price.

22. BANKRUPTCY

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to IMA immediately upon the initiation of any proceedings relating to that bankruptcy. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all Purchase Order(s) against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

23. DELAYS

Products are to be used for time sensitive projects in the destination country. The Contractor must notify IMA World Health of any delays in production and/or transportation arrangements as soon as such delays are known.

Contractor shall provide biweekly production status report for all items. Once products are shipped, a separate shipment report must be provided as shipments are dispatched. Report must contain at minimum

- Purchase Order numbers
- Commercial invoice numbers
- Purchase Order costs

- Quantities
- Freight costs
- BOL/AWB/Container numbers

24. LIQUIDATED DAMAGES

Time is of the essence in performing this Contract. Failure by the Contractor to deliver the full quantity and quality required by the Contract on time will negatively impact the critical health-related overseas development program.

Accordingly, both Parties agree that, except with respect to periods in which force majeure legitimately applies, IMA World Health may assess liquidated damages in the event that the Contractor fails to ship and deliver in compliance with quoted delivery times. The term “force majeure” is defined as a cause, not in existence on the Effective Date of this Contract that is beyond the control and without the fault or negligence of the Contractor or its sub-contractor, Contractor or agents, of a type whose occurrence was not reasonably foreseeable at the time the Contract was executed.

The amount of liquidated damages for each order will be **(2.5)** percent of the total value of the affected shipment per month not to exceed a total of ten **(10)** percent of the applicable Contract Price. Liquidated damages may be deducted by IMA World Health from any payments or other amounts (whether or not relating to the Contract) due to the Contractor whenever feasible. To the extent that deduction is not feasible, Contractor agrees to refund the amount determined in accordance with this Article promptly upon demand.

25. MONITORING & SITE INSPECTION

IMA reserves the right to inspect the services provided by the Contractor at any time and at any location it deems necessary to ensure full compliance with the terms and conditions of this Contract. The Contractor shall provide full and open access to all its facilities, vehicles, records/audit records and personnel involved in or related to the services to be provided under this Contract.

26. TITLE & RISK OF LOSS

Title and Risk of loss or damage to the Product(s) provided under this Contract shall remain with the Contractor until IMA or its designee, consignee, or agent receives delivery of and accepts the Product(s) at the destination specified in the Contract. Title and Risk of loss or damage shall pass to IMA only upon IMA’s final acceptance of the Product(s) or as specified in the Contract regardless of when or where IMA takes physical possession.

27. SURVIVAL

The rights and obligations pursuant to Section 1 (Confidentiality), Section 6 (Indemnification), Section 10 (Settlements and Disputes), any provision requiring the

Contractor to maintain Records or provide access to such Records and any other provision of this Contract Agreement that is by its nature intended to survive the expiration or termination of the Contract Agreement shall survive the expiration or termination of the Contract Agreement.

28. SEVERABILITY

If any one or more provisions of this Contract Agreement shall be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

29. WARRANTY

- (a) Contractor warrants that all the Items and Services furnished hereunder shall:
- (1) conform fully with all requirements of this Order, including any and all specifications, drawings, and performance requirements;
 - (2) conform to approved sample or samples, if any;
 - (3) unless detailed designs have been furnished by IMA, be fit for the use intended by IMA whether expressed or reasonably implied;
 - (4) be free from defects in material, workmanship, design and fabrication;
 - (5) be free from security interests, liens or encumbrances and of good title; and
 - (6) be performed with that degree of skill and judgment normally exercised by recognized professionals delivering or performing the same or similar Items or Services. In the event that an employee of Contractor should prove to be unsatisfactory during the first 80 billable hours of IMA's project, IMA may request the removal of Contractor's employee from performance of the Order with no billable charges incurred.
- (b) Except for latent defects, Contractor guarantees all Services and Items, parts, components, and assemblies furnished hereunder against any defects in design, material, or workmanship for eighteen (18) months from the date of acceptance at IMA's location. In the case of latent defects, the IMA's rights to corrective action by Contractor shall commence upon IMA's discovery of the latent defect and notification of Contractor thereof.
- (c) If, within the warranty period, any defect or failure appears, IMA shall have the right to take the following actions:
- (1) retain such defective Services or Item(s) and an equitable adjustment will be made in the Order price, or
 - (2) reject such defective Services or Item(s) and require Contractor to promptly remove and repair or replace such defective Services or Item(s) at Contractor's sole expense (including shipping costs), with risk of loss and damage for the rejected, corrected or replacement Services and Item(s) while in transit borne by Contractor; or
 - (3) correct or replace such defective Services and Item(s) with similar Services or Item(s) and recover the total cost (including shipping costs) thereof from Contractor. Services or Item(s) rejected shall be removed promptly by Contractor at its expense and its risk. Even if the Parties disagree whether or not Contractor has breached this warranty, Contractor shall promptly comply with IMA's directions to provide warranty work pending resolution of the disagreement.

- (d) Upon discovery of any defect or failure within the warranty period provided hereby, the following conditions shall apply:
- (1) IMA shall furnish written notice to Contractor of the Services or Item(s) involved and set forth the nature of the defect(s) or failure(s) discovered;
 - (2) within fifteen (15) days after receipt by Contractor of such notification, Contractor shall provide in writing to IMA the following information:
 - (i) acknowledgment of the notification given by IMA of the defect or failure,
 - (ii) the corrective action to be taken by Contractor to remedy the defect or failure,
 - (iii) disposition instructions regarding the defective material or equipment,
 - (iv) the date that the defective Services and Items will be repaired, corrected or replaced as applicable and redelivered to the appropriate destination as directed by IMA, or
 - (v) with the advance approval of IMA, submit a proposed price reduction to this Order for IMA's consideration pursuant to (c) (1) above.
 - (e) Neither approval by IMA of Contractor's design or material used nor IMA's inspection of same shall relieve Subcontractor from any obligations under the warranties set forth in this Article.
 - (f) The word "Item(s)" as used herein includes parts, components, assemblies, materials, equipment, services and data required under this Order.
 - (g) Any Services or Item(s) corrected or replaced pursuant to this Article shall be subject to all provisions of this Article to the same extent as Services and Item(s) initially delivered.
 - (h) The aforesaid warranties shall survive acceptance and payment and shall run to IMA, its customers and the users of these Services and Item(s) and shall not be deemed to be the exclusive rights of IMA but shall be in addition to other rights of IMA under law, equity, and the terms of this Order.

30. CONTRACTOR PERFORMANCE STANDARDS

(a) Contractor agrees to provide the services required hereunder in accordance with the requirements set forth in this Contract. Contractor undertakes to perform the services hereunder in accordance with the highest standards of professional and ethical competence and integrity in Contractor's industry and to ensure that employees assigned to perform any services under this subcontract will conduct themselves in a manner consistent therewith. The services will be rendered by Contractor: (1) in an efficient, safe, courteous, and businesslike manner; (2) in accordance with any specific instructions issued from time to time by IMA; and (3) to the extent consistent with items (1) and (2), as economically as sound business judgment warrants. Contractor shall provide the services of qualified personnel through all stages of this Contract. Contractor represents and warrants that it is in compliance with all the applicable laws of the United States and any other Jurisdiction in which the services shall be performed. Contractor shall perform the services as an independent Contractor with the general guidance of IMA. The Contractor's employees shall not act as agents or employees of IMA.

(b) IMA reserves the right to request the replacement of Contractor personnel and may terminate the Contract due to nonperformance by the Contractor.

(c) IMA will use a variety of mechanisms to stay abreast of the Contractor's performance under the Contract, and of general progress toward attainment of the Contract objectives. These may include:

- 1) Business meetings between the Contract team, IMA and/or Donor
- 2) Feedback from key partners
- 3) Site visits by IMA personnel
- 4) Meetings to review and assess periodic work plans and progress reports
- 5) Reports

(d) Evaluation of the Contractor's overall performance under this subcontract shall be conducted by IMA. In addition to review of Contractor reports and deliverables, IMA shall review the quality of Contractor performance under this Contract on an annual basis. These reviews will be used to help determine the Contractor's suitability for future contracts. The Contractor will be evaluated for:

Quality and timeliness of work. Provides personnel who are technically qualified, who foster a positive working environment, who are effective on the assignment and contribute to a team effort to accomplish tasks. Delegated tasks are completed in a timely manner. Reports are clear, concise, accurate, well-structured, easily comprehended, submitted on-time and contain actionable recommendations.

Responsiveness to IMA's requests. Maintains open, direct, and responsive communications channels with IMA. Responses are rapid, helpful, accurate, and without undue delays.

Quality of financial management. Demonstrates cost control in meeting Contract requirements. Complies with Donor's cost principles in terms of allowability, allocability and reasonableness of costs.

Quality of Contract administration. Conducts contractually required tasks, such as personnel management, submittal of approval requests, and invoice submission, in a timely, compliant, and accurate manner. Recruitment efforts go beyond a simple review of CVs before submission to IMA to include first-hand contacts with candidates and performing reference checks.

31. WAIVER

The failure by IMA to invoke or enforce any provision of this Contract Agreement shall in no way be considered a waiver of such provisions or in any way affect the validity of this Contract Agreement.

32. ENTIRETY OF AGREEMENT

This Contract Agreement contains the entire agreement of the Parties related to the subject matter hereof and no representations, inducements, promises or agreements, oral or otherwise, between the Parties not included herein shall be of any force or effect.

ADDITIONAL CLAUSES

**(APPLICABLE TO USG PROCUREMENTS
COMMERCIAL GOODS AND SERVICES – USG CONTRACTS – FOR EXAMPLE AFYA
JIJINI CONTRACT; REMOVE IF NOT USG FUNDED AND INSERT NON-USG DONOR
SPECIFIC TERMS IF APPLICABLE!)**

52.252-1 -- Solicitation Provisions Incorporated by Reference.

As prescribed in [52.107](#)(a), insert the following provision:

Solicitation Provisions Incorporated by Reference (Feb 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation

or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm#P1941_275262

52.252-2 -- Clauses Incorporated by Reference.

As prescribed in [52.107](#)(b), insert the following clause:

Clauses Incorporated by Reference (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/52_000.htm#P1941_275262

Solicitation Provisions and Contract Clauses

| FAR Clause | Read as |
|--|----------------------------|
| a. Contractor | Contractor |
| b. Contract | Contract |
| c. Any reference to the Government, etc. | IMA |
| d. Subcontractor | Lower-tiered Subcontractor |
| e. Subcontract | Lower-tiered Subcontract |

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| 52.212-1 | Instructions to Offerors | JAN 2017 |
| 52.212-4 | Contract Terms and Conditions – Commercial Items | JAN 2017 |
| 52.212-5 | Contract Terms and Conditions Required to Implement Statues of Executive Order | NOV 2017 |
| 52.203-19 | Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements | JAN 2017 |
| 52.209-10 | Prohibition on Contracting with Inverted Domestic Corporations | NOV 2015 |
| 52.233-3 | Protest After Award | AUG 1196 |
| 52.233-4 | Applicable Law for Breach of Contract Claim | OCT 2004 |

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| 52.203-6 | Restrictions on Subcontractor Sales to the Government | SEP 2006 |
| 52-203-13 | Contractor Code of Business Ethics and Conduct | OCT 2015 |
| 52.203-15 | Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 | JUN 2010 |
| 52.203.16 | Preventing Personal Conflicts of Interest | DEC 2011 |
| 52.203-17 | Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights | APR 2014 |
| 52.203-18 | Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation | JAN 2017 |
| 52.203-5 | Covenant against Contingent Fees | MAY 2014 |
| 52.203-7 | Anti-Kickback Procedures | MAY 2014 |
| 52.203-8 | Cancellation, Recession, and Recovery of Funds for Illegal or Improper Activity | MAY 2014 |
| 52.203-10 | Price or Fee Adjustment for Illegal or Improper Activity | MAY 2014 |
| 52.203-12 | Limitation on Payments to Influence Certain Federal Transactions | OCT 2010 |
| 52.203-14 | Display of Hotline Poster(s) | OCT 2015 |
| 52.204-15 | Service Contract Reporting Requirements for Indefinite-Delivery Contracts | OCT 2016 |
| 52.204-16 | Commercial and Government Entity Code Reporting | JUL 2016 |
| 52.204-18 | Commercial and Government Entity Code Maintenance (Jul 2016) | JUL 2016 |

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| 52.204-19 | Incorporation by Reference of Representations and Certifications | DEC 2014 |
| 52.209-1 | Qualification Requirements | FEB 1995 |
| 52.209-6 | Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment | OCT 2015 |
| 52.209-9 | Updates of Publicly Available Information Regarding Responsibility Matters | JUL 2013 |
| 52.222-19 | Child Labor – Cooperation with Authorities and Remedies | OCT 2016 |
| 52.222-21 | Prohibition of Segregated Facilities | APR 2015 |
| 52.222-26 | Equal Opportunity | SEP 2016 |
| 52.222-26 | Equal Opportunity for Veterans | OCT 2015 |
| 52.222-36 | Equal Opportunity for Workers with Disabilities | JUL 2014 |
| 52.222-37 | Employment Reports on Veterans | FEB 2016 |
| 52.222-36 | Equal Opportunity for Workers with Disabilities | JUL 2014 |
| 52.222-40 | Notification of Employee Rights Under the National Labor Relations Act (E.O.13496) | DEC 2010 |
| 52.222-50 | Combating Trafficking in Persons | MAR 2015 |
| 52.222-50 | Combating Trafficking in Persons – Alternate I | MAR 2015 |
| 52.222-56 | Certification Regarding Trafficking in Persons Compliance Plan | MAR 2015 |
| 52.225-1 | Buy American – Supplies | MAY 2014 |
| 52.225-2 | Buy American – Certificate | MAY 2014 |
| 52.225-13 | Restrictions on Certain Foreign Purchases | JUN 2008 |
| 52.232-29 | Terms for Financing of Purchases of Commercial Items | FEB 2002 |

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| 52.232-30 | Installment Payments for Commercial Items | JAN 2017 |
| 52.232-33 | Payment by Electronic Funds Transfer— System for Award Management | JUL 2013 |
| 52.232-34 | Payment by Electronic Funds Transfer— Other than System for Award Management | JUL 2013 |
| 52.247-64 | Preference for Privately Owned U.S.-Flag Commercial Vessels | JAN 2017 |
| 52.202-1 | Definitions | |
| 52.213-2 | Invoices | APR 1984 |
| 52.213-3 | Notice to Supplier | APR 1984 |
| 52.213-4 | 52.213-4 -- Terms and Conditions -- Simplified Acquisitions (Other Than Commercial Items). | NOV 2017 |
| 52.215-10 | Price Reduction for Defective Certified Cost or Pricing Data | AUG 2011 |
| 52.215-11 | Price Reduction for Defective Certified Cost or Pricing Data -- Modifications | Aug 2011 |
| 52.215-19 | Notification of Ownership Changes (Oct 1997) | OCT 1997 |
| 52.215-20 | Requirements for Certified Cost and Pricing Data and Data other Than Certified Cost or Pricing Data | OCT 2010 |
| 52.223-6 | Drug-Free Workplace (May 2001) | MAY 2001 |
| 52.225-25 | Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certification | OCT 2015 |
| 52.228-3 | Worker's Compensation Insurance (DBA) | |
| 52.229-3 | Federal, State, and Local Taxes (Feb 2013) | FEB 2013 |
| 52.229-6 | Taxes -- Foreign Fixed-Price Contracts | FEB 2013 |
| 52.232-1 | Payments | APR 1984 |

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| 52.232-8 | Discount for Prompt Payment | FEB 2002 |
| 52.232-18 | Availability of Funds | APR 1984 |
| 52.232-11 | Extras | APR 1984 |
| 52.232-12 | Advance Payments | MAY 2001 |
| 52.232-16 | Progress Payments | APR 2012 |
| 52.232-39 | Unenforceability of Unauthorized Obligations | JUN 2013 |
| 52.232-23 | Assignment of Claims | MAY 2014 |
| 52.233-1 | Disputes | MAY 2014 |
| 52.233-3 | Protest After Award | AUG 1996 |
| 52.237-9 | Waiver of Limitation on Severance Payment to Foreign Nationals | MAY 2014 |
| 52.242-13 | Bankruptcy | JUL 1995 |
| 52.242-15 | Stop Work-Orders | AUG 1989 |
| 52.243-1 | Changes Fixed Price – Alternate I | AUG 1987 |
| 52.246-16 | Responsibility for Supplies | APR 1984 |
| 52.246-25 | Limitation of Liability - Services | FEB 1997 |
| 52.246-4 | Inspection of Services – Fixed Price | AUG 1996 |
| 52.244-6 | Subcontracts for Commercial Items | NOV 2017 |
| 52.246-20 | Warranty of Services – 60 day notice prevails | MAY 2001 |
| 52.247-63 | Preference for US-Flag Air Carriers | JUN 2003 |
| 52.247-65 | F.o.b. Origin, Prepaid Freight -- Small Package Shipments | JAN 1991 |
| 52.249-1 | Termination for Convenience of the Government (Fixed Price) | APR 1984 |
| 52.249-8 | Default (Fixed Price Supply and Services) | APR 1984 |
| 52.252-4 | Alterations in Contract | APR 1984 |

52.209-7 Information Regarding Responsibility Matters (Jul 2013)

[REMOVE IF TOTAL CONTRACT VALUE IS LESS THAN \$550,000]

(a) *Definitions.* As used in this provision—

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceeding at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means—

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [] has [] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

52.209-12 Certification Regarding Tax Matters (Feb 2016)

(a) This provision implements section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts.

(b) If the Offeror is proposing a total contract price that will exceed \$5,000,000 (including option), the Offeror shall certify that, to the best of its knowledge and belief, it—

(1) Has filed all Federal tax returns required during the three years preceding the certification;

(2) Has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and

(3) Has not , more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

52.222-56 Certification Regarding Trafficking in Persons Compliance Plan (Mar 2015)

(a) The term “commercially available off-the-shelf (COTS) item,” is defined in the clause of this solicitation entitled “Combating Trafficking in Persons” (FAR clause 52.222-50).

(b) The apparent successful Offeror shall submit, prior to award, a certification, as specified in paragraph (c) of this provision, for the portion (if any) of the contract that—

(1) Is for supplies, other than commercially available off-the-shelf items, to be acquired outside the United States, or services to be performed outside the United States; and

(2) Has an estimated value that exceeds \$500,000.

(c) The certification shall state that—

(1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of the clause at 52.222-50, Combating Trafficking in Persons, and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at 52.222-50, Combating Trafficking in Persons; and

(2) After having conducted due diligence, either—

(i) To the best of the Offeror's knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or

(ii) If abuses relating to any of the prohibited activities identified in 52.222-50(b) have been found, the Offeror or proposed subcontractor has taken the appropriate remedial and referral actions.

52.232-40 Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

TIN: _____

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other _____

(f) Common parent.

Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

Name and TIN of common parent:

Name _____

TIN _____

52.204-6 Unique Entity Identifier. (OCT 2016)

(a) Definitions. As used in this provision—

“Electronic Funds Transfer (EFT) indicator” means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity.

“Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

(b) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

- (1) Company legal business name.
- (2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (3) Company physical street address, city, state and Zip Code.
- (4) Company mailing address, city, state and Zip Code (if separate from physical).
- (5) Company telephone number.
- (6) Date the company was started.
- (7) Number of employees at your location.
- (8) Chief executive officer/key manager.
- (9) Line of business (industry).

(10) Company headquarters name and address (reporting relationship within your entity).

ANTI-BRIBERY CERTIFICATION

The Contractor certifies that:

1. In carrying out its responsibilities under the Contract, the Contractor and its owners, directors, officers, employees or agents thereof, have not and will not pay, offer or promise to pay, or authorize the payment directly or indirectly of any monies or anything of value to any government official or employee, or any political party or candidate for political office for the purpose of influencing any act or decision of such official or of the Government to obtain or retain business or direct business to any person (any such payment is a "Prohibited Payment");
2. No owner, partner, officer, director, or employee of the Contractor or of any affiliate company of Contractor is or will become an official or employee of the Government during the term of this Contract without prior written consent of IMA; and
3. No rights or obligations of, or services to be rendered by the Contractor under this Contract shall be assigned, transferred or contracted to any third party without the prior written consent of IMA.
 - (a) In the event IMA has reason to believe that a breach of the representations and warranties in Article 1 has occurred or may occur, IMA may withhold further delivery of products until such time as it has received confirmation to its satisfaction that no breach has occurred or will occur, IMA shall not be liable to the Contractor for any claim, losses or damages whatsoever related to its decision to withhold delivery under this provision.
 - (b) In the event that IMA has reason to believe that a breach of any of the representations and warranties of Article 1 has occurred or may occur, IMA shall have the right to audit the Contractor in order to satisfy itself that no breach has occurred. Upon request by the Contractor, IMA shall select an independent third party to conduct an audit of the Contractor in order to certify to IMA that no breach has occurred or will occur. The Contractor shall fully cooperate in any audit conducted by or on behalf of IMA.
 - (c) In the event that IMA concludes in its sole and absolute opinion that the Contractor has failed to meet its obligations under this Article, this Contract may be immediately terminated by IMA upon written notice to the Contractor. The Contractor shall indemnify and hold IMA harmless against any and all claims, losses or damages arising from or related to such breach or the cancellation of the Contract, or both.
 - (d) In no event shall IMA be obligated under this Contract to take any action or omit to take any action which IMA believes in good faith would cause it to be in violation of any laws of the Territory or any U.S. laws, including without limitation the Foreign Corrupt Practices Act.

Signed: _____

(Typed Name and Title)

(Date)

**THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS
DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT**

(a) Definition. "Commercially available off-the-shelf (COTS)" item, as used in this clause—

(1) Means any item of supply (including construction material) that is—

- (i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);
- (ii) Sold in substantial quantities in the commercial marketplace; and
- (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

(b) The Government suspends or debar Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:

- (1) The name of the subcontractor.
- (2) The Contractor's knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.
- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.
- (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—

- (1) Exceeds \$30,000 in value; and
- (2) Is not a subcontract for commercially available off the-shelf items.

FAR 52.227-15 STATEMENT OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE (DEC 2007)

(a) This solicitation sets forth the Government’s known delivery requirements for data (as defined in the clause at 52.227-14, Rights in Data—General). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data—General clause at 52.227-14 included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data instead. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor’s facility.

(b) By completing the remainder of this paragraph, the offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [offeror check appropriate block]—

(1) None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

(2) Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

(c) Any identification of limited rights data or restricted computer software in the offeror’s response is not determinative of the status of the data should a contract be awarded to the offeror.

FAR 52.222-22 Previous Contracts and Compliance Reports. (FEB 1999)

The offeror represents that—

It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

It has, has not filed all required compliance reports; and Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

CERTIFICATION REGARDING TERRORIST FINANCING IMPLEMENTING E.O. 13224 (AAPD 04- 14 Revision 2)

By signing this contract, the Contractor provides the certification set out below:

1. The Contractor, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts, as that term is defined in paragraph 3.

2. The following steps may enable the Contractor to comply with its obligations under paragraph 1:

a. Before providing any material support or resources to an individual or entity, the Contractor will verify that the individual or entity does not (i) appear on the master list of Specially Designated Nationals and Blocked Persons, which list is maintained by the U.S. Treasury's Office of Foreign Assets Control (OFAC) and is available online at OFAC's website : <http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf>, or (ii) is not included in any supplementary information concerning prohibited individuals or entities that may be provided by USAID to the Contractor.

b. Before providing any material support or resources to an individual or entity, the Contractor also will verify that the individual or entity has not been designated by the United Nations Security (UNSC) sanctions committee established under UNSC Resolution 1267 (1999) (the "1267 Committee") [individuals and entities linked to the Taliban, Usama bin Laden, or the Al Qaida Organization]. To determine whether there has been a published designation of an individual or entity by the 1267 Committee, the Contractor should refer to the consolidated list available online at the Committee's website: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

c. Before providing any material support or resources to an individual or entity, the Contractor will consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.

d. The Contractor also will implement reasonable monitoring and oversight procedures to safeguard against assistance being diverted to support terrorist activity.

3. For Purposes of this Certification

a. "Material support and resources" means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials."

b. "Terrorist act" means - (i) an act prohibited pursuant to one of the 12 United Nations Conventions and Protocols related to terrorism (see UN terrorism conventions Internet site: <http://untreaty.un.org/English/Terrorism.asp>); or (ii) an act of premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; or (iii) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

c. "Entity" means a partnership, association, corporation, or other organization, group or subgroup.

d. References in this Certification to the provision of material support and resources shall not be deemed to include the furnishing of USAID funds or USAID-financed commodities to the ultimate beneficiaries of USAID assistance, such as recipients of food, medical care, micro- enterprise loans, shelter, etc., unless the Contractor has reason to believe that one or more of these beneficiaries commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

e. The Contractor's obligations under paragraph 1 are not applicable to the procurement of goods and/or services by the Contractor that are acquired in the ordinary course of business through contract or purchase, e.g., utilities, rents, office supplies, gasoline, etc., unless the Contractor has reason to believe that a vendor or supplier of such goods and services commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated or participated in terrorist acts.

This Certification is an express term and condition of any agreement issued, and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

| | |
|--------------------------|------|
| FOR [INSERT] | |
| Name: [INSERT] Title: | Date |

