**Subcontract Number** **XXXX-XX-XXX**

|  |  |
| --- | --- |
| **Subcontract Number** | XXXX-XX-XXX |
| **Subcontract Type** | Indefinite Delivery Indefinite Quantity |
| **Base Period of Performance** | 12/24/23-5/27/2026 |
| Option Periods Apply |  | Yes | X | No |
| **Subcontract Firm Fixed Price Amount**  |  |
| **Subcontract Funding Limitation** |  |
| **Payment Terms** | Net 15 days after receipt of acceptable invoice |
| **Prime Contract Number** | 72038821C00002 |
| **Program Name** | Feed the Future Bangladesh Agricultural Infrastructure Development Activity |
| **DPAS Priority Rating** | Not Rated |
| **Subcontract Security Classification** | Unclassified  |
| **NAICS and Size Standard for this award** | 541360/$28.5 Million |
| **Subcontractor Business Size (based on NAICS above)** | Based on NAICS code identified above.  |
| **FOB/INCOTERMS** | Destination |

This Subcontract Agreement (“Subcontract”) is made between PAE Government Services Inc., an Amentum Company (hereinafter known as “Amentum”) and **SUBCONTRACTOR NAME.** hereinafter known as "Subcontractor", with principal offices at **SUBCONTRACTOR ADDRESS,** collectively the “Parties” and individually a “Party”. The effort to be performed by Subcontractor under this Subcontract is in support of Prime Contract number **72038821C00002** (“Prime Contract”) issued by **the United States Agency for International Development** (“Customer”) **to** Amentum. The procurement from Subcontractor of the services and other deliverables described in the Statement of Work as defined in Attachment C (collectively, the “Services”) will be performed on an **Indefinite Delivery Indefinite Quantity** basis, in accordance with terms and conditions herein and any referenced documents listed in the Order of Precedenceclause of this Subcontract.

All funding for Subcontract performance shall be provided by the issuance of Purchase Order(s) (hereinafter “Order” or “Order(s)”) under this Subcontract.

**SCOPE OF WORK:** The Subcontractor shall furnish all labor, materials, and supervision necessary for completion of the Services described in Attachment C - Statement of Work in support of the Project described below.

**PERIOD OF PERFORMANCE:** The contemplated periods of performance, providing all options are exercised, are as follows (all options, if any, shall be exercised at the sole discretion of Procurement Representative):

|  |  |
| --- | --- |
| **Period** | **Dates** |
| Base Period: | 12/24/23-5/27/2026 |

This Subcontract includes the Subcontract terms and conditions and the attachments and exhibits set forth in Section II, General Terms and Conditions, 1. Integration and Order of Precedence. This Subcontract may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. The Parties further agree that a manually or electronically signed copy of this Subcontract delivered by facsimile, email, internet-based e-signature service (e.g. DocuSign), or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Subcontract and that neither Party shall contest the validity of this Subcontract or any acknowledgement thereof, on the basis that this Subcontract acknowledgement contains an electronic signature.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Subcontract to be executed with an effective date as of the date of the last signature hereto (“Effective Date”). In performance of this Subcontract, the Parties mutually agree to the terms and conditions, exhibits and attachments contained herein.

|  |  |  |
| --- | --- | --- |
| **Amentum**  |  | SUBCONTRACTOR NAME: |
| By: |  |  | By: |  |
|  |  |  |  |  |
| Name: |  |  | Name: |  |
|  |  |  |  |  |
| Title: |  |  | Title: |  |
|  |  |  |  |  |
| Date: |  |  | Date: |  |

**Section I**

**Schedule, Compensation, and Payment**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Subcontract Line Item Number** | **Period of Performance** | **Description of Services** | **Unit Price** | **Quantity** | **Extended Price** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

1. **Compensation/Contract Type.** This is an Indefinite Delivery Indefinite Quantity contract. For satisfactory completion of the Services ordered, Amentum will compensate Subcontractor in accordance with the schedule (set forth above) to the extent authorized by one or more Orders. Except as expressly indicated to the contrary in this Subcontract, all prices include all allowances; local, state, federal, and applicable foreign nation sales and use taxes; any import or export duties (regardless of point of origin); contingencies; foreign and withholding taxes (if applicable); costs of all insurance; general and administrative costs; overhead and profit; and any other costs required to perform the requirements of the Subcontract. The total value for this Subcontract will not exceed $ 75,000. In no event shall Subcontractor be compensated for i) any overtime nor ii) any shift differential pays (arising from performance at different hours of the day) without the prior written authorization of Procurement Representative.
2. **Reserved.**
3. **Orders, Ordering Procedure, and Term.**
	1. All Services authorized and funded under this Subcontract shall be through the issuance of written Order(s) from Amentum’s Authorized Procurement Representative(s). Issuance of the Order(s) shall constitute authorization for the Subcontractor to proceed with the Services defined herein. Such Order(s) shall be subject to the terms and conditions of this Subcontract and pricing shall be based on prices contained in the pricing schedule above.
	2. Subcontractor shall register and utilize the Supplier Management System (SMS) to: (1) receive Orders and provide electronic supplier confirmation of Orders; (2) receive Amentum performance score cards; (3) receive any applicable Amentum Purchase Order Report of Discrepancy Notices (if applicable); and (4) upload required Amentum annual supplier documentation or insurance certificates.
	3. The term of this Agreement shall begin on the Effective Date and shall continue until the earlier of (i) the expiration of the period of performance specified above; or (ii) termination pursuant to the sections below relating to termination for convenience and default. Any Order issued during the term of this Subcontract and not completed within the Subcontract term shall be completed by the Subcontractor within the time specified in the Order. This Subcontract shall govern the Subcontractor’s and Amentum’s rights and obligations in respect to that Order to the same extent as if the Order were completed during the term of the Subcontract.
	4. Only the Authorized Procurement Representative(s) are authorized to approve changes to the terms of this Agreement or to issue Orders hereunder. If the Subcontractor accepts orders or directions from anyone other than the Authorized Procurement Representative(s), Subcontractor does so at its own risk and cost. Payment will be made only for Services delivered pursuant to Orders properly issued by the Authorized Procurement Representatives.
	5. If mailed, sent electronically, or faxed, an Order(s) is considered “issued” when Amentum deposits a hardcopy Order in the mail, the electronic copy has left Procurement Representative’s server, or a fax confirmation is generated when faxed.
4. **Payment Terms and Invoicing.** Subcontractor shall invoice Amentum in accordance with the Amentum issued Order(s) and based on Services completed and accepted in accordance with the terms of the Subcontract.

Additional invoicing instructions are provided in Attachment D.

The Subcontractor’s invoice shall be in the English language. Amentum reserves the right to amend or revise these invoicing instructions in its sole discretion. If the Subcontractor’s invoice does not comply with the requirements contained in this Subcontract, Amentum reserves the right to reject the invoice. Payment of rejected invoices may be delayed pending correction of any errors or omissions.

Unless otherwise specified in the Order, the terms of payment are Net 15 days from the date of Amentum’s receipt of Subcontractor’s complete and correct invoice containing all required information and supporting documentation requested by Procurement Representative. Payment does not constitute final acceptance nor waive any rights or remedies of Procurement Representative.

* 1. If any transaction-type taxes apply to this Subcontract, including, but not limited to, sales and use tax, value added tax (“VAT”), duties, customs, tariffs, imposts, and surcharges (“Transaction Tax”)
		1. It is the Subcontractor’s responsibility to determine if Transaction Taxes are applicable to the Services or materials provided to Amentum, and to timely remit the Tax collected from Amentum to the appropriate taxing authorities. The invoices tendered to Amentum for payment shall comply with all applicable rules and regulations. If Amentum is exempt from Transaction Taxes, Amentum will provide proof of such exemption to Supplier prior to any payment of an invoice. Supplier will cooperate, to the extent reasonably requested by Amentum and as permitted by applicable law, in minimizing any such Transaction Taxes.
		2. Subcontractor’s invoices and credit notes shall identify all applicable Transaction Taxes due and payable for Services performed by Subcontractor separately by each Line Item at the statutory rate.
		3. Subcontractor’s invoices shall clearly identify the Subcontractor’s VAT Certificate of Registration number. Subcontractor’s invoices and credit notes shall include a statement to disclose that Subcontractor’s goods or services are Zero Based, or the VAT is not applicable.
		4. If Sales tax is applicable to any of the Services, the parties shall work together to segregate the payments under this Agreement into three payment amounts – (i) those for taxable Services; (ii) those for which Subcontractor is merely a payment agent for Amentum in receiving goods, supplies, or services (including leasing and licensing arrangements); and (iii) those for other nontaxable Services.
		5. Subcontractor shall cooperate with Amentum to provide information and records as Amentum may require in connection with any inquiry by any taxing authorities.
		6. Amentum shall not be liable for any penalties, interest, or fines incurred by Subcontractor due to Subcontractor’s late or non-payment of any Transaction Taxes.
	2. Amentum shall deduct, withhold, or cause to be withheld, from amounts payable to Supplier under this Agreement, any income taxes it determines is required to be deducted or withheld under applicable law (“Withholding Taxes”).
1. Amentum shall pay to the Supplier the remaining net amount after the deduction of Withholding Taxes. Amentum shall remit the Withholding Taxes to the appropriate taxing authority and provide Supplier with an official tax receipt or other evidence that Withholding Taxes have been remitted to the relevant taxing authority.
2. Any Withholding Taxes will be treated for all purposes of this Agreement as having been paid to Supplier, and Amentum will not reimburse Supplier for the amount of such Withholding Taxes that have been remitted to the taxing authority.
3. If within 15 business days prior to the time any payments are to be made by Amentum to Supplier under this Agreement, Supplier provides Amentum with a valid and official certificate or other documentation issued by the relevant taxing authority for a lower rate of Withholding Taxes to be applied on the payments made by Amentum to Supplier, then Amentum shall apply such lower rate on Withholding Taxes in accordance with such certificate or documentation unless Amentum has already made the applicable payment to Supplier.
4. For the avoidance of doubt, Supplier is ultimately liable for any taxes it owes under applicable law regardless of whether Amentum withholds.
5. Except for the taxes stated above, each party is responsible for its own respective income taxes, taxes based on gross revenues, receipts, capital, franchise, privilege, or personal property.
	1. The final invoice must be clearly marked as "final" to avoid any return of invoice or delays in processing payment.
6. **Close-Out.** Subcontractor agrees to invoice all labor and non-labor costs, for flexibly priced type contracts (including cost reimbursable and Time and Materials), within three (3) months after Subcontract period of performance end date. Subcontractor’s "Final" invoice shall only contain costs associated with indirect rate variances and any applicable fee withheld (i.e., cost plus fixed fee). Should any labor or non-labor costs be included in the "Final" invoice for a cost reimbursable type subcontract, payment may be delayed due to the time required to verify such costs or denied if such costs cannot be verified. For firm fixed price agreements issued, Subcontractor agrees to submit the "Final" invoice within sixty (60) days of completion of Work. The Subcontractor shall clearly mark the final invoice as “Final”.
	1. Subcontractor shall submit with its request for final payment evidence, including releases and affidavits, as may be requested by Procurement Representative, showing a) work is completed, b) compliance with all requirements, c) payment of all bills, and d) that no lien exists or could be claimed arising from the Work.
	2. Subcontractor will provide all documentation necessary for the timely closeout of this Agreement including the submission of a "Final Invoice", a "Release of Claims", “Assignment of Refunds”, and other closeout documents as may be required. Subcontractor shall also comply with all requirements of FAR 42.7, Indirect Cost Rates, as well as FAR 52.215-2 and 52.242-4, where the term “Contractor” shall mean “Subcontractor,” and the term “Contracting Officer” will remain unchanged.
	3. If requested by Procurement Representative, the Subcontractor agrees to close out this Subcontract in accordance with the quick-closeout procedures as defined in FAR 42.708.
	4. In the event that it is subsequently determined through audit, investigation, or otherwise, that Subcontractor was paid under this Agreement for unallowable or other improper amounts, Subcontractor agrees to reimburse Amentum for such amounts and to promptly pay any penalties or other expenses resulting therefrom (“Repayments”). Subcontractor shall, on demand, pay such Repayments to Amentum within five (5) business days from when Subcontractor is notified of such demand. Subcontractor shall be liable for all costs expended by Amentum in collecting such Repayments from Subcontractor, including reasonable attorneys’ fees and expenses. Subcontractor also shall be liable for interest on such Repayments that shall begin to accrue on the fifth (5th) day after Subcontractor is notified of such demand. Such interest shall accrue at three (3) percent above the prime rate published on the effective date of the Repayment demand notice. The rights and obligations herein shall survive the termination of this Subcontract.
	5. In the event Subcontractor fails to submit the required closeout information and documentation as requested, the following is agreed:
		1. Amounts paid to date by Amentum to Subcontractor pursuant to this Agreement, as determined by Amentum’s records, constitute the full, complete, and final extent of Amentum’s financial obligation to Subcontractor.
		2. Subcontractor does fully and finally, release and discharge Amentum, its affiliates, subsidiaries, officers, agents, and employees, of and from any and all liabilities, obligations, claims, and demands arising under or relating to this Agreement.
		3. Subcontractor expressly authorizes Amentum to rely on the foregoing representations and release in connection with Amentum’s closeout of or other actions taken with respect to Amentum’s contract with the Customer.
7. **Limitation of Funds.** This Subcontract may be incrementally funded at the sole discretion of Amentum. Subcontractor agrees to perform up to the point at which the total amount payable under this Subcontract, including reimbursement in the event of termination of this Subcontract for the convenience of Amentum, is equal to the total amount of funding provided under this Subcontract. Beyond that point, the Subcontractor is not obligated to perform any Services, and should it do so, the Subcontractor does so at its own risk. Amentum is under no obligation to pay Subcontractor for unfunded Services. Subcontractor shall notify Amentum in writing whenever it has reason to believe that the costs it expects to incur under this Subcontract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount funded under the Subcontract. The notice shall [state](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=5596b8d19f194e84fc0e83c87cd58c78&term_occur=1&term_src=) the estimated amount of additional funds required to continue performance for the period specified in the Schedule. In any event, the Subcontractor shall not be reimbursed for any Services for which payment would exceed the total amount of funding provided under this Subcontract.
8. **Travel.** Travel and travel-related expenses (“Travel Expenses”) shall not be paid, except for travel specifically identified in the Order, and/or approved in advance by Amentum. Time spent in travel status is not Amentum compensated as time worked unless separately negotiated and specified in the Order. If the travel is authorized by Amentum’s Authorized Procurement Representative, Amentum will reimburse Subcontractor for the actual allowable (as defined in FAR Part 31.2) and reasonable Travel Expenses incurred by Subcontractor. Lodging, meals, and incidental expenses shall only be reimbursed at rates not to exceed the per diem rate for the location in which the traveler is staying as provided under the Joint Travel Regulations or the Federal Travel Regulations, as applicable. Itemized receipts shall be submitted with Subcontractor’s invoice to evidence such expenses. In no event shall Amentum reimburse Subcontractor or Subcontractor’s employees for the cost of alcoholic beverages, fees for in-hotel movies, personal internet access, entertainment, or other such charges. Airline travel must be economy class and fully comply with the Fly American Act. Business class air travel is not authorized unless required for reasonable accommodation of a medically verified disability and approved by Amentum in advance.
9. **ACH Funds Transfer.** With regard to Automated Clearing House (ACH) funds transfer, a payment from Amentum to Subcontractor shall be considered timely with respect to any payment due date contained herein if the ACH funds transfer is initiated no later than four (4) business days after such payment due date. Amentum shall not be in breach of these terms and conditions, or suffer any loss of discount or other penalty, with respect to an ACH funds transfer that was initiated properly and timely by Amentum to the extent its completion is delayed because of failure or delay by the ACH funds transfer system, the operation of an ACH funds transfer system rule which could not be anticipated by Procurement Representative, rejection by the Subcontractor’s bank, or incorrect wiring instructions provided by Subcontractor.
10. **Setoff.** Amentum shall have the right to set-off any amount due or payable to Subcontractor hereunder against any claim or charge Amentum may have against Subcontractor arising under this or any other agreement.
11. **Taxes**. The price of the Services provided hereunder includes all applicable federal, state, and local taxes and duties, as well as any applicable foreign country customs fees, VAT, withholding taxes, and duties, unless otherwise stated in the Subcontract or the Order.
12. **Insurance**. Prior to commencing performance and, during all periods of performance of this Subcontract including all exercised option periods and extensions, Subcontractor shall provide at its own expense and maintain in effect the types of insurance in the amounts specified in Attachment E Required Insurance, with terms and with insurance companies satisfactory to Amentum, with at least the minimums specified therein. Prior to commencing performance, Subcontractor shall provide a Certificate of Insurance evidencing all required insurance pursuant to the terms contained in Attachment E that covers the subcontract period of performance. Subcontractor will be responsible for filing an insurance claim if required or requested by Amentum for a covered event.
13. **Reserved**

**Section II**

**General Terms and Conditions**

1. **Integration and Order of Precedence.** This Subcontract consists of the face page, the signature page, and the following Sections, Attachments, and Exhibits (if applicable) incorporated hereto in full text and made part of this Subcontract as follows:
* Section I – Schedule, Compensation and Payment
* Section II – General Terms and Conditions
* Attachment A – Special Contract Clauses from Prime Contract
* Attachment B – Flow Down Clauses from Prime Contract
* Attachment C – Statement of Work
* Attachment D – Invoicing Instructions
* Attachment E – Required Insurance

This Subcontract constitutes the entire agreement between Amentum and Subcontractor regarding this Subcontract and supersedes all previous written or oral agreements, communications, understandings, and commitments. No terms or conditions of sale set forth in Subcontractor’s proposal, quotation or acknowledgment shall be included as a part hereof, nor shall any prior course of dealing, custom, or usage in the trade supersede or modify any Subcontract provisions. Any subsequent additions, deletions, or modifications to this Subcontract shall not be binding upon the Parties unless same are incorporated herein in writing. Any ambiguity or conflict in the interpretation of validity or performance of the Subcontract or the rights and obligations of the Parties shall be resolved by the following order of precedence: 1] Section I Schedule, Compensation, and Payment and Section II General Terms and Conditions; 2] Attachment A Special Contract Clauses from Prime Contract; 3] Attachment B Flow-Down Clauses from Prime Contract; 4] Attachment C Statement of Work; 5] the Order(s) issued under this Subcontract, and 6] all other attachments or exhibits.

1. **Modifications and Changes.**

Modifications and Notices. No oral statement by any person or written notice from any person other than the Authorized Procurement Representative shall modify or otherwise affect the terms, conditions or specifications stated in this Subcontract. Sole authority to issue change orders and modifications to this Subcontract is vested in Amentum’s Authorized Procurement Representative and such modifications or changes shall be issued exclusively in writing.

All modifications and notices shall be furnished in writing by Amentum. Authorized representatives are:

|  |  |  |
| --- | --- | --- |
| **Amentum**  |  | SUBCONTRACTOR: |
| Procurement Representative: |  |  | Representative: |  |
| Address: |  |  | Address: |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Attention: |  |  | Attention: |  |
| Reference: | Subcontract Number |  |  |  |
| Email: |  |  | Email: |  |

Changes. Amentum may make changes to the Subcontract at any time in writing, with respect to the following: (1) Description or quantity of services to be performed (2) Time of performance (i.e., hours of the day, days of the week, etc.) or (3) Place of performance of the services. If any such change causes an increase or decrease in the cost or time required for performance of the Services, the Subcontractor may apply to Amentum for an equitable adjustment in the performance schedule or the Subcontract price, or both, and if approved, this Subcontract will be modified in writing accordingly. Subcontractor must notify Amentum of Subcontractor’s intent to request equitable adjustment within ten (10) calendar days of Subcontractor’s knowledge of the change. The Subcontractor shall submit any proposal for adjustment to Amentum within ten (10) calendar days following notice to Amentum of the change. Failure of the Parties to agree to an adjustment, after negotiating in good faith, shall be considered a dispute under the Disputes clause hereof. However, nothing in this clause shall excuse the Subcontractor from proceeding with the contract as changed. Pending resolution of any dispute, Subcontractor shall immediately proceed with the Services as changed.

Amentum’s obligation to make an equitable adjustment under this Subcontract is limited to the amount of equitable adjustment made under the Prime Contract for the Subcontractor’s portion of such equitable adjustment.

1. **Quality Assurance.** Subcontractor shall meet the Quality requirements as stipulated in the Statement of Work, Attachment C, and any other quality standards incorporated into this Subcontract.
2. **Inspection and Acceptance**. (a) “Services,” as used in this clause, includes services performed and material furnished or utilized in the performance of the Services. The Subcontractor shall provide and maintain an inspection system acceptable to Amentum and Amentum’s customer covering the Services under this Subcontract. Complete records of all inspection work performed by the Subcontractor shall be maintained and made available to Amentum and Amentum’s customer during Subcontract performance and for as long afterwards as the Subcontract requires. Amentum and its customer have the right to inspect and test all Services called for by the Subcontract, to the extent practicable at all times and places during the term of the Subcontract. Amentum and its customer shall perform inspections and tests in a manner that will not unduly delay the work. If Amentum or its customer performs inspections or tests on the premises of the Subcontractor, the Subcontractor shall furnish, and shall require its subcontractors to furnish, at no increase in Subcontract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(b) Subcontractor agrees to be evaluated periodically per the Amentum Supplier Performance Scorecard system, which is incorporated hereto and made a part of this agreement. The Supplier Performance Scorecard is a surveillance tool which evaluates a supplier’s performance quarterly and provides both Supplier and Amentum a qualitative report of the supplier’s performance consistent with the requirements of the Subcontract and any associated acceptance criteria. A “Red” supplier performance rating, along with a Subcontractor’s “Return to Green Plan” response shall constitute an independent basis for Amentum, in its sole discretion, to elect to issue a cure notice to the Subcontractor under the termination provisions of this Subcontract for non-conforming Services.

(c) If any of the Services do not conform with Subcontract requirements, Amentum may require the Subcontractor to perform the Services again in conformity with Subcontract requirements, at no increase in Subcontract price. When the defects in Services cannot be corrected by reperformance, Amentum may (1) require the Subcontractor to take necessary action to ensure that future performance conforms to Subcontract requirements; and (2) reduce the contract price to reflect the reduced value of the services performed. Acceptance of non-conforming Services will not constitute a waiver of remedies available to Amentum as described herein or in any other terms of the Subcontract.

(d) If, following notice of nonconformance of the Services with Subcontract requirements, the Subcontractor fails to perform the Services again or to take the necessary action to ensure future performance in conformity with contract requirements within 10 days, Amentum may (1) by contract or otherwise, correct the nonconformance and charge to the Subcontractor any cost incurred by Amentum that is directly related to the correction of nonconformance; (2) terminate the Subcontract for default, in whole or in part; and/or (3) deduct from the scope of work those services which Subcontractor failed to ensure future performance in conformity with Subcontract requirements. Failure “to take the necessary action to ensure future performance in conformity with Subcontract requirements” includes, but is not limited to, repeated deficient performance with respect to substantially the same concerns stated in either the Supplier Performance Scorecards issued during contract performance or by other notification by Amentum. Amentum’s remedies for non-conforming performance are intended to be cumulative.

(e) Services will be accepted when satisfactorily performed in accordance with the instructions contained in the Statement of Work, the acceptance criteria, any other standards of performance including any contained in any attachments or Prime Contract flow downs, and the Services otherwise meet all of the Subcontract requirements.

1. **Warranty of Services.** Subcontractor warrants that it will perform the Services under this Subcontract with a high degree of professional skill using sound practices and judgment normally exercised by recognized professional firms with respect to Services of a similar nature. Subcontractor further warrants that all Services furnished under this Subcontract shall conform to all of the requirements and specifications contained in this Subcontract and all of its attachments, including specifications incorporated by reference or other description and will be of good material and workmanship and free of defects. These warranties shall survive inspection, acceptance, and payment. Amentum may, within twelve months after acceptance, require any Services that do not conform to the above warranties to be corrected or reperformed at Subcontractor’s expense. If Subcontractor does not promptly correct or reperform the non-conforming services, Amentum may correct or reperform the non-conforming Services at Subcontractor’s expense. The forgoing warranties are in addition to all other warranties expressed or implied by law.
2. **Work on Amentum’s or Amentum’s Customer Premises.** If this Subcontract requires Subcontractor to perform Services on Amentum or Amentum’s Customer premises, Subcontractor shall take all necessary precautions to prevent any injury to persons or damage to property during the progress of such Services. Subcontractor shall ensure that all Subcontractor personnel abide by all applicable regulations and rules with respect to Amentum or Amentum Customer premises.
3. **Relationship of the Parties.** It is understood and agreed that the Parties are independent contractors and Subcontractor is a subcontractor and not an employee of Amentum. This Subcontract shall not be construed to form a partnership or joint venture between the Parties or create any form of employment relationship or any legal association which would impose liability upon one Party for the act or failure to act of the other Party. It is also expressly understood neither Subcontractor nor Subcontractor’s employees and agents, if any, are agents or employees of Amentum and have no authority whatsoever to bind Amentum by contract or otherwise.
4. **Background Checks**. To the extent permitted by applicable law, Subcontractor shall perform background screening (including but not limited to: criminal background check, education and employment verification, Social Security Number Trace, Sanctions check, and as applicable for the position(s) and/or contract, credit reports, motor vehicle records, licenses verification, I-9 Employment Eligibility Verification and/or other screenings specific to the position(s) and/or contract) on all employees, consultants and subcontractors (“Subcontractor personnel”) and shall perform pre-employment drug testing for substances on the Controlled Substances Act confirming that all of the Subcontractor personnel are drug free, qualified, and capable of performing the Services contained in this Subcontract. Except as otherwise required by law, or with written authorization from the Authorized Procurement Representative, Subcontractor shall not staff any Subcontractor personnel who have adverse drug testing results and shall not staff any Subcontractor personnel whose background screening results indicate they can or should not be performing the Services on this Subcontract. Subcontractor shall remove and replace, as necessary, any Subcontractor personnel who fail to maintain a drug free workplace after commencement of performance at Subcontractor’s sole expense. In fulfilling its obligations hereunder, the Subcontractor shall comply with all applicable laws and regulations.
5. **Certification and Representations.** The Subcontractor shall provide prompt written notice of any changes or updates to its Representation and Certifications. The Subcontractor shall also provide prompt written notice to Amentum at any time the Subcontractor learns it has been identified as an Excluded Party in the System for Award Management (SAM).
6. **Staffing and Conduct of Subcontractor Personnel.**

10.1 Reserved

10.2Amentum may direct the Subcontractor to remove any of Subcontractor’s personnel whose performance is deemed unacceptable by Amentum or the Government and it shall be the responsibility of the Subcontractor to remove that individual at no cost to Amentum. If the Subcontractor is directed to remove any of the Subcontractor’s personnel from further performance under this Subcontract at the direction of Amentum’s customer, or due to misconduct, safety violations, unethical conduct, security reasons, failure to comply with Subcontract requirements, or violation of law or installation regulations, the Subcontractor shall bear all costs associated with such removal including the costs of replacement of such personnel. Such removal shall not excuse Subcontractor from performance of any requirement under this Subcontract.

10.3 Employment Eligibility for work in the United States. FAR Subpart 22.18 Employment Eligibility Verification requires subcontractors to verify employment eligibility of all personnel assigned to the Subcontract for work in the United States in accordance with DHS’s E-Verify System. As provided under FAR 52.222-54 Employment Eligibility Verification, Subcontractor shall verify employment eligibility of (a) all employees assigned to this Subcontract within ninety (90) calendar days after the date of execution of this Subcontract or thirty (30) calendar days of the employee’s assignment to the Subcontract; and (b) all new hires of Subcontractor working in the U.S. within three business days after the date of hire and no more than ninety (90) days of enrollment in E-Verify.

1. **Drug Free Workplace.** Subcontractor has certified to Amentum by execution of this Subcontract that Subcontractor is in full compliance with the Drug-Free Workplace Act of 1988 and has implemented an adequate program to ensure ongoing compliance.
2. **Notice of Delay.** When a condition delays or threatens to delay, including an actual or potential labor dispute, the timely performance of this Subcontract, Subcontractor shall immediately notify Amentum in writing. Such notice shall include all relevant information regarding such dispute or other condition.
3. **Subcontractor Contacts with Amentum’s Customer and other Vendors.** Amentum shall be responsible for all liaisons and communications with Amentum’s Customer and Amentum’s other vendors for the term of this Subcontract. Subcontractor shall not communicate with Amentum’s Customer or Amentum’s other vendors regarding this Subcontract or its performance, unless authorized to do so by Amentum’s authorized Procurement Representative. This clause does not affect the rights of any government entity to initiate communication with the Subcontractor regarding this Subcontract, nor the necessary day to day routine communications in the normal course of performance. The Subcontractor shall not be considered in breach of this clause under the foregoing circumstances. The Subcontractor shall report such communications to Amentum as soon as practicable but in no event no later than one (1) business day after such communication.
4. **Assignment and/or Subcontracting**. Subcontractor shall not assign this Subcontract or any rights, interest, or payments, or the performance of any of its duties under this Subcontract without the prior written consent of Amentum’s authorized Procurement Representative. For purposes of this section, a merger of Subcontractor into another legal entity, sale of a majority of its ownership interests, or change in control shall constitute an assignment requiring written consent.

Subcontracting under this agreement may require a Subcontracting plan IAW FAR 52.219-9. The Subcontractor represents that it does [ ] , does not [ ]  plan to subcontract to lower tier subcontractors under this subcontract. Subcontractor warrants full transparency and audit cooperation of lower tier subcontractor relationships. A copy of lower tier subcontractor agreements to include flow down clauses and prevailing wage determinations shall be provided to the authorized Procurement Representative within three (3) days of agreement execution. Subcontractor shall ensure that its lower tier subcontractors do not utilize lower-tier subcontractors, independent contractors, or other non-employee labor without prior written approval from Amentum’s authorized Procurement Representative.

If the Subcontractor does plan to subcontract to lower tier subcontractors, the Subcontractor’s Small Business Subcontracting Plan is hereby incorporated into this Agreement and found in Attachment XXX. In accordance with FAR 52.219-9 (MMM YYYY), (FAR clause date should reflect the Prime Contract), the Subcontractor shall deliver Individual Subcontract Reports and Summary Subcontract Reports to the Procurement Representative identified in Section II, paragraph 2.

If the Subcontractor represented that they did not plan to subcontract to lower tier subcontractors at the time of award, the Subcontractor is prohibited from lower tier subcontracting after award without Amentum’s prior written approval.

1. **Reserved**
2. **Permits, Fees, and Licenses.** Except as may be otherwise provided in this Subcontract, Subcontractor shall obtain and pay for all applicable permits, fees, and licenses required to perform the Services provided hereunder in both CONUS and OCONUS locations, as applicable, at no additional charge to Amentum.
3. **Non-Solicitation Provision.** Except where employee non-solicitation restrictions are expressly excluded by law or regulation, during the term of this Subcontract, including all options and extensions, and for a period of one (1) year thereafter, the Subcontractor shall not solicit the services of or make an offer of employment to any current employee of Amentum, without the express written consent of Amentum. This shall in no way, however, be construed to restrict, limit, or encumber the rights of any Amentum employee granted by law or prohibit any employee of Amentum from responding to public advertisements for employment.
4. **Gratuities.** Subcontractor warrants that it has not offered or given, and will not offer or give to any employee, agent, representative of Amentum, or Amentum’s Customer, a payment, gratuity, or kickback for obtaining or rewarding favorable treatment by Amentum or its representatives with respect to the terms, conditions, price, performance, or award of a Subcontract. A breach of this warranty shall be a material breach of the Subcontract and may result in the termination of the Subcontract for default and/or notification to Amentum’s Customer of such breach.
5. **Compliance with Laws**. Subcontractor shall comply with all applicable federal, state, local laws, rules, regulations, and orders, including those of other countries where performance may take place. Subcontractor agrees to indemnify and hold Amentum and its subsidiaries, affiliates and their respective owners, officers, directors, employees, contractors, and agents, harmless against any damage, loss, or liability due to Subcontractor’s violation or noncompliance with such laws, rules, regulations, and orders.
6. **Business Ethics and Compliance**. If the value of this Subcontract exceeds the threshold specified in FAR [3.1004](https://www.acquisition.gov/far/3.1004#FAR_3_1004)(a) on the date of award and the performance period is more than 120 days, Subcontractor confirms that it has established a business ethics and compliance program at least as comprehensive as the requirements under FAR 52.203-13, Contractor Code of Business Ethics and Conduct, and the principles set forth in the [Amentum Business Partner Code of Conduct](https://www.amentum.com/wp-content/uploads/Amentum-Business-Partner-Code-of-Conduct-Rev-I-October-2022.pdf). Subcontractor agrees that it will not engage in and shall take appropriate steps to ensure that anyone working on its behalf in connection with performance under this Subcontract does not engage in activity that would expose Amentum to a risk of criminal, civil, or administrative penalties under any applicable laws and regulations, including but not limited to, laws and regulations pertaining to corruption, bribery, antitrust, and trafficking in human persons. FAR 52.203-13 shall be flowed down to Subcontractor’s lower tier contractors, as provided therein.

20.1 Subcontractor shall disclose in writing to Amentum and satisfy the disclosure requirements under FAR 3.1003 (a)(2) and FAR 52.203-13 when the Subcontractor has credible evidence that a principal, director, officer, employee, agent, or subcontractor of the Subcontractor has committed: (a) a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations per Title 18 of the U.S. code or (b) a violation of the False Claims Act. As provided in FAR 3.1003 (a)(3), if the Subcontractor becomes aware that the Government or Amentum has overpaid on a contract financing or invoice payment, the Subcontractor shall provide a written disclosure to the Amentum and shall remit the overpayment amount to the Amentum and be liable to the Amentum for any damages or penalties arising therefrom.

20.2 Subcontractor shall comply at all times with the requirements of 52.222-50, Combating Trafficking in Persons, and must immediately notify Amentum of any credible information Subcontractor receives from any source that alleges a Subcontractor employee, a lower-tier subcontractor, a lower-tier-subcontractor employee, or their agent has engaged in conduct that violates the Federal Government’s policy on combating trafficking as described in FAR 52.222-50. FAR 52.222-50 shall be flowed down to Subcontractor’s lower tier contractors or agents as outlined therein.

20.3 Subcontractor, and its subcontractors as applicable, shall not use child labor as defined by applicable Federal, state, or local law or use forced or compulsory labor, will not physically abuse its employees, and will respect its employees’ rights to choose whether to be represented by third parties and bargain collectively in accordance with applicable law. Subcontractor shall comply with all applicable laws and regulations regarding any wage and benefit, working hours and overtime, health and safety, and environmental matters. Failure to comply with the obligations in this clause is a material breach and shall be cause for immediate termination without penalty or further liability to Amentum.

20.4 If Subcontractor has cause to believe Amentum or any employee or agent of Amentum has conducted themselves improperly, unethically, or inconsistent with the provisions under this Subcontract and its attachments, Subcontractor shall immediately report such behavior to Procurement Representative. Failure to report may result in termination of this Agreement.

1. **Property and Confidential Information**. Amentum’s property, including drawings, specifications, and data, furnished to Subcontractor for performance of the Services shall remain the exclusive property of Amentum and shall not be used by Subcontractor for its own purposes or given to, or shared with, a third party without the express written consent of Amentum. When practical, all such Amentum property shall be marked as belonging to Amentum, shall be physically segregated from the property of the Subcontractor or third-party property located on Subcontractor’s premises, and shall be used exclusively to perform the Services requirements of this Subcontract. Upon Subcontract completion, all Amentum furnished property shall be returned to Amentum in the same condition as received, allowing for reasonable wear and tear, except to the extent that the property has been incorporated into the Services delivered or consumed in the performance of the Services. Subcontractor shall be responsible for all loss or damage to Amentum caused by Subcontractor’s actions or neglect.

Confidential Information. Confidential Information includes all Amentum information in any form whatsoever identified in writing at the time of the disclosure by a legend or identified as proprietary to the Subcontractor orally at the time of disclosure. All drafts or final documents that, in whole or in part, comprise or include proposals or proposal information, financial data, methodologies, technical data, diagrams, designs, models, or strategic plans shall be deemed Confidential Information, regardless. No license, right or interest under any copyrights, patents, trademarks, or trade secrets is granted or implied with respect to Confidential Information disclosed by Amentum. Confidential Information does not include information which can be demonstrated to have been (i) known to or independently developed by Subcontractor prior to receipt of Amentum Confidential Information, to the extent documentary evidence is clear and convincing; (ii) lawfully publicly available or (iii) lawfully received by Subcontractor from third parties not bound by confidentiality obligations to Amentum. Subcontractor agrees to protect the Confidential Information from disclosure by exercising no less than reasonable care. Subcontractor agrees not to disclose Confidential Information to its agents or employees other than those with a need to know and who agree to be bound by the requirements of this provision. Subcontractor agrees to use the Confidential Information only for the purposes of performing the Services hereunder. Subcontractor shall return or destroy all Confidential Information (and any copies thereof) at Subcontract termination or immediately upon any direction by Amentum during performance. The confidentiality restrictions shall survive for a period of five (5) years after termination.

1. **Government Property.** Subcontractor shall comply with all the requirements of the current version of FAR 52.245-1, Government Property as of the effective date of this Subcontract. Subcontractor shall be liable for the loss of government property in accordance with the above clause. Subcontractor shall maintain government property in accordance with FAR 52.245-1 and FAR Part 45. Title to all government property and Subcontractor acquired property shall pass to the Government only to the extent provided under FAR 52.245-1, otherwise, the Subcontractor shall retain title.
2. **Preservation of the Government’s Rights.** If Amentum or Subcontractor furnish designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (“Furnished Items”) which the U.S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that either Party may modify or limit any rights the Government may have to authorize the use of such Furnished Items in support of other U. S. Government prime contracts.
3. **Public Release of Information.** No public release of information, news release, announcement, advertisement, posting to social networks or third-party forums, denial or confirmation of this Subcontract or the subject matter hereof, OR USE OF AMENTUM’S OR AMENTUM’S CUSTOMER’ NAME(S), LOGOS OR OTHER INTELLECTUAL PROPERTY shall be UNDERTAKEN without Procurement Representative’s prior written approval.
4. **Patent, Copyright, and Trade Secret Indemnity**. Subcontractor agrees to indemnify, defend, and hold harmless Amentum, its officers, agents, and employees, its customer and its officers, agents, and employees, and those for whom Amentum may act as agent, from any costs, expenses, damages, or liability that Amentum may incur as a result of any alleged infringement of any patent, copyright, or trademark caused by the manufacture or delivery of supplies, the performance of services, the construction, alteration, modification, or repair of real or personal property, or the sale or use of any supplies/services/data furnished by Subcontractor.
5. **Technical Data and Computer Software Rights**. Notwithstanding anything contained herein, Subcontractor agrees that it grants to the Government the license rights under all applicable FAR and DFARS technical data rights and/or software rights clauses incorporated herein. Subcontractor grants to Amentum the right to use Subcontractor technical data developed, delivered, or used under this Subcontract by Subcontractor to the extent necessary for Amentum to perform its obligations under the Prime Contract.
6. **Non-Exclusivity:** Except as provided under workshare terms expressly incorporated herein, nothing contained in this Subcontract or associated documents shall require Amentum to purchase Services from the Subcontractor, and Subcontractor has no right or privilege to exclusively provide to Amentum any of the types of Services described in or purchased under this Subcontract. Amentum may contract with other suppliers for the procurement of any such Services on any terms and conditions deemed appropriate in the sole and absolute discretion of Amentum.
7. **Stop-Work Order.** Amentum may, at any time, by written order to the [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=2&term_src=), require the [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=1&term_src=) to stop all, or any part, of the Services called for by this Subcontract for a period of up to ninety (90) days after the order is delivered to the [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=4&term_src=), and for any further period to which the Parties may agree. Upon receipt of the order, the [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=3&term_src=) shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Services covered by the order during the period of Work stoppage. Within a period of ninety (90) days after a Stop-Work order is delivered to the [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=5&term_src=), or within any extension of that period to which the Parties shall have agreed, Amentum shall either—

(i) Cancel the Stop-Work order; or

(ii) Terminate the Services covered by the Stop-Work order as provided in the Termination for Default or the [Termination](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a093f25ddff412639f79dec5151f1f15&term_occur=1&term_src=) for Convenience clause of this Subcontract.

* 1. If a Stop-Work order issued under this clause is canceled or the period of the order or any extension thereof expires, the [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=6&term_src=) shall resume Services. Amentum may make an equitable adjustment in the delivery schedule or Subcontract price, or both, and the Subcontract may be modified, in writing, accordingly, if—

(i) The Stop-Work order results in an increase in the time required for, or the [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=7&term_src=)'s cost properly allocable to, the performance of any part of this Subcontract; and

(ii) The [Subcontractor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9aa5353903b79833a5222fe2575e38a4&term_occur=8&term_src=) asserts its right to the adjustment within twenty (20) days after the end of the period of Work stoppage.

(iii) Subcontractor agrees that any equitable adjustment arising under this section is only compensable to the extent it is compensable under the Prime Contract.

1. **Termination for Convenience.** Amentum reserves the right, at any time, at its discretion, to terminate this Subcontract in whole or in part, by written notice of termination for convenience to Subcontractor. Amentum shall pay Subcontractor only for Services satisfactorily performed or delivered and accepted up to the date of termination, at the pro-rated monthly price indicated in Section I, Schedule, Compensation and Payment. After receipt of a notice of termination, Subcontractor shall immediately proceed with the following obligations: (i) Stop work as specified in the notice; (ii) Place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the contract; (iii) Assign to Amentum, as directed by our Procurement Representative, all right, title, and interest of the Subcontractor under the subcontracts terminated; (iv) Upon approval by Amentum, settle all outstanding liabilities and termination settlement proposals arising from the termination of Subcontractor’s subcontracts hereunder; (v) As directed by Amentum’s Procurement Representative, transfer title and deliver to Amentum all work in process, completed work, supplies, and other material produced or acquired for the work terminated, as well as all data or information generated under the Subcontract; and (vi) Complete performance of the work not terminated. Failure of the Parties to agree upon any termination settlement amount shall be a dispute under the Disputes clause hereof.
2. **Termination for Default.** In addition to any other rights or remedies provided herein or by law, Amentum may terminate this Subcontract in whole or in part by written notice of default if Subcontractor; (a) fails to perform the Services within the time specified; (b) fails to make progress, so as to endanger performance of this Subcontract; or (c) violates any of the other provisions of this Subcontract. With respect to subsections (b) and (c) above, Amentum’s right to terminate for default may be exercised if Subcontractor does not cure the failure within ten (10) days after receiving Amentum’s notice of such failure. With respect to subsection (a), Amentum may terminate immediately, without a notice to cure. Except for defaults of subcontractors at any tier, the Subcontractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Subcontractor, including (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Subcontractor.

If Amentum terminates this Subcontract in whole or in part, Amentum may purchase similar Services to those terminated; and, except as provided in the preceding paragraph, Subcontractor shall be liable to Amentum for any excess or re-procurement costs. In the event of a partial termination, Subcontractor shall continue the Services not terminated. Amentum shall owe Subcontractor the Subcontract price for any completed Services delivered and accepted only, less amounts for which Subcontractor may be responsible as set forth in this paragraph, which may result in Subcontractor being obligated to pay monies to Amentum. Amentum may withhold from any payments due Subcontractor any sum necessary to protect Amentum against any liability or expenses due to the termination for default. Failure of the Parties to agree upon any termination settlement amount shall be a dispute under the Disputes clause hereof.

If, after termination, it is determined the Subcontractor was not in default, or that the default was excusable, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of Amentum.

1. **Insolvency.** If Subcontractor ceases to conduct normal business operations (including inability to meet its obligations), or if any proceedings under bankruptcy or insolvency laws are brought by or against Subcontractor, or a receiver for Subcontractor is appointed or applied for, or Subcontractor makes an assignment for the benefit of creditors, Amentum may terminate this Subcontract, without liability, except for Services performed and accepted in accordance with the terms of this Subcontract. In the event of Subcontractor’s insolvency, Amentum shall have the right to procure the balance of this Subcontract from others without liability.
2. **Disputes**

32.1. **Disputes Related to the Government Prime Contrac**t. All of the Subcontractor’s claims, controversies or disputes concerning matters which pertain to disputes related to the Prime Contract which are cognizable under the Contracts Disputes Act of 1978 (the “CDA”) shall be governed by the provisions of this clause. Subcontractor shall provide Amentum with a timely and detailed written notice of any such claims or controversies. Notwithstanding any provisions herein to the contrary, upon Subcontractor’s request, Amentum may submit a claim and/or request for a Contracting Officer’s Final Decision as set forth in the CDA to the Customer on Subcontractor’s behalf. If a decision under the Prime Contract is made by the Contracting Officer pursuant to such a claim or request and such decision is also related to this Subcontract, said decision, if binding upon Amentum under the Prime Contract, shall in turn be binding upon Subcontractor insofar as it relates to this Subcontract unless appealed and reversed. Amentum shall notify the Subcontractor of any Final Decision within ten (10) calendar days of Amentum’s receipt thereof. In the event Amentum elects to appeal any Final Decision, pursuant to the disputes process, the Subcontractor shall provide Amentum with reasonable assistance in the prosecution of such appeal. The Subcontractor further agrees to reimburse Amentum for any and all reasonable costs associated with an appeal arising out of or relating to the Subcontract taken upon behalf of the Subcontractor. However, if the Subcontractor notifies Amentum in writing that such an appeal should not be taken upon the Subcontractor’s behalf, Amentum shall have the right to continue to pursue such an appeal at its own cost upon behalf of Amentum and the Subcontractor with the Subcontractor providing reasonable assistance in the prosecution of such an appeal as described herein.

In the event Amentum elects not to appeal any Final Decision pursuant to the disputes clause of the Prime Contract, Amentum shall so notify the Subcontractor in writing within fourteen (14) calendar days of Amentum’s receipt of a Final Decision. If within ten (10) calendar days of receipt of Amentum’s notice of a decision not to appeal any Final Decision, the Subcontractor requests Amentum, in writing, to appeal the Final Decision or to otherwise assert a claim, Amentum shall do so at the sole expense of the Subcontractor provided such an appeal would not be in violation of any civil or criminal statute and would not, in the opinion of Amentum’s legal counsel, be frivolous or in bad faith. If Amentum appeals any such Final Decision, whether at its election or at the Subcontractor’s request, a final judgment in any such appeal, if binding upon Amentum under the Prime Contract, shall in turn be binding upon the Subcontractor and Amentum under this Subcontract.

As used herein, the term “appeal” shall include any and all proceedings taken by Amentum before a Government agency, and, if applicable a Board of Contract Appeals, and any court. The Subcontractor shall be conclusively bound by any decision of any such dispute resolution forum or tribunal. Pending completion of this Subcontract or final disposition of a dispute pursuant to this section that release Subcontractor from performance, the Subcontractor shall, at all times, proceed diligently with the performance of this Subcontract.

32.2. **Disputes Not Arising under the Prime Contract.** In the event the Parties fail to reach mutual agreement with respect to any other dispute not arising under the Contract Disputes Act within thirty (30) days of receipt of a dispute from the claimant, either Party may pursue any right or remedy it may have against the other at law or in equity as provided hereunder. For disputes cognizable under this section, this Agreement and the performance thereof shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, without regard to its rules on choice or conflict of laws. The United Nations Convention on Contractors for the International Sale of Goods shall not apply to this Agreement. Subcontractor agrees that late payment or withholding of payment to Subcontractor shall not be a material breach of this Subcontract excusing further performance, and Subcontractor’s remedy shall be to seek relief in court.

Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Subcontract shall be brought in the United States District Court for the Eastern District of Virginia (or, if subject matter jurisdiction is unavailable, in the state courts of the Commonwealth of Virginia located in Fairfax County, VA), and each of the parties hereto hereby consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts) in any such suit, action or proceeding and waives any objection to venue laid therein. Process in any such suit, action or proceeding may be served on Subcontractor anywhere in the world, whether within or without the Commonwealth of Virginia. THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS SUBCONTRACT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY AND THAT ANY PROCEEDING WHATSOEVER BETWEEN THEM RELATING TO THIS AGREEMENT SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

Pending settlement or final decision of any such dispute, Subcontractor shall proceed diligently with the performance of this Subcontract in accordance with the direction of Amentum and shall not be entitled to suspend or otherwise delay its performance of the Work.

1. **Indemnification**. Subcontractor shall, to the fullest extent permitted by law, protect, defend, hold harmless and indemnify Amentum, including Amentum’s directors and officers, from and against any and all expenses and liabilities, claims, causes of action, lawsuits and/or other proceedings, penalties, attorney’s fees, damages and losses of any kind whatsoever including without limitation, the death of or injury to persons and damage to property, to the extent actually resulting from or arising out of or associated with Subcontractor’s (or any of its subcontractors’, suppliers’, employees’, agents’ or representatives’): (i) negligence, fraud, willful or intentional misconduct in performing under this Subcontract; (ii) unlawful conduct; (iii) loss of, or release of, any third-party or Government data resulting in a data breach; or (iv) breach of this Subcontract or any representation, warranty, or covenant made herein. Subcontractor shall not accept any declaration as to fault under any settlement of an indemnified claim without Amentum’s written consent. Amentum shall have the right to approve any settlement of an indemnified claim.
2. **Cost Accounting Standards / Defective Cost & Pricing Data Indemnification**. Subcontractor agrees to indemnify, defend, and hold harmless Amentum, each of Amentum’s owner(s), its officers, directors, affiliates, agents, and employees, its customer and its officers, agents, and employees, and those for whom Amentum may act as agent, from any costs, penalties, expenses, damages, or liability for (1) any violation by the Subcontractor, or any of its subcontractors at any tier, of the Cost Accounting Standards, to the extent applicable to the Subcontract issued hereunder, during the performance of the Subcontract, including those cases which result in any cost disallowances or non-acceptance of reimbursable costs; or, (2) any defective cost or pricing data submitted directly or indirectly to the Government by the Subcontractor, or any of its subcontractors at any tier, with respect to any pricing action or proposal under the scope of Truthful Cost or Pricing Data.
3. **Limitation of Liability**. SUBCONTRACTOR AGREES THAT AMENTUM, AND ITS SUBSIDIAIRES, AFFILIATES AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS AND AGENTS (COLLECTIVELY “THE AMENTUM PARTIES”) SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES OR LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES, OR LOSS OF OR CORRUPTION OF DATA ARISING OUT OF OR RELATING TO THE AMENTUM PARTIES’ PERFORMANCE OR NON-PERFORMANCE OF THIS SUBCONTRACT. THE AMENTUM PARTIES SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING FROM OR RELATING TO (I) THE USE OF, INABILITY TO USE OR ANY DELAY CAUSED BY ANY DATA PROVIDED BY THE AMENTUM PARTIES, INCLUDING WITHOUT LIMITATION ANY ERRORS AND OMISSIONS AND ANY UNTIMELINESS; (II) ANY PRODUCT OR SERVICE PURCHASED OR OBTAINED THROUGH OR FROM THE AMENTUM PARTIES; (III) MESSAGES OR CONTENT RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE AMENTUM PARTIES, INCLUDING WITHOUT LIMITATION COMPUTER VIRUSES; (IV) UNAUTHORIZED ACCESS TO OR ALTERATION OF SUBCONTRACTOR’S TRANSMISSIONS OR DATA, REGARDLESS OF WHETHER SUCH INTERRUPTION, SUSPENSION OR TERMINATION WAS JUSTIFIED, NEGLIGENT OR INTENTIONAL, INADVERTENT OR ADVERTENT, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH DAMAGES ARE SOUGHT.

IN NO EVENT WILL THE AMENTUM PARTIES BE LIABLE FOR ANY DAMAGES, LIABILITIES, COSTS, OR CLAIMS ARISING OUT OF OR RELATING TO THE PERFORMANCE OF THIS SUBCONTRACT IN EXCESS OF THE AMOUNTS OBLIGATED TO SUBCONTRACTOR UNDER THIS AGREEMENT OR ANY TASK ORDER OR PURCHASE ORDER ISSUED HEREUNDER, LESS AMOUNTS WHICH HAVE ALREADY BEEN PAID TO SUBCONTRACTOR UNDER SUCH AGREEMENT, TASK ORDER, OR PURCHASE ORDER.

1. **Compliance with International Anti-Bribery and Anti-Corruption Laws**. Subcontractor (including Subcontractor’s subcontractors, suppliers, officers, directors, employees, agents, or representatives) (“Subcontractor’s Group”) represents and certifies that it will perform under this Subcontract in accordance with the U.S. Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-1 et seq. (“FCPA”), the U.K. Bribery Act, any other applicable anti-bribery and anti-corruption laws, and the [Amentum Business Partner Code of Conduct](https://www.amentum.com/wp-content/uploads/Amentum-Business-Partner-Code-of-Conduct-Rev-I-October-2022.pdf) and shall not offer, promise, authorize, grant or approve, directly or indirectly, any gift, benefit, concession, or anything of value, directly or indirectly, to a Foreign Official (as defined by the FCPA), party or party candidate for any reason, contrary to the laws of the United States, Subcontractor’s country, or the laws of any foreign country in which Subcontractor performs under this Subcontract, in exchange for the receipt of favorable treatment or to influence any foreign governmental matter. Amentum may take any action or combination of actions as described in the Termination for Default clause hereof against the Subcontractor for violations of this provision. Subcontractor shall include this provision, including this sentence, in all lower-tier agreements.

36.1 Subcontractor agrees that it shall immediately notify Amentum of any actual or suspected violation of this clause by Subcontractor’s Group (“Incident”). If an Incident occurs, Subcontractor shall fully cooperate with Amentum’s investigation into the Incident and provide all necessary material related to the Incident to satisfy Amentum’s investigation. Subcontractor shall provide access to information required by Amentum and shall make all members of Subcontractor’s Group available to answer questions or otherwise assist Amentum in its investigation. Failure to provide such notice and cooperation may result in termination of this Agreement.

1. **International Trade Compliance**. It is the policy of Amentum to follow all applicable international trade regulations, and Amentum will not conduct business with any sanctioned or embargoed countries without prior approval from the proper Government agency(ies). The Subcontractor is responsible for and expected to keep up with the most current version of applicable international trade regulations and be in full compliance at all times. If the Subcontractor has knowledge of, or suspects that a violation may occur or may take place, Subcontractor is required to notify Amentum immediately.
	1. The services, products, technology and/or technical data provided or disclosed in performance of this Subcontract may be subject to required and continuing U.S. Government approvals, and the Subcontractor shall take those measures necessary to ensure compliance with all International Trade regulations including the Department of State (DoS), Directorate of Defense Trade Control (DDTC), International Traffic in Arms Regulations (ITAR) governing the export of defense articles, technical data, and the provision of defense Services; the Department of Commerce (DoC), Bureau of Industry and Security (BIS), Export Administration Regulations (EAR) governing the export and re-export of commercial and dual use items and technology, and the Department of the Treasury, Office of Foreign Assets Control (OFAC) regulations and any other U.S. Government regulation applicable to the export/import, re-export, or disclosure of such controlled technical data (or the products thereof) to parties who are not considered U.S. Persons under U.S. export controls whether within, or outside, the U.S., including those employed by, or otherwise associated with, the Subcontractor.
	2. All export and licensing transactions performed under this Subcontract shall fully comply with the applicable Federal regulations. Furthermore, the Subcontractor represents that “Neither the applicant, its chief executive officer, president, vice presidents, other senior officers or officials (e.g. comptroller, treasurer, general counsel) nor any member of its board of directors is: a. The subject of an indictment for or has been convicted of violating any of the U.S. criminal statutes enumerated in ITAR 120.27 since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976); or b. Ineligible to contract with, or to receive a license or other approval to import defense articles or defense Services from, or to receive an export license or other approval from any agency of the U.S. Government.”
	3. OFAC administers a number of U.S. economic sanctions and embargoes (which are published on the OFAC website at www.treas.gov/ofac) and the Subcontractor acknowledges and agrees to comply with all such U.S. regulations regarding the purchase, sale, transportation, swap, financing, brokering transactions related to goods or services of sanctioned and embargoed country origins, services owned or controlled by sanctioned and embargoed country governments, export/import, re-export, or disclosure and will obtain any and all such registrations, licenses, permits, agreements, approvals and/or certifications, as may be required by regulation for the products, services, and/or technical data that may be provided to Amentum under this Subcontract before initiating performance.
	4. U.S. anti-boycott laws require that U.S. firms refuse to participate in foreign boycotts that the United States does not sanction. In addition, the laws prevent U.S. firms from being used to implement foreign policies that are counter to U.S. policy. Although the anti-boycott laws apply to all non-U.S.-sanctioned boycotts imposed by foreign countries, the Arab League's boycott of Israel is the principal foreign economic boycott concerning U.S. firms. Anti-boycott law prohibitions include:
		1. Agreements to refuse or actual refusal to do business with or in Israel or with blacklisted companies.
		2. Agreements to discriminate or actual discrimination against other persons based on race, religion, sex, national origin, or nationality.
		3. Agreements to furnish or actual furnishing of information about business relationships with or in Israel or with blacklisted companies.
		4. Agreements to furnish or actual furnishing of information about the race, religion, sex, or national origin of another person.
	5. The Subcontractor shall notify Amentum if any deliverable under this Subcontract is restricted by any applicable international trade compliance laws and regulations. The Subcontractor shall provide to Amentum in writing the export commodity jurisdiction and classification (i.e. the export classification under the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), EU List of Dual Use Items and Technology, Wassenaar Arrangement’s List of Dual-Use Goods and Technologies or other applicable export control list), and the harmonized tariff schedule code of any item or information to be furnished in fulfilment of this purchase order. The Subcontractor shall notify Amentum in writing of any changes to the export jurisdiction and/or classification and/or harmonized tariff schedule code of the item or information. Subcontractor represents that an official authorized to bind the Subcontractor has determined that the Subcontractor or designer, manufacturer, supplier or other source of the work has properly determined the export jurisdiction and classification.
	6. The Subcontractor shall promptly provide Amentum with any technical descriptions, specifications, or information requested to support the export commodity jurisdiction, classification, or Harmonized Tariff Schedule of the United States Annotated (HTS) code determination or necessary to obtain proper export/import authorization from the appropriate government agency.
	7. Subcontractor shall provide or assist in obtaining certificates of origin, declarations required to clear goods through U.S. or foreign Customs, affidavits, proof of importation, or any other Customs requirements as requested by Amentum to recover import duties related to the work.
	8. Subcontractor shall maintain and make available to Amentum all records supporting any certificates of origin, declarations, valuation determinations, and/or affidavits provided to Amentum as support for Amentum’s claims for duty free or preferential treatment for five years after the date on which the aforementioned document(s) were provided.
	9. Supplier warrants that no products provided to Amentum are made in whole or part from any good from the Xinjiang Uyghur Autonomous Region (XUAR) of China that are subject to the Uyghur Forced Labor Prevention Act signed into law in the U.S. on December 23, 2021.
2. **Organizational Conflict of Interest.** Subcontractor warrants that, to the best of its knowledge and belief, there are no relevant facts or circumstances which would give rise to an organizational conflict of interest, as defined in the Federal Acquisition Regulation (FAR) Part 9, Subpart 9.5, or that the Subcontractor has disclosed all such relevant information.
	1. Subcontractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Subcontractor shall make a full disclosure in writing to Amentum. This disclosure shall include a description of actions which the Subcontractor has taken, or proposes to take, to avoid or mitigate the actual or potential conflict. In the event a disclosure to the Government regarding an actual or potential OCI is necessary, Subcontractor may interface directly with the Government to resolve the OCI with prior approval from Amentum. The Subcontractor shall abide by any determination by the Contracting Officer with respect to any mitigation or neutralization direction. The Contracting Officer’s direction shall be binding and conclusive upon the Subcontractor. Subcontractor shall promptly inform Amentum of any Contracting Officer determination or direction. To the extent necessary, Amentum may terminate the Subcontract for convenience in order to abide by the determination of the Contracting Officer.
	2. If the Subcontractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to Amentum, Amentum may terminate the Subcontract for default. The Subcontractor shall insert the substance of this clause in all lower tier subcontracts.
3. **Personally Identifiable Information**. Personally Identifiable Information (“PII”) includes any information that can be associated with or traced to any individual, including an individual’s name, address, telephone number, e-mail address, credit card information, social security number, employee census information, dependent information or other similar specific factual information, regardless of the media on which such information is stored (e.g., on paper or electronically) and includes such information that is generated, collected, stored or obtained as part of this Subcontract, including transactional and other data pertaining to users. Subcontractor will comply with all applicable privacy and other laws and regulations relating to protection, collection, use, and distribution of PII. In no event may Subcontractor sell or transfer PII to third parties, or otherwise provide third parties with access thereto, except as necessary in the performance of this Subcontract and in accordance with all applicable US and non-US laws and regulations. Subcontractor agrees that all PII collected by or provided to Subcontractor in the performance of this Subcontract shall be safeguarded and stored in compliance with all applicable US and non-US laws and regulations. Immediately upon becoming aware of any unauthorized access or disclosure of PII or of a suspected or actual breach of security involving PII, Subcontractor will notify Amentum’s Procurement Representative within two (2) hours of Subcontractor becoming aware of such occurrence, investigate the breach and fully cooperate to remedy the situation. Subcontractor will comply with and will fully cooperate to assist Amentum in complying with data security laws and security breach notification laws.
4. **Data Protection Regulations**. When performance under this Subcontract involves collecting, transmitting, storing, and/or using PII of employees. Subcontractor agrees to abide by any and all applicable data protection laws and regulations.
5. **Counterfeit Parts**. For the purpose of this clause, “Parts” means those parts delivered or used under this Subcontract that are the lowest level of separately identifiable items (e.g., articles, components, and assemblies). “Counterfeit Parts” means Parts that are or contain items misrepresented as having been designed and/or produced under an approved system or other acceptable method. The term “Counterfeit Parts” also includes approved Parts that have reached a design life limit or has been damaged beyond possible repair but is altered and misrepresented as acceptable.

41.1 Subcontractor warrants without limitation as to time that the goods delivered pursuant to this Purchase Order shall (i) be and only contain materials obtained directly from the Original Component Manufacturer (OCM) or the Original Equipment Manufacturer (OEM) (collectively, the Original Manufacturer (OM) or an authorized OM reseller or distributor (collectively, an Authorized Distributor); (ii) not be or contain Counterfeit Items or Suspect Counterfeit Items. Subcontractor shall obtain and retain all documentation required to fully trace the distribution and sale of the goods delivered hereunder back to the relevant OM. Counterfeit Item means an unlawful or unauthorized reproduction, substitution, alteration, or the false identification of grade, serial number, lot number, date code, or performance characteristic, that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified item from the OM, an Authorized Distributor, or an Aftermarket Manufacturer as defined in SAE AS5553 “Counterfeit Electronic Parts; Avoidance, Detection, Mitigation, and Disposition” (Authorized Aftermarket Manufacturer). A Suspect Counterfeit Item means an item for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the item is authentic. Subcontractor warrants that it will not act as or engage an independent distributor, nonauthorized distributor, non-franchised distributor, non-authorized Subcontractor, or non-authorized reseller (collectively, Broker), to assist it in delivering goods pursuant to this Purchase Order unless Amentum provides prior written approval to do so. Any Subcontractor request to procure from a Broker shall include complete and compelling support for such request and shall include all actions completed by Subcontractor to ensure the goods thus procured are not Counterfeit Items. When so authorized by Amentum, Subcontractor shall be responsible for counterfeit risk mitigation testing and providing traceability identifiers for Broker procured parts, and identifying items delivered to Amentum that contain such parts. Subcontractor shall include the substance of this Section in all procurements for goods at all tiers.

* 1. Subcontractor further warrants that it has and shall maintain a Counterfeit Item risk mitigation process, internally and with its Subcontractors, (reference SAE AS5553 and AS6174), for goods delivered hereunder. Amentum shall have the right to audit, inspect, and/or approve the processes at any time before or after delivery of the goods ordered hereunder. Subcontractor shall provide evidence of the Subcontractor’s risk mitigation process to Amentum upon request. Amentum shall have the right to require changes to the processes to conform to Amentum’s defined standards, Failure of the Subcontractor or any of its subcontractors to conform to the above process specifications and provisions may result in the termination of this Purchase Order. Subcontractor and Subcontractor's subcontractors that are allowed access to the US Government Industry Data Exchange Program (GIDEP) shall participate in monitoring GIDEP reports and Subcontractor shall act on GIDEP reports that affect product delivered to Amentum. Subcontractor shall immediately notify Amentum with the pertinent facts if Subcontractor becomes aware of or suspects that items delivered for the Purchase Order are, or contain, suspect or confirmed counterfeit items. If a good delivered hereunder is discovered to be a Counterfeit Item or Suspect Counterfeit Item, Amentum shall have the right to quarantine the good for further investigation. The Subcontractor and/or the Subcontractor’s subcontractors shall cooperate in good faith with any investigation conducted by Amentum. Upon Amentum’s request, Subcontractor shall provide Amentum certificates of conformance with respect to the goods delivered. Amentum shall not be required to return the good during the investigation process and thereafter if not found to be authentic. Amentum shall not be liable for payment to Subcontractor of the price of any Suspect Counterfeit Items until determined to be authentic. If Amentum determines in its sole discretion that there is credible evidence that a good delivered under this Purchase Order constitutes a Counterfeit Item or Suspect Counterfeit Item, Subcontractor, or its subcontractor, shall, if directed by Amentum to do so, issue a GIDEP alert and shall ensure suspect or confirmed Counterfeit Items are not delivered to Amentum. Amentum reserves its right to issue its own GIDEP alert if Amentum concludes, in its sole estimation, that a good is a Counterfeit Item or Suspect Counterfeit Item.
		1. In the event that items delivered under this Order constitutes or includes Counterfeit Parts, Subcontractor shall, at its expense, promptly replace such Counterfeit Parts with genuine Parts conforming to the requirements of this Order. Notwithstanding any other provision in this Order, Subcontractor shall be liable for all costs relating to the removal and replacement of Counterfeit Parts, including without limitation Amentum’s costs of removing Counterfeit Parts, of installing replacement Parts and of any testing necessitated by the reinstallation of Parts after Counterfeit Parts has been exchanged. The remedies contained in this paragraph are in addition to any remedies Amentum may have at law, equity or under other provisions of this Order.
		2. Subcontractor shall include this Section or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as supplies to Amentum.
1. **Survival.** In the event of termination or expiration of this Subcontract for any reason, the following clauses will survive such termination or expiration:

**Section I. Schedule, Compensation, and Payment**

6. Limitation of Funds

9. Setoff

11. Insurance

**Section II. General Terms and Conditions**

1. Integration and Order of Precedence

5. Warranty of Services

13. Subcontractor Contacts with Amentum’s Customer and other Vendors

14. Assignment and/or Subcontracting

17. Non-Solicitation

19. Compliance with Laws

21. Property and Confidential Information

22. Government Property

24. Public Release of Information

25. Patent, Copyright, and Trade Secret Indemnity

26. Technical Data and Computer Software Rights

29. Termination for Convenience

30. Termination for Default

32. Disputes

33. Indemnification

34. Cost Accounting Standards / Defective Cost & Pricing Data Indemnification

35. Limitation of Liability

43. Waiver of Rights / Severability

44. Retention of Records

45. Prevailing Wages and Related Requirements; and

This clause, Survival.

1. **Waiver of Rights / Severability.** Failure of either Party to insist on performance of any provision of this Subcontract shall not be construed as a waiver of that provision or a waiver of Amentum or Subcontractor’s right to require compliance with such provision in any later instance. If any provision of this Subcontract is found to be illegal, invalid, or unenforceable under law, then the remainder of the Subcontract shall not be affected, impaired or invalidated; and all other provisions shall be valid and enforceable to the fullest extent permitted by law and to the extent such invalidity or unenforceability does not render the performance of the remainder of the Subcontract commercially senseless.
2. **Retention of Records.** Unless a shorter period is specified by law or by applicable regulation including FAR Part 4.7 Contractor Records Retention, Subcontractor shall retain all records related to this Subcontract for ten (10) years from the date as determined by FAR 4.704 Calculation of retention periods. Records related to this Subcontract are those as provided under FAR 52.215-2 Audit and Records-Negotiation, incorporated herein by reference as if set forth in full; and Subcontractor shall comply with all the terms of that clause. At no additional cost, Subcontractor shall provide timely access to such records to the US Government and/or Amentum upon request for any examination, audit, or reproduction.

**45.** **Reserved**

**Attachment A**

**Special Subcontract Clauses From Prime Contract**

For purposes of interpreting the Federal Acquisition Regulation (FAR) and USAID Acquisition Regulation (AIDAR) clauses, except where further clarified or modified below, the term “Government” and equivalent phrases shall mean “Amentum”, the term “Contracting Officer” shall mean Amentum’s “Authorized Procurement Representative”, the term “Contractor” or “Offeror” shall mean “Subcontractor”, “subcontractor” shall mean “Subcontractor’s subcontractor” under this Subcontract, and the term “Contract” shall mean this Subcontract.

For avoidance of doubt, the words “Government” and “Contracting Officer” do not change when a right, act, authorization, or obligation can be granted or performed only by the Government or the Prime Contract contracting officer or duly authorized representative; for example, in FAR 52.227-1 or FAR 52.227-2, or when title to property is to be transferred directly to the Government.

|  |
| --- |
| **Contract No. 72038821C00002 Feed the Future Bangladesh Agricultural Infrastructure Development Activity Flow Downs** |
| APPLICABILITY: The FAR and AIDAR clauses cited herein, where applicable by their terms, are mandatory flow-down clauses incorporated herein by reference as if set forth in full text, unless otherwise specified. The full text of all MANDATORY clauses incorporated by reference is available at <http://www.acquisition.gov/>. The effective version of each FAR or FAR Supplement clause shall be as identified below. |

# SECTION H - SPECIAL CONTRACT REQUIREMENTS

## AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for procurement of goods and services under this solicitation is 937, which is the United States, the recipient country, and developing countries other than advanced developing countries, but excluding any country that is a prohibited source.

A list of developing countries is available at: <http://www.usaid.gov/sites/default/files/documents/1876/310maa.pdf>

A list of advanced developing countries is available at: <http://www.usaid.gov/sites/default/files/documents/1876/310mab.pdf>

## PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS

USAID reserves the right to terminate this contract, to demand a refund or take other appropriate measures if the Contractor 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.

## INTERNATIONAL TRAVEL APPROVAL

All international air travel must be in accordance with AIDAR 752.7032, International Travel Approval and Notification Requirements, and AIDAR 752.7027, Personnel; comply with the terms and conditions of the Contract; and, is subject to availability of funds.

All international air travel funded under this contract, as delegated by the CO, will be approved separately by the designated COR.

## FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JAN 2002)

Funds in this contract, 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, except as provided in ADS Mandatory Reference "Guidance on Funding Foreign Government Delegations to International Conferences” ht[tps://www.usaid.gov/sites/default/files/docume](http://www.usaid.gov/sites/default/files/documents/1868/350maa.pdf)n[ts/1868/350maa.pdf](http://www.usaid.gov/sites/default/files/documents/1868/350maa.pdf) or as approved by the CO.

## EXECUTIVE ORDER ON TERRORISM FINANCING (FEB 2002)

**`**

The Contractor is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the responsibility of the Contractor to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts issued under this contract.

## RESTRICTIONS AGAINST DISCLOSURE (MAY 2016)

1. The Contractor agrees, in the performance of this contract, to keep the information furnished by the Government or acquired/developed by the Contractor in performance of the contract and designated by the Contracting Officer or Contracting Officer's Representative, in the strictest confidence. The Contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the Contractor's possession, to those employees needing such information to perform the work described herein, i.e., on a “need-to-know” basis. The Contractor agrees to immediately notify the Contracting Officer in writing in the event that the Contractor determines or has reason to suspect a breach of this requirement has occurred.
2. All Contractor staff working on any of the described tasks may, at Government request, be required to sign formal non-disclosure and/or conflict of interest agreements to guarantee the protection and integrity of Government information and documents.
3. The Contractor shall insert the substance of this special contract requirement, including this paragraph (c), in all subcontracts when requiring a restriction on the release of information developed or obtained in connection with performance of the contract.

## CLOUD COMPUTING (APRIL 2018)

1. *Definitions*. As used in this special contract requirement-

“Cloud computing” means a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. This includes other commercial terms, such as on-demand self-service, broad network access, resource pooling, rapid elasticity, and measured service. It also includes commercial offerings for software-as-a-service, infrastructure-as-a-service, and platform-as-a-service.

"Federal information" means information created, collected, processed, disseminated, or disposed of by or for the Federal Government, in any medium or form. (OMB A-130) “Information” means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information Security Incident” means an occurrence that (1) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies.

“Privacy Incident means a violation or imminent threat of violation of security policies, acceptable use policies, or standard security practices, involving the breach of Personally Identifiable Information (PII), whether in electronic or paper format.

“Spillage” means a security incident that results in the transfer of classified or other sensitive or sensitive but unclassified information to an information system that is not accredited,(i.e., authorized) for the applicable security level of the data or information. “Cloud Service Provider” or CSP means a company or organization that offers some component of cloud computing –typically Infrastructure as a Service (IaaS), Software as a Service (SaaS) or Platform as a Service (PaaS) – to other businesses, organizations or individuals.

“Penetration Testing” means security testing in which assessors mimic real-world attacks to identify methods for circumventing the security features of an application, system, or network. (NIST SP 800-115)

“Third Party Assessment Organizations” means an organization independent of the organization whose IT system is being assessed. They are required to meet the ISO/IEC 17020:1998 standards for independence and managerial competence and meet program requirements for technical FISMA competence through demonstrated expertise in assessing cloud-based solutions.

“Personally Identifiable Information (PII)” means information that can be used to distinguish or trace an individual's identity, such as their name, Social Security Number (SSN), biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. In performing this assessment, it is important to recognize that non-PII can become PII whenever additional information is made publicly available — in any medium and from any source — that, when combined with other available information, could be used to identify an individual. PII examples include name, address, SSN, or other identifying number or code, telephone number, and e-mail address. PII can also consist of a combination of indirect data elements such as gender, race, birth date, geographic indicator (e.g., zip code), and other descriptors used to identify specific individuals. When defining PII for USAID purposes, the term “individual” refers to a citizen of the United States or an alien lawfully admitted for permanent residence.

1. Applicability

This special contract requirement applies to the Contractor and all personnel providing support under this contract (hereafter referred to collectively as “Contractor”) and addresses specific USAID requirements in addition to those included in the Federal Acquisition Regulation (FAR), Privacy Act of 1974 (5 U.S.C. 552a - the Act), E-Government Act of 2002 - Section 208 and Title III, Federal Information Security Management Act (FISMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Pub. L. 104-191, 110 Stat. 1936), the Sarbanes-Oxley Act of 2002 (SOX, Pub. L. 107-204, 116 Stat 745), National Institute of Standards and Technology (NIST), Federal Information Processing Standards (FIPS) and the 800-Series Special Publications (SP), Office of Management and Budget (OMB) memorandums, and other laws, mandates, or executive orders pertaining to the development and operations of information systems and the protection of sensitive information and data.

1. Limitations on access to, use and disclosure of, Federal information.
	1. The Contractor shall not access, use, or disclose Government data unless specifically authorized by the terms of this contract issued hereunder.
2. If authorized by the terms of this contract issued hereunder, any access to, or use or disclosure of, Federal information shall only be for purposes specified in this contract.
3. The Contractor shall ensure that its employees are subject to all such access, use, and disclosure prohibitions and obligations.
4. These access, use, and disclosure prohibitions and obligations shall remain effective beyond the expiration or termination of this contract.
	1. The Contractor shall use related Federal information only to manage the operational environment that supports the Federal information and for no other purpose unless otherwise permitted with the prior written approval of the Contracting Officer.
5. Records Management and Access to Information
	1. The Contractor shall support a system in accordance with the requirement for Federal agencies to manage their electronic records in accordance with capabilities such as those identified in the provisions of this contract and National Archives and Records Administration (NARA) retention policies.
	2. Upon request by the government, the Contractor shall deliver to the Contracting Officer all Federal information , including data schemas, metadata, and other associated data artifacts, in the format specified in the schedule or by the Contracting Officer in support of government compliance requirements to include but not limited to Freedom of Information Act, Privacy Act, e-Discovery, e- Records and legal or security investigations.
	3. The Contractor shall retain and maintain all Federal information in accordance with records retention provisions negotiated by the terms of the contract and in accordance with USAID records retention policies.
	4. The Contractor shall dispose of Federal information in accordance with the terms of the contract and provide the confirmation of disposition to the Contracting Officer in accordance with contract closeout procedures.
6. Notification of third party access to Federal information: The Contractor shall notify the Government immediately of any requests from a third party for access to Federal information or, including any warrants, seizures, or subpoenas it receives, including those from another Federal, State, or Local agency, that could result in the disclosure of any Federal information to a third party. The Contractor shall cooperate with the Government to take all measures to protect Federal information from any loss or unauthorized disclosure that might reasonably result from the execution of any such request, warrant, seizure, subpoena, or similar legal process.
7. Spillage and Information Security Incidents: Upon written notification by the Government of a spillage or information security incident involving classified information, or the Contractor’s discovery of a spillage or security incident involving classified information, the Contractor shall immediately (within 30 minutes) notify CIO- HELPDESK@usaid.gov and the Office of Security at SECinformationsecurity@usaid.gov to correct the spillage or information security incident in compliance with agency-specific instructions. The Contractor will also notify the Contracting Officer or Contracting Officer’s Representative and the Contractor Facilities Security Officer. The Contractor will abide by USAID instructions on correcting such a spill or information security incident. For all spills and information security incidents involving unclassified and/or SBU information, the protocols outlined above in section
8. and (h) below shall apply.
9. Information Security Incidents
	1. Security Incident Reporting Requirements: All Information Security Incidents involving USAID data or systems must be reported in accordance with the requirements below, even if it is believed that the information security incident may be limited, small, or insignificant. USAID will determine the magnitude and resulting actions. (i)Contractor employees must report via e-mail all Information Security Incidents to the USAID Service Desk immediately, but not later than 30 minutes, after becoming aware of the Incident, at: CIO- HELPDESK@usaid.gov, regardless of day or time, as well as the Contracting Officer and Contracting Officer’s representative and the Contractor Facilities Security Officer.

Contractor employees are strictly prohibited from including any Sensitive Information in the subject or body of any e- mail concerning information security incident reports. To transmit Sensitive Information, Contractor employees must use FIPS 140-2 compliant encryption methods to protect Sensitive Information in attachments to email. Passwords must not be communicated in the same email as the attachment.

The Contractor must provide any supplementary information or reports related to a previously reported information security incident directly to CIO-HELPDESK@usaid.gov, upon request.

1. Correspondence must include related ticket number(s) as provided by the USAID Service Desk with the subject line “Action Required: Potential Security Incident”.
2. Privacy Incidents Reporting Requirements: Privacy Incidents may result in the unauthorized use, disclosure, or loss of personally identifiable information, and can result in the loss of the public's trust and confidence in the Agency’s ability to safeguard personally identifiable information. PII breaches may impact individuals whose PII is compromised, including potential identity theft resulting in financial loss and/or personal hardship experienced by the individual. Contractor employees must report by e-mail all Privacy Incidents to the USAID Service Desk immediately (within 30 minutes), after becoming aware of the Incident, at: CIO-HELPDESK@usaid.gov, regardless of day or time, as well as the USAID Contracting Officer or Contracting Officer’s representative and the Contractor Facilities Security Officer. If known, the report must include information on the format of the PII (oral, paper, or electronic.) The subject line shall read “Action Required: Potential Privacy Incident”.
3. Information Ownership and Rights: USAID information stored in a cloud environment remains the property of USAID, not the Contractor or cloud service provider (CSP). USAID retains ownership of the information and any media type that stores Federal information. The CSP shall only use the Federal information for purposes explicitly stated in the contract. Further, the cloud service provider shall export Federal information in a machine-readable and non-proprietary format that USAID requests at the time of production, unless the parties agree otherwise.
4. Security Requirements:
5. The Contractor shall adopt and maintain administrative, technical, operational, and physical safeguards and controls that meet or exceed requirements contained within the Federal Risk and Authorization Management Program

(FedRAMP) Cloud Computing Security Requirements Baseline, current standard for NIST 800-53 (Security and Privacy Controls for Federal Information Systems) and Organizations, including Appendix J, and FedRAMP Continuous Monitoring Requirements for the security level and services being provided, in accordance with the security categorization or impact level as defined by the government based on the Federal Information Processing Standard (FIPS) Publication 199 (FIPS-199).

1. The Contractor shall comply with FedRAMP requirements as mandated by Federal laws and policies, including making available any documentation, physical access, and logical access needed to support this requirement. The Level of Effort for the security assessment and authorization (SA&A) is based on the system’s complexity and security categorization. The Contractor shall create, maintain and update the following documentation using FedRAMP requirements and templates, which are available at [https://www.](https://www/)FedRAMP.gov.
2. The Contractor must support SA&A activities to include assessment by an accredited Third Party Assessment Organization (3PAO) initially and whenever there is a significant change to the system’s security posture in accordance with the FedRAMP Continuous Monitoring Plan. The Contractor must make available to the Contracting Officer, the most current, and any other, Security Assessment Reports for consideration as part of the Contractor’s overall Systems Security Plan.
3. The Government reserves the right to perform penetration testing or request Penetration Testing by an independent source. If the Government exercises this right, the Contractor shall allow Government employees (or designated third parties) to conduct Security Assessment activities to include control reviews in accordance with FedRAMP requirements. Review activities include but are not limited to scanning operating systems, web applications, databases, wireless scanning; network device scanning to include routers, switches, and firewall, and IDS/IPS; databases and other applicable systems, including general support structure, that

support the processing, transportation, storage, or security of Federal information for vulnerabilities.

1. Identified gaps between required FedRAMP Security Control Baselines and Continuous Monitoring controls and the Contractor's implementation as documented in the Security Assessment Report must be tracked by the Contractor for mitigation in a Plan of Action and Milestones (POA&M) document. Depending on the severity of the gaps, the Government may require them to be remediated before any restricted authorization is issued.
2. The Contractor is responsible for mitigating all security risks found during SA&A and continuous monitoring activities. All high-risk vulnerabilities must be mitigated within thirty (30) calendar days and all moderate risk vulnerabilities must be mitigated within sixty (60) calendar days from the date vulnerabilities are formally identified. USAID may revoke an ATO for any system if it is determined that the system does not comply with USAID standards or presents an unacceptable risk to the Agency. The Government will determine the risk rating of vulnerabilities.
3. The Contractor shall provide access to the Federal Government, or their designee acting as their agent, when requested, in order to verify compliance with the requirements and to allow for appropriate risk decisions for an Information Technology security program. The Government reserves the right to conduct onsite inspections. The Contractor must make appropriate personnel available for interviews and provide all necessary documentation during this review and as necessary for continuous monitoring activities.
4. Privacy Requirements: Cloud Service Provider (CSP) must understand and adhere to applicable federal Privacy laws, standards, and guidance to protect Personally Identifiable Information (PII) about individuals that will be collected and maintained by the Contractor solution. The Contractor responsibilities include full cooperation for any request for disclosure, subpoena, or other judicial process seeking access to records subject to the Privacy Act of 1974.
5. Data Location: The Contractor must disclose the data server locations where the Agency data will be stored as well as the redundant server locations. The Contractor must have prior Agency approval to store Agency data in locations outside of the United States.
6. Terms of Service (ToS): The Contractor must disclose any requirements for terms of service agreements and clearly define such terms prior to contract award. All ToS provisions regarding controlling law, jurisdiction, and indemnification must align with Federal statutes, policies, and regulations.
7. Service Level Agreements (SLAs): The Contractor must be willing to negotiate service levels with USAID; clearly define how performance is guaranteed (such as response time resolution/mitigation time, availability, etc.); monitor their service levels; provide timely notification of a failure to meet the SLAs; and evidence that problems have been resolved or mitigated. Additionally, at USAID’s request, the Contractor must submit reports or provide a dashboard where USAID can continuously verify that service levels are being met. Where SLAs fail to be met, USAID may assess monetary penalties or service credit.
8. Trusted Internet Connection (TIC): The Contractor must route all USAID traffic through the TIC.
9. Forensics, Freedom of Information Act (FOIA), Electronic Discovery, or additional Information Requests: The Contractor must allow USAID access required to retrieve information necessary for FOIA and Electronic Discovery activities, as well as, forensic investigations for both criminal and non-criminal purposes without their interference in these activities. USAID may negotiate roles and responsibilities for conducting these activities in agreements outside of this contract.
	1. The Contractor must ensure appropriate forensic tools can reach all devices based on an approved timetable.
	2. The Contractor must not install forensic software or tools without the permission of USAID.
	3. The Contractor, in coordination with USAID Bureau for Management, Office of The Chief Information Officer (M/CIO)/ Information Assurance Division (IA), must document and preserve data required for these activities in accordance with the terms and conditions of the contract.
	4. The Contractor, in coordination with USAID M/CIO/IA, must clearly define capabilities, procedures, roles and responsibilities and tools and methodologies for these activities.
10. The Contractor shall include the substance of this special contract requirement, including this paragraph (p), in all subcontracts, including subcontracts for commercial items.

### LIMITATION ON ACQUISITION OF INFORMATION TECHNOLOGY (APRIL 2018) (DEVIATION NOs. M/OAA-DEV-FAR-20-3c and M/OAA-DEV-AIDAR-20-2c) (APRIL 2020)

1. Definitions. As used in this contract -- “Information Technology” means
	1. Any services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; where
	2. such services or equipment are ' used by an agency' if used by the agency directly or if used by a contractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product.
	3. The term " information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources.
	4. The term "information technology" does not include any equipment that is acquired by a contractor incidental to a contract that does not require use of the equipment.
2. The Federal Information Technology Acquisition Reform Act (FITARA) requires Agency Chief Information Officer (CIO) review and approval of contracts that include information technology or information technology services.
3. The Contractor must not acquire information technology as defined in this clause without the prior written approval by the contracting officer as specified in this clause.
4. Request for Approval Requirements:
	1. If the Contractor determines that any information technology will be necessary to meet the Government’s requirements or to facilitate activities in the Government’s statement of work, the Contractor must request prior written approval from the Contracting Officer.
	2. As part of the request, the Contractor must provide the Contracting Officer a description and an estimate of the total cost of the information technology equipment, software, or services to be procured under this contract. The Contractor must simultaneously notify the Contracting Officer’s Representative (COR) and the Office of the Chief Information Office at ITAuthorization@usaid.gov.
5. The Contracting Officer will provide written approval to the Contractor through modification to the contract expressly specifying the information technology equipment, software, or services approved for purchase by the COR and the Agency CIO. The Contracting Officer will include the applicable clauses and special contract requirements in the modification.
6. Except as specified in the contracting officer’s written approval, the Government is not obligated to reimburse the Contractor for any costs incurred for information technology as defined in this clause.
7. The Contractor must insert the substance of this clause, including this paragraph (g), in all subcontracts.

## SEXUAL MISCONDUCT (DECEMBER 2020)

1. USAID has a zero-tolerance policy for sexual misconduct with the goal of fostering a respectful, safe, healthy and inclusive work environment. USAID maintains policies and procedures to establish a workplace free of sexual misconduct as described in agency policy at ADS Chapter 113, Preventing and Addressing Sexual Misconduct.
2. USAID has developed two methods for receiving allegations of sexual misconduct: USAID’s Unified Misconduct Reporting Portal, available on LaunchPad (launchpad.usaid.gov), and Service Desk, phone, (202) 712-1234. These are also available to the Contractor or its employee(s).
3. USAID may conduct administrative inquiries into allegations of sexual misconduct that occur within U.S. Government facilities or while the contractor employee is performing services under the contract. The Contracting Officer will provide the results of any inquiry involving a contractor employee to the contractor, subject to federal law and USAID’s information disclosure policies. USAID retains the right to suspend or terminate a contractor employee’s access to any systems and/or facilities for incidents of sexual misconduct.
4. The Contractor agrees to incorporate the substance of paragraphs (a) through (d) of this requirement in all subcontracts that may require contractor employees to have routine physical access to USAID facilities.

**H.18 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JULY 2007)**

(a) Before a Contractor (or a Contractor’s employee) may obtain a USAID ID (new or replacement) authorizing him/her routine access to USAID facilities, or logical access to USAID’s information systems, the individual must provide two forms of identity source documents in original form and a passport size photo. One identity source document must be a valid Federal or state government-issued picture ID. (Overseas foreign nationals must comply with the requirements of the Regional Security Office.) USAID/Washington Contractors must contact the USAID Security Office to obtain the list of acceptable forms of documentation, and Contractors working in overseas Missions must obtain the acceptable documentation list from the Regional Security Officer. Submission of these documents, and related background checks, are mandatory in order for the Contractor to receive a building access ID, and before access will be granted to any of USAID’s information systems. All Contractors must physically present these two source documents for identity proofing at their USAID/Washington or Mission Security Briefing. The Contractor or his/her Facilities Security Officer must return any issued building access ID and remote authentication token to USAID custody upon termination of the individual’s employment with the Contractor or completion of the contract, whichever occurs first.

1. (b) The Contractor must comply with all applicable HSPD-12 and PIV procedures, as described above, and any subsequent USAID or government-wide HSPD-12 and PIV procedures/policies, including any subsequent related USAID General Notices, Office of Security Directives and/or Automated Directives System (ADS) policy directives and required procedures. This includes HSPD-12 procedures established in USAID/Washington and those procedures established by the overseas Regional Security Office.

(c) The Contractor is required to include this provision in any subcontracts that require the sub-contractor or sub-contractor employee to have routine physical access to USAID space or logical access to USAID’s information

1. systems.
	1. **H.23 AIDAR 752.231-71 SALARY SUPPLEMENTS FOR HOST GOVERNMENT (HG) EMPLOYEES (MAR 2015)** (a) Salary supplements are payments made that augment an employee's base salary or premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practice for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements.
	2. (b) Salary supplements to HG Employees are not allowable without the written approval of the Contracting Officer.
	3. (c) The Contractor must insert a clause containing all the terms of this clause, including the requirement to obtain the written approval of the contracting officer for all salary supplements, in all subcontracts under this contract that may entail HG employee salary supplements.

**H.24 RESTRICTIONS AGAINST DISCLOSURE (MAY 2016)**

(a) The Contractor agrees, in the performance of this contract, to keep the information furnished by the Government or acquired/developed by the Contractor in performance of the contract and designated by the Contracting Officer or Contracting Officer's Representative, in the strictest confidence. The Contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are necessary to restrict access to such information while in the Contractor's possession, to those employees needing such information to perform the work described herein, i.e., on a “need-to-know” basis. The Contractor agrees to immediately notify the Contracting Officer in writing in the event that the Contractor determines or has reason to suspect a breach of this requirement has occurred.

1. (b) All Contractor staff working on any of the described tasks may, at Government request, be required to sign formal non-disclosure and/or conflict of interest agreements to guarantee the protection and integrity of Government information and documents.
2. The Contractor shall insert the substance of this special contract requirement, including this paragraph (c), in all subcontracts when requiring a restriction on the release of information developed or obtained in connection with performance of the contract.

**H.35 FAR 52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION NO TIKTOK ON GOVERNMENT DEVICES (JUN 2023)**

(a) Definitions. As used in this clause—

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited, or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

 (i) Of that equipment; or

 (ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

 (3) Does not include any equipment acquired by a federal contractor incidental to a Federal contract.

(b) Prohibition. Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

**Attachment B**

**Flow Down Clauses From Prime Contract**

For purposes of interpreting the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses, except where further clarified or modified below, the term “Government” and equivalent phrases shall mean “Amentum”, the term “Contracting Officer” shall mean Amentum’s “Authorized Procurement Representative”, the term “Contractor” or “Offeror” shall mean “Subcontractor”, “subcontractor” shall mean “Subcontractor’s subcontractor” under this Subcontract, and the term “Contract” shall mean this Subcontract.

For avoidance of doubt, the words “Government” and “Contracting Officer” do not change when a right, act, authorization, or obligation can be granted or performed only by the Government or the Prime Contract contracting officer or duly authorized representative; for example, in FAR 52.227-1 or FAR 52.227-2, or when title to property is to be transferred directly to the Government.

# SECTION D - BRANDING AND MARKING

## AIDAR 752.7009 MARKING (JAN 1993)

1. It is USAID policy that USAID-financed commodities and shipping containers, and project construction sites and other project locations be suitably marked with the “USAID Standard Graphic Identity”. Shipping containers are also to be marked with the last five digits of the USAID financing document number. As a general rule, marking is not required for raw materials shipped in bulk (such as coal, grain, etc.), or for semi-finished products which are not packaged.
2. Specific guidance on marking requirements should be obtained prior to procurement of commodities to be shipped, and as early as possible for project construction sites and other project locations. This guidance will be provided through the cognizant technical office indicated on the cover page of this contract, or by the Mission Director in the Cooperating Country to which commodities are being shipped, or in which the project site is located.
3. Authority to waive marking requirements is vested with the Regional Assistant Administrators, and with Mission Directors.
4. A copy of any specific marking instructions or waivers from marking requirements is to be sent to the Contracting Officer; the original should be retained by the Contractor.

## BRANDING

The Contractor shall comply with the requirements of the policy directives and required procedures outlined in USAID Automated Directive System (ADS) 320.3.2 “Branding and Marking in USAID Direct Contracting” (version from January 8, 2007) at [http://www.usaid.gov/policy/ads/300/320.pdf;](http://www.usaid.gov/policy/ads/300/320.pdf) and USAID "Graphic Standards Manual" available a[t](http://www.usaid.gov/branding) [www.usaid.gov/branding,](http://www.usaid.gov/branding) or any successor branding policy.

As per 320.3.2 Branding and Marking in USAID Direct Contracts, USAID policy is to require exclusive branding and marking in USAID direct acquisitions. “Exclusive Branding” means that the program is positioned as USAID’s, as showcased by the program name (e.g., “The USAID/Basic Education Program”). “Exclusive Marking” means Contractors may only mark USAID-funded programs, projects, activities, public communications, and commodities with the USAID Standard Graphic Identity and, where applicable, the host-country government or ministry symbol or another U.S. Government logo.

It is USAID’s policy that Contractors’ and sub-Contractors’ corporate identities or logos must not be used on USAID- funded program materials.

## MARKING AND BRANDING STRATEGY

Anticipated elements of marking plan: Deliverables to be marked, include products, equipment and inputs delivered; places where program activities are carried out; external public communications, studies, reports, publications and informative and promotional products; and workshops, conferences, fairs, media related activities and any such events. Publications authored by Contractors or other non-USAID employees must include the following disclaimer on the title page: “The author’s views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.” Threats and restrictions to the security of the program need to be identified and assessed in order to request any necessary exception from the marking requirement in accordance with ADS 320.3.2.

USAID’s web page contains the electronic version of the Graphic Standards Manual that is compulsory for all Contractors. Marking under this contract shall comply with the “USAID Graphics Standards Manual” available at [http://www.usaid.gov/branding/acquisition.html.](http://www.usaid.gov/branding/acquisition.html)

The Contractor’s Branding Implementation Plan (BIP) and Marking Plan will be approved separately.

## FEED THE FUTURE TRADEMARKING AND BRANDING

Per ADS 320.3.4, a special determination signed by the USAID Administrator in December 2014 authorized the Feed the Future initiative to issue its own naming, marking and branding guidance for use by USAID and its implementing partners. It is the first (and currently only) Presidential Initiative to receive this exception.

Per this determination, USAID contracts, grants and cooperative agreements awarded on or after January 1, 2015, which are funded by the USG’s Feed the Future initiative must include the Feed the Future logo in addition to USAID’s identity on communication products. The Contractor is required to comply (and ensure compliance by partners) with USAID’s branding and marking requirements set forth in 2 CFR 700.16 with Feed the Future specific guidance located at feedthefuture.gov.

**SECTION E - INSPECTION AND ACCEPTANCE**

* 1. **NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See [http://acquisition.gov/far/index.html f](http://acquisition.gov/far/index.html)or electronic access to the full text of a clause

## NUMBER TITTLE DATE

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| --- | --- | --- |
| 52.246-5 | INSPECTION OF SERVICES – COST REIMBURSEMENT | APR 1984 |

**SECTION F - DELIVERIES OR PERFORMANCE**

* 1. **NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE**

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract with the same force and effect as if they were given in full text. See [http://acquisition.gov/far/index.html f](http://acquisition.gov/far/index.html)or electronic access to the full text of a clause.

## NUMBER TITLE DATE

52.242-15 STOP-WORK ORDER AUG 1989

52.242-15 ALTERNATE I APR 1984

## AUTHORIZED WORKDAY / WEEK

No overtime or premium pay is authorized under this Contract. The Contractor is authorized up to a 6-day workweek (8 hours per day) for all short-term consultants to maximize work time while in Bangladesh. All long-term employees under the activity should follow a standard workweek in accordance with local laws and the Contractor’s policies as applicable. Any other authorization for an extended workday/week for personnel will need to be requested in advance from the COR. The Contractor’s field staff must keep the same operating schedule as the US Embassy in Bangladesh.

**SECTION I - CONTRACT CLAUSES**

* 1. **FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

FAR: <http://acquisition.gov/far/index.html>

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| **NUMBER** | **TITLE** | **DATE** |
| 52.202-1 | DEFINITIONS | JUN 2020 |
| 52.203-3 | GRATUITIES | APR 1984 |
| 52.203-5 | COVENANT AGAINST CONTINGENT FEES | MAY 2014 |
| 52.203-6 | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT | JUN 2020 |
| 52.203-7 | ANTI-KICKBACK PROCEDURES | JUN 2020 |
| 52.203-8 | CANCELLATION, RESCISSION AND RECOVERY OF FUNDS |  |
|  | FOR ILLEGAL ACTIVITY | MAY 2014 |
| 52.203-10 | PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY | MAY 2014 |
| 52.203-12 | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS | JUN 2020 |
| 52.203-13 | CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT | JUN 2020 |
| 52.203-16 | PREVENTING PERSONAL CONFLICTS OF INTEREST | JUN 2020 |
| 52.203-17 | CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND |  |
|  | REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS | JUN 2020 |
| 52.203-19 | PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY |  |
|  | AGREEMENTS OR STATEMENTS | JAN 2017 |
| 52.204-4 | PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER |  |
|  | CONTENT PAPER | MAY 2011 |
|  | PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL |  |
| 52.204-19 | INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS | DEC 2014 |
| 52.204-21 | BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS | JUN 2016 |
| 52.204-23 | PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES | JUL 2018 |
|  | DEVELOPED OR PROVIDED BY KASPERSKY LAB |  |
|  | AND OTHER COVERED ENTITIES |  |
| 52.204-25 | PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND |  |
|  | VIDEO SURVEILLANCE SERVICES OR EQUIPMENT | AUG 2020 |
| 52.209-6 | PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH |  |
|  | CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT | JUN 2020 |
| 52.209-9 | UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING |  |
|  | RESPONSIBILITY MATTERS | OCT 2018 |
| 52.209-10 | PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS | NOV 2015 |
| 52.210-1 | MARKET RESEARCH | JUN 2020 |
| 52.215-2 | AUDIT AND RECORDS—NEGOTIATION | JUN 2020 |
| 52.215-14 | INTEGRITY OF UNIT PRICES | JUN 2020 |
| 52.215-19 | NOTIFICATION OF OWNERSHIP CHANGES | OCT 1997 |

|  |  |  |
| --- | --- | --- |
| 52.215-23 | LIMITATIONS ON PASS-THROUGH CHARGES | JUN 2020 |
| 52.216-7 | ALLOWABLE COST AND PAYMENT | AUG 2018 |
| 52.217-2 | CANCELLATION UNDER MULTI-YEAR CONTRACTS | OCT 1997 |
| 52.217-8 | OPTION TO EXTEND SERVICES | NOV 1999 |
| 52.222-3 | CONVICT LABOR | JUN 2003 |
| 52.222-17 | NONDISPLACEMENT OF QUALIFIED WORKERS | MAY 2014 |
| 52.222-19 | CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES | JAN 2020 |
| 52.222-21 | PROHIBITION OF SEGREGATED FACILITIES | APR 2015 |
| 52.222-26 | EQUAL OPPORTUNITY | SEP 2016 |
| 52.222-29 | NOTIFICATION OF VISA DENIAL | APR 2015 |
| 52.222-35 | EQUAL OPPORTUNITY FOR VETERANS | JUN 2020 |
| 52.222-36 | EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES | JUN 2020 |
| 52.222-37 | EMPLOYMENT REPORTS ON VETERANS | JUN 2020 |
| 52.222-54 | EMPLOYMENT ELIGIBILITY VERIFICATION | OCT 2015 |
| 52.223-6 | DRUG FREE WORKPLACE | MAY 2001 |
| 52.223-18 | ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING | JUN 2020 |
|  | WHILE DRIVING |  |
| 52.225-13 | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES | FEB 2021 |
| 52.227-3 | PATENT INDEMNITY | APR 1984 |
| 52.227-13 | PATENT RIGHTS—OWNERSHIP BY THE GOVERNMENT | DEC 2007 |
| 52.227-14 | RIGHTS IN DATA—GENERAL | MAY 2014 |
|  |  |  |
| 52.228-7 | INSURANCE—LIABILITY TO THIRD PERSONS | MAR 1996 |
| 52.228-8 | LIABILITY AND INSURANCE—LEASED MOTOR VEHICLES | MAY 1999 |
| 52.229-8 | TAXES—FOREIGN COST-REIMBURSEMENT CONTRACTS | MAR 1990 |
| 52.230-2 | COST ACCOUNTING STANDARDS | JUN 2020 |
| 52.230-6 | ADMINISTRATION OF COST ACCOUNTING STANDARDS | JUN 2010 |
| 52.232-1 | PAYMENTS | APR 1984 |
| 52.232-9 | LIMITATION ON WITHHOLDING OF PAYMENTS | APR 1984 |
| 52.232-17 | INTEREST | MAY 2014 |
| 52.232-18 | AVAILABILITY OF FUNDS | APR 1984 |
| 52.232-22 | LIMITATION OF FUNDS | APR 1984 |
| 52.232-23 | ASSIGNMENT OF CLAIMS | MAY 2014 |
| 52.232-39 | UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS | JUN 2013 |
| 52.233-1 | DISPUTES | MAY 2014 |
| 52.233-4 | APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM | OCT 2004 |
| 52.236-5 | MATERIALS AND WORKMANSHIP | APR 1984 |
| 52.236-7 | PERMITS AND RESPONSIBILITIES | NOV 1991 |
| 52.236-18 | WORK OVERSIGHT IN COST-REIMBURSEMENT CONSTRUCTION CONTRACTS | APR 1984 |
| 52.236-19 | ORGANIZATION AND DIRECTION OF THE WORK | APR 1984 |
| 52.237-3 | CONTINUITY OF SERVICES | JAN 1991 |
| 52.242-1 | NOTICE OF INTENT TO DISALLOW COSTS | APR 1984 |
| 52.242-3 | PENALTIES FOR UNALLOWABLE COSTS | MAY 2014 |
| 52.242-4 | CERTIFICATION OF FINAL INDIRECT COSTS | JAN 1997 |
| 52.242-13 | BANKRUPTCY | JUL 1995 |
| 52.243-2 | CHANGES—COST-REIMBURSEMENT ALTERNATE I | APR 1984 |
| 52.245-1 | GOVERNMENT PROPERTY | JAN 2017 |

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| 52.245-9 | USE AND CHARGES | APR 2012 |
| 52.246-23 | LIMITATION OF LIABILITY | FEB 1997 |
| 52.246-25 | LIMITATION OF LIABILITY—SERVICES | FEB 1997 |
|  |  |  |
| 52.249-6 | TERMINATION (COST REIMBURSEMENT) | MAY 2004 |
| 52.249-14 | EXCUSABLE DELAYS | APR 1984 |
| 52.253-1 | COMPUTER GENERATED FORMS | JAN 1991 |

## AIDAR 752.252-2 AIDAR CLAUSES INCORPORATED BY REFERENCE (MAR 2015)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of all AIDAR solicitation provisions and contract clause is contained in the Code of Federal Regulations (CFR) located at 48 CFR chapter 7, and at the following Web address:

<http://www.usaid.gov/sites/default/files/documents/1868/aidar_0.pdf>

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| **NUMBER** | **TITLE** | **DATE** |
| 752.202-1 | DEFINITIONS ALTERNATE 70ALTERNATE 72 | JAN 1990JUN 2009 |
| 752.204-2 | SECURITY REQUIREMENTS | FEB 1999 |
| 752.209-71 | ORGANIZATIONAL CONFLICTS OF INTEREST DISCOVERED AFTER AWARD | JUN 1993 |
| 752.211-70 | LANGUAGE AND MEASUREMENT | JUN 1992 |
| 752.219-70 | USAID MENTOR-PROTÉGÉ PROGRAM | JUL 2007 |
| 752.222-71 | NONDISCRIMINATION | JUN 2012 |
| 752.225-70 | SOURCE AND NATIONALITY REQUIREMENTS | FEB 2012 |
| 752.227-14 | RIGHTS IN DATA-GENERAL | OCT 2007 |
| 752.228-7 | INSURANCE—LIABILITY TO THIRD PERSONS | JUL 1997 |
| 752.236-70 | STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID CONSTRUCTION CONTRACTS | JUL 2007 |
| 752.242-70 | PERIODIC PROGRESS REPORTS | OCT 2007 |
| 752.245-70 | GOVERNMENT PROPERTY – USAID REPORTING REQUIREMENTS | OCT 2017 |
| 752.245-71 | TITLE TO AND CARE OF PROPERTY | APR 1984 |
| 752.7002 | TRAVEL AND TRANSPORTATION | JAN 1990 |
| 752.7004 | EMERGENCY LOCATOR INFORMATION | JUL 1997 |
| 752.7006 | NOTICES | APR 1984 |
|  |  |  |
| 752.7008 | USE OF GOVERNMENT FACILITIES OR PERSONNEL | APR 1984 |
| 752.7009 | MARKING | JAN 1993 |
| 752.7010 | CONVERSION OF U.S. DOLLARS TO LOCAL CURRENCY | APR 1984 |
| 752.7013 | CONTRACTOR-MISSION RELATIONSHIPS DEVIATION | OCT 1989JUN 2020 |
| 752.7015 | USE OF POUCH FACILITIES | JUL 1997 |
| 752.7019 | PARTICIPANT TRAINING | JAN 1999 |
| 752.7025 | APPROVALS | APR 1984 |
| 752.7027 | PERSONNEL | DEC 1990 |
|  |  |  |
| 752.7032 | INTERNATIONAL TRAVEL APPROVAL AND NOTIFICATION REQUIREMENTS | APR 2014 |
| 752.7033 | PHYSICAL FITNESS | JUL 1997 |
| 752.7035 | PUBLIC NOTICES | DEC 1991 |

|  |  |  |
| --- | --- | --- |
| 752.7036 | USAID IMPLEMENTING PARTNER NOTICES (IPN) PORTAL FOR ACQUISITION | JUL 2014 |
| 752.7038 | NONDISCRIMINATION AGAINST END-USERS OF SUPPLIES OR SERVICES | OCT 2016 |

## FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020)

1. Definitions. As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People’s Republic of China. Covered telecommunications equipment or services means–

1. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
2. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
3. Telecommunications or video surveillance services provided by such entities or using such equipment; or
4. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means–

1. Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
2. Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-
3. Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
4. For reasons relating to regional stability or surreptitious listening;
5. Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
6. Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
7. Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
8. Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another’s network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity’s possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

1. Prohibition. (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.
2. Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.
3. Exceptions. This clause does not prohibit contractors from providing—
4. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
5. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
6. Reporting requirement. (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at https://dibnet.dod.mil. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at [https://dibnet.dod.mil.](https://dibnet.dod.mil/)
7. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause
8. Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and

Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

1. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
2. Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph I and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

## FAR 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)

Except for data contained on pages (n/a), it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the “Rights in Data–General” clause contained in this contract) in and to the technical data contained in the proposal dated upon which this contract is based.

## AIDAR 752.229-71 REPORTING OF FOREIGN TAXES (JUL 2007)

1. The contractor must annually submit a report by April 16 of the next year.
2. Contents of report. The report must contain:
	1. Contractor name.
	2. Contact name with phone, fax number and email address.
	3. Contract number(s).
	4. Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at $500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.
	5. Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance are to be reported. Foreign taxes by a third party foreign government are not to be reported. For example, if a contractor performing in Lesotho using foreign assistance funds should purchase commodities in South Africa, any taxes imposed by South Africa would not be included in the report for Lesotho (or South Africa).
	6. Any reimbursements received by the contractor during the period in paragraph (b)(4) of this clause regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in paragraph (b)(4) of this clause received through March 31.
	7. Report is required even if the contractor did not pay any taxes during the reporting period.
	8. Cumulative reports may be provided if the contractor is implementing more than one program in a foreign country.
3. Definitions. As used in this clause—
	1. Agreement includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.
	2. Commodity means any material, article, supply, goods, or equipment.
	3. Foreign government includes any foreign governmental entity.
	4. Foreign taxes means value-added taxes and customs duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.
4. Where. Submit the reports at dhakafinancialanalysis@usaid.gov
5. Subagreements. The contractor must include this reporting requirement in all applicable subcontracts and other subagreements.
6. For further information see [http://2001-2009.state.gov/s/d/rm/c10443.htm.](http://2001-2009.state.gov/s/d/rm/c10443.htm)

## AIDAR 752.7101 VOLUNTARY POPULATION PLANNING ACTIVITIES (JUNE 2008)

1. *Requirements for Voluntary Sterilization Program*. None of the funds made available under this Contract shall be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.
2. Prohibition on Abortion-Related Activities.
	1. No funds made available under this Contract will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family Planning ; and (v) lobbying for or against abortion. The term “motivate”, as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.
	2. No funds made available under this Contract will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.
3. The Contractor shall insert this provision in all subcontracts.

## AIDAR 752.7037 CHILD SAFEGUARDING STANDARDS (AUG 2016)

1. Implementation of activities under this award may involve children, or personnel engaged in the implementation of the award may come into contact with children, which could raise the risk of child abuse, exploitation, or neglect within this award. The contractor agrees to abide by the following child safeguarding core principles:
	1. Ensure compliance with host country and local child welfare and protection legislation or international standards, whichever gives greater protection, and with U.S. law where applicable;
	2. Prohibit all personnel from engaging in child abuse, exploitation, or neglect;
	3. Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations;
	4. Apply measures to reduce the risk of child abuse, exploitation, or neglect, including, but not limited to, limiting unsupervised interactions with children; prohibiting exposure to pornography; and complying with applicable laws, regulations, or customs regarding the photographing, filming, or other image generating activities of children;
	5. Promote child-safe screening procedures for personnel, particularly personnel whose work brings them in direct contact with children; and
	6. Have a procedure for ensuring that personnel and others recognize child abuse, exploitation, or neglect; mandating that personnel and others report allegations; investigating and managing allegations; and taking appropriate action in response to such allegations, including, but not limited to, dismissal of personnel.
2. The contractor must also include in the code of conduct for all personnel implementing USAID-funded activities, the child safeguarding principles in paragraphs (a)(1) through (6) of this clause.
3. The following definitions apply for purposes of this clause:
	1. Child. A child or children are defined as persons who have not attained 18 years of age.
	2. Child abuse, exploitation, or neglect. Constitutes any form of physical abuse; emotional ill-treatment; sexual abuse; neglect or insufficient supervision; trafficking; or commercial, transactional, labor, or other exploitation resulting in actual or potential harm to the child’s health, well-being, survival, development, or dignity. It includes but is not limited to: Any act or failure to act which results in death, serious physical or emotional harm to a child, or an act or failure to act which presents an imminent risk of serious harm to a child.
	3. Emotional abuse or ill treatment. Constitutes injury to the psychological capacity or emotional stability of the child caused by acts, threats of acts, or coercive tactics. Emotional abuse may include, but is not limited to: Humiliation, control, isolation, withholding of information, or any other deliberate activity that makes the child feel diminished or embarrassed.
	4. Exploitation. Constitutes the abuse of a child where some form of remuneration is involved or whereby the perpetrators benefit in some manner. Exploitation represents a form of coercion and violence that is detrimental to the child’s physical or mental health, development, education, or well-being.
	5. Neglect. Constitutes failure to provide for a child’s basic needs within USAID funded activities that are responsible for the care of a child in the absence of the child’s parent or guardian.
	6. Physical abuse. Constitutes acts or failures to act resulting in injury (not necessarily visible), unnecessary or unjustified pain or suffering without causing injury, harm or risk of harm to a child’s health or welfare, or death. Such acts may include, but are not limited to: Punching, beating, kicking, biting, shaking, throwing, stabbing, choking, or hitting (regardless of object used), or burning. These acts are considered abuse regardless of whether they were intended to hurt the child.
	7. Sexual abuse. Constitutes fondling a child’s genitals, penetration, incest, rape, sodomy, indecent exposure, and exploitation through prostitution or the production of pornographic materials.
4. The contractor must insert this clause in all subcontracts under this award.

**Attachment C**

**Statement of Work (SOW)**

|  |  |  |
| --- | --- | --- |
|  | **XXXX Statement of Work (SOW)** |  **LOCATION** |
| **Date and/or Revision Date**XX MONTH 20XX v02 |  |

**Attachment D**

**Invoicing Instructions**

1. PURPOSE

To communicate to Subcontractors providing Services to Amentum, the requirements for properly documenting services rendered and submitting associated invoices. Adherence to this work instruction will help ensure Supplier invoices are reviewed and payments are processed in an efficient and timely manner.

1. WORK INSTRUCTION

INVOICE REQUIREMENTS

**General Format for manual invoice submission:**

Subcontractors are to use their company letterhead (or clearly indicate their company name) on all Invoices and ensure they are signed by an Authorized Signatory. (See the *REQUIRED INVOICE INFORMATION* section below for more details.)

**Legibility:**

Illegible Invoices will be rejected, not processed, and Subcontractor will be required to re-submit a legible copy.

**Invoicing Cycle for Services:**

Subcontractor shall submit invoices to per Section I, Paragraph 4

**Electronic Invoice Submission**

All invoices should be scanned and sent electronically to the following email address.

Amentum Services, Inc.

email: accountspayable@amentum.com

Subcontractors are to title each scanned file with the respective Invoice Number.

Subcontractors are NOT to send the same invoice(s) multiple times as this causes duplication and potential delays.

For Single Invoice Submission: Subcontractor is to send one email with one scanned invoice package, containing Invoice (and any other required supporting documents)

Note: Subcontractors are to submit invoices only once. Subcontractors are NOT to submit the same invoice multiple times, by multiple means, and/or to multiple addresses.

**EDI Invoice Submission**

Amentum is currently investigating Electronic Data Interchange (EDI); please contact Amentum A/P for more information.

**Taxes:**

All taxes shall be separately stated on the invoice.

REQUIRED INVOICE INFORMATION

The following table includes the Basic Required Information that a Subcontractor must include on each Invoice.

|  |  |
| --- | --- |
| Situation | Basic Required Invoice Information  |
| SERVICES INVOICES  | Invoice Number (limited to 15 characters) |
| Invoice Date |
| Supplier Name  |
| Supplier Address |
| Amentum(contact name) |
| Site where product delivered ("Ship To") or service performed |
| Purchase Order Number and/or PO Modification Number |
| Purchase Order Line-Item Number(s) per invoice line item |
| Description per line item (must match the product or service on PO pricing table) |
| Unit Price per line item |
| Unit of Measure (UOM) per line item (must match the PO pricing schedule) |
| Quantity delivered per line item |
| Total Price per line item |
| Taxes charged, if any (e.g., Sales tax, VAT)- invoice on a separate invoice line  |
| Total Invoice Amount in numerical figure and in words (sum of line-item totals) |
| Invoice Period of Performance |

VP Connect:

1. (As provided in AMENTUM’s Prime Contract with its Customer regarding frequency of

invoicing) Subcontractor may submit a monthly invoice for the value of work completed during the

previous month. An invoice must include:

A. Name and address of the Subcontractor;

B. Invoice date;

C. Period covered by the invoice;

D. Item Number and Description of Items/Services;

E. Unit Prices/Rates and Extended Rates;

F. Total for submitted Invoice and Total Cumulative Invoiced;

G. Terms of any prompt payment discount offered;

H. Name, title, and phone number of person to be notified in event of defective

invoice;

I. This subcontract number; and

J. The following certification statement, signed by a company official: “I, (NAME OF

PERSON), being and authorized official of (NAME OF COMPANY) certify that

the amounts listed in this invoice are true and accurate.”

1. Invoices shall be uploaded to https://vpconnect.pae.com Please refer to the attached FAQ for information and instructions. Additional information, including training videos can be found here:

<https://www.amentum.com/doing-business-with-us/>

1. Please submit a courtesy copy of the invoice to the individuals identified in Section XX of this

subcontract.

1. Invoices should be submitted along with all applicable supporting documents. Failure to submit

supporting documentation with invoices may cause for rejection.

1. Invoice receipt, status or payment inquiries may be made through VP Connect.
2. At any time before three years after final payment under this contract, AMENTUM may request audit of the invoices and substantiating material, including evidence of actual payment and/or such other substantiation approved by AMENTUM. Each payment previously made shall be subject to reduction to the extent of amounts on preceding invoices that are found by AMENTUM not to have been properly payable. Such payments shall also be subject to reduction for overpayments or to increase for underpayments.
3. Payment shall be made net forty-five (45) days after submission of proper invoices.
4. If progress payments are authorized under this agreement, the provisions of FAR 52.232-16 (MMM YYYY) will apply. Progress payment Invoices may be submitted no more frequently than monthly and must comply with all requirements of FAR 52.232-16 (MMM YYYY). Requests for progress payments shall be signed by an authorized official of the Seller, who shall certify that the invoiced amounts are indeed true and accurate. Such records shall be made available to AMENTUM for audit on request at any time from the date of this Subcontract until 3 years after final payment hereunder.
5. Subcontractor expressly agrees to the adjustment of payments from AMENTUM to reflect an equitable pro rata share of any penalties, credits, or liquidated damages which shall become due the Customer under the prime contract and which are directly attributable to the Subcontractor’s performance or lack thereof. The provision for the payment of penalties, credits, or liquidated damages shall not be an exclusive remedy but shall be in addition to any other rights which AMENTUM shall have at law, equity or under contract."
6. Subcontractor’s final invoice shall be clearly marked “FINAL INVOICE.” The final invoice shall not be paid, nor retention released, until Subcontractor submits a release of claims, as follows: “Payment of the final invoice dated \_\_\_\_\_\_\_\_\_\_, in the amount of $\_\_\_\_\_\_\_\_\_\_, Final invoice date, Final invoice amount and shall constitute the full and final extent of AMENTUM’s financial obligation to Subcontractor, (Insert Subcontractor’s Name), under this Subcontract No (Insert Subcontract Number), and that Subcontractor, upon receipt of final payment, and in consideration for payments received, does forever fully and finally release and discharge AMENTUM, (Insert Customer’s Name), and their respective officers, agents, employees, and assigns from any and all liabilities, obligations, claims, demands or causes of action of whatever nature arising under or relating to the performance of this Subcontract No. XXXXXXX.”

**End of Invoicing Work Instruction**

**Attachment E**

**Required Insurance**

The following insurance is required for this subcontract:

Insurance. Subcontractor during the period of this Order shall provide at its own expense and maintain in effect the following types and amounts of insurance with terms and with insurance companies satisfactory to Amentum (For Products, insurance is only required for Aviation, Space, Marine and Medical):

Automobile/Motor Liability Insurance: The Subcontractor, and their Subcontractors, as applicable, shall always procure and maintain Business Automobile/Motor Liability Insurance. The policy shall provide for bodily injury and property damage liability covering the operation of all motor vehicles used in connection with performing the contract. Policies covering motor vehicles operated in the United States shall provide coverage of at least $1,000,000 combined single limit per occurrence for bodily injury and property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

Workers' Compensation, Defense Base Act, and Employers' Liability: If Workers Compensation under the Defense Base Act (DBA) is applicable to the contract or location of services performed, DBA insurance shall be secured and made evident in the form of a certificate of insurance with an authorized insurance carrier approved by the US Department of Labor. Subcontractor is required to meet the Defense Base Act insurance requirements of all Amentum customers that will be supported under this agreement.

Commercial General Liability: The Subcontractor, and their Subcontractors, as applicable, shall provide commercial general liability insurance covering bodily injury, property damage, advertising, and personal injury liability, including contractual liability coverage, written on a comprehensive form of policy with a limit of at least $1,000,000 per occurrence, $2,000,000 general liability aggregate and $2,000,000 products/completed operations aggregate. Coverage may not be limited to the territory or regions provided in the SOW.

Professional Liability Insurance: For projects involving Professional Services (Architects, Engineers, Consultants, Medical Professionals, etc.), the Subcontractor shall maintain professional liability coverage during the term of this agreement. The limits of this coverage shall be a minimum of $XXX limit per occurrence and aggregate. This requirement shall extend to all professional subcontractors employed by the prime consultant, engineer, surveyor, or medical services provider. Subcontractor shall provide certification of such insurance and a copy of the policy upon request. If coverage is provided under a “claims made” form, coverage must be maintained for at least three (3) years following the completion of this contract.

Insurance Policies: All insurance policies shall bear an appropriate endorsement whereby the insurance carrier waives any right of subrogation acquired against Amentum and the United States of America by reason of any payment under such policy, and such policy shall provide that Amentum receives notice of cancellation in accordance with the policy provisions. Subcontractor’s insurance shall be primary and Amentum insurance shall be considered non-contributory. Subcontractor shall maintain insurance coverage as specified in this agreement with carriers having an A.M. Best rating of at least A-/VIII . Any deficiency in the coverage, policy limits, or endorsements of said insurance shall be the sole responsibility of Subcontractor.

Insurance Deductible/Self-Insured Retentions: The Subcontractor shall be responsible for all deductibles and/or self-insured retentions associated with any accident, incident or damage either against aircraft or personnel or property. Amentum will not assume any liability including, but not limited to the insurance deductible or self-insured retentions.

Additional Insured: The Subcontractor shall cause its insurers to identify Amentum as additional insured on all Policies associated with this Subcontract except for Workers’ Compensation.

Lower Tier Insurance: Subcontractor shall require its lower tier subcontractors to provide the same insurance coverages and requirements as described herein, unless otherwise agreed in writing by Amentum.

Certificate(s) of Insurance: The Subcontractor shall submit to Amentum either (a) a certified copy of the insurance policies actually procured and maintained, or (b) an insurance certificate issued by the insurance company verifying coverage in conformity with this Order within five (5) calendar days after execution of this Order. In addition, the Subcontractor shall furnish evidence of a commitment, by the insurance carrier, to notify the Amentum in writing of any material change, expiration or cancellation of any of the insurance policies required not less than thirty (30) calendar days before such change, expiration or cancellation is effective. When coverage is provided by self-insurance, the Subcontractor shall not change or decrease the coverage without the Amentum's approval.