

**Development Objective Cooperation Agreement**

**Principal Text.**

USAID Development Objective Agreement No. AAG-111-G-13-001

DEVELOPMENT OBJECTIVE COOPERATION AGREEMENT

BETWEEN

THE UNITED STATES OF AMERICA

AND

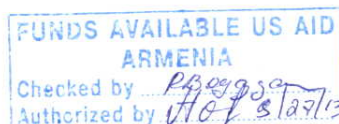
THE REPUBLIC OF ARMENIA

FOR

MORE PARTICIPATORY, EFFECTIVE AND ACCOUNTABLE GOVERNANCE

September 28, 2013

Fiscal Data: FY12/13 EC, FY12/13 DV  
Treasury Symbol: 7212/130306, 7212/131021  
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Agreement Number: AAG-111-G-13-001



## Development Objective Cooperation Agreement

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## DEVELOPMENT OBJECTIVE COOPERATION AGREEMENT

Dated: September 28, 2013

Between

The United States of America, acting through the United States Agency for International Development ("USAID")

and

The Republic of Armenia, acting through The Office of the Prime Minister (hereinafter referred to as the "Grantee")

### **Article 1:** Purpose.

The purpose of this Development Objective Cooperation Agreement (the "Agreement") is to set out the understanding of the parties named above (the "Parties") in connection with cooperation towards achieving the Objective described below.

### **Article 2:** Functional Objective, Program Areas and Program Elements.

#### Section 2.1. Functional Objective.

The Objective of this Agreement is *More Participatory, Effective and Accountable Governance* (the "Functional Objective"), as articulated in Attachment A, Amplified Description.

#### Section 2.2 Program Areas and Elements.

In order to achieve the U.S. foreign assistance Objective, the Parties hereto agree to work together by pursuing the Intermediate Results as set forth in Annex A, Amplified Description. USAID funds shall be programmed in the Program Areas and Elements as set forth in Attachment 1 to Annex A, Financial Plan.

#### Section 2.3. Annex 1, Amplified Description.

Annex 1, attached, amplifies the above Objective and describes the Intermediate Results USAID will pursue in support of that Objective, and Indicators that will be used to measure the progress and achievement towards the Objective and each of the Intermediate Results. Within the limits of the definition of the Functional Objective set forth in Section 2.1, Annex 1 may be modified



by written agreement of the authorized representatives of the Parties without formal amendment of this Agreement without prejudice to internal procedures prescribed by laws of the Parties.

**Article 3:** Contributions of the Parties.

**Section 3.1.** USAID Contribution.

(a) The Grant. To help achieve the Objective set forth in this Agreement, USAID, pursuant to the Foreign Assistance Act of 1961, as amended, hereby grants to the Grantee under the terms of the Agreement an amount not to exceed Two Million Four Hundred Forty-Eight Thousand Eight Hundred Eighty-One United States ("U.S.") Dollars (\$2,448,881 ) (the "Grant").

(b) Total Estimated USAID Contribution. USAID's total estimated contribution to achievement of the Objective will be Thirty-Three Million U.S. Dollars (\$33,000,000), which will be provided in increments. Subsequent increments will be subject to the availability of funds to USAID for this purpose and may be provided by USAID upon written notice to the Grantee. The Parties agree that each such incremental contribution provided, if any, shall cumulatively increase the total amount of the Grant set forth in Section 3.1 and consequently may increase the Grantee's contribution under Section 3.2. The Grantee further agrees to acknowledge by written notice to USAID each such incremental contribution, if any.

(c) If at any time USAID determines that its contribution under Section 3.1(a) exceeds the amount which reasonably can be committed for achieving the Objective during the current or next U.S. fiscal year, USAID may, upon written notice to the Grantee, withdraw the excess amount, thereby reducing the amount of the Grant as set forth in Section 3.1(a). Actions taken pursuant to this subsection will not revise USAID's total estimated contribution set forth in 3.1(b).

**Section 3.2.** Grantee Contribution.

(a) The Grantee agrees to provide or cause to be provided all funds, in addition to those provided by USAID and any other donor identified in Annex 1, and all other resources required to complete, on or before the Completion Date, all activities necessary to achieve the Objective.

(b) The Grantee's contribution, based on USAID's contribution in Section 3.1(a), will not be less than the equivalent of Eight Hundred Sixteen Thousand Two Hundred Ninety-Four (\$816,294) U.S. dollars, composed of in-kind or cash contributions from current budgetary resources. If USAID changes the amount of the Grant in Section 3.1(a) incrementally, as contemplated herein, the Grantee's contribution shall change with each increment accordingly, such that the Grantee's contribution will not be less than the equivalent of one-third of that portion of the Grant that is used to support activities that either directly provides substantial benefit to the Government of Armenia or involves the direct and substantial involvement of the Government of Armenia in the administration, control or management of such assistance. The precise amount of Grantee contribution shall be indicated in USAID's written notice of each incremental contribution. In the event that USAID decreases the grant amount in Article 3.1(a) under the authority of Article 3.1(c), the Grantee contribution shall be correspondingly decreased



in accordance with the calculation provided herein, and such decreases recorded by USAID implementation letter. The Grantee's total estimated planned contribution to the Objective will be subject to availability of budgeted funds to the Grantee for this purpose and to USAID providing the total estimated amount in Section 3.1(b). The Grantee will report at least annually in a format to be agreed upon with USAID on its cash and in-kind contributions.

**Article 4:** Completion Date.

(a) The Completion Date, which is September 30, 2018, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all the activities necessary to achieve the Objective will be completed.

(b) Except as USAID may otherwise agree to in writing, USAID will not issue or approve documentation that would authorize disbursement of the Grant for services performed or goods furnished after the Completion Date.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, are to be received by USAID no later than nine (9) months following the Completion Date, or such other period as USAID agrees to in writing before or after such period. After such period USAID, at any time or times, may give notice in writing to the Grantee and reduce the amount of the Grant by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, were not received before the expiration of such period.

**Article 5:** Conditions Precedent to Disbursement.

Section 5.1. First Disbursement.

Prior to the first disbursement under the Grant, or to the issuance by USAID of documentation pursuant to which disbursement will be made, the Grantee will, except as the Parties may otherwise agree in writing, furnish to USAID in form and substance satisfactory to USAID:

(a) An opinion of the Ministry of Justice acceptable to USAID that (i) this Agreement has been duly authorized or ratified by, and executed on behalf of the Grantee, (ii) this Agreement constitutes a valid and legally binding obligation of the Grantee in accordance with the law of the Republic of Armenia, and (iii) all internal actions and approvals necessary to give effect to this Agreement have been obtained by or on behalf of the Grantee;

(b) A signed statement in the name of the person holding or acting in the office of the Grantee specified in Section 7.2, which designates by name and title any additional representatives each of whom may act pursuant to Section 7.2; and

(c) A signed statement in the name of the person holding or acting in the office of the Grantee specified in Section 7.2, which certifies that the Grantee shall meet all of its commitments as stated in Annex 1, Article VI.2, Responsibilities of the Parties.

## Section 5.2. Work-Specific Conditions Precedent to Disbursement.

- (a) USAID will provide technical and material assistance, as needed and as agreed later, to the Grantee in support of the process undertaken to formalize the Government of Armenia's policy toward strengthening local governance. Prior to disbursement by USAID to provide assistance to the Ministry of Territorial Administration (MTA) subsequent to September 30, 2013, the Grantee shall legally adopt and publish the policy for expanded capacity for local governance.
- (b) The Grantee commits to passing into law the legislative package, as specified in Attachment A, on the expanded capacity for local governance. Subsequent disbursement of funds to the Grantee shall depend on the submission and passage of the various laws in the legislative package, in accordance to the schedule as detailed in Attachment A.
- (c) Prior to disbursement of funds by USAID, or issuance of documentation by USAID pursuant to which disbursement will be made, to provide technical or material support to the Ethics Commission, the Grantee shall provide the Ethics Commission with independent facilities and a direct operational budget in the national budget.
- (d) Prior to disbursement of funds by USAID, or issuance of documentation by USAID pursuant to which disbursement will be made, to provide technical or material support to the Anti-Corruption Strategy Monitoring Commission, the Grantee shall provide the Anti-Corruption Strategy Monitoring Commission with adequate direct operational budget.

## Section 5.3. Other Commitments.

- (a) The Grantee commits to implement reforms promoting transparency, accountability, and effectiveness of public services.
- (b) In order to fight corruption more effectively, the Grantee commits to conducting public stakeholder consultations on the adoption of a whistleblower protection law and to publish a proposed draft law.
- (c) The Grantee commits to organizing free, fair, and transparent local and national elections that minimize the use of administrative and public resources for campaign and other competitive purposes.
- (d) The Grantee will submit a package of legislative bills for passage by the National Assembly to improve the enabling environment for civil society by June 30, 2014, as further detailed in Annex A.
- (e) As a part of its efforts to fight corruption the Grantee commits to adhere to and further develop and enforce laws and legal mechanisms to prohibit, limit and sanction conflicts of private and public interests by all government officials and employees, in accordance with the recommendations of the Organization for Economic Co-operation and Development's Istanbul



Action Plan, and other international best practices, including Article 20 of the UN Convention Against Corruption.

(f) The Grantee commits to respecting the role of the National Assembly as an independent branch of government wherein political actors and stakeholders have fair opportunity for debate and representation, access to parliamentary resources, public hearings, and access to citizen input and interests.

#### Section 5.4. Notification.

USAID will promptly notify the Grantee when USAID has determined that a condition precedent has been met.

#### Section 5.5. Terminal Dates for Conditions Precedent.

(a) The terminal date for meeting the conditions specified in Section 5.1 is 90 days from the date of this Agreement or such later date as USAID may agree to in writing before or after the above terminal date. If the conditions precedent in Section 5.1 have not been met by the above terminal date, USAID, at any time, may terminate this Agreement by written notice to the Grantee.

(b) In the event that USAID reduces the amount of the Grant in Section 3.1(a), the Parties shall renegotiate and amend the deadlines in Sections 5.2 and 5.3 to reflect the impact of such reduction on the timeline.

#### Article 6: Special Covenants.

(a) The Grantee, in conjunction with the appropriate Government of Armenia ministries and offices, hereby covenants and agrees to issue, renew and/or extend free of charge and in a timely manner all official permits, visas, exemptions and any other permissions (including all approvals as may be required from time to time to ensure full access to information, project sites and relevant offices) for the Applicable Persons (as defined below) carrying out activities financed by USAID under this Agreement (collectively, the "Required Documents"). For purposes of this provision, Applicable Persons is defined as: (1) employees and consultants of any contractors, recipients of grants and other organizations carrying out activities financed by USAID under this Agreement and (b) members of such employees' and consultants' households. Any renewals or extensions of such Required Documents that are required, or become required, in order for such employees, consultants and dependent family members to legally reside in the Republic of Armenia and undertake the activities contemplated by and financed under this Agreement shall also be issued free of charge.

(b) Subcommitting, subobligating and disbursing funds. With respect to disbursements made under this Agreement, the Grantee agrees that after satisfaction of the Conditions Precedent set forth in Section 5.1, USAID may subcommit, subobligate and disburse Grant funds available under Section 3.1(a) through such contracts and grants with entities selected by USAID, so long



as such actions and disbursements are consistent with the terms and conditions of Annex 1 (Amplified Description) hereof without any further approval or concurrence.

(c) USAID shall periodically inform the Grantee of all disbursements directly made by USAID under this Agreement, providing the Grantee with the amount(s) and purpose(s) of such disbursement(s). Prior approval of the Grantee, however, shall be required, for any disbursements of Grant funds made directly to the Grantee.

**Article 7:** Miscellaneous.

**Section 7.1.** Communications.

Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram, telefax, cable or electronic mail ("e-mail"), and will be deemed duly given or sent when delivered to such Party at the following address:

USAID

To: USAID/Armenia: Mission Director  
Mail Address: U.S. Embassy Compound  
1 American Avenue  
0082 Yerevan, Armenia

Alternate address for cables:

Telefax: (37410) 46 47 28  
E-mail: [armeniacontact@usaid.gov](mailto:armeniacontact@usaid.gov)

The Grantee

To: Chief of Staff, Government of the Republic of Armenia  
Mail Address: Government Building 1

Alternate address for cables:

Telefax: (37410) 51-75-03  
E-mail: [headstaff@gov.am](mailto:headstaff@gov.am)

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

**Section 7.2.** Representatives.

For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding the position or acting as Chief of Staff of the Government of the Republic of Armenia, and USAID will be represented by the individual holding the position or acting as Mission Director, each of whom, by written notice, may designate additional representatives for all purposes other than signing formal amendments to the Agreement or exercising the power under Sections 2.2 or 2.3 to revise the Program Elements, Indicators or Annex 1. The names and titles

of the additional representatives of the Grantee will be provided pursuant to Section 5.1(b) to USAID, which may accept as duly authorized any instrument signed by such additional representatives (or any individuals subsequent holding or acting in the office of such representatives) in accordance with this Section 7.2, until receipt of written notice of revocation of their authority.

#### Section 7.3. Standard Provisions Annex.

A "Standard Provisions Annex" (Annex 2) is attached to and forms part of this Agreement.

#### Section 7.4. Suspension and Termination.

(a) Either Party may terminate this Agreement in its entirety by giving the other Party thirty (30) days written notice. USAID also may terminate this Agreement in part by giving the Grantee thirty (30) days written notice, and suspend this Agreement in whole or in part upon giving the Grantee written notice. Such partial termination shall not affect activities under the agreement other than those subject to the partial termination. 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 Program Elements 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 7.5. Language of Agreement. This Agreement is prepared in both English and Armenian. In the event of ambiguity or conflict between the two versions, the English language version will control.

Section 7.6. Entry Into Force. This Agreement shall enter into force on the date of receipt by the United States, represented by USAID, of the Grantee's notification of its consent to be bound as required by Article 5.1(a).

IN WITNESS WHEREOF, the United States of America and the Grantee, each acting through its duly authorized representatives, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

REPUBLIC OF ARMENIA:

UNITED STATES OF AMERICA:

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Mr. Vache Gabrielyan

Name: Dr. Karen Hilliard

Title: Chief of Staff, Government of the Republic  
of Armenia

Title: Mission Director  
USAID/Armenia

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## **Annex 1 to Development Objective Cooperation Agreement Amplified Description**

### **I. Introduction**

Working toward the overarching goal of “an engaged citizenry shares the benefits of increased prosperity and effective governance,” USAID/Armenia has three development objectives: increasing inclusive economic growth; developing more participatory and effective governance; and improving selected health outcomes.

In support of the second objective, USAID will help Armenia accelerate toward more participatory, effective and accountable governance. The program will focus on achieving this objective by supporting the following Intermediate Results (IR):

- IR1: Increased citizen engagement in and oversight of democratic and social reforms;
- IR2: More transparent, responsive and effective policymaking and implementation.

USAID will focus its assistance in key reform areas that the Grantee has prioritized, such as expanded capacity for local self-governance, reducing corruption and increasing transparency, and pension reform.

This Annex I describes the activities to be undertaken and the results to be achieved with the funds obligated under this Agreement. Nothing in this Annex shall be construed as amending any of the definitions or material terms of the Agreement. Some of the activities described in this Annex were begun in previous years and some may be continued or initiated under this Agreement.

### **II. Background**

Armenia has demonstrated its resilience in the face of severe economic downturns and instability since independence. Notwithstanding these difficulties, Armenia has made significant strides in reducing poverty, improving health outcomes, developing civil society and laying the foundations for economic growth, and USAID has provided assistance in support of these efforts for twenty years. However, development challenges still exist which confront Armenia’s further transition to democratic governance and broad-based prosperity.

Straddling Europe and Asia, small and land-locked Armenia is geopolitically constrained by closed borders with Turkey and Azerbaijan. Energy insecure, Armenia depends on an aged nuclear power plant and trade agreements with Iran to meet its resource needs. Russia dominates most of the country’s sectors including energy, transport, defense, and infrastructure.

Domestically, issues still hamper meaningful political reform and inclusive economic growth. However, progress has been made, and initiatives by the Grantee indicate opportunities for increased improvement in the Armenia's democratic governance.

### **Challenges and Opportunities in Democratic Governance:**

#### Challenges:

- *Weak Checks and Balances.* The key governance challenge is the lack of genuine checks and balances in the system that lead to a lack of consistent application of the rule of law and citizens' meaningful participation in political processes.
- *Civic Apathy and Weak Agents of Accountability.* As demonstrated by various surveys and analyses, citizens have low levels of trust in governance institutions and NGOs alike. Contributing to weak civic oversight is the fact that 69 percent of citizens view the government as a "parent" versus a "client." Civil society is atomized, heavily donor dependent, and not widely seen as representative of the public's interest. The media, another key element of accountability, lack diversity of viewpoints and suffer from limited resources and a lack of professionalism.
- *Government Effectiveness.* With a score of 50 percent on World Bank's *Worldwide Governance Indicators*, "government effectiveness" in Armenia is hampered by patronage and corruption that results in inconsistent enforcement of regulations and provision of services. Governance is based on the consensus of elite groups, leaving little room for civic input to legislative processes and policy formation. Across all sectors, laws and reforms are often well-developed but poorly implemented.

#### Opportunities:

- *Expanded capacity for local governance.* Identified as a future reform area, expanding the legal authority and capacity of local governments will result in more participatory and effective governance.
- *Government Reforms.* Armenia has had some success in addressing corruption, improving tax administration, and increasing effectiveness in public administration in recent years. Continued government reforms can build on past efforts.
- *Ethics and Anticorruption.* Advances by the Government to confront corruption and promote transparency, both in traditional forms and via online technologies create possibilities for greater control of government spending and program implementation.
- *Civic Engagement.* Government outreach and public services to engage citizens combined with new forms of civic activism have emerged and have the potential to take advantage of social media and other technologies to increase civic engagement.

### III. Development Objective.

#### **Towards More Participatory, Effective and Accountable Governance**

Improved governance is critical to ensuring and sustaining Armenia's stability and prosperity over the long term. Given its importance, USAID will pursue as a development objective to



increase participatory, effective, and accountable governance in Armenia. The development hypothesis underlying the achievement of this development objective is that if: (i) citizens engage more in and monitor reform areas that converge with Grantee's priorities; and (ii) policymaking and reform implementation is more transparent and responsive to citizens, then governance will be improved – defined as more participatory, effective and accountable.

Viewing competition broadly, USAID will work in new ways to enhance the competition of ideas through access to information and mechanisms that foster input and debate; and the competition between branches and levels of government through accountability.

USAID will accomplish the development objective through an integrated set of results. IR 2.1 focuses resources on the “demand-side” results (enhancing citizen engagement, participation and influence on political decision-making, improving monitoring and oversight of government performance) while IR 2.2 entails the necessary “supply-side” results (increasing the transparency and effectiveness of government policies and their implementation).

USAID will support strategic policy reform areas that the Government of Armenia itself has prioritized: good governance; local governance; and social reform, including implementing a new pension system and policies promoting social inclusion. Using the reforms as tools, the Mission will develop and reinforce a set of key competencies, institutions, and practices within civil society and the government that will lead to significantly improved implementation of reforms and improved governance overall.

Based on the premise that the best opportunity to promote economic, political and social development is to work at the local level, where the space between citizens and governance is the closest, USAID/Armenia will strengthen local governance and support the government in implementing its plans for developing the role of municipalities. Progress made in strengthening democratic governance at the local level can serve as a model for participatory and responsive governance on the national level. Civil society and the media have vital roles to play in ensuring government effectiveness in reform as advocates and watchdogs while also promoting the government's own capacity to monitor its progress toward reform.

An effective and comprehensive plan for monitoring performance and impact will be central to USAID's new approach. This commitment will entail contingency planning, developing concrete and measurable indicators and milestones at the development objective and intermediate result levels that reflect outcomes which can be verified through evaluation, rapid assessments, and public opinion surveys.

*More participatory, effective and accountable governance* will be achieved through:

- IR1: Increased citizen engagement in democratic and social reforms; and
- IR2: More transparent, responsive and effective policymaking and implementation.



### Intermediate Result 1: Increased citizen engagement in democratic and social reforms

Civil society institutions are critical to ensuring that there is a competition of ideas and mechanisms for debate of public policy, and to the success of an inclusive, participatory approach to democratic and social development. Civic organizations, think tanks, and the various media actors play an important role in educating the public and government on key issues. A citizenry that is well-informed and expresses its interests in policies, programs, and services provides a means by which governance can be responsive. In addition, civil society's role monitoring and conducting oversight of national and local government performance is critical to the Government of Armenia's successfully achieving policy ends that benefit citizens and communities.

#### Illustrative Activities

USAID will strengthen civil society's ability to aggregate and advocate for citizens' interests and thereby bolster their legitimacy and independence from donor funding. Targeting rural areas, USAID will work to improve participation, transparency/accountability and good governance. Assistance will promote new types of civic engagement, increase the sophistication civic actors' ability for policy formulation, improve access to alternative and reliable media and information sources; and expand citizen awareness and understanding of public policies. USAID's approach will emphasize enlarging the nexus in which government reform and citizen engagement meet by increasing citizen access to reliable sources of information and strengthening the capacity, coordination, and networking of civic actors. USAID will equip civic organizations representing both public and private interests with the resources required to define their aspirations, support their goals, and advocate for reforms to achieve those goals. USAID will pay special attention to supporting youth and women to play a greater role in civic and political life.

To enhance civil society's capacity to play a more effective oversight and watchdog role, USAID will provide support to civil society organizations, including NGOs, foundations, think tanks, research centers, community-based organizations, and traditional and social media outlets, to improve their abilities to analyze government performance in a systematic, evidenced-based manner, monitor government reform processes, assess impact of reforms, and hold government officials accountable.

Assistance to be carried out may include:

- improving civil society's ability to mobilize citizens and articulate their interests;
- increasing citizen access to independent and reliable information;
- promoting an enabling environment for civil society sustainability;
- establishing civil society mechanisms to monitor progress and impact national level reforms.

### Intermediate Result 2: Transparent, responsive and effective policymaking and implementation

USAID/Armenia will chart a new course in its approach to strengthening good governance. As detailed herein, USAID will target assistance to governance areas where a consensus emerges for reform, there is demonstrated leadership by government, and the reform has the potential for



tangibly impacting citizens, such as local governance. USAID assistance will bolster the technical and administrative capacity of the Government of Armenia at the national and local levels to implement key reforms. Support will include technical assistance as well as support to enhance citizen engagement, transparency, budgeting, financial accountability, and public awareness. As a result, government effectiveness will be improved and the means by which civil society can participate in public decision making and access information will be strengthened.

#### Illustrative Activities

Support will be directed at the Grantee's policy making institutions, including target ministries, local governments, and the National Assembly. USAID will work with both national and local level government institutions to establish and strengthen mechanisms and processes to enhance citizen participation and increase transparency. USAID will provide assistance to reach mutually agreed upon benchmarks for achieving progress. Holding regular town hall meetings, publishing draft policies and legislation, instituting e-governance, developing protocols that foster participation are all examples of the mechanisms that USAID will support to encourage civil society-government collaboration. Because the National Assembly has the potential to play a key policy making role, USAID will provide assistance to parliamentary committees to strengthen the debate, public input, evidence-based analysis, and rigor involved in the legislative process.

With respect to promoting decentralization and strengthening local governance, USAID may include technical assistance to the Ministry of Territorial Administration to implement the government's strategy to enhance the authority and capacity of local governments and develop rural areas, facilitating participatory approaches, generating local income, and managing fiscal resources. With respect to providing assistance in the government's efforts to fight corruption, USAID may provide assistance to the Ministry of Justice to implement e-governance public services systems or to the Ethics Commission for High-Ranking Officials to strengthen it organizationally and help it better achieve its functional purposes. USAID/Armenia will also play an important role in assisting relevant government institutions to administer a sustainable pension system. This important social reform will increase civic trust in public services as well as improve government effectiveness and sustainable service delivery of a national program.

USAID will also help create and strengthen mechanisms and institutions for government, citizens, media and civic actors to effectively monitor the implementation of democratic reforms. If both government and non-governmental institutions monitor the development, plans, and implementation of reforms, then they will more likely be fully carried out, providing momentum for further reform. The media has an important role to play in monitoring reform, as do think tanks and interest groups.

Assistance to be carried out may include:

- strengthening policy process and mechanisms for civic monitoring of government institutions;
- improving the government's ability to apply open and participatory policy processes;

- strengthening municipal technical capacity to provide service delivery and make decision making more transparent;
- establishing government-supported mechanisms to monitor progress and impact national level reforms.

#### IV. Indicators.

The Parties will measure progress towards achieving the Intermediate Results and Development Objective through improvement in the following measurements:

- Freedom House's *Nations in Transit* overall score
- Corruption Perception Index
- Freedom House's *Nations in Transit*: Civil Society
- NGO Sustainability Index: Advocacy; Media Sustainability Index: freedom of speech
- Freedom House's *Nations in Transit*: Local Governance
- EU Implementation of GRECO: compliance score
- Global Integrity Scorecard
- Transparency International's Global Corruption Barometer
- WB's *Governance Matters*: government effectiveness, control of corruption , and voice and accountability indicators

#### V. Targets.

The Parties will establish and amend targets by mutual implementation letter.

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

##### 1. USAID:

USAID shall implement activities described in section IV above by awarding contracts, cooperative agreements and grants to private companies, non-governmental or governmental organizations and/or to Government of Armenia organizations with funds obligated in this agreement. This will be done through USAID procedures and rules for direct contracts and grants. USAID will coordinate closely with the Armenian counterparts in the implementation of these activities, and whenever appropriate, will seek to implement through Armenian companies, non-governmental or governmental organizations.

USAID/Armenia will consult with Government of the Republic of Armenia staff and donor community in identifying and selecting of activities to be implemented under the Agreement.

For all activities under this Agreement involving direct assistance to the Grantee, USAID/Armenia will closely coordinate with the Grantee, and will engage the Grantee in project design, implementation and monitoring of such activities.



### *Expanded capacity for local governance*

- (a) Prior to adoption of a clear decentralization policy (which will detail the Government of Armenia's approach to community enlargement or intercommunity unions or other means of consolidating community rights, responsibilities, authorities and funding), USAID will provide assistance to the Ministry of Territorial Administration to help formulate such a policy.
- (b) Upon adoption of the policy in point "a." above by September 30, 2013, USAID will continue capacity building to the Ministry of Territorial Administration in the implementation process of the policy.

### *Transparency and Accountability*

- (a) USAID will provide technical and material assistance to promote the Grantee's public services reforms.
- (b) USAID will provide material and technical assistance to the Ethics Commission and the Anticorruption Strategy Monitoring Commission. A condition precedent to USAID providing assistance to the Ethics Commission is their obtaining offices separate from the Presidential Administration and receiving a dedicated line item in the national budget for staffing a Secretariat.
- (c) USAID will provide technical assistance in the whistleblower protection legislative development process.
- (d) USAID will provide technical assistance regarding restructuring responsibilities and relationship of Anticorruption Strategy Monitoring Commission to the Government of Armenia.

### *Civil Society*

- (a) USAID will provide technical experts to assist the Ministry of Justice and civil society organizations in developing the legal and regulatory amendments necessary to implement the enabling environment recommendations.

## 2. Government of Armenia:

### *Expanded capacity for local governance*

- (a) To pursue the reform, highlighted in the strategy paper on expanding local governance, the Grantee will:
  - establish a clear policy on community enlargement, intercommunity cooperation or other such approach to defining community rights, responsibilities, authorities and funding.
  - introduce the new Law on Local Self-Government

- advocate for the passage of the Law on Equalization held at the parliament
- introduce the Law on Local Property Tax
- introduce municipal borrowing mechanisms against the state budget
- introduce municipal service reforms for local government capacity building
- improve regulations on procurement for local governments

(b) The Grantee will submit and pass the following laws (“legislative package”) in accordance with the following schedule:

<b>Legislation</b>	<b>Date by which submitted to and passed by the National Assembly</b>
Passage of reforms to relevant laws in order to establish municipal borrowing mechanisms	June 30,, 2014
Passage of reforms to relevant laws in order to reform procurement requirements and processes for local governments	June 30, 2014
Passage of Law on Equalization of Government Transfers to Local Governments	December 31, 2014
Passage of Law on Local Self-Government	December 31, 2014
Passage of reforms to relevant laws in order to municipal service reforms for local government capacity building	December 31, 2014
Implementation of activities in tax administration sector to ensure increase of community budgets’ income part	December 31, 2014
Support to pilot community consolidation projects implementation	December 31, 2015
Support in the context of proportional community development institutional capacity development	December 31, 2015

### *Transparency and Accountability*

- The Grantee commits to begin implementation of principles promoting transparency, accountability, and effectiveness of public services in USAID-assisted reforms.
- The Grantee will ensure independence of Ethics Commission for High-Ranking Officials through appropriations for operations in the FY 14 budget and provision of separate facilities.
- The Grantee agrees to conduct public stakeholder consultations on the adoption of a whistleblower protection law and to publish a proposed draft law by the agreed upon date.
- The Grantee will minimize the use of administrative and public resources in favor of any political party or candidate in local and national elections.
- The National Assembly will serve as an independent branch of government and permit free and open debate and representation, the organization of public hearings, and access to citizen input and interests through public outreach efforts.

### *Civil Society*



The Grantee agrees to pass legislation establishing an improved enabling environment for civil society (upon the agreed dates), such as:

- amendment of the legislation to allow direct revenue generation for all types of non-profit organizations;
- develop legislation (new law and/or amendments to current law) that facilitates the use of endowments for non-profit organizations;
- reclassification of not-for-profit organizations to reflect their type and purpose;
- develop legislation to create legal mechanisms to promote and facilitate formal volunteerism;
- amend legislation and develop and implement technical solution to increase transparency of civil society organizations without creating undue burdens on reporting entities and in accordance with international best practices and standards.

### *Media*

The Grantee commits to the principles of a free media based on access to information and a diverse array of ideas and opinions (dates to be agreed).

## VII. Funding.

Financial Plan. The financial plan for the Program is set forth in the attached table - Annex 1 (Attachment A). Changes may be made to the financial plan by representatives of the Parties by bilateral implementation letter without formal amendment to the Agreement, if such changes do not cause (1) USAID's contribution to exceed the amount specified in Section 3.1 of the Agreement, or (2) the Grantee's contribution to be less than the amount specified in Section 3.2 of the Agreement.

## VI. Monitoring and Evaluation.

Program monitoring and evaluation will be based on quantitative as well as qualitative data. Benchmarks and targets for measuring the performance of the identified activities as related to reaching the assistance objective and intermediate results will be elaborated by the Parties. Progress toward targets will be assessed on a year-by-year basis. The purpose of these targets is to provide a broad sense of whether there is sufficient momentum in the program to justify continued support. Funds for monitoring, management and evaluation are included in the total budget under this Agreement.

**Annex 1 Attachment A**

**Financial Plan:**

**A More Participatory, Effective and Accountable Governance**

**Democracy and Governance**

<b>Objective</b>	<b>Program Area</b>	<b>FY 2012 Obligation</b>
Governing Justly and Democratically	Good Governance	1,160,000
	Civil Society	1,188,881
<b>Program Development and Program Administrative Costs</b>	Administration and Oversight	100,000
<b>TOTAL</b>		<b>2,488,881</b>



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**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 Development Objective Cooperation 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 ("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 Program Elements of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on progress toward the Objective and Program Elements, 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 and the activities required to be undertaken directly (or caused to be undertaken) by the Grantee, or cause the Agreement and such activities 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 Program Elements under the Agreement.

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



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 or as USAID may direct in Implementation Letters.

#### Section B.4. Taxation.

(a) General Exemption. Pursuant to the Agreement Between The Government of the United States of America and The Government of the Republic of Armenia Regarding Cooperation to Facilitate the Provision of Humanitarian and Technical Economic Assistance, dated December 15, 1992 (the 1992 Bilateral Agreement), The Agreement and the activities and resources provided thereunder are 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 nonnational 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) nonnational 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 directly by the Grantee under the Agreement, the receipt and use of goods and services acquired by the Grantee under the Agreement, 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 contracts and orders made directly by the Grantee, 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. For the avoidance of doubt, this Section B.5(b) applies solely to Grant funds expended directly by the Grantee.

(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 subsection (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 in connection with a direct contract or agreement entered into directly with the Grantee pursuant to the activities contemplated by this Agreement.

(1) A "covered" sub-recipient is one who expends \$300,000 or more in its fiscal year in "USAID awards" (i.e., 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.

C.1. Source and Origin.

(a) Except as noted herein, or in a sub-agreement issued by USAID, Grant funds will be used to finance the cost of goods and services having their source and origin, and with respect to suppliers of goods and services, the nationality, in countries included in Geographic Code 937 or 110 (U.S., Armenia, and CIS) as in effect at the time orders are placed or contracts entered into for such goods or services. Exceptions to this requirement include local procurement transactions in accordance with USAID policy or procurements made after obtaining source, origin, and nationality waivers from USAID in writing.

Additionally:

(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 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 Agreement, 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 Agreement, should be utilized. Funds under the Agreement may be used to finance the costs of obtaining such property.

#### **Article D:** Disbursements.

##### Section D.1. Forms of Disbursement.

Disbursements may also be made through such other means as the Parties may agree to in writing.

##### Section D.2. 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 thirty (30) days written notice. USAID also may terminate this Agreement in part by giving the Grantee thirty (30) days written notice, and suspend this Agreement in whole or in part upon giving the Grantee written notice. Such partial termination shall not affect activities under the agreement other than those subject to the partial termination. 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 Program Elements 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 Agreement 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. 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.

(b) The Grantee agrees not to disburse, or sign documents committing the Grantee to disburse, funds to a 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.

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.3. Workers' Rights.

(a) Except as specifically set forth in the Agreement 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.

#### Section F.4. Terrorist Financing.

The Grantee is reminded that U.S. Executive Orders and U.S. law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism and specially designated nationals and blocked persons identified by the U.S. Department of Treasury (Office of Foreign Assets Control). It is the legal responsibility of the Grantee under this Agreement to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts or subawards issued under this Agreement.

#### Section F.5. Prohibition on Funding Foreign Government Delegations to International Conferences.

Except as USAID may otherwise agree in writing, funds obligated under this Agreement which are provided by USAID from the Foreign Operations, Export Financing, and Related Programs Appropriations Act for any U.S. Government fiscal year after fiscal year 1999 may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization. This restriction may be further described by USAID in Implementation Letters.