

access to basic and secondary health services; of that number approximately 4,437,300 are women of reproductive age and children under 5 years of age.

*In terms of human resource and health systems development, USAID will have funded the training of approximately 2,100 community and hospital-based midwives, which will meet the needs of women of reproductive in the USAID 14 target provinces. In addition USAID will have trained an additional 7,000 health workers and operationalized a total of seven Institute of Health Sciences campuses. Through private commercial markets, USAID will have supported the distribution of an estimated 17,000,000 units of health products sold by private outlets.*

A discussion of the establishment of additional indicators and interim indicators is set forth below in Section VIII of this Annex (Monitoring and Evaluation).

## VI. Activities/Activity Selection.

### A. Health Sector Activities

*In addition to the activities described above, USAID will continue to seek increased contraceptive prevalence and an increase in the percent of births attended by skilled attendants and the percent of children fully immunized. Activities may attempt to expand coverage of basic and essential obstetric care, child health, family planning services, and tuberculosis control by increasing the number of operational service points in rural areas. Activities will also include a social marketing initiative that markets health products through commercial sector outlets.*

*In addition activities may seek to implement behavior change communication strategies that will promote healthy practices through public health education programs, and developing the interpersonal communication skills of health workers. Improvement in the capacity of the MOPH at both the central and provincial levels, to plan, manage, monitor and evaluate the implementation of the BPHS may also be undertaken.*

*Furthermore, activities focused in the areas of rural primary health care for vulnerable populations, especially women and children, may include activities being implemented at the central and provincial levels, in partnership with the Ministry of Public Health, to develop a sustainable foundation for a nationwide health care system. The goal of those activities is to improve the health of women of reproductive age and children less than five years of age.*

*Some activities may be implemented through performance-based grants. Activities may focus on improving the performance of nongovernmental organizations in the delivery of health services. Increasing the participation of the private sector in the distribution and increased availability of health promoting products safe water systems, contraceptives, zinc tablets and insecticide treated bed nets may also be pursued.*

Activities under USAID's REACH<sup>4</sup> program and its predecessor project AHSEP<sup>5</sup> will continue. Under these programs the Basic Package of Health Services (BPHS) has been provided to 8.6 million people. Of that number, nearly 2 million are women of reproductive age, and 1.3 million were children under the age of five years. To address the lack of skilled human resources in Afghanistan, the REACH program may continue to support and train Community Health Workers (CHW); as well as physicians, nurses and midwives to deliver the BPHS. Family planning activities will continue including, efforts to work with private commercial outlets and others to make available condoms and other contraceptives. Promotion of the use of insecticide treated bednets may also continue.

The REACH program and other implementing agreements currently in place will now come under this Agreement. Until those implementing agreements expire, USAID assistance will be dedicated to ensuring that those agreements complete their commitments to the Ministry of Public Health. New implementing agreements will replace those currently in place. Other activities may include additional training work with the Institute of Health Sciences as well as some operations research in the prevention of postpartum hemorrhage. Also, an implementing partner will be contracted to conduct a demographic health survey.

#### B. Education Sector Activities

In addition to the activities described above, USAID may continue to provide accelerated learning to overage students particularly girls who were denied access to education under the Taliban; improve teacher performance; ensure adequate school textbooks for all grades; increase education facilities; and strengthen the capacity of the Ministries of Education and Higher Education.

In addition, under this Agreement USAID may continue to support the Afghanistan Primary Education Program (APEP) and its four components: (1) Accelerated learning, which enrolls over-age, particularly female students in 17 provinces, in non-formal learning programs that advance them 2 grades each year until they are ready to join mainstream school grade level; (2) printing and distribution of textbooks in Dari and Pashto for grades 1 – 12; (3) radio-based teacher training by subject in Dari and Pashto; and (4) technical assistance to build MOE and MOHE planning, policy and management capacity. USAID and other U.S. Government agencies, such as the Department of Defense, along with U.S. Government contractors may construct, rehabilitate, and equip schools.

Under this Agreement, USAID may continue to conduct activities to meet urgent educational needs such as textbook printing, radio-based teacher training, and accelerated learning in the provinces. Technical assistance to strengthen capacity at the MOE and MOHE may also be conducted.

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<sup>4</sup> REACH alone has provided BPHS services to 4.7 million people; 1.1 million MWRA; 767,000 children <5 years and 2.9 million others. The end of project target for services delivered is 6.5 million.

<sup>5</sup> Afghanistan Health Services Enhancement Project (AHSEP) ran from 3/02 to 6/03. This project provided BPHS services to 3.8 million people; 890,000 MWRA; 620,000 children < 5 years; and 2.3 million others.

Additional activities under this Agreement may include (a) funding of a linkage between Balkh University, faculty of agriculture and an American university to support faculty development and acquisition of technical materials, (b) renovation of the Women's Dormitory at Kabul University and the Guesthouse at the Ministry of Higher Education, (c) building of an American University of Afghanistan, a private, American style university projected to enroll up to 1,000 Afghan students, (d) building of an American international school and rehabilitation of Ghazi Boys High School and Karte Se Girls School, all in Kabul. Additional activities involving a legal training center and further renovation at Kabul University may be considered.

USAID may also pursue activities under this agreement to (1) help women learn literacy skills so that they might practice better health and hygiene, and to qualify them to be trained as community healthcare workers and mid-wives; the program is a component of USAID's REACH project in the health sector; and (2) develop and implement a model program to provide literacy training linked with economic activities while strengthening men's and women's local councils and demonstrating acceptance of women's literacy. Such activities may be implemented through the National Solidarity Program. USAID may also continue support of activities through the Literacy and Community Empowerment Program (LCEP) which aims to empower rural women and young people by imparting literacy, numeracy and life skills training. The LCEP also works towards strengthening democratically-elected, grassroots civil society institutions in enterprise development and participatory governance.

#### VII. Roles and Responsibilities of the Parties.

The Objective will be achieved through partnership among USAID, the Grantee (represented primarily by the Ministry of Public Health, the Ministry of Education and the Ministry of Higher Education), private voluntary organizations (PVOs) and non-governmental organizations (NGOs) (both U.S. international and local), public international organizations, contractors, cooperating agencies, local communities, and other donors. Other donors include the European Commission, World Bank and JICA. Coordination occurs through Consultative Group on Health and Nutrition (CGHN) meetings, in addition to a number of MOPH coordinated Task Forces and working groups. This extended team will bring together the concerns opportunities and issues of other partners to ensure that Agreement activities are the most appropriate and effective to reach the desired Results. Roles and relationships among these groups may be more fully described in Implementation Letters, however, some general responsibilities are described below.

The most essential partner in both the health and education sector is the target population itself. The Grantee will seek collaboration with local communities to ensure local ownership, direction and sustained support of health and education services.

It is up to the Grantee to articulate clear policies and guidelines in both the health and education sector in accordance with its national priorities and ensure compliance with such policies and guidelines.

The private sector, PVOs and NGOs play an important role in the identification and implementation of health and education programs, and provide technical expertise

not always available within USAID or the Grantee. Grant proceeds may be provided by USAID directly to such implementing partners to carry out activities under this Agreement. USAID may select implementing organizations in accordance with its procurement and other relevant policies and procedures. The Grantee agrees to raise any issues related to implementing organizations on USAID-funded activities, including without limitation any issues related to inadequate or non-performance, directly with USAID rather than the implementing organization(s) in question.

Both USAID and the Grantee are responsible for coordinating strategy, resource programming and policy with other donor agencies operating in Afghanistan's health and education sector. Achievement of the expected results described herein is based on the assumption that certain results will be achieved by other donors, which are beyond the manageable interests of USAID. The Grantee is responsible for articulating national priorities to the entire donor community in both the education and health sectors.

In order to ensure full coordination and consultation, the Parties agree to meet at least twice each calendar year, beginning with the first full calendar year following the execution of the Agreement, to review all aspects of this Agreement, including both strategic and operational issues. In such meeting the Parties will discuss whether activities being carried out under this Agreement are leading to the results outlined in this Annex 1 or are achieving the indicators set forth in Implementation Letters. The Parties may discuss their views as to whether there may be a need to alter, increase or discontinue activities, plan new activities or alter the resource allocations to particular activities in order to meet the Objective and Results and achieve continued alignment with the Grantee's national development priorities. It is expected that the Parties will also discuss current and future resource requirements related to such activities and the overall estimated expenditures for activities over the remaining term of the Agreement.

In addition, as part of its internal planning process, USAID intends to develop concept papers with general cost estimates for new program areas it is considering in furtherance of the mutual objectives set forth in this Agreement. USAID will consult and engage with the Grantee at the concept paper stage of development of new programs within the scope of this Agreement. Under internal procedures that are being developed, USAID will share each concept paper for a new program area with the Grantee. The Grantee will review the concept paper and participate in setting the direction and parameters for the subsequent stage of review and approval of the new program by USAID. It is possible that a concept may not advance to the subsequent stage of planning within USAID to the extent the Grantee has serious concerns that cannot be addressed after discussions between the Parties. Grantee review of concept papers will be carried out by the Ministry of Finance or the Ministry of Finance's designee. A similar consultative process will be followed during the project design stage.

USAID also intends to invite Grantee participation, as appropriate, in procurement evaluation panels for major activities. The Grantee will participate in such panels through the designation by the Ministry of Finance of an individual either from the Ministry of Finance or another appropriate Ministry to sit on such panel. The Grantee's representative shall comply with USAID's regulations governing participation on such panels as indicated by USAID.

VIII. Monitoring and Evaluation.

Indicators and specific quantitative targets have been discussed and agreed upon among USAID and the Ministry of Public Health and the Ministry of Education/Ministry of Higher Education for the health and education sectors, respectively. A list of indicators, including precise descriptions that include, among other details, quantity, periodicity and the appropriate source for obtaining data may be further detailed in Implementation Letters.

Some of the indicators will derive from routinely collected statistical data. Other regular performance data will be drawn from observations of monitoring and supervision field visits and periodic sample surveys. For some performance indicators, baseline data must be collected or verified. Targets will be based on current trends and the estimated impact of USAID and other donor interventions. Targets will be re-examined and adjusted, if necessary, as additional data become available.

USAID may take corrective action based on the results of the monitoring and evaluation of the data or at the request of the Grantee. Corrective action may include, but is not limited to, discontinuing, reducing or otherwise modifying one or more ongoing activities, or adding new activities. Funds allotted to activities may be discontinued, reduced or shifted to existing activities or new activities in furtherance of the Objective.

IX. Other Implementation Issues.

The Parties agree that with respect to the audit provisions set forth in Section B.5 of Annex 2 to this Agreement (Standard Provisions), to the extent USAID funds non-Grantee implementing partners directly for activities under this Agreement, USAID will include necessary audit provisions in its implementing agreements with such partners in lieu of the Grantee submitting the required audit plan described in that Section.

**ILLUSTRATIVE BUDGET FY05 - FY10  
A BETTER EDUCATED AND HEALTHIER POPULATION**

*In thousands USD*

Improve Access of Western and Children Under 5 to Quality Basic Health Services, especially in rural and underserved areas	41,200	51,550	71,000	85,500	91,500	99,500	
Tetanus, Polio, Malaria and TB control	0	3,000	5,000	8,000	10,000	10,000	
Hospital and clinic Rehabilitation, Basic service Provision and MOHP Capacity Building	38,700	46,550	64,000	75,500	79,500	87,500	
Victims Assistance	2,500	2,000	2,000	2,000	2,000	2,000	
Increase Access of Children, Youth, and Adults to Quality Teaching and Suitable Learning Environments	42,400	49,750	73,000	91,500	96,500	103,500	
Basic Education Project	15,400	31,750	34,000	39,500	40,000	40,000	
Higher education (Includes scholarships)	10,000	7,000	12,000	15,000	20,000	28,500	
School Construction / Refurbishment	12,500	6,500	22,000	22,000	25,000	20,000	
Literacy and Productive Skills	2,000	4,500	5,000	15,000	11,500	15,000	
Capacity Building (MOWA)	2,500	0	0	0	0	0	
<b>US AID Program Support</b>	<b>1,600</b>	<b>2,500</b>	<b>3,000</b>	<b>5,000</b>	<b>6,000</b>	<b>7,000</b>	

*Note 1: All amounts are estimates and are subject to the availability of funds and the other terms and conditions of this Agreement and applicable law.  
Note 2: References to "FY" refer to the U.S. government fiscal year with respect to the USAID contribution and the fiscal year of the GOA with respect to GOA contributions, beginning with the second half of Afghan year 1384 corresponding to FY05.*

**Annex 2**  
**Standard Provisions**

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**Standard Provisions**

**Article A: Definitions and Implementation Letters.**

Section A.1. Definitions. As used in this Annex, the "Agreement" refers to the Strategic Objective Grant Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Section A.2. Implementation Letters. To assist the Grantee in the implementation of the Agreement, USAID, from time to time, will issue Implementation Letters that will furnish additional information about matters stated in this Agreement. The Parties may also issue jointly agreed-upon Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Implementation Letters can also be issued to record revisions or exceptions which are permitted by the Agreement.

**Article B: General Covenants.**

Section B.1. Consultation. The Parties will cooperate to assure that the Objective and Results of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on progress towards the Objective and Results, the performance of obligations under this Agreement, the performance of any consultants, contractors, or suppliers engaged under the Agreement, and other matters relating to the Agreement.

**Section B.2. Execution of Agreement. The Grantee will:**

(a) Carry out the Agreement or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules, or other arrangements, and with any modifications therein, approved by USAID pursuant to this Agreement; and

(b) Provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of activities financed under the Agreement, and, as applicable for continuing activities, cause those activities to be operated and maintained in such manner as to assure the continuing and successful achievement of the Objective and Results of the Agreement.

**Section B.3. Utilization of Goods and Services.**

(a) Any goods and services financed under this Agreement, unless otherwise agreed in writing by USAID, will be devoted to the Agreement until the completion or termination of the Agreement, and thereafter (as well as during any period of suspension of the Agreement) will be used to further the Objective of the Agreement and as USAID may direct in Implementation Letters.

(b) Goods or services financed under this Agreement, except as USAID may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in USAID Geographic Code 935 as in effect at the time of such use.

Section B.4. Taxation.

(a) *General Exemption.* The Agreement is a program agreement under the terms of the Point Four General Agreement for Technical Cooperation, dated as February 7, 1951, between the Grantee and the United States Government, and the assistance thereunder is free from any taxes imposed under laws in effect in the territory of the Grantee.

(b) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to (1) any activity, contract, grant or other implementing agreement financed by USAID under this Agreement; (2) any transaction or supplies, equipment, materials, property or other goods (hereinafter collectively "goods") under (1) above; (3) any contractor, grantee, or other organization carrying out activities financed by USAID under this Agreement; (4) any employee of such organizations; and (5) any individual contractor or grantee carrying out activities financed by USAID under this Agreement.

(c) Except as provided otherwise in this provision, the General Exemption in subsection (a) applies to, but is not limited to, the following taxes:

(1) Exemption 1. Customs duties, tariffs, import taxes, or other levies on the importation, use and re-exportation of goods or the personal belongings and effects (including personally-owned automobiles) for the personal use of non-national individuals or their family members.

Exemption 1 includes, but is not limited to, all charges based on the value of such imported goods, but does not include service charges directly related to services performed to transfer goods or cargo.

(2) Exemption 2. Taxes on the income, profits or property of all (i) non-national organizations of any type, (ii) non-national employees of national and non-national organizations, or (iii) non-national individual contractors and grantees. Exemption 2 includes income and social security taxes of all types and all taxes on the property, personal or real, owned by such non-national organizations or persons. The term "national" refers to organizations established under the laws of the Grantee and citizens of the Grantee, other than permanent resident aliens in the United States.

(3) Exemption 3. Taxes levied on the last transaction for the purchase of goods or services financed by USAID under this Agreement, including sales taxes, value-added taxes (VAT), or taxes on purchases or rentals of real or personal property. The term "last transaction" refers to the last transaction by which the goods or services were purchased for use in the activities financed by USAID under this Agreement.

(d) If a tax has been levied and paid contrary to the provisions of an exemption, USAID may, in its discretion, (1) require the Grantee to refund to USAID or to others as USAID may direct the amount of such tax with funds other than those provided under the Agreement, or (2) offset the amount of such tax from amounts to be disbursed under this or any other agreement between the Parties.

(e) In the event of a disagreement about the application of an exemption, the Parties agree to promptly meet and resolve such matters, guided by the principle that the assistance furnished by USAID is free from direct taxation, so that all of the assistance furnished by USAID will contribute directly to the economic development of the country of the Grantee.

**Section B.5. Reports and Information, Agreement Books and Records, Audits, and Inspections.**

(a) Reports and Information. The Grantee shall furnish USAID accounting records and such other information and reports relating to the Agreement as USAID may reasonably request.

(b) Grantee Agreement Books and Records. The Grantee shall maintain accounting books, records, documents and other evidence relating to the Agreement, adequate to show, without limitation, all costs incurred by the Grantee under the Agreement, the receipt and use of goods and services acquired under the Agreement by the Grantee, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods and services acquired by the Grantee, the basis of award of Grantee contracts and orders, and the overall progress of the Agreement toward completion ("Agreement books and records"). The Grantee shall maintain Agreement books and records in accordance with generally accepted accounting principles prevailing in the United States, or at the Grantee's option, with approval by USAID, other accounting principles, such as those (1) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (2) prevailing in the country of the Grantee. Agreement books and records shall be maintained for at least three years after the date of last disbursement by USAID or for such longer period, if any, required to resolve any litigation, claims or audit findings.

(c) Grantee Audit. If \$300,000 or more of USAID funds are expended directly by the Grantee in its fiscal year under the Agreement, the Grantee shall have financial audits made of the expenditures in accordance with the following terms, except as the Parties may otherwise agree in writing:

(1) With USAID approval, the Grantee shall use its Supreme Audit Institution or select an independent auditor in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the USAID Inspector General ("Guidelines"), and the audits shall be performed in accordance with the Guidelines; and

(2) The audit shall determine whether the receipt and expenditure of the funds provided under the Agreement are presented in accordance with generally accepted accounting principles agreed to in section (b) above and whether the Grantee has complied with the terms of the Agreement. Each audit shall be completed no later than nine months after the close of the Grantee's year under audit.

(d) *Sub-recipient Audits.* The Grantee, except as the Parties may otherwise agree in writing, shall submit to USAID, in form and substance satisfactory to USAID, a plan for the audit of the expenditures of "covered" sub-recipients, as defined below, that receive funds under this Agreement pursuant to a direct contract or agreement with the Grantee.

(1) A "covered" sub-recipient is one who expends \$300,000 or more in its fiscal year in "USAID awards" (i.e., as recipients of USAID cost reimbursable contracts, grants or cooperative agreements and as sub-recipients under USAID strategic objective and other grant agreements with foreign governments).

(2) The plan shall describe the methodology to be used by the Grantee to satisfy its audit responsibilities for covered sub-recipients. The Grantee may satisfy such audit responsibilities by relying on independent audits of the sub-recipients; expanding the scope of the independent financial audit of the Grantee to encompass testing of sub-recipients' accounts; or a combination of these procedures.

(3) The plan shall identify the funds made available to covered sub-recipients that will be covered by audits conducted in accordance with other audit provisions that would satisfy the Grantee's audit responsibilities. (A nonprofit organization organized in the United States is required to arrange for its own audits. A for-profit contractor organized in the United States that has a direct contract with USAID is audited by the cognizant U.S. Government Agency. A private voluntary organization organized outside the United States with a direct grant from USAID is required to arrange for its own audits. A host-country contractor should be audited by the Grantee's auditing agency.)

(4) The Grantee shall ensure that covered sub-recipients under direct contracts or agreements with the Grantee take appropriate and timely corrective actions; consider whether sub-recipients' audits necessitate adjustment of its own records; and require each such sub-recipient to permit independent auditors to have access to records and financial statements as necessary.

(e) *Audit Reports.* The Grantee shall furnish or cause to be furnished to USAID an audit report for each audit arranged for by the Grantee in accordance with this Section within 30 days after completion of the audit and no later than nine months after the end of the period under audit.

(f) *Other Covered Sub-recipients.* For "covered" sub-recipients who receive funds under the Agreement pursuant to direct contracts or agreements with USAID, USAID will include appropriate audit requirements in such contracts or

agreements and will, on behalf of the Grantee, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.

(g) *Cost of Audits.* Subject to USAID approval in writing, costs of audits performed in accordance with the terms of this Section may be charged to the Agreement.

(h) *Audit by USAID.* USAID retains the right to perform the audits required under this Agreement on behalf of the Grantee by utilizing funds under the Agreement or other resources available to USAID for this purpose, conduct a financial review, or otherwise ensure accountability of organizations expending USAID funds regardless of the audit requirement.

(i) *Opportunity to Audit or Inspect.* The Grantee shall afford authorized representatives of USAID the opportunity at all reasonable times to audit or inspect activities financed under the Agreement, the utilization of goods and services financed by USAID, and books, records and other documents relating to the Agreement.

(j) *Sub-recipient Books and Records.* The Grantee will incorporate paragraphs (a), (b), (d), (e), (g), (h) and (i) of this provision into all sub-agreements with non-U.S. organizations which meet the \$300,000 threshold of paragraph (c) of this provision. Sub-agreements with non-U.S. organizations, which do not meet the \$300,000 threshold, shall, at a minimum, incorporate paragraphs (h) and (i) of this provision. Sub-agreements with U.S. organizations shall state that the U.S. organization is subject to the audit requirements contained in OMB Circular A-133.

**Section B.6. Completeness of Information.** The Grantee confirms:

(a) that the facts and circumstances of which it has informed USAID, or caused USAID to be informed, in the course of reaching agreement with USAID on the Agreement, are accurate and complete, and include all facts and circumstances that might materially affect the Agreement and the discharge of responsibilities under this Agreement; and

(b) that it will inform USAID in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Agreement or the discharge of responsibilities under this Agreement.

**Section B.7. Other Payments.** Grantee affirms that no payments have been or will be received by any official of the Grantee in connection with the procurement of goods or services financed under the Agreement, except fees, taxes, or similar payments legally established in the country of the Grantee.

**Section B.8. Information and Marking.** The Grantee will give appropriate publicity to the Agreement as a program to which the United States has contributed, identify Agreement activity sites, and mark goods financed by USAID, as described in Implementation Letters.

**Article C: Procurement Provisions.**

**Section C.1. Source and Origin.**

(a) **Foreign Exchange Costs.** Disbursements for Foreign Exchange Costs will be used exclusively to finance the costs of goods and services required for the Agreement having, with respect to goods, their source and origin and, with respect to the suppliers of goods and services, their nationality, in countries included in Geographic Code 935 as in effect at the time orders are placed or contracts entered into for such goods or services, except as USAID may otherwise agree in writing and as follows:

(1) Ocean transportation costs shall be financed under the Agreement only on vessels under flag registry of countries included in Code 935. Also see Section C.6 on use of U.S. flag vessels.

(2) The country of the Grantee is an eligible source for Foreign Exchange Cost for marine insurance, if otherwise eligible under Section C.7(a).

(3) Any motor vehicles financed under the Agreement will be of United States manufacture, except as USAID may otherwise agree in writing.

(b) **Local Currency Costs.** Disbursements for Local Currency Costs will be used exclusively to finance the costs of goods and services required for the Agreement which meet the requirements of USAID's local procurement policy which will be provided in an Implementation Letter.

(c) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(d) Provisions concerning restricted and ineligible goods and services may be provided in an Implementation Letter.

(e) Transportation by air of property or persons financed under this agreement will be on carriers holding United States certification, to the extent service by such carriers is available under the United States' Fly America Act. This requirement may be further described by USAID in Implementation Letters.

**Section C.2. Eligibility Date.** No goods or services may be financed under the Agreement which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

**Section C.3. Plans, Specifications and Contracts.** In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

(a) The Grantee will furnish to USAID upon preparation:

(1) any plans, specifications, procurement or construction schedules, contracts, or other documentation between the Grantee and third parties, relating to goods or services to be financed under the Agreement, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished USAID on preparation; and

(2) such documentation will also be furnished to USAID, upon preparation, relating to any goods or services, which, though not financed under the Agreement, are deemed by USAID to be of major importance to the Agreement. Aspects of the Agreement involving matters under this subsection (a)(2) will be identified in Implementation Letters.

(b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Agreement will be approved by USAID in writing prior to their issuance, and their terms will include United States standards and measurements;

(c) Contracts and contractors financed under the Agreement for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Implementation Letters, will be approved by USAID in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by USAID prior to execution; and

(d) Consulting firms used by the Grantee for the Agreement but not financed under the Agreement, the scope of their services and such of their personnel assigned to activities financed under the Agreement as USAID may specify, and construction contractors used by the Grantee for the Agreement but not financed under the Agreement, shall be acceptable to USAID.

Section C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Agreement. Such items will be procured on a fair and, to the maximum extent practicable, competitive basis.

Section C.5. Notification to Potential Suppliers. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Agreement, the Grantee will furnish USAID such information with regard thereto, and at such times, as USAID may request in Implementation Letters.

#### Section C.6. Transportation

(a) In addition to the requirements in Section C.1(a), costs of ocean or air transportation and related delivery services may not be financed under the Grant, if the costs are for transportation under an ocean vessel or air charter which has not received prior USAID approval.

(b) Unless USAID determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, or otherwise agrees in writing:

(1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by USAID which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels; and

(2) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed by USAID and transported to the territory of the Grantee on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

Section C.7. Insurance.

(a) Marine insurance on goods financed by USAID which are to be transported to the territory of the Grantee may be financed as a Foreign Exchange Cost under this Agreement provided:

(1) such insurance is placed at the most advantageous competitive rate;

(2) such insurance is placed in a country which is authorized under Section C.1(a); and

(3) claims thereunder are payable in U.S. dollars or any freely convertible currency unless USAID agrees otherwise in writing.

If the Grantee (or government of the Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to USAID-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by USAID hereunder shall be insured against marine risks and such insurance shall be placed in the United States with a company or companies authorized to do marine insurance business in the United States.

(b) Except as USAID may otherwise agree in writing, the Grantee will insure, or cause to be insured, goods financed under the Agreement imported for the Agreement against risks incident to their transit to the point of their use under the Agreement; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Grantee under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Grantee for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in USAID Geographic Code 935 as in effect at the time of replacement and, except as the

Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

Section C.8. U.S. Government-Owned Excess Property. The Grantee agrees that wherever practicable United States Government-owned excess personal property, in lieu of new items financed under the Grant, should be utilized. Funds under the Agreement may be used to finance the costs of obtaining such property.

**Article D: Disbursements.**

**Section D.1. Disbursement for Foreign Exchange Costs.**

(a) After satisfaction of conditions precedent, if any, the Grantee may obtain disbursements of funds under the Agreement for the Foreign Exchange Costs of goods or services required for the Agreement in accordance with its terms, by such of the following methods as may be mutually agreed upon:

(1) by submitting to USAID, with necessary supporting documentation as prescribed in Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for USAID to procure commodities or services in Grantee's behalf for the Agreement; or,

(2) by requesting USAID to issue Letters of Commitment for specified amounts directly to one or more contractors or suppliers, committing USAID to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by the Grantee in connection with Letters of Commitment will be financed under the Agreement unless the Grantee instructs USAID to the contrary. Such other charges as the Parties may agree to may also be financed under the Agreement.

**Section D.2. Disbursement for Local Currency Costs.**

(a) After satisfaction of conditions precedent, if any, the Grantee may obtain disbursements of funds under the Agreement for Local Currency Costs required for the Agreement in accordance with terms of this Agreement, by submitting to USAID, with necessary supporting documentation as prescribed in Implementation Letters, requests to finance such costs.

(b) The local currency needed for such disbursements may be purchased by USAID with U.S. Dollars. The U.S. Dollar equivalent of the local currency made available hereunder will be the amount of U.S. Dollars required by USAID to obtain the local currency.

Section D.3. Other Forms of Disbursement. Disbursements may also be made through such other means as the Parties may agree to in writing.

Section D.4. Rate of Exchange. If funds provided under the Agreement are introduced into the Cooperating Country by USAID or any public or private agency for purposes of carrying out obligations of USAID hereunder, the Grantee will make such arrangements as may be necessary so that such funds may be converted into local

currency at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the country of the Grantee to any person for any purpose.

**Article E: Termination; Remedies.**

**Section E.1. Suspension and Termination.**

(a) Either Party may terminate this Agreement in its entirety by giving the other Party 30 days written notice. USAID also may terminate this Agreement in part by giving the Grantee 30 days written notice, and suspend this Agreement in whole or in part upon giving the Grantee written notice. In addition, USAID may terminate this Agreement in whole or in part, upon giving the Grantee written notice, if (i) the Grantee fails to comply with any provision of this Agreement, (ii) an event occurs that USAID determines makes it improbable that the Objective or Results of the Agreement or the assistance program will be attained or that the Grantee will be able to perform its obligations under this Agreement, or (iii) any disbursement or use of funds in the manner herein contemplated would be in violation of the legislation governing USAID, whether now or hereafter in effect.

(b) Except for payment which the Parties are committed to make pursuant to non-cancellable commitments entered into with third parties prior to such suspension or termination, suspension or termination of this entire Agreement or part thereof will suspend (for the period of the suspension) or terminate, as applicable, any obligation of the Parties to provide financial or other resources to the Agreement, or to the suspended or terminated portion of the Agreement, as applicable. Any portion of this Agreement which is not suspended or terminated shall remain in full force and effect.

(c) In addition, upon such full or partial suspension or termination, USAID may, at USAID's expense, direct that title to goods financed under the Agreement, or under the applicable portion of the Agreement, be transferred to USAID if the goods are in a deliverable state.

**Section E.2. Refunds.**

(a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, USAID, notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. Dollars to USAID within sixty (60) days after receipt of a request therefor.

(b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed or supported under the Agreement are not used effectively in accordance with this Agreement, USAID may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for or in connection with such goods or services in U.S. Dollars to USAID within sixty (60) days after receipt of a request therefor.

(c) The right under subsections (a) or (b) to require a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.

(d) (1) Any refunds under subsections (a) or (b), or (2) any refund to USAID from a contractor, supplier, bank or other third party with respect to goods or services financed under the Agreement, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the Agreement, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.

(e) Any interest or other earnings on funds disbursed by USAID to the Grantee under this Agreement prior to the authorized use of such funds for the Agreement will be returned to USAID in U.S. Dollars by the Grantee, unless USAID otherwise agrees in writing.

Section E.3. Non-waiver of Remedies. No delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

Section E.4. Assignment. The Grantee agrees, upon request, to execute an assignment to USAID of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a Party to a direct U.S. Dollar contract which USAID financed in whole or in part out of funds granted by USAID under this Agreement.

**Article F: Miscellaneous.**

**Section F.1. Investment Promotion.**

(a) Except as specifically set forth in the Grant or otherwise authorized by USAID in writing, no funds or other support provided hereunder may be used for any activity that involves investment promotion in a foreign country.

(b) In the event the Grantee is requested or wishes to provide assistance in the above area or requires clarification from USAID as to whether the activity would be consistent with the limitation set forth above, the Grantee must notify USAID and provide a detailed description of the proposed activity. The Grantee must not proceed with the activity until advised by USAID that it may do so.

(c) The Grantee must ensure that its employees and subcontractors and sub-recipients providing investment promotion services hereunder are made aware of the restrictions set forth in this clause and must include this clause in all subcontracts and other sub-agreements entered into hereunder.

Section F.2. Voluntary Family Planning. The Parties agree that all USAID funds provided under this Agreement shall be used in accordance with applicable United States policy and statutory requirements relating to voluntary family planning projects,

and that none of the USAID funds provided under this Agreement, or goods or services financed by such funds, may be used for:

- (a) the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions;
- (b) the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations; or
- (c) any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a method family planning.
- (d) USAID will issue implementation letters that more fully describe the requirements of this section.

Section F.3. Prohibition on Assistance to Drug Traffickers.

- (a) USAID reserves the right to terminate this Agreement or take other appropriate measures if the Grantee or a key individual of the Grantee is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140. (The "CFR" is the United States Code of Federal Regulations.)
- (b) USAID reserves the right to terminate assistance to, or take or take other appropriate measures with respect to, any participant approved by USAID who is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.
- (c) For any loan over \$1000 made under this Agreement, the Grantee shall insert a clause in the loan agreement stating that the loan is subject to immediate cancellation, acceleration, recall or refund by the Grantee if the borrower or a key individual of a borrower is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.
- (d) Upon notice by USAID of a determination under section (x) and at USAID's option, the Grantee agrees to immediately cancel, accelerate or recall the loan, including refund in full of the outstanding balance. USAID reserves the right to have the loan refund returned to USAID.
- (e) The Grantee agrees not to disburse, or sign documents committing the Grantee to disburse, funds to any sub-recipient designated by USAID ("Designated Sub-recipient") until advised by USAID that: (1) any United States Government review of the Designated Sub-recipient and its key individuals has been completed; (2) any related certifications have been obtained; and (3) the assistance to the Designated Sub-recipient has been approved. In addition, the Grantee shall insert the following clause, or its substance, in its agreement with the Designated Sub-recipient:

"The Grantee reserves the right to terminate this Agreement or take other appropriate measures if the [Sub-recipient] or a key individual of the [Sub-recipient] is found to have been convicted of a narcotic offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140."

Section F.4. Workers' Rights.

(a) Except as specifically set forth in the Grant or otherwise authorized by USAID in writing, no funds or other support provided hereunder may be used for any activity that involves workers' rights in a foreign country.

(b) In the event the Grantee is requested or wishes to provide assistance in the above area or requires clarification from USAID as to whether the activity would be consistent with the limitation set forth above, the Grantee must notify the USAID and provide a detailed description of the proposed activity. The Grantee must not proceed with the activity until advised by USAID that it may do so.

(c) The Grantee must ensure that all employees and subcontractors and sub-recipients providing employment-related services hereunder are made aware of the restrictions set forth in this clause and must include this clause in all subcontracts and other sub-agreements entered into hereunder.