



[Instructions to program staff preparing draft templates of legal documents:

1. When preparing this document for an Activity, *always* start with a new template downloaded from SharePoint; *never* start with a precedent execution version from a previous Activity. OGC may make minor edits and modifications to this document without notice, and these changes will not be properly included in our legal documents if older versions are used as the starting point.
2. Similarly, do not use the public-facing .pdf version of this document posted on USTDA’s website as the starting point for preparing the draft agreement. Only use the OGC-approved template posted on SharePoint to create this document.
3. Do not send out unedited and unreviewed copies of this template to any parties outside USTDA to prepare this agreement. USTDA must always prepare the first draft of this agreement before sending it to any outside parties.
4. Please leave the version number and date in the first page footer, as this helps M&E determine and track which template version is being used.
5. The bracketed text in italics indicates prompts for information. Please do not include bracketed italicized text in the draft that is ultimately submitted for OGC review; please delete the unused text and delete the unnecessary brackets. With respect to the highlighting:

<i>Activity Features</i>	<i>Include in the Draft</i>	<i>Delete</i>
<i>Contractor has agreed to a cost share.</i>	<i>Yellow highlighted text.</i>	<i>Blue highlighted text only if there is no success fee.</i>
<i>Contractor has agreed to a success fee.</i>	<i>Blue highlighted text.</i>	<i>Yellow highlighted text only if there is no cost share.</i>

Please contact your AGC with any questions.]

[Note that the USTDA Letterhead has now been added to the
First Page Header and Footer of this file.]

[Date]

[Name]

[Title]

[Full legal name of U.S. entity]

[Address]

Re: [Country]: [Title of USTDA Activity]
[Success Fee][and][Cost Share] Agreement
USTDA Activity No. [Activity Number]

Dear [Name]:

We are pleased that [full legal name of Grantee] (the “Grantee”) has selected [full legal name of Contractor] (the “Contractor”) to [perform a feasibility study][deliver technical assistance][other activity] (the “Activity”) related to the [project description] (the “Project”), with funds to be [partially] provided by the U.S. Trade and Development Agency (“USTDA”). USTDA has conditionally accepted the selection by the Grantee of the Contractor to perform the Activity. USTDA’s final acceptance of this selection will be effective when the Contractor agrees with the [success fee] [and] [cost share] provisions described below in this letter agreement (this “Agreement”).

USTDA has approved a grant to the Grantee in the amount of US\$ [dollar amount of grant] (the “Grant Funds”) to [partially] fund the Activity. We expect that the Grant Agreement between USTDA and the Grantee (the “Grant Agreement”) in respect of the Grant Funds will be signed in the near future, and that the Grantee will negotiate a contract with the Contractor to perform the Activity (the “Contract”). We are hopeful that the completion of the Activity will lead to further business opportunities for the Contractor and other U.S. firms.

[The Terms of Reference for the Activity attached as Annex I to the Contract (as updated or amended from time to time, the “Terms of Reference”) and the budget estimate attached as Annex II to this Agreement (as updated or amended from time to time, the “Budget Estimate”) are based upon the proposal submitted to USTDA by the Contractor and USTDA’s review of the proposal. The Budget Estimate in effect as of the date hereof has been established at [amount of the Budget Estimate spelled out in words] United States Dollars (US\$ [dollar amount of Budget Estimate]). [Note: Use the final Budget Estimate agreed upon by USTDA, the Contractor, and the DS/DM consultant.]]

A. Success Fee [If there is no Success Fee required from this Contractor, delete this entire Clause A.]

- (1) Success Fee Basis. USTDA and the Contractor anticipate that the Contractor may have the opportunity to participate in the development and implementation of the Project other than through the Contractor's involvement with the Activity. As such, the Contractor shall repay to USTDA certain amounts of the Grant Funds that have been previously disbursed to the Contractor in connection with the Activity (the "Disbursed Grant Funds") as a reimbursement related to the continuing implementation of the Project (the "Success Fee") in accordance with the following provisions:

[Drafters should keep in mind that Contractors may not always be subject to both finance-based and revenue-based success fees; in the event that only one type of Success Fee applies, delete the inapplicable subclause below.]

- (a) Finance-Based Success Fee. The Contractor shall reimburse to USTDA the total amount of the Disbursed Grant Funds if, in connection with the initial financial closing (involving funding in the form of debt and/or equity) with respect to the Project or any related project that is based substantially upon the Activity or that derived benefit from the Activity ("Financial Closing"), the Contractor or any of its parent(s), subsidiary(ies) or other affiliate(s) (each a "Contractor Party", and collectively, the "Contractor Parties"):
- (i) takes an equity position in the Project or such related project;
 - (ii) commits its own financial resources (as evidenced by an outlay of implementation funds) for the Project or such related project; or
 - (iii) whether or not such Contractor Party is a principal or equity holder in the Project or such related project, the Contractor Party receives proceeds from a drawdown of funds from a public or private financial institution, or other person or entity acting as a financier (the occurrence of any of the events in the foregoing subclauses (i) through (iii) collectively, a "Financing Event").

Reimbursement by the Contractor of the total amount of Disbursed Grant Funds must be made regardless of the amount or value of any such equity position, outlay of funds or drawdown occurring in connection with a Financing Event.

- (b) Revenue-Based Success Fee. If [the Contractor or any of its parent(s), subsidiary(ies) or other affiliate(s) (each a "Contractor Party", and collectively, the "Contractor Parties")][any Contractor Party][*Delete the first set of brackets and keep the second set of brackets if a Finance-Based Success Fee is included above and the term "Contractor Party" is already defined.*] earns revenue (other than the Grant Funds) in connection with the Project or the Activity, then the Contractor shall reimburse to USTDA an amount equal to [*number in words*] percent ([*number in Arabic numerals*]%) of the total gross revenue earned by any Contractor Party related to the Project and/or any related project that is based substantially upon the Activity or that derived benefit from the Activity ("Revenue"); provided, however, that [in the event (i) one or more Contractor Parties earns Revenue, and (ii) a Financing Event subsequently occurs, then][*Include only if there is a both a*

Finance-Based and a Revenue-Based Success Fee.] the aggregate Success Fee payable by the Contractor under this Clause A(1) will not exceed the total amount of the Disbursed Grant Funds. [Be sure to use a percentage that will ensure that Grant Funds are reimbursed to the maximum extent practicable. The Action Memo for this activity should state and explain the rationale for the percentage used.]

- (c) Reporting Period. Subject to Clause A(2)(c) and Clause F, the period during which the Contractor’s obligation to pay a Success Fee to USTDA may arise as a result of [the occurrence of a Financing Event][and/or][the earning of Revenue][*Revise as necessary depending on whether a Finance-Based and/or a Revenue-Based Success Fee is included above.*] (the “Reporting Period”) commences on the date on which this Agreement is signed by both parties (the “Signing Date”) and continues until the end of the year covered by the final Success Fee Report (as defined below) delivered to USTDA pursuant to Clause A(2), as set forth in the middle column in the table in Clause A(2)(b). The Contractor’s obligation to pay a Success Fee does not apply to [any Financing Event that occurs][or][any Revenue that is earned][*Revise as necessary depending on whether a Finance-Based and/or a Revenue-Based Success Fee is included above.*] before or after the Reporting Period.

(2) Success Fee Reporting.

- (a) First Success Fee Report. The Contractor shall provide to USTDA, on or before March 1 of the calendar year following the calendar year during which the Signing Date occurs, a brief statement (a “Success Fee Report”) indicating whether [any Financing Event has occurred][or][any Revenue has been earned][*Revise as necessary depending on whether a Finance-Based and/or a Revenue-Based Success Fee is included above.*] during the period commencing on the Signing Date and continuing through the end of the calendar year during which the Signing Date occurs.
- (b) Subsequent Success Fee Reports. In accordance with the table in this Clause A(2)(b), the Contractor shall provide to USTDA, on or before March 1 of each of the subsequent seven (7) calendar years following the calendar year when the first Success Fee Report is delivered to USTDA, a Success Fee Report indicating whether [any Financing Event has occurred][or][any Revenue has been earned][*Revise as necessary depending on whether a Finance-Based and/or a Revenue-Based Success Fee is included above.*] during the immediately preceding calendar year.

*[In the table below, enter the calendar year when this Agreement will be signed in the cell in the top row containing “[Year]”. Then select all of the cells in the table, and press F9 to update the other years automatically. If working on a laptop, it may be necessary to press Fn+F9. **DO NOT EDIT ANY OTHER CELLS IN THIS TABLE.**]*

Signing Date Occurs During:	[Year]	
Success Fee Report	Period Covered by the Success Fee Report (Reporting Period)	Success Fee Report Due on or before March 1 of
First Success Fee Report	From the Signing Date through the end of calendar year 2021	2022
Second Success Fee Report	2022	2023
Third Success Fee Report	2023	2024
Fourth Success Fee Report	2024	2025
Fifth Success Fee Report	2025	2026
Sixth Success Fee Report	2026	2027
Seventh Success Fee Report	2027	2028
Final Success Fee Report	2028	2029

- (c) Delays in the Effective Date. In the event that the Effective Date (as defined below) occurs following the applicable March 1 due date for one or more Success Fee Reports, the Contractor shall deliver to USTDA any such previously undelivered Success Fee Reports together with the Success Fee Report due on or before the March 1 that immediately follows the Effective Date.
- (d) Format. All Success Fee Reports must be submitted to USTDA in the format set forth in Annex I to this Agreement, unless USTDA otherwise authorizes.
- (e) Confidentiality. It is the responsibility of the Contractor to ensure that any confidential information pertaining to these Success Fee Reports, or any other aspect of this Agreement, is clearly marked as such and is provided separately from a version which is suitable for public distribution. USTDA will maintain the confidentiality of such information, subject to and in accordance with applicable U.S. law.
- (f) Reimbursement in Full. Notwithstanding any other provision in this Agreement, in the event that (i) all Grant Funds are disbursed to the Contractor pursuant to the Contract, and (ii) all Disbursed Grant Funds have been reimbursed in full, no further Success Fee payments or Success Fee Reports will be required.
- (3) Payment Date.
- (a) [If a Financing Event occurs, the Contractor shall submit, within thirty (30) days following the Financial Closing, a Success Fee Report accompanied by a payment of the total amount of Disbursed Grant Funds.][*Delete this bracketed section if no Finance-Based Success Fee is included above.*]
- (b) [If any Revenue is earned, the Contractor shall submit a payment of the Success Fee calculated in accordance with Clause A(1)(b) with its next Success Fee Report required pursuant to Clause A(2) above.][*Delete this bracketed section if no Revenue-Based Success Fee is included above.*]

- (4) Timeliness of Reporting and Payment. If the Contractor does not provide one or more Success Fee Reports or Success Fee payments in accordance with the deadlines set forth in Clauses A(2) and A(3) above, as applicable, or if the information or amounts contained in any such Success Fee Report are inaccurate, USTDA shall be entitled to a reimbursement from the Contractor of the total amount of Disbursed Grant Funds, less the amount of any Success Fee payments already made to USTDA. USTDA shall first provide written notice to the Contractor of such deficiency and shall allow the Contractor thirty (30) days to correct the matter before the amount of such reimbursement of the Disbursed Grant Funds becomes due.

B. Cost Share [If there is no Cost Share provided by this Contractor, delete this entire Clause B.]

- (1) Budget Estimate. The Budget Estimate for the Terms of Reference is set forth in Annex II to this Agreement. The Budget Estimate represents the Contractor's fair and reasonable rates and level of effort to complete the Terms of Reference disaggregated into the categories of Direct Labor Costs, Non-Employee Labor Costs, and Other Direct Costs, and including the Cost Share contributed by the Contractor and/or its Subcontractors. The Budget Estimate provides the basis for establishing the Cost Share Ratio (as defined below) between USTDA and the Contractor and includes the requirements set forth below:
 - (a) **Fixed Labor Rates.** The labor rates indicated under the Budget Estimate for the Contractor's Direct Labor Costs (i.e., prime contractor labor rates) and Non-Employee Labor Costs (i.e., Subcontractor labor rates) constitute the fixed and binding rates agreed between USTDA and the Contractor. The Contractor shall use these labor rates for the duration of the Activity, unless otherwise expressly agreed upon with USTDA and memorialized in writing.
 - (b) **No Fee or Profit on Other Direct Costs.** Unless otherwise expressly approved by USTDA in writing, no fee or profit may be included as part of any Other Direct Costs included in the Budget Estimate.
- (2) Cost Share Amount. For purposes of this Agreement, the term "Subcontractor" means any individual, corporation, partnership or other legal entity having a contract, purchase order or other agreement, whether written or oral, with the Contractor for performance of any part of the Activity. Subject to the provisions of Clause B(4), in addition to the USTDA Grant Funds provided, the Contractor shall ensure that the Contractor and/or its Subcontractors fund at least [amount of the cost share spelled out in words] United States Dollars (US\$ [dollar amount of cost share]) toward the costs required to complete the full Terms of Reference (the "Cost Share"), as set forth in the Budget Estimate.
- (3) Certified Statement of Expenditures.
 - (a) Before USTDA will make the final disbursement of Grant Funds, a financial officer of the Contractor must certify in a written statement that the Contractor has complied with the Cost Share requirement (the "Certified Statement of

Expenditures”, or “CSE”). The Certified Statement of Expenditures must either accompany the final invoice or be separately submitted by the Contractor to USTDA. In addition, upon written request from USTDA, the Contractor shall prepare and deliver to USTDA a CSE within thirty (30) days following the date of receipt of such written request. In each case, the CSE must contain a detailed breakdown of all costs charged to the Activity in connection with completing the full Terms of Reference, including Direct Labor Costs, Non-Employee Labor Costs, and Other Direct Costs, and including the Cost Share contributed by the Contractor and/or its Subcontractors, and must follow the format set forth in Annex III to this Agreement. The CSE must include a written explanation of any Substantial Change between the CSE and the Budget Estimate. “Substantial Change” means any of the following: (i) any variation of twenty percent (20%) or more between any dollar amount presented in the CSE and the corresponding dollar amount presented in the Budget Estimate, (ii) any expense line items added to or removed from the CSE, or (iii) any differences in the set of personnel positions listed under the Direct Labor Costs portion of the CSE, in each case, as compared to the Budget Estimate.

- (b) If the CSE is not provided as required or is inaccurate, USTDA shall be entitled to a reimbursement from the Contractor of the total amount of the [Disbursed Grant Funds][Grant Funds that have been previously disbursed to the Contractor in connection with the Activity (the “Disbursed Grant Funds”)], less the amount of any Success Fee reimbursements already paid to USTDA]. USTDA shall first provide written notice to the Contractor of such deficiency and shall allow the Contractor thirty (30) days to correct the matter before the amount of such reimbursement of the Disbursed Grant Funds becomes due.
 - (c) Notwithstanding USTDA’s approval of the final invoice for payment, USTDA may later audit the costs listed in the CSE, and USTDA may be entitled to a reimbursement from the Contractor to the extent that the CSE is not accurate or the costs set forth in such CSE are not supported by adequate documentation, or the labor rates charged to the Activity do not agree with the USTDA-approved labor rates in the Budget Estimate annexed to this Cost Share Agreement in Annex II. The Contractor understands and agrees that if USTDA notifies the Contractor that USTDA is commencing an audit, the audit will proceed on the basis of the CSE delivered to USTDA under Clause B(3)(a), and the Contractor will not have an opportunity to submit a revised or corrected CSE following receipt of such notice.
 - (d) The Contractor understands and agrees that it will be the responsibility of the Contractor to ensure (i) the completeness and accuracy of the CSE, and (ii) that the Contractor and any Subcontractors comply with the terms and conditions of this Agreement. USTDA will be under no obligation to review draft CSEs.
- (4) Activity Cost Adjustments.
- (a) The maximum amount of USTDA contribution to the Activity is equal to the amount of the Grant Funds. The actual Activity funding contributions to be made by each of USTDA and the Contractor must remain proportionate to a ratio (the

“Cost Share Ratio”) that is no greater than (i) the amount of the Grant Funds, to (ii) the amount of the Cost Share contributed by the Contractor[, taking into account the value of the Cost Share that is due to be paid or contributed by the Contractor]. As of the Effective Date, the Cost Share Ratio is equal to [amount of the Grant Funds]:[amount of the Cost Share], or [ratio].[Calculate the initial Cost Share Ratio by dividing the amount of the Grant Funds by the amount of the Contractor’s Cost Share; for example, if USTDA is providing \$1,000,000 in Grant Funds and the Contractor is contributing a Cost Share of \$200,000, the Cost Share Ratio is 1,000,000/200,000 = 5:1.]

- (b) Notwithstanding the provisions of Clause B(2), (i) if the total cost of the Activity upon completion of the full Terms of Reference is less than the Budget Estimate, the Contractor shall so indicate and either reduce the amount of the final invoice accordingly or reimburse to USTDA the appropriate amount of the Disbursed Grant Funds, and (ii) except as otherwise expressly approved in writing by USTDA, in the event that the Contractor does not complete the full Terms of Reference prior to termination of this Agreement and/or the Activity, then the actual funding contributed by each of USTDA and the Contractor will remain proportionate to the Cost Share Ratio.
- (c) [This subclause is only necessary if there are go/no-go points in the Terms of Reference; otherwise this entire subclause can be deleted.][Notwithstanding the provisions of Clause B(2), if the Activity is terminated upon the completion of Tasks 1-[__][Enter the final Task prior any go/no-go point in the Terms of Reference.]), then the amount of the Contractor’s Cost Share obligation will be reduced to [amount of the cost share spelled out in words] United States Dollars (US\$ [dollar amount of cost share]), and the Cost Share Ratio will be adjusted accordingly.]
- (5) Previously-Incurred Costs. Activity-related costs that are incurred by the Contractor and/or its Subcontractors prior to the effective date of the Grant Agreement may not be reimbursed to the Contractor using the Grant Funds. Any such costs may be included as part of the Cost Share; provided, however, that such costs were incurred in respect of Tasks that are included within the Terms of Reference. No costs incurred in connection with preparing the proposal for USTDA funding (including any such costs incurred in connection with contracting for a consultant to represent the Contractor before USTDA) may be reimbursed to the Contractor using the Grant Funds or included as part of the Cost Share.

C. Books and Records

The Contractor shall, and shall require its Subcontractors receiving Grant Funds to, maintain in accordance with generally accepted accounting procedures all books, records and other documents (including without limitation all bank statements, and receipts or proofs of purchase for all goods and services acquired in connection with the Activity), sufficient in form, content and level of detail to properly reflect all transactions and disbursements under or in connection with the Activity and this Agreement. Such books, records and other documents shall clearly identify, track and describe [[any Financing Event that has occurred]][and][any Revenue that has been earned]

[Revise as necessary depending on whether a Finance-Based and/or a Revenue-Based Success Fee is included above.]] [and] [the total cost of the Activity, including the Cost Share contributed by the Contractor and/or its Subcontractors as described in Clause B above].

Such books, records and documents must be maintained for a period of ten (10) years following the [Signing Date][date on which this Agreement is signed by both parties][If there is both a Success Fee and a Cost Share, use "Signing Date" from the first set of brackets.]. The Contractor shall, and shall require its Subcontractors receiving Grant Funds to, (i) afford USTDA or its authorized representatives the opportunity at reasonable times for inspection and audit of such books, records and other documents, and (ii) in the event of an audit of such books, records and other documents, reasonably cooperate with, and promptly respond to information requests from, any USTDA-appointed auditors. [In addition, the Contractor shall (a) cause the other applicable Contractor Parties to maintain adequate books, records and other documents that are sufficient to identify, track and describe [any Financing Event that has occurred][and][any Revenue that has been earned][Revise as necessary depending on whether a Finance-Based and/or a Revenue-Based Success Fee is included above.], and (b) ensure that such books, records and other documents are made available through the Contractor for review by USTDA.]

D. Notices

- (1) Methods of Communication. Any notice, request, document or other communication submitted by either party to the other under this Agreement must be in writing, and will be deemed duly given or sent when delivered to such party at the applicable address of record as set forth below:
- (2) Contractor. The following person shall be the point of contact for the Contractor for all reporting and payment matters under this Agreement:

Name: [Name]
Title: [Title]
Address: [Address]
Phone: [Phone]
Email: [Email]

If, for any reason, it becomes necessary for the Contractor to change the point of contact specified above, the Contractor shall promptly notify USTDA and provide USTDA with updated contact information.

- (3) USTDA.

Name: [Name]
Title: [Title]
Address: 1101 Wilson Boulevard, Suite 1100
Arlington, VA 22209-2275
USA
Phone: (703) 875-4357
Email: [Region's email address]

E. Collection

In the event that the Contractor fails to pay to USTDA any required [Success Fee payments or] reimbursements of Disbursed Grant Funds that are properly due and owing under this Agreement, USTDA may refer the matter to appropriate collection services, including the U.S. Department of the Treasury or other United States Government departments or agencies.

F. Effectiveness

Notwithstanding any other provision herein[, and notwithstanding the occurrence of the Signing Date], this Agreement will become effective on the date on which each of the following conditions is satisfied (the “Effective Date”):

- (1) Signature of the Grant Agreement by both the Grantee and USTDA;
- (2) Signature of the Contract by both the Contractor and the Grantee; and
- (3) Written approval of the executed Contract by USTDA.

G. Successors and Assigns

This Agreement shall be binding upon the Contractor and its successors and permitted assigns; provided, however, that this Agreement shall not be assigned or assumed without the prior written approval of USTDA.

H. Governing Law

This Agreement is governed by, and construed in accordance with, the applicable laws of the United States of America. In the absence of federal law, the laws of the State of New York shall apply, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of another jurisdiction.

I. Termination

USTDA may terminate this Agreement at any time, for any reason or for no reason, upon written notice to the Contractor, and such termination will be effective thirty (30) days following the date of such notice; provided, however, that such termination will not relieve the Contractor from any liability or obligation under this Agreement arising prior to the effective date of such termination. This Clause I and Clauses C, D and E of this Agreement will survive any such termination.

[At this point when preparing the draft SFCS Agreement, before continuing onward:

- 1. If necessary, delete Annex I or Annexes II and III by right-clicking on the applicable Annex in the Navigation pane to the left of the screen and selecting “Delete”. This is the quickest and cleanest way to delete the inapplicable Annex(es).*
- 2. Press Ctrl+A.*
- 3. Press F9 to automatically update all of the cross-references and fields in this document (if working on a laptop, it may be necessary to press Fn+F9).*
- 4. Delete these bracketed instructions.]*

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

If you are in agreement with the foregoing terms and conditions, please so indicate by having a duly authorized representative sign below and returning one signed original to USTDA. We look forward to supporting your efforts to perform the Activity in furtherance of the objectives of the USTDA program.

Sincerely,

Accepted and Agreed on behalf of *[full legal name of the Contractor]*:

[Name of USTDA Signatory]

[Name of Contractor Signatory]

[Title]

[Title]

[Date]

[Date]

[Optional]cc: [full legal name of the Grantee]

Annex I

Form of Success Fee Report

**U.S. TRADE AND DEVELOPMENT AGENCY
SUCCESS FEE PROGRAM – SUCCESS FEE REPORT**

PROJECT INFORMATION:

Country: _____ USTDA Activity No.: _____
Project Name: _____

CONTRACTOR CONTACT INFORMATION:

Contractor Name: _____
Contact Person (Name & Title): _____
Phone: _____ Email: _____
Address: _____

GRANTEE CONTACT INFORMATION:

Name of Grantee: _____
Contact Person (Name & Title): _____
Phone: _____ Email: _____
Address: _____

SUCCESS FEE REPORTING: (Please provide this information on separate sheets.)

A. Formula

Specify the success fee criteria (i.e., based on a financial closing and/or on revenue) as stated in your agreement with USTDA governing the success fee.

B. Measurement

- (1) Describe success of this project or any related project for the Contractor and/or any of its parent(s), subsidiary(ies) and other affiliate(s) based upon the above formula as of the date of this report.*
- (2) Provide a detailed narrative description, applicable statistics or financial reports, and the period or term of their measurement.*

C. Calculation and Reimbursement of Success Fee Due

- (1) Calculate the success fee due to USTDA with this report based upon the above measurement.*
- (2) If any amount of a success fee is due, please attach a reimbursement check, payable to the United States Trade and Development Agency.*
- (3) If no success fee is currently due to USTDA, please attach a detailed explanation.*

D. Projections for Next Year's Success

Estimate the likelihood of success of this project and any related project that will be achieved in the next twelve (12) months.

CERTIFICATION:

I hereby certify that I am a duly authorized representative of [full legal name of Contractor] (the "Contractor") and that all information contained in this Success Fee Report is accurate, complete

and in compliance with the terms of the [Success Fee Agreement][Success Fee and Cost Share Agreement][*Select the appropriate title of this Agreement, depending on whether there is a Cost Share component.*] between the Contractor and the United States Trade and Development Agency, dated as of [date].

By:

Date:

Name and Title of Signatory:

Annex II

Budget Estimate

[Attach the final Budget Estimate agreed upon by USTDA, the Contractor, and the DS/DM consultant. Use the sample spreadsheets included as part of the form of Certified Statement of Expenditures in Annex III as a general format for preparing the Budget Estimate in terms of organization, structure and content, with the understanding that the Contractor may need to significantly deviate from this sample in order to tailor the Budget Estimate to a given Activity. The list of Requirements Governing Preparation of the Certified Statement of Expenditures set forth in Annex III applies equally to the preparation of the Budget Estimate.]

Annex III

Form of Certified Statement of Expenditures

Required Certification Language

[If the Contractor completed all of the Tasks under the Terms of Reference, use the certification below:]

“As detailed below, *[full legal name of the Contractor]* (the “Contractor”) and/or its Subcontractors *[has][have]* covered at least US\$ *[dollar amount of total cost share]* of costs required to complete the full Terms of Reference as set forth in Annex I to the Contract between *[full legal name of the Grantee]* and the Contractor, dated as of *[date]*.”

[If the Contractor did not complete all of the Tasks under the Terms of Reference, use the certification below:]

“As detailed below, *[full legal name of the Contractor]* (the “Contractor”) and/or its Subcontractors *[has][have]* covered at least US\$ *[dollar amount of Contractor’s actual expenditures toward cost share]* of costs toward partial completion of the Terms of Reference as set forth in Annex I to the Contract between *[full legal name of the Grantee]* and the Contractor, dated as of *[date]*. As per the *[Notice of Termination]* from *[sending party]* to *[receiving party/parties]*, dated *[date]*, all work under the Contract was terminated as of *[date]*. The Contractor certifies that it has fully completed Task(s) *[Task number(s)]* and partially completed Task(s) *[Task number(s)]* under the Terms of Reference.”

“The undersigned supervised the preparation of the attached Certified Statement of Expenditures (“CSE”), and the CSE complies in all respects with the “Requirements Governing Preparation of the Certified Statement of Expenditures” set forth below. Without limiting the generality of the foregoing statement:

(a) the labor rates for employees of the Contractor presented under the Direct Labor Costs reflect the fixed labor rates agreed upon under the Cost Share Agreement (including the Budget Estimate Annex thereto), in compliance with Clause B(1)(a) (Fixed Labor Rates) of the Cost Share Agreement;

(b) the labor rates for Subcontractors and other personnel who are not employees of the Contractor presented under the Non-Employee Labor Costs heading reflect the fixed labor rates agreed upon under the Cost Share Agreement (including the Budget Estimate Annex thereto), in compliance with Clause B(1)(a) (Fixed Labor Rates) of the Cost Share Agreement;

(c) Items presented under the Other Direct Costs heading do not include fee or profit and therefore are in compliance with the requirements under Clause B(1)(b) (No Fee or Profit on Other Direct Costs) of the Cost Share Agreement[; and

(d) no Grant Funds have been used to fund any equipment-related costs][*Include unless inapplicable; if subclause (d) is deleted, add the word “and” at the end of subclause (a).*].”

By:

Date:

Name and Title of Financial Officer of [*full legal name of the Contractor*]:

Requirements Governing Preparation of the Certified Statement of Expenditures

- Unless otherwise agreed by USTDA, Grant Funds may not be used to fund any equipment-related costs.
- Present the per Task amounts for each line item in columns across the top of the page. To the extent that the Terms of Reference include Subtasks, include separate columns and associated amounts in the CSE related to all such Subtasks.
- Labor rates for employees of the Contractor must be presented under the Direct Labor Costs heading, and must equal the fixed labor rates agreed upon under the Cost Share Agreement (including the Budget Estimate Annex thereto).
- Labor rates for Subcontractors and other personnel who are not employees of the Contractor must equal the fixed labor rates agreed upon under the Cost Share Agreement (including the Budget Estimate Annex thereto).
- Other Direct Costs must not include fee or profit.
- The CSE must clearly present the calculations for (i) labor costs for Contractor and Subcontractor personnel by showing the applicable labor rates (whether hourly, daily or otherwise) multiplied by the applicable time period, (ii) travel costs (encompassing costs for international air travel, in-country air travel and ground transportation) by showing the applicable average cost per trip multiplied by the number of trips, and (iii) *per diem* costs by showing the applicable *per diem* rate for the city and country stated in the CSE multiplied by the number of days.
- If more than one Subcontractor works on the Activity, include the name of the Subcontractor entity (or the individual person, as applicable) along with the job position.
- Costs presented under the Purchased Services and Contracts heading of the CSE may include engineering drawings, lab work, surveys, translation, etc., which would not be included under Non-Employee Labor Cost heading.
- Pursuant to Clause B(3)(a), the Contractor must submit an accompanying written explanation of any Substantial Change between the Budget Estimate and the Certified Statement of Expenditures. “Substantial Change” means any of the following: (i) any variation of twenty percent (20%) or more between any dollar amount presented in the CSE and the corresponding dollar amount presented in the Budget Estimate, (ii) any expense line items added to or removed from the CSE, or (iii) any differences in the set of personnel positions listed under the Direct Labor Costs heading of the CSE, in each case, as compared to the Budget Estimate.
- The following pages illustrate only the general format of the CSE that is expected in terms of organization, structure and content, with the understanding that the Contractor may deviate from this format to the extent necessary to reflect the particular details and costs of the specific Activity in question. This general format is not intended to be over-prescriptive in terms of how the Contractor models the costs of the Activity or sets up the formula equations. Note that the CSE must contain a total of three spreadsheets: (i) costs covered by the Grant Funds, (ii) costs covered by the Contractor’s Cost Share, and (iii) the combined costs for the Activity overall, which conceptually should be the aggregate sum

of the previous two spreadsheets. All dollar amounts and calculations must be free of data entry inaccuracies, mathematical mistakes and formula errors.

TOTAL ACTIVITY BUDGET

[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	Total
Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	Task 13	Task 14			

Direct Labor Costs²

Position 1	200	1000	800													
[Days][Hours]	2	10	4													
[Daily Rate][Hourly Rate]	100	100	200													
Position 2																
Position 3																

Total Direct Labor

Non-Employee Labor Costs³

Position 1																
[Days][Hours]																
[Daily Rate][Hourly Rate]																
Position 2																
Position 3																

Total Non-Employee Labor

Total Labor Costs

Other Direct Costs

Purchased Services and Contracts⁴

Contract 1																
Contract 2																
Total																

Travel

International Air Travel																
Number of Trips																
Cost per Trip																
In-Country Air Travel																
Ground Transportation																
Per Diem - [City, Country]																
Days																
Daily Rate																
Interpreters																
Other (local travel, etc. [be specific])																
Total																

Other Costs

Courier Services																
Reproduction and Binding																
Telephone, Fax, & Internet Charges																
Visa Services																
Total																

Total Other Direct Costs

Activity Total

Total U.S. Company Cost Share

Amount of USTDA Grant Funds

Notes:

1. Unless otherwise agreed by USDA, Grant Funds may not be used to fund any equipment-related costs.
2. Labor rates for employees of the Contractor must be presented under the Direct Labor Costs headings and such rates must equal the fixed labor rates agreed upon under the Cost Share Agreement (including the Budget Estimate Annex thereto).
3. Labor rates for Subcontractors and other personnel who are not employees of the Contractor must be presented under the Non-Employee Labor Costs heading and such rates must equal the fixed labor rates agreed upon under the Cost Share Agreement (including the Budget Estimate Annex thereto).
4. Costs presented under the Purchased Services and Contracts heading of the CSE may include engineering drawings, lab work, surveys, translation, etc., which would not be included under the Non-Employee Labor Cost heading.

USTDA GRANT FUNDS

[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	Total
Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	Task 13	Task 14			

Direct Labor Costs

Position 1	200	1000	800												
[Days][Hours]	2	10	4												
[Daily Rate][Hourly Rate]	100	100	200												
Position 2															
Position 3															

Total Direct Labor

Non-Employee Labor Costs

Position 1															
[Days][Hours]															
[Daily Rate][Hourly Rate]															
Position 2															
Position 3															

Total Non-Employee Labor

Total Labor Costs

Other Direct Costs

Purchased Services and Contracts															
Contract 1															
Contract 2															
Total															

Travel

International Air Travel															
Number of Trips															
Cost per Trip															
In-Country Air Travel															
Ground Transportation															
Per Diem - [City, Country]															
Days															
Daily Rate															
Interpreters															
Other (local travel, etc. [be specific])															
Total															

Other Costs

Courier Services															
Reproduction and Binding															
Telephone, Fax, & Internet Charges															
Visa Services															
Total															

Total Other Direct Costs

Activity Total

CONTRACTOR COST SHARE

[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	[Task Name]	Total
Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Task 11	Task 12	Task 13	Task 14			

Direct Labor Costs

Position 1
[Days][Hours]
[Daily Rate][Hourly Rate]
Position 2
Position 3

Total Direct Labor

Non-Employee Labor Costs

Position 1
[Days][Hours]
[Daily Rate][Hourly Rate]
Position 2
Position 3

Total Non-Employee Labor

Total Labor Costs

Other Direct Costs

Purchased Services and Contracts
Contract 1
Contract 2
Total

Travel

International Air Travel
Number of Trips
Cost per Trip
In-Country Air Travel
Ground Transportation
Per Diem - [City, Country]
Days
Daily Rate
Interpreters
Other (local travel, etc. [be specific])
Total

Other Costs

Courier Services
Reproduction and Binding
Telephone, Fax, & Internet Charges
Visa Services
Total

Total Other Direct Costs

Activity Total