



REQUEST FOR PROPOSAL

October 6, 2017

RFP TITLE: IN-COUNTRY REPRESENTATIVE – MARKET ACCESS – PHILIPPINES

RFP CONTACT:

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PROPOSAL DEADLINE: October 23, 2017

INTRODUCTION:

United States Soybean Export Council (USSEC) requests proposals from interested parties to apply for the contract of **Market Access – In-Country Representative for the PHILIPPINES.**

Through a global network of international offices and strong support in the U.S., USSEC helps build a preference for U.S. soybeans and soybean products, advocate for the use of soy in feed, aquaculture and human consumption, promote the benefits of soy use through education and connect industry leaders through a robust membership program.

PURPOSE OF RFP:

USSEC's standard practice is to RFP every 3 years. This helps to insure we are staying abreast of current technology and fair market value. We encourage all that are interested to apply, Including current contractors.

The purpose of this RFP is to seek proposals for an In-Country Representative (aka Contractor) for Market Access so as to provide strategic and operational support for USSEC's trade and technical activities in the Philippines.

The Contractor, a distinct and separate business entity, reports directly to USSEC's Southeast Asia Regional Director. Based in the Philippines, he/she will operate as an in-country representative to USSEC but maintaining itself as a fully independent Contractor. The primary focus of the In-Country Representative is on building preference for and increasing exports of U.S. Soy in the country.

The Contractor is required to develop close relationships, maintain active and regular contact so as to build a rapport with key customers, trade representatives, relevant institutions, and government bodies for the purpose of achieving USSEC's mission. The Contractor must ensure that USSEC has a clear strategic presence in the Philippines that is favorable and advantageous for U.S. Soy exports into the country.

The Contractor must provide trade and program management support services (per USSEC SE Asia Standard Operating Procedures) for all programs and activities across all USSEC's utilization areas (i.e. Human, Animal, Aquaculture, and Market Access) in the Philippines. This includes planning, documentation, and implementing etc. public events and/or private in-house activities, under the direction of the Regional Director or USSEC's management team.

Other role and responsibilities includes, but not limited, providing trade support services to USSEC personnel and members of the U.S. Soy Family (e.g. United Soybean Board, American Soybean Association, U.S. Qualified State Soybean Boards, U.S. exporters etc.) during trade visits/mission to the Philippines. The Contractor will also occasionally be required to initiate and/or participate in conferences, seminars, workshops, and trade servicing in and around Southeast Asia, as requested by the Regional Director or USSEC's management team.

The Contractor must adhere strictly to USSEC's accounting, administrative, compliance, and operational requirements and guidelines, as well as abide by USSEC's corporate core values.

SCOPE (SERVICES) OF WORK:

Customer Relations

- The Contractor will represent USSEC in front of the leading industry members, industry associations, and the Philippine government ministries/departments in the country. Examples of the organizations are, but not limited to:
 - Philippine Association of Feed Millers
 - National Federation of Hog Farmers Inc.
 - Philippine Importer Groups
 - Philippine Poultry and Layer Groups
 - Ministry of Agriculture and the departments within etc.
- The Contractor will conduct trade servicing, an essential networking and intelligence gathering activity, and promote the development of relationships between USSEC and members/stakeholders of the U.S. Soy Family with key local industry and government contacts.
- The Contractor will provide full support for USSEC's major regional buyer support programs and country-level programs and activities directed at building preference and or increasing the exports of U.S. Soy.
- The Contractor will ensure that the major regional conferences, workshops and trade missions under/backed by USSEC, are well-attended and supported by key representatives/decision-makers of the Target Audience within the country.
- The Contractor will provide timely and accurate responses to inquiries and questions from U.S. exporters, importers and processors of U.S. soy, trade organizations, government officials, etc. on subjects and matters that relate directly or indirectly to U.S. Soy or on the local agricultural industry as a whole.

Program and Activity Management

- The Contractor will assist in the execution of programs and activities under the Unified Export Strategy (UES), provide trade and technical support to local agribusinesses, agricultural trade organizations, government and non-government bodies etc. to achieve the objectives and further the interests of USSEC and U.S. Soy.
- The Contractor is required to maintain and assist USSEC with:
 - compiling accurate and updated customer contact details and industry profiles. This information may be used for a number of purposes including supporting USSEC's Customer Relations and Content Management systems.
 - gathering and evaluating data relevant to the present and future potential for use of soybeans, soybean meal and other relevant soy products in the industry. This requires that he/she maintain a set of trade statistics with a minimum of five (5) years data (including the current year and projections for the year ahead) on poultry, swine, livestock and aquaculture production, animal and aqua feed production, and other relevant figures etc. that is useful to USSEC in developing the UES.
 - conducting trade surveys, gather customer feedback, and other pertinent information gathering initiatives as and when required by the Southeast Asia Regional Director or

USSEC Management.

- conveying the U.S. Soy Sustainability message to the customers and encourage them to apply for the U.S. Soy Sustainability Assurance Protocol (SSAP) with their U.S. Soy purchases.
- The Contractor will liaise and coordinate his/her marketing efforts closely with USSEC Southeast Asia staff and Contractors, as well as provide full support to USSEC's Regional Functional Target Areas (i.e. Animal, Aqua, Human, and Marketplace) Program Managers (Contractors) and USSEC management in organizing country-specific targeted workshops, seminars, round table discussions, site visitations, etc.
- The Contractor will plan, arrange, co-ordinate, and provide accompaniment for trade and technical visits and industry meetings for the Regional Director, Regional Marketing and Technical Contractors, U.S. Farmer Leadership and Trade Teams, visiting USSEC member exporter companies, U.S. Soy Exporters, etc. as directed by USSEC's S.E. Asia Regional Director or USSEC Management.
- The Contractor will provide assistance to other U.S. agricultural cooperator organizations, e.g. working with the Foreign Agricultural Service on joint activities, for the benefit of U.S. agricultural exports as a whole. However, the Contractor will not participate in any event that have messages that run contrary to USSEC's core mission and objectives.
- The Contractor will assist with, as well as provide insights and direction for, future U.S. Soy market development programs. He/She will periodically review and recommend modification of market development plans to USSEC's S.E. Asia Regional Director and USSEC Management as and when necessary in response changing market/trade conditions.

Role and Responsibilities

- The Contractor shall dedicate time and attention to meet the Services, Deliverables and KPIs as required in accordance with the terms of the Master Agreement and Addendum contained within. In addition, the Contractor will
 - conduct oneself in a manner consistent with USSEC's core values, e.g. respectable image, reputation and credibility representative of USSEC, and refrain from engaging in activities which reflect adversely on USSEC;
 - provide full and complete cooperation with USSEC in order to maximize USSEC's success within the Region;
 - meet performance standards that are acceptable to USSEC in the provision of Services and rendering the Deliverables hereunder.
- The Contractor will diligently execute his/her responsibilities for the current UES ensuring responsible, proper stewardship, and optimum utilization of funds under his/her contract or charge in accordance to USSEC's guidelines and requirements.
- The Contractor must of his/her own accord, stay well informed and knowledgeable in the latest/current developments in the industry so as to be able to communicate effectively to target audiences.
- Any trade or technical information, data, statistics, reports, etc. that is prepared by USSEC contractors/staff for U.S. Soy activities is deemed exclusive and private property of USSEC unless classified otherwise. Under no circumstances should the Contractor use such information, in any way shape or form, for any other purpose than for the benefit of U.S. Soy.
- The Contractor will have an 'outward-facing' role, as mentioned at above, and an 'inward-facing' role (i.e. member of the Project Support Team). He/She will provide any assistance as directed by USSEC's S.E. Asia Regional Program Management and Accounting Teams who will be reporting to the Chief Operating Officer and Chief Financial Officer respectively. Overall, the Contractor will still report to and be accountable to the Regional Director and CEO.

DELIVERABLES:

Expected Completion Date	Description of Deliverables
November 2017 to September 2018 <u>Monthly</u>	<ul style="list-style-type: none"> • Invoice and Monthly Report to the Regional Director in format as directed and using latest prescribed USSEC format. Details in the monthly report to include but not limited to: <ul style="list-style-type: none"> ○ Contractor interactions with soy industry contacts ○ A section on Sustainability to provide updates and relate what action has been taken to promote and further this message to the industry and its impact/results if any ○ Timely reporting of latest market updates and developments – especially events that impact the trade and preference for U.S. Soy ○ Soy and agricultural statistics, import shipments, and other trade data ○ Observations and recommendations on programs/activities, action on trade issues, marketing strategies etc. ○ Communications that cover inquiries and questions from U.S. exporters, importers and processors of U.S. soy, trade organizations, government officials, etc. on the application, availability and sourcing of soybeans and soybean products from the U.S. etc. • Submit monthly budget tables on the latest investment estimates for project and activities under the Contractor's responsibility • Provide reviews, observations, and recommendations on programs/activities, action on trade issues, marketing strategies etc. as and when required by USSEC Management
<u>Quarterly</u>	<p>Provide set of soy trade statistics to the Regional Director that is updated quarterly or every three months. This includes:</p> <ul style="list-style-type: none"> • Soybeans <ul style="list-style-type: none"> ○ Total soybean imports into the country (Financial Year 2011 – 2016) by origination – * 2017 & 2018 projected figures ○ Percentage of total soybean imports and U.S. soybean imports into the country shipped in bulk and in containers ○ Total demand for soybeans in the country ○ If applicable – total volume of soybeans produced locally (same periods) • Soybean meal <ul style="list-style-type: none"> ○ Total soybean meal imports into the country (Financial Year 2011 – 2016) by origination – * 2017 & 2018 projected figures ○ Percentage of total soybean meal imports and U.S. soybean meal imports into the country shipped in bulk and in containers ○ Total demand for soybean meal in the country

	<ul style="list-style-type: none"> ○ If applicable – total volume of soybean meal produced locally (same periods) • Soybean Oil – same info required as above
<u>Every 2 weeks</u>	Submit a work/activities plan to be shared with USSEC S.E. Asia Regional Director and USSEC management team. To USSEC CEO upon request.
<u>Weekly</u>	<p>Weekly Market Intelligence Report:</p> <ul style="list-style-type: none"> • Price list (Cost and Freight (CNF), and local values) of key raw feed ingredients for the Philippines • Price list of poultry, swine and livestock for the Philippines <p>Highlight any major trade or technical market issue especially if the matter is, will, or have the potential to affect U.S. Soy business in any way</p>
At least two (2) story a month	<p>Submit at least two (2) event and/or success stories every month to include:</p> <ul style="list-style-type: none"> • Brief details of the event and its objectives • Explain how U.S. Soy has benefited from the interaction and the role the Contractor played in making this happen • Provide pictures of the event • Send in your event/success stories using the template provided in USSEC's S.E. Asia Standard Operating Procedures Manual
Within 30 days after every trip/meeting	<p>Submit using USSEC's standard trip report template.</p> <p>To be circulated to Southeast Asia's Regional Director and or USSEC's CEO, COO, and appropriate GUP Lead, or if upon request, within 72 hours of the meeting/event.</p>
At the end of every Financial Year	<p>An official End Financial Year Contractor Performance will be conducted by USSEC Management.</p> <p>The performance review process will also include:</p> <ul style="list-style-type: none"> • Monthly interactions between the Contractor and the respective Utilization Target Area Project Manager to ensure that there is clear understanding on expectations and agreement on deliverables. • Quarterly interactions between S.E. Asia Regional Director, Program Manager, and Contractor to evaluate and assess Contractor's performance. • The above will be included in and taken into account when preparing the end of year review/appraisal.
Ongoing	<ul style="list-style-type: none"> • The Contractor will provide assistance to USSEC's Southeast Asia Regional Director and management team to achieve the organization's corporate goals: <ul style="list-style-type: none"> ○ Promote USSEC's Soy Sustainability Assurance

	<p>Protocol (SSAP) in the Philippines.</p> <ul style="list-style-type: none"> ○ Aim to have at least 2 customers that will source for SSAP certificates in FY 2018. ○ Successful implementation of all funded programs under UES 2018 within budget, meeting corporate guidelines and investment rates. ○ Ensure industry participation in USSEC's global customer surveys and evaluations. <ul style="list-style-type: none"> • The Contractor will participate in meetings and develop reports as and when requested by Southeast Asia's Regional Director.
November 2017 to September 2018	<p>The Contractor will reach out to a minimum of 30 key industry decision-makers and influencers through the course of the marketing year:</p> <ul style="list-style-type: none"> • Provide contact list for input into USSEC's CRM and Content Management systems • Provide a summary of each meeting and recommendations for next steps

PROJECT TIMELINE:

The term of the Market Access – In-Country Representative for the PHILIPPINES position will start from **11/1/2017** to **end of FY/UES 2018 or completion of contract budget, whichever sooner**. Contract renewal will be based on a Marketing Year (MY) by Marketing Year basis subject to performance reviews and deliverables.

RFP TIMELINE:

- ☐ RFP Distribution: October 6, 2017
- ☐ Last Day to Submit Questions: October 13, 2017 by 5:00PM Singapore Time
- ☐ Project Proposals Due: October 23, 2017 by 5:00PM Singapore Time
- ☐ Selections Made By: October 27, 2017
- ☐ Prospective Contractors Notified By: October 24, 2017

REQUIRED INFORMATION:

- ☐ Credentials or CV
- ☐ Experience
 - Length of experience
 - Major emphasis of services provided
 - Nature of past and present clients

CONSULTING FEE (U.S. Dollars)

Please indicate your daily consulting fee (US\$ per day) based on the contract description and deliverables. That is:

- Daily Consulting Fee = US\$ ----

Please note that all other costs and expenses related to a project or an activity is NOT to be included in your calculation as these will already be factored in separate budgets that concern

the projects/activities.

- USSEC generally do not pay for institutional overhead expenses.
- USSEC will only reimburse actual expenses in according to USSEC's policies and procedures. Expense details will be used as an estimate for contractual purposes as a not to exceed amount.
- Expenses to implement a proposed listed event are not required for the RFP.
- Please note if you have any special requirements that need to be considered.

INSTRUCTIONS:

1. Please email the proposal to chtan@ussec.org by **5:00PM Singapore Time** latest by **October 23, 2017**.
2. Instructions to Prospective Contractors:
3. Proposals must contain at a minimum the specific criteria listed
 - A. A description of the Prospective Contractor's capabilities, resources and experience. Emphasis should be placed on experience related to this RFP.
 - B. Resumes for each of the Prospective Contractor's personnel assigned to work directly on the implementation of the contract.
 - C. References from a minimum of two clients who have used your services for similar project.
 - D. Proposals should be no longer than **10 pages** (8 ½" x 11").

NOTE: Respondents are hereby notified that proposals will be duplicated for internal review only. Every effort will be made to maintain confidentiality of all information presented. The appropriate representatives from staff and legal counsel will review proposals. Proposals will not be returned. USSEC reserves the right to reject any proposal that is in any way inconsistent or irregular. USSEC also reserves the right to waive proposal defects or deficiencies, to request additional information, and/or to negotiate with the Prospective Contractor regarding the proposal. Prospective Contractor agrees to comply with the provisions of Equal Opportunity, as expressed in Attachment A copied below.

SUBMISSION DEADLINE **5:00 PM Singapore Time, October 23, 2017**

SUPPLEMENTAL INFORMATION AND BACKGROUND USSEC

BUILDING A PREFERENCE FOR U.S. SOY

USSEC's strategy can be found here: <http://ussec.org/about-ussec/vision-mission/>

USB's Long Range Strategic Plan can be found here: <http://unitedsoybean.org/about-usb/strategic-planning/>

We are a dynamic partnership of key stakeholders representing soybean producers, commodity shippers, merchandisers, allied agribusiness and agricultural organizations.

Through a global network of international offices and strong support in the U.S., we help build a preference for U.S. soybeans and soybean products, advocate for the use of soy in feed, aquaculture and human consumption, promote the benefits of soy use through education and connect industry leaders through a robust membership program.



Our 15-member board of directors is comprised of four members from the American Soybean Association (ASA), four members from the United Soybean Board (USB), and seven members representing trade, allied industry, and state organizations.

New board members are seated annually. We are receiving funding from a variety of sources including soy producer checkoff dollars invested by the USB and various state soybean councils; cooperating industry; and the American Soybean Association's investment of cost-share funding provided by the United States Department of Agriculture's (USDA) Foreign Agriculture Service.

The United Soybean Board, created by the 1990 Farm Bill to manage and direct the National Soybean Checkoff, is dedicated to marketing and research for the soybean industry. USB is comprised of 73 volunteer soybean farmers representing the interests of fellow growers nationwide. Each board member is nominated by Qualified State Soybean Boards (QSSBs) and appointed by the U.S. Secretary of Agriculture.

Because of the limitations on administrative and salary costs established in the Act, USB outsources the majority of its program management responsibilities to USB's three primary contractors:

1. SmithBucklin-St. Louis for domestic marketing, new uses, production research and Board initiative activities;
2. Osborn & Barr Communications for communications/public relations activities and;
3. United States Soybean Export Council (USSEC) for international marketing and global opportunities activities.

As one of these three primary contractors USSEC may also undertake initiative activities on behalf of USB. USB considers primary contractor staff (approximately 60 people) as core USB staff. These three primary contractors use a number of subcontractors and, together, these entities carry out approximately 450 projects each year for USB. USB also manages approximately 10 subcontractors.

Attachment A

Equal Opportunity during the performance of the contract, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, political beliefs, and marital or family status.
2. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.
3. The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Department that explain this section.
4. The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

5. The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Department advising the labor union or workers' representative of the Contractor's commitments under this section, and post copies of the notice in conspicuous places available to employees and applicants for employment.
6. The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
7. The Contractor shall furnish all information required by Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of the award.
8. The Contractor shall permit access to its books, records, and accounts by the contracting agency of the Office of Federal Contract Compliance Programs (OFCCP) for the purposes of investigation to ascertain compliance with the applicable rules, regulations and orders.
9. If the OFCCP determines that the Contractor is not in compliance with this section or any rule, regulation or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
10. The Contractor shall include the terms and conditions of subparagraphs (1) through (11) of this section in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
11. The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into litigation to protect the interests of the United States.
12. Notwithstanding any other section of this contract, disputes relative to this section will be governed by the procedures in 41 CFR 60-1.1.

Attachment B

As a condition of being awarded any work under this request for proposal, the awarded contractor will be required to accept all of the following terms and conditions:

(All Capitalized Terms shall have the meaning as defined in the contract itself)

I. SCOPE OF WORK

- a. Contractor understands that it is critical to the nature of the services performed under the contract that USSEC be able to quickly modify, cancel or stop any plans, schedule or work in progress hereunder. Nothing herein shall be construed to limit the discretion of USSEC or the Project Manager in making any such modifications as it requires. Therefore, Contractor shall:
 - I. Perform all tasks hereunder to the satisfaction of Project Manager.
 - II. Immediately so modify, cancel or stop any plans, schedule or work in

progress if instructed to do so by the Project Manager.

III. All appeals will be decided at the sole discretion of USSEC's Chief Executive Officer (CEO). Failure to follow this appeal process may result in the immediate termination of the contract and the release of USSEC from any future liability.

b. Contractor shall coordinate with USSEC to develop mutually agreeable Key Performance Indicators ("KPI") within 30 days following execution of the contract. Contractor shall comply with such KPIs, which will become a basis for measurement of Contractor's satisfactory performance hereunder. Contractor shall provide USSEC monthly reports toward KPI progress in a mutually agreed format.

II. COMPENSATION

- a. USSEC shall pay valid invoices within 30 days of receipt. In order to be valid, the invoice must meet the following requirements:
 - i. Contractor shall bill no more frequently than twice per calendar month.
 - ii. Contractor can only invoice for services after they are performed.
 - iii. Contractor must obtain approval from respective Project Manager for all invoices.
 - iv. Contractor must mail approved invoice to USSEC at the address noted in the contract to the attention of "Compliance".
 - v. Invoice must be in English or include an English translation.
- b. Contractor agrees that Fees are in lieu of any and all other benefits, including, but not limited to, repayment of any and all taxes related to contractor service fees, health and life insurance, administrative costs and vacation.
- c. Contractor agrees that any income taxes, value added taxes or any other form of direct or indirect taxes on compensation paid under the contract shall be paid by Contractor and not by USSEC or Funding Sources.
- d. Any reimbursable expenses, if allowed in the contract, not expressly detailed in Attachment A budget worksheet require written consent of USSEC prior to reimbursement. Contractor represents and warrants that any such expenditure will at all times comply with the Reimbursable Expense section of the USSEC Policies and Procedures Manual. In addition to any other action USSEC may take hereunder, violation of this warranty shall result in non-payment of all such non-compliant expenses. Contractor shall provide receipts for actual expenditures of \$25.00 or more for which Contractor expects reimbursement. Meal expense totals per day are capped at the U.S. government per diem rates.
- e. If contract allows for reimbursable expenses, Contractor may bill for the Expenses as incurred. Invoice must include a USSEC issued "Expense Report – Reimbursable Expenses" worksheet completed in accordance with USSEC Policies and Procedures and submitted to USSEC within 45 days of occurrence.
- f. USSEC may authorize advance payment for large travel expenses upon prior written consent by USSEC to do so. In any event, USSEC will make the corresponding payment according to its internal Policies and Procedures Manual.
- g. No international travel will be approved unless Contractor has informed the FAS Attaché/Counselor in the destination country. Contractor shall attach to its invoice for any such expenses, evidence satisfactory to USSEC of such notification.
- h. All Payment amounts under the contract shall be in U.S. dollars. Payment shall be contingent upon:
 - I. Performance of the Services to USSEC's satisfaction,
 - II. Producing all required deliverables scheduled to be performed up to the date of invoice,
 - III. Progress on KPIs to be performed up to the date of invoice,

- IV. Delivery to USSEC of Contractor's timesheet for the invoiced period,
 - V. Delivery to USSEC of Contractor's complete and accurate invoice,
 - VI. Delivery to USSEC of Contractor's activity report for the payment period,
 - VII. Delivery to USSEC of required receipts, if any
 - VIII. Contractor shall provide W-9 or W-8BEN upon agreement signature
- i. Final Payment shall be contingent upon receipt of a final accounting of billed project expenses within 30 days after the end of the Term.
 - j. USSEC may, in its sole discretion, refuse payment on any submission of documentation received:
 - I. More than 30 days beyond the Term of the contract, or
 - II. In no event shall USSEC or Funding Sources be liable for late fees for any sums claimed to be due to Contractor.
 - k. Payments will be made to Contractor's address as defined in the contract or otherwise upon written notice.

III. TERMS AND CONDITIONS

- a. Agents, Employees and Subcontractors. Contractor shall cause, and shall include in any contract it may have in relationship to the proposed contract with, all of its agents, employees, subcontractors and others under Contractor's control, to abide by the terms and conditions herein, particularly with respect to International Name, Contingent Agreement, Non-Disparagement, Non-Competition, Confidentiality, Indemnity, Audit and Record Retention, Regulatory Compliance, Intellectual Property, and Conflicts of Interest. Both USSEC and its Funding Sources, including USB, are tax exempt entities.
- b. Contingent Agreement and Funding. Notwithstanding anything to the contrary herein, the contract shall not become effective unless and until
 - i. USSEC receives final funding approval from all relevant and appropriate Funding Sources, and
 - ii. The contract is fully executed and properly signed by both parties.
 - iii. Services performed and expenses incurred prior to these conditions shall be at Contractor's own risk. Relevant and appropriate Funding Sources, provide all funds for Compensation of Contractor. USSEC has no obligation to pay Contractor any amount due hereunder unless and until it receives funds designated for the Services from the applicable Funding Source.
- c. Relationship of Parties. Contractor and USSEC agree that Contractor is an independent contractor, not an employee, agent or legal representative of USSEC for any purpose. USSEC's sole obligation to Contractor shall be pursuant to the contract.
- d. Exclusive Payment. Contractor agrees that Payment is in lieu of any and all other benefits, including, but not limited to, repayment of any and all taxes related to contractor service fees, health and life insurance, administrative costs and vacation.
- e. Non-Disparagement. During the term of the contract, Contractor shall not make any public statements that reflect unfavorably upon, criticize or otherwise disparage:
 - U.S. soybeans or U.S. soybean products;
 - USSEC, Funding Sources, including USB, or their activities;
 - Contractor's association with USSEC or Funding Sources, including USB;
 - The "Soybean Check off"
- g. Non-Competition. Contractor shall not act as agent or representative for any product or service directly or indirectly competitive with U.S. soybeans or soybean products for the length of the contract.

- h. Confidentiality. Without USSEC's prior written consent, Contractor and its officers, employees, agents, representatives, affiliates, and subcontractors shall not disclose to any third party any documents, materials or information that Contractor learns from or is provided in relation to the contract ("Confidential Material") for any purpose other than performing the Services. Contractor shall exercise reasonable care and implement security measures to protect all Confidential Material from disclosure, which shall in all cases be with at least the same level of care it would use for its own confidential information. This covenant of confidentiality will survive the termination of the contract.
- i. Termination and Assignment. The contract may not be assigned by Contractor without the prior written consent of USSEC which it is free to refuse. USSEC may assign the contract to another entity based in the United States that uses Funding Source's funds pursuant to the requirements of the contract. The contract may only be terminated as set forth below, in the absence of written agreement by both parties:
- j. USSEC's maximum liability for termination shall be the pro-rated value of fully-documented:
 - I. Services completed hereunder to the effective date of termination and
 - II. Any non-cancellable financial commitments of Contractor hereunder that were properly incurred by Contractor for the benefit of USSEC pursuant to the requirements of the contract.
- k. USSEC may terminate for any reason upon 30 days written notice without any further liability for termination than that described herein, USSEC may terminate immediately at any time without any further liability for termination than that described herein, due to:
 - I. Material changes which reduce USSEC's funding.
 - II. A Force Majeure event as described herein.
 - III. Any breach of Agreement or warranty hereunder by Contractor,
 - IV. Any criminal or civil action brought against Contractor or its employees, which in USSEC's sole and unfettered judgment impairs:
 - a. Contractor's ability to perform the Services.
 - b. USSEC's or Funding Source's image or programs
- l. Contractor may terminate the contract upon 30 days written notice, in which case USSEC may choose to terminate immediately upon receiving such notice without any further liability for termination than that described herein.
- m. The contract shall automatically terminate without any further liability for termination than that described herein upon:
 - I. Contractor's death, if an individual, or
 - II. Contractor's inability to perform the Services or achieve the Deliverables.
- n. Taxes. Any income taxes, value added taxes or any other form of direct or indirect taxes on compensation paid under the contract shall be paid by Contractor and not by USSEC or Funding Sources.
- o. Force Majeure. Neither party shall be liable for failure to perform under the contract if such failure is a result of circumstances beyond such party's control, including but not limited to Acts of God (such as fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, hostilities (regardless of whether war is declared), terrorist activities, government sanction, blockage, embargo, or labor dispute. If a party asserts Force Majeure as an excuse for failure to perform an obligation, that party must prove that the party took reasonable steps to minimize delay or damages caused by foreseeable events and that the party substantially fulfilled all non-excused obligations.
- p. Insurance. During the term of the contract, Contractor shall obtain and maintain a policy of professional liability insurance with a minimum of the following coverage:
 - I. Professional Liability with a minimum liability of \$1,000,000 USD per occurrence.
 - II. If Contractor obtains its own insurance coverage, Contractor shall provide USSEC with a Certificate of Insurance, in an industry standard format such

as the ACORD format, evidencing Contractor's insurance coverage and providing 30 days' notice of any policy reductions or termination.

- III. Contractor may obtain such insurance coverage at its own expense, or may obtain such insurance under USSEC's own insurance policies for an administrative fee of \$50.00, to be deducted from the amount of Contractor's first invoice hereunder. Coverage under USSEC's insurance policies shall be effective only while performing Services hereunder for USSEC. The parties recognize that the Contractor's obtaining of this coverage under USSEC's own insurance policies, and USSEC's facilitation thereof, does not ensure coverage of any claim under the insurance policies described in this section. Contractor hereby releases and holds harmless USSEC from any and all claims arising as a result of the failure by USSEC's insurance provider, the Chubb Group of Insurance Companies ("Chubb"), to provide coverage for a claim related to the insurance policies described in this section, and Contractor further agrees that Contractor's sole recourse shall be against Chubb for any failure by Chubb to cover a claim. If Contractor breaches this release, USSEC shall be entitled to recover all attorneys' fees related to defending.

END