



ATTACHMENT 7 – IBTCI General Terms and Conditions

1 CONDUCT AND QUALITY OF WORK

In the performance of the work, Seller agrees to

- a) apply the personnel, services, materials, equipment, and facilities deemed necessary for its accomplishment in an efficient and economical manner, in conformance with the highest professional standards;
- b) use its best efforts to obtain all services, facilities, materials, and equipment at the lowest practical cost;
- c) keep IBTCI fully and currently informed concerning its status, with respect to its Subcontractor task assignments; or as modified by the IBTCI Project Manager;
- d) comply with applicable regulations and contractual requirements pertaining to personal conduct, safety, health practices, and restrictions on disclosure of information, and maintain satisfactory standards of employee competency, conduct, legal compliance, and integrity.

2 RIGHTS TO INVENTIONS

Inasmuch as is allowed by the Federal Government and the Federal Acquisition Regulations (FAR), all rights and title to Seller Intellectual Property shall vest in Seller. All rights and title to IBTCI Intellectual Property shall vest in IBTCI. All rights and title to Jointly Owned Intellectual Property shall vest jointly in Seller and IBTCI. In this regard, it is recognized and agreed that the parties may be required to, and shall hereby grant an irrevocable, world-wide, royalty-free, non-commercial, non-exclusive license to reproduce, translate, publish, use and dispose of, and to authorize others to do so, all data collected. As used in this clause — data collected means the original records of scientific and technical data collected during the performance of the Work by the Seller's personnel or other persons working on the project. Data collected includes, but is not limited to notebooks, drawings, lists, specifications, and computations.

Upon completion or cancellation of this Agreement, the Seller will return all materials of any nature provided by IBTCI. All research, reports, work products submitted or completed by the Seller, including proposals, data files, analyses, writing, recording, pictorial reproductions, computer programs, or other materials prepared by the Seller pursuant to this Agreement are the property of IBTCI and the Seller will not use such research, reports, or work products without the consent of IBTCI.

3 INSPECTION AND ACCEPTANCE

The IBTCI Project Manager is responsible for the inspection and acceptance of all Work performed by the Seller. All services rendered under this Agreement shall be in the specific form or format specified by IBTCI. All work in progress may be inspected by IBTCI prior to final acceptance. If any inspection, whether preliminary or final, indicates any reasonable deficiency, then Seller shall be given sufficient time to correct that deficiency. All inspections shall be



performed in such manner as will not unreasonably delay the work. Seller shall work within professional standards and limitations specified on work statements, drawings and specifications covering the work and shall make such inspections as are deemed necessary to ensure Seller compliance, unless deviation there from is authorized in writing by IBTCI. If correction of such work is impracticable, Seller shall bear all risks after notice of rejection and shall, if so requested by IBTCI and at its own expense, promptly make all necessary replacements.

Seller shall provide immediate notice to IBTCI of any potential failure on their part to provide supplies/services required hereunder. Seller is responsible for any deficiency on the part of its suppliers. Seller shall bear responsible for any costs of re-procurement additional to the agreed upon price herein as may be necessary for IBTCI to secure the supplies/services as a result of Seller's inability to perform. Final inspection and acceptance by IBTCI shall be conclusive except for latent defects, fraud, or such gross mistakes as amount to fraud or for any rights provided by any warranty of the product.

4 WARRANTY

Seller warrants the goods delivered pursuant to this Agreement, unless specifically stated otherwise in this Agreement, shall (i) be new (ii) be free from defects in workmanship, materials, and design and (iii) be in accordance with all the requirements of this Agreement. Seller further warrants that the performance of work and services shall conform with the requirements of this Agreement and to high professional standards. All warranties in this Agreement shall survive inspection, test, final acceptance and payment of goods and services.

Seller warrants that any hardware, software and firmware goods delivered under this Agreement: (i) shall not contain any viruses, malicious code, Trojan horse, worm, time bomb, self-help code, back door, or other software code or routine designed to: (a) damage, destroy or alter any software or hardware; (b) reveal, damage, destroy, or alter any data; (c) disable any computer program automatically; or (d) permit unauthorized access to any software or hardware; (ii) shall not contain any third party software (including software that may be considered free software or open source software) that (a) may require any software to be published, accessed or otherwise made available without the consent of IBTCI, or (b) may require distribution, copying or modification of any software free of charge; and (iii) shall not infringe any patent, copyright, trademark, or other proprietary right of any third party or misappropriate any trade secret of any third party. (d) These warranty entitlements shall inure to the benefit of both IBTCI and IBTCI's customers. As used in this Agreement, IBTCI's customer(s) shall include its direct and indirect customers such as direct sale end-users, higher-tier Sellers, IBTCIs and the ultimate user under relevant prime contract(s).

Seller shall be liable for and save IBTCI harmless from any loss, damage, or expense whatsoever that IBTCI may suffer from breach of any of these warranties. Remedies shall be at IBTCI's election, including, but not limited to, the prompt repair, replacement or reimbursement of the purchase price of nonconforming goods and, in the case of services either the prompt correction of the defective services at no cost or reimbursement of the amounts paid for such services. Return to Seller of defective or nonconforming goods and redelivery to IBTCI of repaired or replaced goods shall be at Seller's expense. Goods or services required to be corrected, repaired or replaced shall be subject to this Section and the Inspection Section of this Agreement in the



same manner and to the same extent as goods or services originally delivered under this Agreement, but only as to the repaired or replaced goods or parts thereof or the corrected service thereof. Seller promptly comply with IBTCI's direction to (i) repair, rework or replace the goods, (ii) furnish any material or parts and installation required to successfully correct the defect or nonconformance or (iii) successfully correct the defective or nonconforming service.

5 PROPERTY

Seller shall have the obligation to maintain any and all property furnished by IBTCI to Seller and all property to which IBTCI acquires an interest by this Agreement and shall be responsible for all loss or damage to said property except for normal wear and tear. Seller shall (i) within two (2) working days, report to IBTCI the loss, theft, damage, destruction of any such property, or if any such property is found to be malfunctioning or otherwise unsuitable for use and (ii) determine and report the root cause and all pertinent facts as soon as they become known, and corrective action taken to prevent recurrence, at no additional cost to IBTCI.

6 CONFIDENTIALITY AND RIGHTS IN DATA

The Seller agrees to comply with all security and confidentiality requirements of the prime contract award. During the conduct of the Agreement and for one year after termination of this Agreement, the Seller shall not release any publication or make any presentation on the results of the efforts under the Agreement without written approval from the IBTCI Project Manager.

IBTCI considers its confidential and proprietary information, including the confidential and proprietary information of our customers, to be one of its most valuable assets. The Seller shall regard for all time and for all purposes all knowledge and information gained from IBTCI or from its employees or Sellers as IBTCI confidential and proprietary information. Such protected information includes, but is not limited to, the following: matters of a technical nature, such as computer software, product sources, product research and designs; and matters of a business nature, such as business methods, operations, proposals, customer lists, customer contact information, associate information, on-site program and support materials, candidate and recruit lists and information, personnel information, placement information, pricing lists, training programs, contracts, sales reports, sales, financial and marketing data, systems, forms, methods, procedures, and analyses, and any other proprietary information, whether communicated orally or in documentary, computerized or other tangible form, concerning IBTCI's or its customers' operations and business. Seller shall not directly or indirectly disclose any such information or knowledge to any persons except with the written permission of IBTCI or subject to court order or consistent with applicable law.

The Seller agrees on behalf of itself and its key persons to promptly disclose to IBTCI, and upon request without additional compensation, to execute all papers necessary to transfer to IBTCI free of encumbrance or restriction, all reports, inventions, design, improvements and other products conceived by the Seller which relate to the conduct of IBTCI business or resulting from this Work.

Upon completion or cancellation of this Agreement, the Seller will return all materials of any nature provided by IBTCI. All research, reports, work products submitted or completed by the Seller, including proposals, data files, analyses, writing, recording, pictorial reproductions, computer programs, or other materials prepared by the Seller pursuant to this Agreement are the property



of IBTCI and the Seller will not use such research, reports, or work products without the consent of IBTCI.

7 PROPRIETARY DATA

IBTCI and the Seller shall exchange such appropriate proprietary data, information, plans, etc. (hereinafter referred to as “proprietary data”) as is reasonably required for each to perform its obligations hereunder. The acceptable standard of care required of either the IBTCI or the Seller receiving proprietary data hereunder, to prevent disclosure thereof, shall be the same standard used by IBTCI or the Seller, as the case may be in protecting its own proprietary information against disclosure.

Notwithstanding the foregoing, neither IBTCI nor the Seller shall be liable for disclosure of any such proprietary data that:

- a) Was in the public domain at the time it was disclosed; or
- b) Was known to the recipient at the time of such disclosure without violating any confidentiality obligation of this Agreement or otherwise; or
- c) Is disclosed inadvertently despite the exercise of the same degree of care as such disclosing party ordinarily takes to preserve and safeguard its own proprietary information, but not less than reasonable care; or
- d) Is disclosed more than three (3) years from the completion date of this Agreement or
- e) Is expressly disclosed by one party on a non-restricted basis to the others; or
- f) Is independently learned from a third party in a manner that does not impose an obligation of confidentiality on the receiving party; or
- g) Disclosure is required by an authorized representative of the United States Government, or a validly obtained court order or subpoena, and the disclosing party notifies the other of such disclosure sufficiently in advance to permit the other party to take the steps it considers necessary to prevent or restrict such disclosure, and uses its best efforts to require the imposition of appropriate safeguards to prevent the disclosure of such proprietary data, and to limit the amount of proprietary data required to be disclosed; or
- h) Is lawfully disclosed without authority by the United States Government

IBTCI and the Seller shall retain all rights with respect to any such proprietary data possessed prior to this Agreement.

Except as specifically authorized by this Agreement, or as otherwise approved by IBTCI, records or other information, documents and materials furnished by USAID to IBTCI in the performance of this Agreement or information developed by the Seller in the course of the work hereunder will be used only in connection with the work performed under this Prime Contract. The Seller will, upon completion or termination of this Agreement transmit to IBTCI and, as authorized, USAID all records or other information, documents and materials, and any copies thereof, furnished to the Seller or developed by the Seller in the performance of this Agreement.

8 NON-SOLICITATION OF CONTRACT PERSONNEL

Neither party shall knowingly solicit, recruit, hire or otherwise employ or retain any employee of the other during the term of this Agreement and for one year following the termination or expiration



of this Agreement without prior written consent of the other party. This provision shall not prevent any employee of the other party from applying for a publicly advertised position of the other.

9 COMMUNICATIONS WITH CLIENT

Seller shall not directly engage Client in discussions related to any aspect of this program without prior written approval by the Prime contractor. Seller acknowledges that IBTCI shall be the sole contact with the Customer concerning the Program. Subcontractor shall advise Prime Contractor promptly of any direct contacts initiated by the Client directly to the Subcontractor related to the Program, in no event later than one business day after such contact, and disclose to IBTCI the substance of such communications from the Customer.

Seller acknowledges that a violation of this clause is considered sufficient grounds for an immediate termination for default of this agreement without a cure period.

10 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to its conflict of law provisions.

11 JURISDICTION AND VENUE

Seller hereby consents to the jurisdiction of the United States District Court for the Eastern District of Virginia or the Circuit Court of Fairfax County, Virginia, whichever IBTCI may select, and agrees that in any action brought by IBTCI in either such court, Seller shall not challenge such action on jurisdictional grounds.

12 DISPUTE RESOLUTIONS

In the event of a controversy or dispute between the Seller and IBTCI, any party may, after good faith discussions between the two parties attempting to resolve the controversy, including but not limited to the escalation of the issue up each parties' respective management chains, and having served the other party with written notification of its intent at least ten (10) days prior to acting, submit the issue to binding arbitration in the Commonwealth of Virginia, pursuant to the current rules of the American Arbitration Association. Each party is required to continue to perform its obligations under this Agreement pending resolution of any dispute arising out of the contract unless to do so would be impossible under the circumstances. The requirements of this Clause shall not be deemed to constitute a waiver of any right of termination under this Agreement.

13 CUMULATIVE REMEDIES

The remedies under this Agreement shall be cumulative and not in the alternative and the election of one remedy for breach shall not constitute an election of remedies nor shall it preclude pursuit of other remedies allowed under this Agreement.

14 INJUNCTIVE RELIEF

Seller acknowledges that breach of the terms of this Agreement will cause IBTCI substantial harm, the exact of which is not readily determinable. Therefore, the parties agree that IBTCI may, in



any court where it can obtain jurisdiction over the Seller, move for an injunction to prevent further breaches of any provision of this Agreement.

15 ASSIGNMENT AND SUCCESSION

Seller may not assign, delegate, or subcontract any rights or obligations due or to become due under this Agreement, or Agreement all or substantially all of its obligations under this Agreement, without the prior written consent of IBTCI. Any purported assignment, delegation, transfer, or subcontracting by Seller without such consent shall be void. Consent shall not be unreasonably withheld.

Seller shall promptly notify IBTCI in writing of any organizational changes made by Seller, including name or ownership changes, mergers or acquisitions.

16 NOTICES

All notices, demands, or consents required or permitted under this Agreement shall be in writing and shall be delivered to the authorized official set forth in the Subcontract Agreement

17 PUBLIC ANNOUNCEMENTS/NEWS RELEASES

Seller will not make any news release, public announcement, advertisement, or publicity release concerning this agreement or, if applicable, the prime contract related to this agreement, without the advance written consent of an authorized representative of IBTCI.

18 INSURANCE AND CERTIFICATES OF INSURANCE

During the term of this Agreement, Seller shall be responsible for procuring and maintaining, in full force and effect all applicable insurance, including but not limited to adequate automobile insurance, general comprehensive liability insurance, worker's compensation insurance, Defense Base Act insurance, and unemployment insurance in such amounts as may be required by law.

Automobile liability insurance shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage or loss. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims. Statutory Worker's Compensation coverage and Employers' Liability of at least \$100,000 shall be required with a limit of \$500,000.

Upon IBTCI's request, Seller shall provide IBTCI with certificates of insurance evidencing required insurance.

19 SEVERABILITY

If any provision of this Agreement is held to be invalid, illegal, or unenforceable in whole or in part, for any reason, such provision or portion shall be deemed severed or limited, but only to the extent required to render the remaining provisions of this Agreement valid and enforceable. This



Agreement as thus amended shall be enforced so as to give effect to the intention of the Parties insofar as possible. In addition, the Parties hereby expressly empower any court of competent jurisdiction to modify any term or provision of this Agreement to the extent necessary to comply with existing law and to enforce this Agreement as modified.

20 TAXES

Unless this Agreement specifies otherwise, the price of this Agreement includes, and Seller is liable for and shall pay, all taxes, impositions, charges, customs duties or tariffs and exactions imposed on or measured by this Agreement except for applicable sales and use taxes that are separately stated on Seller's invoice. Prices shall not include any taxes, impositions, charges or exactions for which IBTCI has furnished a valid exemption certificate or other evidence of exemption. To the extent that IBTCI is required to do so under applicable law or tax regulations, IBTCI may deduct from any payments due to Seller pursuant to this Agreement such taxes as IBTCI is required to withhold from such payments and pay such taxes to the relevant tax authorities; provided, however, that IBTCI provides Seller with relevant tax receipts or other suitable documentation evidencing the payment of such taxes promptly after such taxes are paid.

21 SELLER RECORDS

Seller shall maintain general records relating to this Agreement for a minimum period of four years after completion of final delivery of materials, goods or services pursuant to this Agreement or for such longer period as required by statute or as may be specified elsewhere in this Agreement.

22 GOVERNMENT AUDIT

If applicable, the Seller shall be subject to any reasonable government audit requirements deemed necessary by the Federal Acquisition Regulations (FAR) or any applicable FAR supplement, such as the US Agency for International Development's Acquisition Regulations (AIDAR), for the good and services provided under this Agreement.

23 WAIVER

A waiver of a breach or default under this Agreement shall not be a waiver of any subsequent breach or default. Failure of either party to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition then or in the future.

24 LAWS AND REGULATIONS

IBTCI and the Seller agree to comply with all applicable Federal, State and local laws, regulations, and all applicable orders and regulations of the Executive Branch, departments, agencies, and instrumentalities of the United States Government and applicable countries where project work is performed.

25 CHANGES IN FINANCIAL CONDITION

IBTCI and the Seller each agree to immediately notify the other in writing of any of the following events regarding their respective financial condition:



1. Insolvency or failure to pay obligations as they mature;
2. An assignment for the benefit of creditors;
3. The appointment of a receiver or trustee to have control over any of its assets;
4. The filing of a petition in bankruptcy, whether voluntary or involuntary, under the Federal Bankruptcy Act; or
5. Any material adverse change that may affect the performance of obligations under this contract.

26 INDEMNITIES

The following indemnities are hereby established by this Agreement

- IBTCI does hereby agree to defend and indemnify Seller from and against any and all claims, demands, or actions arising out of any material breach by IBTCI of any of the terms of this Agreement, or any intentional or negligent acts or omissions by IBTCI employees or its agents; and
- Seller does hereby agree to defend and indemnify IBTCI from and against any and all claims, demands, or actions arising out of any material breach by Seller of any of the terms of this Agreement, or any intentional or negligent acts or omissions by Seller employees or its agents; and

The indemnities contained herein shall be conditioned upon the indemnifying party receiving (1) prompt written notice of any claims, demands, or actions for which indemnity is sought; (2) cooperation in the defense by the party seeking indemnity; and, (3) control of the defense and/or settlement of such claim, demand, or actions to which indemnity is sought.

27 TERMINATION FOR CONVENIENCE

- (a) IBTCI may, by written notice, terminate this Agreement for convenience and without cause, in whole or in part, at any time, and such termination shall not constitute default. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under this agreement.
- (b) In the event of termination for convenience by IBTCI, Seller shall be reimbursed for actual, reasonable, substantiated, and allocable costs, plus a reasonable profit for work performed to date of termination. Any termination settlement proposal shall be submitted to IBTCI promptly, but no later than ninety (90) days from the effective date of the termination. In no event shall the amount of any settlement be in excess of the Agreement value. IBTCI may take immediate possession of all goods, complete or incomplete, and all products resulting from services upon written notice of termination to Seller.

28 TERMINATION FOR DEFAULT

- (a) IBTCI may, after providing Seller with seven (7) calendar days written notice, and upon Seller's failure to cure such default in that seven (7) day period ("Cure Period"), terminate this Agreement in whole or in part at any time by notice in writing for (i) breach of any one or more of its terms, (ii) failure to deliver goods or services within the time specified by this



Agreement or any written extension, (iii) failure to make progress so as to endanger performance of this Agreement, or (iv) failure to provide adequate assurance of future performance; provided, however, there shall be no Cure Period for default related to failure to meet the delivery schedule or defaults incapable of cure. IBTCI may also terminate this Agreement in whole or in part without a Cure Period in the event of Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors. In the event of partial termination, Seller is not excused from performance of the non-terminated balance of work under the Agreement.

- (b) In the event of Seller's default hereunder, IBTCI may exercise any or all rights and remedies accruing to it, both at law, including without limitation, those set forth in Article 2 of the Uniform Commercial Code, or in equity, including but not limited to, Seller's liability for IBTCI's excess re-procurement costs for goods or services.
- (c) If this Agreement is terminated for default, IBTCI may require Seller to transfer title to, and deliver to IBTCI, as directed by IBTCI, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights that Seller has specifically produced or acquired for the terminated portion of this Agreement. Upon direction of IBTCI, Seller shall also protect and preserve property in its possession in which IBTCI has an interest.

29 FORCE MAJEURE

IBTCI shall not be liable to Seller for any delay or failure by IBTCI to perform its obligations under this Agreement or otherwise if such delay or failure arises from any causes or causes beyond the reasonable control of IBTCI, including but not limited to labor disputes, strikes, other labor or industrial disturbances, acts of God, floods, lightning, shortages of materials, temporary unavailable of qualified service personnel due to service calls received before the Seller's call, rationing, utility or communications failures, earthquakes, casualty, war, acts of public enemy, riots, insurrections, embargoes, actions, restrictions, regulations or orders of any Government, agency or subdivision thereof.

30 EXPORT/IMPORT CONTROLS

Seller shall control the disclosure of and access to technical data, information and other items received under this Agreement in accordance with applicable U.S. export control laws and regulations,. It shall be the sole responsibility of Seller to determine whether the information provided by IBTCI is technical data as outlined in the ITAR (22 CFR 120-130) prior to any release to a third party abiding by the terms outlined herein.

Seller shall immediately notify IBTCI if it is or becomes listed on any Excluded or Denied Party List of an agency of the U.S. Government or its export privileges are denied, suspended or revoked.

Should Seller's goods or services originate from a foreign location, those goods may also be subject to the export control laws and regulations of the country in which the articles or services originate. Seller agrees to abide by all applicable export control laws and regulations of that originating country. Seller shall indemnify IBTCI for all liabilities, penalties, losses, damages, costs



or expenses that may be imposed on or incurred by IBTCI in connection with any violations of such laws and regulations by Seller, its officers, employees, agents, suppliers or Sellers at any tier. Seller shall be responsible for complying with any laws or regulations governing the importation of the articles into the United States of America.

IBTCI may be required to obtain information concerning citizenship, nationality, and related information of Seller's personnel. Seller agrees to provide such information as necessary and certifies the information to be true and correct.

31 CAPTIONS

Captions contained in the Agreement are for reference purposes only and are not part of the Agreement.

32 COMPLETE AND ONLY AGREEMENT

Seller and IBTCI acknowledge that they have read this entire Agreement. This Agreement is the complete and exclusive statement thereof between the parties and that it supersedes and merges all prior proposals and understandings, and all other agreements, whether oral or written, between the parties relating to the subject matter hereof.

33 MODIFICATION

This Agreement may not be modified or altered except in writing by an instrument duly executed by authorized officials of both parties.