**[Partner’s Letterhead]**

**USAID-FUNDED AUDIT SERVICE CONTRACT**

Contract No: [***insert number***] for the period [***insert month, date and year***] to [***insert month, date and year***]

Between: [***insert name of auditor, and address]***

On the other hand

And [**insert name of partner, and address**]

Description of Services: [***insert title as stated in audit notification letter***]

Contract Price: [***insert contract price***]

Currency of Payment: [***insert currency***]

Period/Place of Delivery: [***insert calender days, effective date and place of audit***]

**IT HAS BEEN AGREED AS FOLLOWS:**

1. The following documents and conditions shall be considered and interpreted as an integral part of this agreement:

a) Your proposal on Request for Proposals (RFP) dated [***insert date***]

b) USAID/WBG approved SOW (attached)

c) Your Engagement Letter dated [***insert date***], if any issued by auditors

d) Purpose of the agreement: The purpose is to perform tasks detailed in the attached Scope of Work (which is part and parcel of this contract).

**USAID/WBG MANDATORY PROVISIONS**

“The parties hereto understand that the contract has reserves to USAID certain right such as, but not limited to, the right to approve the terms of this contract, the Auditor, and any or all plans, reports specifications, subcontracts, bid documents, drawing, other documents related to this contract and the project of which it is part. The parties hereto further understand and agree that USAID, in reserving any or all of the foregoing approval rights, has acted solely as a financing entity to assure the proper use of United States Government funds, and that any decision by USAID to exercise or refrain from exercising these approval rights, or discuss matters related to these rights and the project with the parties jointly or separately, without thereby incurring any responsibility or liability to the parties jointly or to any of them. Any approval (or failure to disapprove) by USAID shall not bar the Government or USAID from asserting any right, or relieve the Auditor of any liability which the Contract might otherwise have to the Government or USAID.”

**PROHIBITION AGAINST SUPPORT FOR TERRORISM**

1. The Contractor/Recipient 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. It is the legal responsibility of the Contractor/Recipient to ensure compliance with these Executive Orders and laws.
2. One of the applicable orders is Executive Order 13224, dated September 24, 2001. The website of the Office of Foreign Assets Control (OFAC) of the Department of Treasury contains the text of that order and a list of the individuals and entities designated thereunder. It also contains lists of individuals and entities designated under other anti-terrorism statutes, regulations and Executive Orders. See <http://www.treasury.gov/offices/enforcement/ofac/sdn/>.
3. USAID reserves the right to review, and either approve or reject, the following subawards if proposed under this contract/agreement: (i) any contract or subcontract in excess of $25,000 with a non-U.S. organization or individual; and (ii) any grant or subgrant to a non-U.S. organization or individual, regardless of the dollar value. Furthermore, the written consent of USAID is required before certain other forms of assistance may be provided to a non-U.S. organization or individual. These include in-kind assistance such as renovation of an NGO’s facilities, repair or replacement of a company’s equipment, and certain training activities. The details of these requirements are described in notices issued by USAID/West Bank & Gaza from time to time. No approval (or failure to disapprove) by USAID shall relieve the Contractor/Recipient of its legal obligation to comply with applicable Executive Orders and laws.
4. USAID reserves the right to rescind approval for a subaward in the event that USAID subsequently becomes aware of information indicating that the subaward is contrary to U.S. law or policy prohibiting support for terrorism. In such cases, USAID’s Contracting Officer will provide written instructions to the Contractor/Recipient to terminate the subaward.
5. USAID reserves the right to terminate this contract/agreement if USAID determines that the Contractor/Recipient is involved in or advocates terrorist activity or has failed to comply with any of the requirements of this provision.
6. This provision, including this paragraph (f), shall be included in all contracts, subcontracts, grants and subgrants issued under this contract/agreement. Upon request, the Contractor/Recipient shall promptly provide to USAID’s Contracting/Agreement Officer a copy of the pages from each subaward that contain this provision.

[In addition to the clauses set forth above, the following clause shall appear in each award made directly by USAID and each subaward made by a USAID prime contractor or recipient.]

1. The Contractor/Recipient agrees to promptly notify USAID’s Contracting Officer Technical Representative (COTR)/Agreement Officer Technical Representative (AOTR) in the event of any change in the identity of its “key individuals” or in the identity of “key individuals” of any recipient of a subaward described in paragraph (c). For purposes of this requirement, “key individuals” means (i) principal officers of the organization’s governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees); (ii) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president); (iii) the program manager or chief of party for the USAID-financed program; and (iv) any other person with significant responsibilities for administration of USAID-financed activities or resources. Note that this definition differs from the definition of “key personnel” under contracts and cooperative agreements.

[In addition to the clauses set forth above, the following clause shall be included in any contract, grant or cooperative agreement awarded by USAID (i.e. USAID prime awards only).]

1. Before awarding any grant or similar instrument providing [cash or in-kind assistance under this contract][cash assistance under this agreement], the Contractor/Recipient shall (1) obtain from the proposed subawardee the certification required under USAID’s Acquisition and Assistance Policy Determination 04-14 (AAPD 04-14), “Certification Regarding Terrorist Financing Implementation E.O. 13224 (Revision 2),” and (2) provide a copy of the certification to USAID’s Agreement/Contracting Officer.

**RESTRICTION ON FACILITY NAMES**

1. No assistance shall be provided under this contract/agreement for any school, community center or other facility that is named after any person or group of persons that has advocated, sponsored or committed acts of terrorism. This includes any facility that has “shuhada” or “shaheed” (“martyr” or “martyrs”) in its name, unless an exception is approved by the USAID Mission Director. In any case where assistance is proposed for a facility that is named after, or is planned to be named after, a person or group of persons, the Contractor/Recipient shall provide to USAID’s Contracting Officer Technical Representative (COTR)/Agreement Officer Technical Representative (AOTR) written information about the person(s) or group and shall not proceed with the assistance unless or until the COTR/AOTR has provided written approval therefore. This restriction applies to all forms of cash or in-kind assistance, including construction services, equipment, supplies, technical assistance, and training.
2. In case of any failure to comply with this restriction, USAID may disallow any or all costs incurred by the Contractor/Recipient with respect to the facility and, if necessary, issue a bill for collection for the amount owed. This is in addition to any other remedies that may be available to USAID for such noncompliance.
3. This provision, including this paragraph (c), shall be included in all contracts, subcontracts, grants and subgrants issued under this contract/agreement. Upon request, the Contractor/Recipient shall promptly provide to USAID’s Contracting/Agreement Officer a copy of the pages from each subaward that contain this provision.

**PROHIBITION AGAINST CASH ASSISTANCE TO THE PALESTINIAN AUTHORITY**

      U.S. legislation provides that none of the funding under this Award may be “obligated or expended with respect to providing funds to the Palestinian Authority.”  In accordance with that prohibition, the Recipient/Contractor shall not provide any cash to the Palestinian Authority; to any ministry, agency or instrumentality of the Palestinian Authority; to any municipality or other local government unit; or to any full-time or part-time employee or official of any of the foregoing entities. This restriction applies to payments of any kind, including salaries, stipends, fees, honoraria, per diem, and so forth.

This restriction does not prohibit the provision of in-kind assistance, such as technical assistance, training, equipment, supplies, or the construction of public works to the extent it is not otherwise prohibited by U.S. law or the terms of this Contract/Agreement.

This provision shall be included in all contracts, subcontracts, grants and subgrants or any other instruments or awards issued under this Contract/Agreement. Upon request, the Contractor/Recipient shall promptly provide to USAID’s Contracting/Agreement Officer a copy of the pages from each subaward that contains this provision.

**VALUE-ADDED TAX AND CUSTOMS DUTIES**

Pursuant to agreements with the Palestinian Authority (PA) and the Government of Israel (GOI), all imports and expenditures under this contract by the Contractor and by non-local subcontractors (as defined below) will be exempt from Value-Added Tax (VAT) and customs duties imposed by the PA and from customs duties imposed by the GOI. Therefore, in accordance with paragraph (c) of FAR 52.229-6, Taxes--Foreign Fixed-Price Contracts (1/91), Palestinian VAT and Palestinian and Israeli customs duties shall be excluded from the price of this contract and from the price of any subcontracts to which the Contractor or any non-local subcontractor is a party. There are no exemptions from VAT imposed by the GOI. Therefore, Israeli VAT shall be included in the price of this contract.

The Contractor and any non-local subcontractors shall make reasonable efforts to avoid Palestinian VAT at the point of sale. USAID will assist the Contractor to register with the PA and obtain zero percent (0%) VAT status from the PA. The Contractor shall use this exemption to avoid paying any PA VAT to local subcontractors and vendors by obtaining approval from the PA VAT Department for suppliers to issue 0% VAT invoices.

When Israeli VAT is paid, the Contractor shall obtain original VAT receipts from the vendors. Receipts must be submitted to USAID’s Financial Management Office on a monthly basis to enable USAID to obtain VAT refunds from VAT authorities. The Contractor is responsible for ensuring that subcontractors comply with this requirement. All VAT claims for subcontractors shall be submitted to USAID through the Contractor. *(Please refer to VAT Guidance dated April 2, 2003 issued to USAID WBG Contractors and Grantees attached as Appendix – X)*

With each monthly statement (progress payment invoice / request), the Contractor will furnish USAID as part of the required supporting documentation and in addition to the monthly submissions as discussed in the previous paragraph, a copy of all certified Israeli and Palestinian VAT tax receipts showing the portion of the amount of progress payment requested which is attributable to VAT taxes paid to local subcontractors from amounts earned and requested for payment.

"Non-local subcontractors" mean subcontractors that are present in the West Bank or Gaza solely for the purpose of performing work financed by USAID or other tax-exempt foreign donors.

**SOURCE, ORIGIN AND NATIONALITY REQUIREMENTS (FEB 1997)**

(a) Except as may be specifically approved by the Contracting Officer, all commodities (e.g., equipment, materials, vehicles, supplies) and services (including commodity transportation services) which will be financed under this contract with U.S. dollars shall be procured in accordance with the requirements in 22 CFR part 228, "Rules on Source, Origin and Nationality for Commodities and Services Financed by USAID." The authorized source for procurement is Geographic Code 000 unless otherwise specified in the schedule of this contract. Guidance on eligibility of specific goods or services may be obtained from the Contracting Officer.

(b) Ineligible goods and services. The Contractor shall not procure any of the following goods or services under this contract:

(1) Military equipment,

(2) Surveillance equipment,

(3) Commodities and services for support of police and other law enforcement activities,

(4) Abortion equipment and services,

(5) Luxury goods and gambling equipment, or

(6) Weather modification equipment.

(c) Restricted goods. The Contractor shall not procure any of the following goods or services without the prior written approval of the Contracting Officer:

(1) Agricultural commodities,

(2) Motor vehicles,

(3) Pharmaceuticals and contraceptive items,

(4) Pesticides,

(5) Fertilizer,

(6) Used equipment, or

(7) U.S. government-owned excess property.

If USAID determines that the Contractor has procured any of these specific restricted goods under this contract without the prior written authorization of the Contracting Officer, and has received payment for such purposes, the Contracting Officer may require the Contractor to refund the entire amount of the purchase.

**LANGUAGE AND MEASUREMENT (JUN 1992)**

(a) The English language shall be used in all written communications between the parties under this contract with respect to services to be rendered and with respect to all documents prepared by the contractor except as otherwise provided in the contract or as authorized by the contracting officer.

(b) Wherever measurements are required or authorized, they shall be made, computed, and recorded in metric system units of measurement, unless otherwise authorized by USAID in writing when it has found that such usage is impractical or is likely to cause U.S. firms to experience significant inefficiencies or the loss of markets. Where the metric system is not the predominant standard for a particular application, measurements may be expressed in both the metric and the traditional equivalent units, provided the metric units are listed first.

**SETTLEMENT OF DISPUTES**

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

**AUDIT AND RECORDS**

1. The auditor shall maintain books, records, documents and other evidence to substantiate without limitation, all costs incurred under or in connection with the contract and to substantiate the other contract requirements in accordance with generally accepted accounting principles prevailing in the United States, and the Palestinian Authority and/or the Government of Israel, as applicable, in connection with the contract. This clause does not apply to cost records for no reimbursable cost items incurred under fixed-price (lump sum or unit price) contracts, but it does apply to records concerning source of goods and other comparable contract requirements applicable to such items. The foregoing constitutes “records” for the purpose of this clause.
2. The auditor shall maintain such records during the contract term and for a period of 3 years after final payment. However records which relate to appeals under the “Disputes and Appeals” clause or litigation or the settlement of claims arising out of the performance of this contract shall be retained until such appeals, litigation or claims have been finally settled.
3. All records shall be subject to inspection and audit by the Contracting Agency (or its authorized agents) at all reasonable times. The Auditor shall afford the Contracting Agency proper facilities for such inspection and audit.
4. The auditor further agrees to include in all its subcontracts hereunder a provision that the subcontractor agrees to maintain such records and that the U.S Government, the Contracting Agency or any of its authorized agents, shall, until the expiration of 3 years after final payment under the Subcontract, have access to and the right to examine any records of such subcontractor involving transactions related to the subcontract.

**PAYMENT**

Payment will be as follows:

70 percent on the date draft report is submitted to the partner, and

30 percent on the date RIG/Cairo approves and issues the final audit report to USAID/WBG.

In return for the performance of the contract, the Contracting Authority hereby undertakes to pay the Auditor, the sums specified herein.

{Signed, Stamped and Dated by)

Signed on the [**insert date**] Day of [***insert month***], [***insert year***]

The Contracting Authority The Auditor

Name:…………………………… Name:………………………….

Title:……………………………… Title:……………………………

Date……………………………… Date…………………………….