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PFSCM STANDARD GENERAL CONTRACT TERMS AND CONDITIONS For SUPPLY OF GOODS (COMMERCIAL ITEMS)

1. GOODS AND RELATED SERVICES

A. Supplier shall deliver the Goods (and Services, if any) described on the Purchase Order of the type, in the quantity, at the delivery date and at the price as indicated on the Order Form. The quality of the Goods and Services shall conform in all respects to the requirements of the Contract or Purchase Order (including without limitation all required warranties). All Goods (including but not limited to materials, parts, components and sub-assemblies thereof) shall, unless otherwise expressly approved by Buyer, be new; unused; non-remanufactured and non-refurbished; not previously disposed as surplus; and produced entirely from Goods meeting all of the foregoing requirements. For Pharmaceuticals, Supplier shall supply Goods as per requirements of clause 1 H below as submitted to Buyer.

B. For purposes of these Standard Terms and Conditions, parties hereby agree and understand that any Order Form and/or Purchase Order has the same legal force as in a contract; and both terms are used interchangeably throughout this document. The term 'agreement' entails the T&Cs contained in a PO as well as the present Terms and Conditions.

C. If the Contract is other than an Indefinite Quantity Indefinite Delivery, the maximum optional quantity, if any, subject to Article 12 Option for Increased Quantity, and the firm-fixed-price(s) for the optional quantity to be supplied pursuant to this Contract are specified in the Contract.

D. Except as Buyer may specifically notify Supplier, no Goods (including the components thereof), services, sub-Suppliers or Suppliers shall be from any US sanctioned country. Any Supplier is not allowed to use any sub-Suppliers, unless Buyer's explicit written permission. The list of sanctioned countries can be reviewed at: http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx.

E. All Pharmaceuticals, diagnostics and medical devices, hereinafter referred to as "health goods" supplied shall be manufactured, stored and distributed in accordance with Good Manufacturing Practices and Good Distribution Practices. Unless otherwise specifically stated in the Contract (based on Buyer's case-by-case waiver approved by the Government), "Good Manufacturing Practices" (GMP) and "Good Distribution Practices" GDP) shall be deemed to mean the standards and guidance issued by the WHO or U.S. Food and Drug Administration, including without limitation the Current Good Manufacturing Regulations for Finished Pharmaceuticals ("cGMP") and the related regulations in 21 CFR Parts 210 and 211. If a waiver is approved and a different stringent drug regulatory authority's standards are eligible for use in lieu of the aforementioned FDA standards/guidance, the alternative authority shall be specified in the Contract (or as otherwise expressly agreed in writing by Buyer).

F. If Supplier is providing Pharmaceuticals and rapid diagnostic test kits (RDT) under the Contract and is the manufacturer, as part of its compliance with the cGMP (or other applicable standards and guidance) Supplier shall collect and retain representative samples of each lot or batch of Goods supplied. If Supplier is not also the Manufacturer, Supplier shall ensure that the Manufacturer, as part of its compliance with the previously mentioned standards and guidance, collects and retains representative samples of each lot or batch of Goods supplied. Supplier shall also ensure that Buyer and its designees if any are provided with reasonable access to the samples upon request.

G. All manufacturing premises and storage locations used, including finished goods warehouse, transit warehouse shall comply with GDP requirements and hold all required current operating licenses and shall be open to visits from inspectors appointed by the Buyer or International Donor contracting with the Buyer. For all health goods, the license needs to be issued by the relevant Ministry of Health or other cognizant national regulatory authority.

H. If the Contract is for Plasters, Liquid Extracts or Ointments, such Pharmaceuticals supplied shall be modified, where necessary, to render them suitable for use in the Recipient Countries, but the specified proportion of the active ingredients must, in all cases, be maintained.

I. In addition, and without prejudice to the above, if the Contract is for non-ARV Pharmaceuticals, the Goods shall comply with the standards of the current edition (or the latest edition in which they are included) of the United States Pharmacopoeia (USP); or, if applicable, the British Pharmacopoeia (BP) or European Pharmacopoeia (Ph. Eur.) or International Pharmacopoeia (Int. P.). If the product has a dissolution standard in the USP and not the BP, Ph. Eur. or Int. P., the USP dissolution standard will be applied. If the Goods are not named in any of these publications the Goods shall be manufactured in accordance with validated in-house specifications, which must be provided together with the testing methods to Buyer, upon request.

J. For Goods, such as Pharmaceuticals, which are manufactured by other than the originator (first patent holder) of the Goods, the Supplier needs to provide Buyer upon request with documents such as: manufacturer name, product source and origin", a letter of conformity stating that the Active Pharmaceutical Ingredient (API) which is used, complies with the Drug Master File (DMF) as filed with World Health Organization's (WHO) Prequalification of Medicines Program, the approving Stringent Regulatory Authority (SRA), the Global Fund Expert Review Committee or the approving regulatory authority in either or both the country of origin or destination.

K. At any point of the time during the product shelf life, goods, including but not limited to Pharmaceuticals, RDT and other goods with a Shelf Life, must be freshly manufactured, and thus have maximum possible shelf life. Goods with a maximum possible shelf life of less than 24 months shall have at least 85% of shelf life remaining when delivered. Goods with a maximum possible shelf life of more than 24 months shall have at least 24 months, or 85%, of shelf life remaining whichever is longer, when delivered. No Goods will be accepted which do not comply with these strict requirements unless there has been a prior written agreement issued by Buyer following representations by the Supplier. In that case the Shelf Life remaining, for each and every item being supplied per Order Form must match that in Supplier's offer or quotation. If, as a result of a situation where the products are non-compliant and in case impacted products have already been purchased or delivered, the End Purchaser has to purchase substitute products at pricing higher than the Supplier's pricing, and/or has to organize a delivery by air freight as opposed to sea freight because of urgency, the Supplier shall compensate PFSCM/the Global Fund for any additional costs.

L. Suppliers must inform Buyer of any contemplated changes to the Goods that may affect its safety, performance, efficacy or quality. For example, the Supplier must report the following:

1. Change in manufacturing process, site or equipment relating to the product
2. Change in regulatory approval(s) of the product or the site
3. Field safety notices
4. Change of contract manufacturers
5. Change of quality control / product release laboratories
6. Change of supplier of starting materials
7. Change of container closures
8. Changes to the formulation or composition of the product
9. New analytical method in the testing of staring material, intermediate or final product
10. Change of release specifications
11. Change in storage and/or warehouse facilities

M. All medical devices must meet the regulatory requirements of the sovereign state in which they are supplied. All Goods must comply with any pertinent recognized consensus standard, e.g. ISO/IEC, ASTM, and AAMI, which may be stated in the labelling or on the invoice. Examples of Goods with recognized consensus standards include, but are not limited to, test kits, laboratory reagents and equipment, blood bags and devices, and sterile surgical kits. M. All Goods categorized as food by prescription goods shall be manufactured, stored and distributed in accordance with Codex Alimentarius International Food Standards and Hazard Analysis Critical Control Point System (HACCP). Goods shall comply with the World Food Programme specifications for microbiological and micronutrient content, unless otherwise specified by Buyer.

N. Notwithstanding any other provision of the Contract, Buyer may do either or both of the following: [i] by provision of written notice to Supplier, cancel any individual item(s) in its entirety; or reduce the quantity(ies) of any individual item(s) of the Goods) without charge prior to shipment of Goods and initiation of performance of any Related Services; or [ii] in the event that the contract with the International Donor or its funding is terminated in whole or in part by the International Donor or this contract is terminated for breach of contract, prior to acceptance of goods, return to Supplier unused items or quantities of Delivered Goods for a cancelation fee as mutually agreed upon in advance. Any such amendment [i] and [ii] needs confirmation from Supplier.

O. The Supplier is responsible for the prompt management of recalls, including providing a detailed report of any recall of products resulting from the manufacturing and delivery of defective products (including any non-conforming products) and the subsequent refund to PFSCM for any payment for such products, where applicable. In addition, the Supplier is responsible for the prompt replacement of such defective products and/or payment of the costs incurred by the Global Fund, the Principal Recipient or PFSCM in connection with the replacement of such products.

2. PACKING, MARKING, PREPARATION FOR SHIPMENT AND PACKAGING, STORAGE

A. Supplier shall pack and mark the Goods in compliance with the requirements of this Contract and the Delivery Order, as well as all applicable transportation regulations, carrier tariffs, and sound commercial practice. Without limiting the generality of the foregoing, all Goods shall be properly prepared for shipment (domestic or export) to withstand exposure to the elements and rough handling during air, sea or land shipment. Such packing must be sufficient to ensure safe arrival at destination, and fully cover such hazards as extreme temperature, as well as exposure to weather and open storage. Packing size and weights shall take into consideration, where appropriate, the remoteness of the Goods' destination and the absence of heavy handling facilities at some or all points during transit. Supplier shall be solely responsible for complying with all Recipient Country laws and regulatory requirements as well as sound international practices for the packaging and labelling of the Goods (including, if applicable, hazardous materials safeguards and local registration number). Unless instructions on the Order Form specify differently, Supplier shall mark each unit of packaging and shall enclose a packing slip with those numbers in a secure and durable envelope. Damage resulting from improper packing, marking and preparation for shipment shall be for Supplier's account. No extra charge is payable by Buyer for packaging, crating, boxing, handling, dunnage, drayage, storage, or any other action necessary to comply with the requirements of this clause unless specifically stated in this Contract or otherwise agreed to by Buyer in writing.

B. In addition, and without prejudice to Paragraph A, the following further requirements shall apply to all health goods: Packaging, packing and marking shall be in accordance with the manufacturer's current public sector packaging for domestic or local overseas distribution. In case of conflict between the two, the local overseas packaging requirements prevail. Packaging and packing must ensure the safety, efficacy and quality of the product and be appropriate for distribution in harsh climates under less than ideal transport and storage conditions.

C. In addition and without prejudice to Paragraph A, the following further requirement shall apply to Contracts for Pharmaceuticals: Supplier shall supply Goods in closed pharmaceutical storage containers, i.e. bottles, tins, vials, ampoules, bubble pack, ensuring that the containers adequately protect Goods while they are in transit, or stored in warehouses, or on pharmacy shelves under conditions expected to prevail in the Recipient Country(ies). Supplier shall mark each pharmaceutical storage container (or in the case of ampoules, the box containing them) with the following information, in English (unless otherwise specified on Order Form):

1. The INN[1] name (International Non Proprietary Name) of the product
2. (Unless inapplicable) the pharmacopeia standard, e.g. U.S. Pharmacopeia (USP); European Pharmacopeia (EP), British Pharmacopeia (BP), or British Pharmaceutical Codex (BPC) monograph

[1] International Nonproprietary Names (INN) identify pharmaceutical substances or active pharmaceutical ingredients. Each INN is a unique name that is globally recognized and is public property. A nonproprietary name is also known as a generic name.

3. The strength of the preparation, if applicable
4. The name and location of the manufacturer
5. The date or month and year the Goods were manufactured, if applicable
6. The Expiry Date
7. Batch/lot number
8. Recommended storage conditions
9. Any other marking specified in the Order Form

D. If labels are used, these shall be affixed with adhesive suitable for conditions in the Recipient Country(ies).

E. Each pharmaceutical storage container shall have a package insert or patient information leaflet fully explaining the medication use and warnings. Such insert shall meet international and Recipient Country standards and may be affixed to the container, within the primary packaging or within a storage containers immediate outer package. In case of RDTs and other goods, every primary packaging shall have instructions for use (IFU).

F. In case of supply of Goods with a stated Shelf Life, Supplier shall guarantee that the Goods will retain full Shelf Life during storage in a dry space, protected from light, at storage temperatures conforming to product requirements until delivery to Buyer or Eligible Recipient.

F.1. Cold Chain 2°C to 8°C / Frozen Products: Supplier shall pack the Goods with validated passive pack-out packaging that keeps Goods at appropriate temperatures for at least 72 hours during transit. Supplier shall use phase-changing material (PCM) or gel-packs for cold chain 2°C to 8°C products; and shall use dry ice for frozen products. Supplier shall mark and store Goods at the correct required temperature in compliance with the product requirements.

G. Additional packaging, marking and storage instructions:

1. **PT/NT Goods** (psychotropic goods and narcotics): In case of delivery of psychotropic goods and narcotics, the Supplier will only ship the Goods with a correct valid export license. The Supplier is responsible to draw up an export license prior to each shipment and send a copy to Buyers contact person as shown on the Order Form.
2. **Air shipment:** Air shipment: Larger shipments need to be palletized with Euro Pallets. Euro Pallets shall be max. 127 cm (50 inches) high from floor to top of pallet. Shipments should be fully shrink-wrapped for protection from water damage. An exception is that frozen shipments with dry ice inside must NOT be shrink wrapped due to the explosion danger caused by dry ice sublimation during transit. For smaller shipments with one, or at most, two boxes, do not need to be palletized if - per box - the maximum dimension shall be 120 x 60 x 50 cm (L, W, H) and the maximum weight does not exceed 31.5 kg.
3. **Ocean shipment:** Shipments must be palletized. Supplier must use wooden Euro pallets fumigated and heat treated according to international standard ISPM 15. Pallets must also be properly marked according to industry standards. Temperature-controlled Goods are shipped in reefer containers; ambient Goods are shipped in dry containers.

   Acceptable dimensions of ocean pallets are:
   - 40 foot HC Reefer: min.100cm, max. 120cm;
   - 20 foot Reefer: min. 80cm, max. 100cm;
   - 40 foot or 20 foot Dry Containers: min.100cm, max. 110cm
4. **Dangerous Goods:**

   Documentation: In the event that the Goods being provided by the Supplier, or any representative/agent of the Supplier, are classified as hazardous, in any way, under any designation thereof, it is the sole responsibility of the Supplier:

   ✓ To fully declare the Goods as such on the Order Form documents as part of accepting the Order (Form), and

   ✓ Provide all the hazardous materials documentation required for the successful shipment, customs clearances, and delivery of the Goods according to International Air Transport Association (IATA) Dangerous Goods Regulations. This includes but is not limited to MSDS (material safety data sheets), documents identifying the hazardous materials designation for the Goods per the Hazardous Materials Identification System (HMIS) or as otherwise required.

   Shipping:

✓ In case of air shipment, the Supplier shall pack and mark the Goods for export in compliance with the IATA (International Air Transport Association) Dangerous Goods regulations.
✓ In case of sea shipment, the Supplier shall pack and mark the Goods for export in compliance with the IMDG (International Maritime Dangerous Goods) code. In case of road shipments, the Supplier shall pack and mark the Goods for export in compliance with the ADR (*Accord European relatif au transport international des marchandises Dangereuses par Route*) code. The Supplier is responsible to draw up a Dangerous Goods Declaration prior to each shipment and send a copy to Buyers contact person as shown on the Order Form.
✓ Containers for storage and transportation of all health goods should bear labels providing sufficient information on handling, storage and precautions to ensure that goods are properly handled. The labels on the shipper carton should enable identification of the contents of the cartons, the source and the destination (consignee) and thus must be clearly visible through the shrink wrapping:

- Name, strength and dosage form of the product
- Name of the manufacture
- Batch/lot/serial number and expiry date (if applicable)
- Name of the consignee
- PFSCM PO number

3. EXPORT AND TRANSPORTATION CLEARANCES

Supplier's responsibilities in connection with export and transportation clearances depend on the applicable delivery terms, and shall be as specified in the Contract Form or the Order Form.

4. DELIVERY AND ACCOMPANYING DOCUMENTS

A. Delivery shall be effected on the Due Date specified on the Order Form, and on the basis of the delivery term specified in the Order Form, as such term is defined in Publication No. 620 of the International Chamber of Commerce, i.e. Incoterms 2020, and provided further that in the event of any conflict or inconsistency between this standard delivery term and any specific requirement of this Contract, the Contract shall prevail.
B. Unless explicitly permitted on the Order Form, partial deliveries are not acceptable, and unless otherwise approved in writing by Buyer under such conditions as Buyer may impose, all items and quantities of Goods described shall be supplied together at one and the same time, and tender of any portion of the Goods shall not be considered delivery. In the event of short/partial delivery, Buyer reserves the right, at its unilateral option, in addition to any other rights specified by other provisions of the Contract, to either (1) reject the delivery entirely (in which case Supplier shall promptly pay Buyer upon demand any excess costs of procurement and, if Goods were underway, promptly arrange for the return, destruction or other disposition of the rejected Goods; (2) deem the undelivered quantity to be rejected and reduce the Total Contract Price by the value of the undelivered quantity or (3) authorize the Supplier upon request to make up the shortage at a later, mutually agreed date (subject to Paragraph I below).
C. If the Supplier delivers and the Buyer receives quantities of any item in excess of the quantity called for, such excess quantities will be treated as being delivered for the convenience of the Supplier. The buyer may retain such excess quantities up to $250 in value without compensating the Supplier therefore, and the Supplier waives all right, title, or interest therein. Quantities in excess of $250 will, at the option of the Buyer, either be returned at the Supplier's expense or retained and paid for by the Buyer at the contract unit price.
D. In addition to any types of shipping documentation mentioned elsewhere in this Contract, Supplier shall promptly submit to Buyer such other types of standard documentation in connection with the Goods and Services supplied as Buyer may reasonably request from time to time in writing.
E. Supplier shall advise Buyer of all information concerning the Goods that is pertinent to the transportation and in-country handling and storage (including, without limitation, any hazardous material indications and any other special handling and storage requirements), and shall be solely responsible for any failure to do so.

F. Supplier shall notify Buyer when the Goods are ready, in all respects, for delivery. The Notice of Readiness, accompanied by required documentation (see Article 4I) shall be e-mailed to Buyer's Contact shown on the Order Form, clearly mentioning PFSCMs Order Number, unless otherwise stated. Notification shall be done a few days prior to shipment, according to instructions sent with the Order Form. Unless otherwise stated in the Contract or Order Form, Copies of the documents shall be sent with the Goods and original documents shall be sent to: **Partnership for Supply Chain Management, Inc.** Attn: Accounts Payable. 2733 Crystal Drive, 4th Floor. Arlington, VA 22202 USA

G. If the Order Form provides for delivery on an EXW or FCA basis, the notice of readiness shall indicate the contact person and contact details to arrange for the Goods to be collected. Buyer's contact will review the submitted export documentation and confirm to Supplier if documentation meets amongst others country import / waiver requirements, after which Buyer will endeavour to do the following, as applicable:

- If the Order Form provides for delivery on an EXW or FCA basis, for air shipment arrange for the Goods to be collected within five working days after receipt of acceptable notice of readiness and export documentation.
- If the Order Form provides for delivery on an EXW or FCA basis, for ocean shipments arrange for the Goods to be collected within fourteen working days after receipt of acceptable notice of readiness and export documentation.
- If the Order Form provides for delivery on an CPT, CIF, or CIP basis, issue an authorization to ship to Supplier. Supplier should not ship until this authorization to ship has been received.

Collection or shipment can only be arranged after possible country requirements (such as pre-shipment inspection or importation waiver) have been complied with or received. For ocean shipments it might be decided to apply for an import waiver while Goods are shipped.

H. If the Order Form provides for delivery on an CPT, CIF, or CIP basis, immediately upon receipt of an Authorization to Ship in accordance with the preceding paragraph, Supplier shall deliver the Goods in accordance with the specified delivery term as modified by the terms and conditions of the Contract. If the specified delivery term is CPT, CIF, or CIP, unless otherwise expressly approved, all surface shipments shall be Door-to-Port, and unless shipment is by air, shall utilize one or more exclusive use 20 or 40' ocean transport containers.

I. The following documents shall be supplied prior to delivery and shall be delivered together with the Goods (see Article 4F):

i. Rated Air Waybill, or clean, negotiable ocean Bill of Lading, if delivery is on a CPT, CIF, CIP basis;
ii. Insurance Certificate if delivery is on a CIF or CIP basis;
iii. Packing List;
iv. Commercial Invoice;
v. Certificate of Analysis, if Good is Pharmaceutical
vi. Legalized Certificate of Origin; and
vii. All other documents as specified in the Order Form

In case the Goods are Pharmaceuticals and the Supplier is not the Manufacturer, the following documents may be needed in addition:

1. Certificate of Pharmaceutical Product
2. Certificate of GMP (Good Manufacturing Practice) of Manufacturer of Goods(s) Supplied
3. Certificate that Manufacturing Site of Good(s) supplied is approved by Stringent Regulatory Authority (if applicable)

The Air Waybill, for air shipment, or the Bill of Lading, for ocean shipment, must be clean, on-board, marked "freight paid" issued by the vessel-owning common carrier, and on a through basis (covering all intermodal and/or inland transportation, if any, to destination).

The Certificate of Insurance, if the Contract calls for delivery on a CIP or CIF basis, the Supplier shall provide all risk marine cargo insurance on terms no less favourable than the Institute Cargo Clause (All Risks), including war risks and strike clauses if available. The amount of coverage shall be 110% of the delivered price of the Contract. Coverage shall be from Supplier's facility in the country of manufacture to destination. Except as may be otherwise authorized by Buyer, any insurance policy shall be in favour of Buyer as the insured, and any loss proceeds shall be payable in United States Dollars.

The requirements to a proper invoice are described in Article 6.
The certificate of analysis shall be supplied in a form and content acceptable to the Buyer and signed by a qualified individual associated with the Supplier or a competent independent organization, confirming the compliance of each and every batch supplied with the Contract's specifications and regulatory authority's Standards.

J. Buyer will secure any necessary licenses, approvals, permits, and other authorizations, and effectuate the required customs clearance, needed for the importation of the Goods at destination. Supplier shall provide all reasonable assistance toward performance of Buyer's responsibilities. For DDP deliveries, Supplier shall also be solely responsible for all costs and risks relating to payment of all duties, taxes, and other official charges assessed on exportation from the country of manufacture and shipment. Any import duties or other exactions assessed by the government of the destination country, as well as container demurrage/detention and comparable charges shall be for the Supplier's account, except for [a] container demurrage/detention and comparable charges levied in those instances in which the Supplier fails to comply with the shipping document delivery schedule as specified in Paragraph G above or has otherwise caused the delays giving rise to such demurrage/detention or comparable charges; and [b] the costs of duties, taxes, and similar official import charges on replacement Goods, when required due to the Goods originally supplied by the Supplier having been defective.

K. If the Goods are not delivered in a timely manner (or, with respect to transactions required by the Order Form to be on an INCO Terms 2020 basis, or a Notice of Readiness is not duly issued for the Goods in a timely manner), in all respects in accordance with the Contract, Supplier shall reimburse Buyer or Buyer designated Donor Organization for any direct or indirect loss or expense incurred by Buyer that may result. Supplier shall be deemed conclusively to have authorized Buyer to deduct any such amount(s) from payment(s) otherwise due and owing to Supplier.

L. If delivery of the Goods is not completed by the required date, or if performance of any Services pursuant to the Contract is not completed by the due date (if any) specified, due to any default or delay of Supplier (including without limitation any default by Suppliers, sub-Suppliers or offerors), Buyer shall be entitled to deduct from payment(s) otherwise due to Supplier (in addition to liquidated damages, provided for below) any additional costs of sampling, testing, and inspection caused by such default or delay. Should such default or delay cause an inspection or testing firm to undertake additional inspections or tests, Buyer shall be entitled, in addition and without prejudice to any other remedies available under or in connection with the Contract to deduct the related costs, along with any additional sampling agent charges from any further payment(s) to Supplier, or, if no such payment(s) remain available, to demand and receive a refund from Supplier.

M. Liquidated Damages: Supplier acknowledges the urgent need for the Goods, as well as the difficulty of ascertaining at the time of contracting the precise nature and amount of actual damages that will be suffered in the event of delayed performance. In view of the foregoing, if Supplier fails to issue a Notice of Readiness for the entire quantity of Goods, in strict compliance with all specifications and other Contract requirements, by the date(s) specified in the Order Form, the Buyer may, without prejudice and in addition to any other remedies under the Contract (or otherwise available at law or in equity), deduct from any payment(s) due or to become due to the Supplier, under or in connection with this or any other agreement, as liquidated damages of 1% of the order value per week past the first week late, up to a maximum of 10% of the order value. The Parties agree that this sum represents a reasonable estimate of the actual damages anticipated at the time of contracting, and confirm that this amount has been specifically negotiated and mutually agreed upon. Notwithstanding the imposition of liquidated damages in accordance with this Paragraph, Supplier shall proceed with delivery and performance of its obligations pursuant to the Contract unless otherwise instructed or approved by Buyer.

N. Liquidated Damages in case of termination for default and/or in case of unreasonable delay. Buyer may, in addition to or instead of liquidated damages and without prejudice to any other termination right set forth in the Contract. In the event of timely or compliant delivery of partial quantities, Buyer may reduce the periodic or total deduction to the extent it deems appropriate, in its reasonable discretion. This provision may only be enforced upon the Global Fund's prior approval and once PFSCM and the Global Fund have agreed on the refund modalities.

5. PRICE

A. The Prices (Unit Prices and extended prices) specified in the Contract are firm, fixed, all-inclusive total prices covering performance of all of Supplier's obligations pursuant to this Contract, including but not limited to, delivery of Goods and successful performance of all Services; supply of required documentation; warranty-related costs and charges; packing, packaging and marking costs; the costs of cooperating with sampling, testing, inspection and other quality assurance requirements, when applicable; and any and all other costs and charges of whatever description or amount in connection with, necessary for, or resulting from Supplier's required performance. In the case of DDP shipments, such other costs and charges shall include, without limitation, costs allocated to the Supplier by Article 4J above; for CPT, CIF, CIP, DAP and DAT shipments, costs of affreightment and for CIF or CIP shipments, the costs of insurance.

B. Supplier certifies that the Price(s) in the Contract represent the lowest price(s) that the Supplier currently sells the Goods under comparable terms and conditions to any of its customers. Supplier agrees that if during the life of this Contract it sells the Goods to any customer for a lower price; it will promptly inform the Buyer and provide an update to the Contract so that such lower price applies to any pending or subsequent order or delivery (as described in the Purchase Order, Firm Fixed Price Contract, Delivery Order, or IQC hereunder. For sake of clarity the Order Form will be amended to conform and sent to the Supplier. The Contract Form (in case of IQC) will be amended on an annual basis.

C. The Total Contract Price specified in each Delivery Order shall constitute the maximum ceiling for Buyer's potential liability to Supplier for any and all reasons whatsoever in connection with or resulting from any particular Delivery Order. In no circumstances will the maximum ceiling of the Buyer's potential liability exceed the value of the Contract.

D. Contract Prices are ceiling prices and may only be increased at the beginning of a renewal term. Supplier may decrease prices at any time. Price increases may only result from, and be commensurate with, Supplier's cost changes due to currency exchange or variable costs to manufacture goods. No later than 30 (thirty) days before a renewal term is to begin, either Party may propose price changes based on properly documented cost or currency information (by completing a spreadsheet as provided by Buyer upon request. Examples of documentation include recognized currency exchange information sources such as raw material price changes and their effect on goods' total cost. The aforementioned cost changes must justify at least a 10% (ten per cent) price change for such price change to take effect.

6. INVOICING AND PAYMENT

A. Invoices and payments shall be in United States Dollars (unless otherwise agreed upon in the Contract),

B. Supplier shall submit proper invoices to Buyer for Delivered Goods and Related Services that have been successfully performed, in accordance with any directions stipulated in the Contract, and, to the extent not specified therein, with the provisions of this Article. To constitute a "proper invoice" within the meaning of this Article, each invoice shall provide the following information:

1. Supplier name, invoice date & number, and delivery date (for Delivered Goods) or performance date (for Related Services), as applicable;

2. Complete account and bank's SWIFT information if payment by means of electronic funds transfer is preferred per Paragraph D below;

3. Order number, as mentioned on Order Form

4. Description of each type of Delivered Goods and Related Services included in the invoice, together with the applicable Unit Price, quantity delivered, and extended line item price;

For shipments of pharmaceuticals, the invoice shall include batch number, expiry date and initial letters of the pharmacopoeia standard (e.g. USP, BP or EP). and Supplier certifies that the invoice is correct.

C. Buyer will promptly review invoices submitted to determine whether they are proper invoices or not. Buyer as specified in Article 6 will pay invoices determined to be proper.

Invoices determined not to be proper due to the existence of deficiencies will be returned to Supplier, generally within ten (10) business days of submission, with major deficiencies noted for correction. In the event that an invoice is submitted which is partly proper and partly not proper, Buyer may, in its sole

discretion, either return the entire invoice for correction or make payment of the proper portion and return the portion deemed not to be proper.

D. The Buyer shall make payment to Supplier in accordance with the Prices stipulated in the Order Form. Invoices determined to be proper will generally be paid within thirty (30) days after receipt of the proper invoice, subject always to Buyer's prior receipt of funds under the contract with International Donor. Notwithstanding the foregoing, Buyer accepts no responsibility for late payment resulting from International Donor acts or omissions. Unless otherwise specifically stated, payment shall be 100% upon delivery to and acceptance by Buyer or International Donor. Buyer may request reasonable security for any advance payment(s), in a form and substance acceptable to Buyer and International Donor and with all costs thereof to be for Supplier's account.

An invoice will not be determined to be proper in the absence of a proof of delivery (POD). Supplier understands and agrees that Buyer cannot pay invoices without a document properly indicating POD.

Supplier shall not withhold any Goods, or delay processing any quotations or Delivery Orders resulting from Buyer's delay to pay an invoice, if such payment delay is due to a lack of POD or if the invoice is not mailed to the correct address.

E. If payment(s) will be made electronically, Supplier shall be solely responsible for providing Buyer with correct wiring information. All costs and risks arising out of, relating to, or resulting from such wiring shall be borne by Supplier.

F. Invoices shall be sent to: **Partnership for Supply Chain Management, Inc.** Attn: Accounts Payable**.** 2733 Crystal Drive, 4th Floor**.** Arlington, VA 22202 – USA

7. QUALITY ASSURANCE (INSPECTION AND ACCEPTANCE)

A. Supplier shall only deliver and tender for acceptance those Goods that strictly conform to the requirements specified in the Contract (Form). Buyer reserves the right to inspect or test any Goods or Services that have been delivered and tendered for acceptance within a reasonable time after delivery. Sampling, inspection and/or testing may occur prior to export shipment, but can also be organized upon arrival in the Recipient Country(ies) or a local or Regional Distribution Center, whichever happens first. In this regard, the Supplier shall furnish necessary documentation (finished product specification, in-house test methods), standards and facilitate method transfer, if required.

B. In the event of out of specification (OOS) or confirmed non-conformance, the Supplier agrees to provide necessary information to facilitate the investigation and root cause analysis. Regardless of the point of sampling/inspection/testing, Buyer may require repair or replacement of nonconforming Goods or re-performance of nonconforming Services at no increase in the Contract Price. Buyer will exercise its pre- and post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) to the maximum extent practicable, before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

C. In the event of recall, the Supplier shall facilitate the Buyer in notifying the local regulatory/competent authority about the recall.

D. Buyer reserves the right to examine, or inspect health goods in course of manufacture and packaging and to take samples for independent analysis and testing. Supplier shall provide all reasonable facilities for such sampling and testing to be made at no cost to Buyer. Supplier shall destroy all rejected Goods, and dispose of their residue, in accordance with procedures to be agreed between the parties.

E. Buyer will exert good faith efforts to decide on acceptance of Goods and Services (and, as applicable, to complete sampling, inspection and testing) as promptly as possible. Notwithstanding the foregoing, or any other provision of this Contract, payment will only be made for accepted Goods and Services. If International Donor requires additional sampling, testing, or inspection of its own prior to approval for payment under the contract with International Donor, successful completion thereof shall be deemed to be a condition of Buyer's acceptance, and the time required therefore shall be deemed included in determining what constitutes a "reasonable time" for purposes of Paragraph A above.

F. When required by International Donor or otherwise deemed necessary and appropriate, Buyer may by written notice to Supplier require pre-shipment sampling, inspection and testing of the Goods including, without limitation, physical inspections of the production, warehousing and other facilities involved, the product packaging and labelling; inspection and review of manufacturing records, Certificates of Analysis,

analytical reports and documentation; and product sampling and testing by an independent testing facility. In such cases, Supplier will cooperate fully with Buyer, the Sampling Agent and the testing facility, take such steps, and supply such information as may be needed in order to ensure timely and effective quality assurance. For goods which are purchased for the first time by Buyer from Supplier, samples may be requested to be supplied with the shipment at no cost to Buyer; on average three discrete units per batch are required for complete evaluation (one unit for the Buyers laboratory or appointed facility; one unit for an independent laboratory for confirmatory testing, and one unit as a retain sample); final quantity will be indicated on Order Form. Only Goods that have successfully passed testing may be deemed to be ready for delivery. Buyer may also direct post-shipment sampling, testing, and/or inspection of the Goods at any point in the chain of supply and distribution when it deems such action to be in the best interests of International Donor. Supplier will fully cooperate with such measures as well. Prompt removal and replacement or correction (as applicable), shall be deemed, unless otherwise subsequently agreed by Buyer, to mean (10) business days after receiving notification of rejection of Goods or Services.

G. International Donor will be authorized to disclose quality test results to the public after it has notified the supplier of the results and there is no dispute as to the validity of the results.

H. Buyer reserves the right to institute a consignment-based procurement model to help assure the quality of Pharmaceuticals purchased from Suppliers (which are manufacturers) that have been determined to be substantially in compliance with WHO Good Manufacturing Practices but have not been prequalified by WHO on the Prequalified Medicines List nor have been inspected and approved by a Stringent Regulatory Authority (SRA). In this model, the Supplier holds the requested Pharmaceutical in quarantine while samples from each lot are tested for compliance to standards. Only after the samples are determined to be in compliance are the goods purchased by Buyer and released from quarantine for distribution.

I. In the event that the goods need to be shipped concurrent to QC testing, the Buyer reserves the right to ask the Supplier for a letter of guarantee stating they are accountable and responsible for subsequent actions, should there be any compliance issues.

8. TITLE AND RISK OF LOSS OR DAMAGE

A. Supplier shall ensure that title to Goods delivered and supplied hereunder shall pass directly to International Donor upon acceptance pursuant to Article 7 above.

B. Notwithstanding completion of delivery, Supplier shall bear all risk of loss or damage to the Goods prior to acceptance, except to the extent that any loss or damage is due to Buyer's fault, or occurs after delivery and not due to fault on the Supplier's part.

9. SUPPLIER WARRANTIES

A. All Goods delivered and Services rendered hereunder shall be covered by the Manufacturer's standard international warranty in favour of the International Donor.

B. In addition, and without prejudice to Paragraph A above, Supplier warrants that the Goods and Services delivered and rendered hereunder are merchantable and fit for use for the particular purpose described in this Contract (or, if no such purpose is specifically described, for the purposes for which the Goods or Services, as applicable, are ordinarily used).

C. Supplier also hereby expressly warrants that all Goods (including without limitation their parts) and Services supplied, as applicable:

✓ Conform to Contract requirements (including without limitation the description in the Contract and the Specifications), as well as, if one or more specific Recipient Countries is mentioned in the solicitation or this Contract, the requirements of that Recipient Country and any other applicable regulatory agencies' requirements, and are free of defects in design;

✓ Are free of latent defects (as used herein, defects that meet the following criteria: (a) such defects are not apparent to either Party during customary manufacturing or quality testing and/or inspection; and (b) such defects result solely from defective material, workmanship, or design and are not caused by misuse or misapplication of the Goods);

✓ Will, to the extent found to be in breach of any warranty specified in this Contract, be removed, and repaired or replaced, covered by new warranties identical to those that applied to the originally supplied

Goods and Services, extending for the longer of [a] the remainder of the original warranty period, or [b] a new warranty period;

✓ Ensure that all spares and replacement parts are the same as the original spares and parts unless formally replaced by an improved and Buyer-approved technical equivalent; and

✓ Are covered by intellectual property licenses, patents, permissions, or rights which will not infringe the intellectual property rights of any third person, and which, being granted to Buyer and the International Donor pursuant to this Contract, will be adequate to ensure that they may freely utilize the licenses, permissions and rights free and clear of any claim, encumbrance, lien or interest of any other person or entity, and in all other respects without disturbance or impediment. Supplier shall notify the Buyer of any patent or other IP infringement claim filed or to its best knowledge threatened or pending in respect of the Good in any of the Recipient Country(ies), relevant to the applicable Delivery Order at the time of indicating its ability and willingness to supply the Good. The Buyer shall have the option to proceed or cancel the Contract (represented by Purchase Order, Firm Fixed Price Order Form or Delivery Order).

D. The period of all warranties set forth in this Article or in any other provision of the Contract shall be no less than eighteen (18) months from the date of delivery of possession of the Goods to Buyer, or, for pharmaceuticals, no less than the minimum Shelf Life of the Goods.

E. If any Goods or Services supplied hereunder are defective or otherwise do not meet the warranties specified herein or otherwise applicable at any time during the warranty period, the International Donor (or the Buyer on its behalf, if/as authorized by the International Donor to do so) may, at its option: (1) reject the affected item(s) and require a full refund or credit; (2) reject the affected item(s) and require prompt correction or replacement (freight prepaid) at Supplier's sole expense; (3) retain it/them at a equitably adjusted price; or (4) require Supplier to provide, if available, corrections in the form of field change order kits (including components, instructions and other necessary materials) from Supplier so that Buyer or its designee may make necessary changes or repairs. Repaired or corrected items shall be subject to the same warranties as if they were new. While returned item(s) are in Supplier's possession and while in transit during return to Supplier and reshipment to or as directed by Buyer, all risks and costs of loss, destruction or damage shall be for Supplier's account.

In case of dispute about status of Good, status will be evaluated by a mutually agreed upon laboratory, using agreed upon reference standards and methods.

F. International Donor (or the Buyer on its behalf, if/as authorized to do so) shall submit warranty claims to Supplier within a reasonable time after discovery of any breach, indicating the nature and date of the claim.

G. Supplier shall promptly correct any problem reported by the International Donor and/or Buyer by making necessary changes in the Goods or their manufacturing processes so that further Goods to be delivered to the International Donor and/or Buyer shall be as warranted herein. If Supplier becomes aware of any non-conformance to any warranty relating to the Delivered Goods, Supplier shall promptly notify Buyer thereof in writing.

H. Buyer shall have the right, at any time and from time to time, to stop further deliveries of Goods from Supplier that do not conform to the warranties and other requirements of this Contract, and in such event, Buyer shall advise Supplier of Buyer's best identification and assessment of the problems. Further deliveries of Goods shall not be made to Buyer until and unless Supplier has corrected the specified areas of non-conformance in the Goods, or Buyer authorizes in writing the shipment of such Goods pending Supplier's correction. Buyer's actions pursuant to this Paragraph shall not be deemed to constitute a change order, and Supplier shall not be entitled to any compensation due to the delays (if any) association with or resulting from these actions.

10. SERVICE BULLETINS, RECALLS, AND COUNTERFEITING NOTICES

A. Supplier shall promptly on issuance provide the Buyer with any service bulletins, safety notices and recall notices etc. issued by Supplier (or, if the Supplier is not the manufacturer, by the Manufacturer) either directly or via the Manufacturer's local agent, if any.

B. Supplier shall promptly provide the Buyer with written notice (including all pertinent particulars) regarding instances that may come to its attention by whatever means of possible counterfeiting, piracy, or unauthorized sales by third parties of diluted, adulterated, impure, misbranded, mislabelled, unsafe,

ineffective, inefficacious, or otherwise non-standard items of the same type and brand as the Goods supplied in the Recipient Countries.

C. Notwithstanding any other provision in this Contract or any other agreement between the Parties, Buyer may disclose this information to appropriate authorities of the International Donor or the Recipient Country governments, as well as others, as deemed necessary in Buyer's sole discretion to perform the International Donor Contract, comply with its obligations under applicable law, or otherwise. The obligations under this Article shall continue to apply until the end of the warranty period of all Goods furnished by Supplier pursuant to this Contract.

11. CHANGE ORDERS

Buyer may, at any time, by written order specifically designated as a "Change Order," require changes within the general scope of the Contract. Supplier shall perform any such changes so ordered. This authority is limited to Buyer's Procurement Representative. For purposes of this Contract, the time period for Supplier to assert a right to an equitable adjustment shall be twenty (20) days. Notwithstanding the existence or pendency of any claim for such an adjustment, Supplier shall diligently proceed with performance of this Contract, as directed by Buyer, and nothing herein shall be construed as relieving Supplier of its obligation to perform, including, without limitation, the failure of the parties to agree upon Supplier's entitlement to, or the amount of, any such adjustment. Failure to do so may be deemed a breach of contract. If Supplier interprets any Buyer communication as a Change Order, but the communication is not specifically designated as a "Change Order," Supplier must secure written confirmation before performing or lose the right to seek any equitable adjustment. Any disagreement between the Parties pursuant to this Article shall be resolved in accordance with the Disputes provision herein.

12. OPTION FOR INCREASED QUANTITY

Unless this is an Indefinite Quantity Delivery type of Contract, and if so provided in the Contract Form, the Buyer may increase the Goods and/or Services called for by the quantity and at the unit price(s) specified. The Buyer may exercise this additional option by dispatching written notice to the Supplier within the period of time stipulated in the Contract. Delivery of the added Goods or performance of the added Services, as applicable, shall be subject to the terms and conditions of this Contract except as the parties may otherwise agree in writing.

13. TERMINATION, SUSPENSION, AND OTHER REMEDIES

A. Buyer reserves the right to terminate this Contract in whole at any time. In the event of such termination Supplier shall immediately stop all work hereunder and shall immediately cause any and all of its sub-Suppliers, offerors and Suppliers (including the Manufacturer, if different from the Supplier) to cease work. This may include seeking liquidated damages as per Section 4.M & N: "Liquidated Damages."

B. Upon the expiry or termination of this Contract for any reason, the Supplier:

✓ Shall promptly return all confidential information belonging to Buyer or its International Donor and shall not make any use of such confidential information after expiry or termination of this Contract;

✓ Shall return all funds which have not been committed or earned by the Supplier in accordance with the terms of this Contract;

✓ Shall fulfil all Purchase Orders issued prior to the expiry or termination of this Contract

C. If Buyer receives a temporary Stop Work Order from the International Donor under the International Donor Contract, Buyer may by written notice instruction from Supplier to immediately cease all or part of further Contract work. The period of work cessation shall extend for up to 90 days from the date of the Supplier's receipt of the notice. This period may be extended if the International Donor subsequently extends the period covered by the Stop Work Order under the International Donor Contract. Before the end of the period, Buyer will either cancel the work cessation or terminate the affected Contract pursuant to Paragraph A or B above. If the work cessation is cancelled before it expires or the period expires without renewal, Supplier shall resume work. No additional compensation will be due to the Supplier due to the

work cessation; however, if necessary, Supplier may propose an appropriate adjustment in the schedule. In the event of termination, the procedures in Paragraph A or B, as applicable, will be followed.

D. Buyer's rights and remedies pursuant to this Article shall not be deemed to be exclusive and are in addition and without prejudice to any other rights and remedies provided by law, Contract, or equity, or otherwise under this Contract.

E. Termination of this Contract shall not affect the existing rights and licenses granted to Buyer or the International Donor, which shall survive such termination.

F. In the event that Supplier (or the Manufacturer, if the Supplier is not also the Manufacturer) shall cease conducting that portion of its business which produces, distributes or supports the Goods described herein, Buyer shall have, in order to fulfil its obligations to the International Donor, such rights to technical data, computer software and any other Supplier-provided information, documentation and materials developed and used in the connection with the Goods to be supplied pursuant to the Contract, as are necessary for the continued performance of Buyer's contract with the International Donor. Supplier will inform the Buyer six months in advance of the cessation of activities or removal of a Good from the Contract when possible but in all cases within 3 months of cessation of activities or removal of a Good from the Contract. Supplier shall assist Buyer and the International Donor in every reasonable manner in arranging for the orderly transfer, under such provisions stated herein, of all activities to Buyer or the designees of either of the foregoing.

G. Notwithstanding termination or suspension as above, Supplier shall, unless otherwise specifically instructed in writing by Buyer, continue performance of any unterminated or unsuspended portion of the Contract.

14. NOTICES

Contract notices shall be in writing, manually signed by the notifying Party's authorized representative, and mailed postage prepaid or as signed PDF sent by e-mail, and in all cases addressed to the individuals as shown on the Contract, and clearly mentioning Buyer's Contract Number.

15. DISPUTES BETWEEN THE PARTIES ON MATTERS INVOLVING THE INTERNATIONAL DONOR

Notwithstanding any other provision of this Contract, any action by a cognizant International Donor official purporting to act within his/her authority under or in connection with the International Donor Contract or the present Contract that binds Buyer shall also bind Supplier to the extent that it relates to or affects the Contract. If requested by Supplier in writing, Buyer may agree at Supplier's expense to sponsor a claim with the International Donor. Supplier shall reimburse all costs resulting from such sponsored claims incurred by Buyer without charge to this Contract.

16. DISPUTES

The Parties agree to make every reasonable effort to resolve amicably through mutual agreement any dispute that may arise between them pursuant to this Contract. If such efforts are unsuccessful in resolving the dispute, the Parties shall escalate the dispute to higher management levels. Failing an amicable settlement at the management level, after a reasonable time, either Party may refer the matter to arbitration pursuant to this Article, which shall be the exclusive method of resolving such disputes. Arbitration shall be conducted in Boston, MA under the under the Commercial Arbitration Rules (if the Supplier is a U.S. entity) or the International Arbitration Rules (if the Supplier is a non-U.S. entity), as applicable, of the American Arbitration Association ("AAA") as then in effect, before a sole arbitrator appointed by agreement of the Parties (or, failing such agreement within thirty (30) days, an arbitrator appointed by the AAA). The decision of the arbitrators will be in writing, and will contain a statement of reasons; the resulting award shall be final and binding on the Parties and shall be in lieu of any other remedy. Judgment may be entered upon the award in any court of competent jurisdiction. Notwithstanding any pending arbitration, the Parties shall continue to perform their respective obligations pursuant to the Contract. Each Party will bear its own costs of arbitration, as well as half of the arbitrator's fees and costs.

17. BUYER'S DISPOSITION RIGHTS

Vis-à-vis Supplier (or the Manufacturer, if different from the Supplier), Buyer and the International Donor shall have the right, in their sole discretion, to dispose of the Goods supplied under the Contract in any lawful manner including without limitation donation, use, resale, or re-export. Such disposition shall not require the approval or consent of Supplier, nor shall it be deemed to give rise to any claim by Supplier (or the Manufacturer, if different from the Supplier) against Buyer or the International Donor for compensation or otherwise of whatever nature. Buyer will seek Supplier's approval to the maximum extent practicable before re-exporting the Goods outside of the Recipient Countries.

18. COMMUNICATIONS WITH INTERNATIONAL DONOR

All communications with International Donor or Principal Recipient concerning this Contract or the Project of which the Contract is a part, shall be made through Buyer unless otherwise expressly authorized by Buyer. If Supplier is called upon by the International Donor to communicate concerning the Contract or the Project, Supplier shall notify and consult with Buyer before responding.

19. CONFIDENTIAL INFORMATION AND DISCLOSURE

A. Information which either Party may disclose to the other shall not be deemed to be confidential and shall be acquired free from any restriction, unless the information is proprietary to the disclosing Party and, if it is disclosed in tangible form, the disclosing Party marks such information as "Proprietary," "Restricted," or "Confidential." Any confidential information disclosed verbally must be expressly identified as confidential at the time of disclosure and thereafter-reduced to tangible form with a copy, prominently marked as previously mentioned, delivered to the receiving party within ten (10) days of the verbal disclosure. When a writing contains both confidential and non-confidential information, the disclosing Party shall specifically note which information is deemed confidential.

B. Each Party shall exercise the same degree of care to avoid the publication or dissemination of the other Party's confidential information as it affords to its own confidential information of a similar nature, which it desires not to be published or disseminated. The receiving Party in the furtherance of this Contract and the performance of its obligations shall only use confidential information disclosed under this Contract hereunder.

C. The obligation of the Parties not to disclose confidential information shall survive the expiration, termination or cancellation of this Contract. However, neither Party shall be obligated to protect confidential information of the other which: (1) is rightfully received by the receiving Party from another person without restriction; (2) is known to or developed by the receiving Party independently without use of the confidential information; (3) is or becomes generally known to the public by other than a breach of duty hereunder by the receiving Party; (4) has been or is hereafter furnished to others without restriction on disclosure; or (5) is known or available to the receiving Party by inspection or analysis of goods available in the market.

D. The obligation not to use or disclose said confidential information shall end five (5) years after the date of receipt of said confidential information, except with respect to any Software, for which the obligation shall continue until the occurrence of any of the events listed in Paragraph C, above. Nothing contained herein shall be construed as preventing Buyer from sublicensing or marketing Software or documentation to the International Donor. Buyer shall be permitted to disclose confidential information to its affiliated entities, third parties and others, including its International Donor, in furtherance of the Project; provided, however, that such affiliated entities, third parties and others agree to protect such information to the extent provided herein.

E. Supplier hereby authorizes Buyer to incorporate Supplier's (and, if the Supplier is not also the Manufacturer, the Manufacturer's) provided Proprietary Information in submissions to the International Donor provided that it bears an appropriate restrictive legend.

20. INDEPENDENT CONTRACTOR

The Parties acknowledge that the relationship between them pursuant to this Contract is that of independent contractors, and nothing contained herein shall be deemed to create a relationship of

partners, joint ventures, agent and principal, employer and employee, or any relationship other than that of independent contractors. At no time shall either Party make any commitments or incur any charges or expenses for or in the name of the other Party.

21. GOVERNING LAWS, REGULATIONS, AND LANGUAGE

A. A. Supplier shall, in performing its obligations pursuant to this Contract, comply with all applicable statutes, rules, regulations, and executive orders of the International Donor, as well as all other applicable laws and regulations.

B. This Contract, its making and performance, and the circumstances surrounding all of the foregoing, shall be interpreted in accordance with the laws in effect in the Commonwealth of Massachusetts in the U.S.A. without regard to its conflicts of law principles.

C. The language governing this Contract, its interpretation, notices, disputes, and any other communications relating or pursuant hereto, shall be English.

22. INTERNATIONAL DONOR REQUIRED CERTIFICATIONS

Supplier shall furnish to Buyer any certification required by any applicable law or International Donor regulation or policies in effect on the date this Contract issued or thereafter enacted. As used in this Article, the word "certification" shall include without limitation any plan or course of action or record keeping function, representation or document of similar tenor.

23. PROBITY

Supplier shall strictly ensure that it and its officers, directors, employees, agents, consultants and Suppliers avoid (1) any action in violation of (or that might reasonably be considered to be in violation of) U.S. Government, International Donor, originating country, Recipient Country or other applicable laws, regulations, rules and policies relating to ethics, integrity and proper business practices; and (2) any corrupt practice (including without limitation the offering, giving, receiving or soliciting of anything of value to influence the action of any public official or any officer, employee or director of Buyer or Supplier) or fraudulent practice (including without limitation misrepresentation of facts to influence a procurement action or Contract execution or administration), to the actual or potential detriment of Buyer, the International Donor, or the Recipient Countries. If an issue should arise concerning compliance with this Article, Supplier shall immediately provide Buyer with written notice describing the issue, all pertinent facts as known on the date of the notice, any conclusions reached by Supplier as of that date, and any corrective actions proposed. Failure to respond aggressively and appropriately to such issues may be treated by Buyer as a material Contract breach. Supplier shall indemnify and hold Buyer harmless for any costs, delays, losses, damages or other liabilities (including without limitation reasonable costs and fees of attorneys and expert consultants and costs and fees incurred in connection with investigations) incurred by Buyer as a result of any occurrences covered by this Article, or any allegations relating to purported occurrences of this nature.

24. INDEMNITIES

A. Supplier shall indemnify and hold harmless Buyer and its officers, directors, employees and agents (as well as the PSA and/or the Global Fund and/or the relevant Principal Recipient) from and against all claims, damages, losses and expenses with respect to the death, injury or disability of any persons and damage to or destruction of any property (including without limitation any loss of use, and any product liability or similar claim, in or under the laws of any of the Recipient Countries or other applicable law {provided that the Goods are used and stored in a manner consistent with any manufacturer recommendations specifically noted by Supplier in its offer and expressly incorporated by Buyer into this Contract}) arising out of, resulting from or connected in any way with the performance of this Contract by Supplier or Supplier's employees, the Manufacturer (if different from the Supplier), other sub-Suppliers and, Suppliers, or their officers, directors, agents and employees, including non-compliance by such manufacturers or suppliers with any technical requirements applicable to any product supplied. Supplier shall, at its own expense, defend all suits or claims (whether or not false, fraudulent or groundless) by third parties alleging

such injury or damage and shall pay all reasonable charges of attorneys, court costs, awards and all other costs and expenses in connection therewith. This provision shall survive after the expiration or termination of this Contract.

B. Supplier shall indemnify Buyer and its officers, employees and agents (as well as the International Donor) against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any patent, trademark, or copyright, arising out of the performance of this Contract, provided that Supplier is reasonably notified of such claims and proceedings.

C. Buyer shall give Supplier prompt written notice of (1) any claim by a third party, or (2) any action or proceeding (including without limitation any investigation or inquiry), potentially involving one of the indemnities set forth above. Upon receipt of such notice, Supplier shall promptly assume the defense thereof, including the employment of counsel reasonably satisfactory to Buyer and the payment of all fees and expenses incurred in connection with such defense. Notwithstanding the foregoing, Supplier shall not, without Buyer's approval, consent to entry of any judgment or enter into any settlement, which does not include as an unconditional term thereof the giving by the claimant or plaintiff a release, in form and substance satisfactory to Buyer, from all liability with respect to such claim or litigation.

25. RELEASE OF INFORMATION

Any Supplier news release, public announcement, advertisement or publicity concerning this Contract or the contract with the International Donor or the Supplier's relationship with either Party will be subject to prior written approval of Buyer. Supplier shall not disclose any information relating to this Contract to any person not authorized by Buyer or International Donor to receive it.

26. CODE OF CONDUCT

The Supplier warrants that it complies with the Global Fund's Code of Conduct for Suppliers which can be amended from time to time as per this link: https://www.theglobalfund.org/media/3275/corporate_codeofconductforsuppliers_policy_en.pdf Supplier shall be obliged to respect the rules and guidelines contained in the code of conduct in its dealings with Buyer's employees. A separate PFSCM Supplier Code of Conduct is incorporated as part of these Terms and Conditions.

27. NOTICE OF DELAY OR IMPEDIMENT

Whenever any occurrence is delaying or impeding, or threatening to delay or impede, Supplier's timely and successful performance under the Contract, Supplier shall promptly give notice thereof, including all relevant information with respect thereto, to Buyer.

28. RETURN UPON COMPLETION

Upon completion of performance of the Contract, on request, Supplier shall promptly return to Buyer all Specifications, plans, drawings, patterns or samples - - and all copies of any of the foregoing. All of the items referred to in the preceding sentence shall be and remain, at all times, Buyer's sole property.

29. PFSCM: "Special Purchase Conditions of International Donor."

Please refer to attachment "A" [Only applicable should there be Donor's specific conditions. Otherwise it can be stated: Not Applicable]

30. TERRORISM.

Supplier is reminded that U.S. law and UN sanctions prohibit transactions made using funds provided under this Contract to support or promote violence, aid terrorists or terrorist-related activity or funding individuals and organizations identified as supporters of terrorism. It is Supplier's legal responsibility to ensure that it complies with these laws and sanctions. Individuals and organizations identified as prohibited from receiving financial or material support by these U.S. laws and UN sanctions are listed at the following websites: , https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list.

This provision shall be included in all subcontracts under the Contract.

31. DEFINITIONS OF TERMS IN THIS CONTRACT

Applicable laws means any federal, national, supranational, state and local laws, rules and regulations, ordinances, administrative statutes, codes, orders or requirements of any country or jurisdiction of any country or jurisdiction applicable to a recipient, as the context may require.

Buyer means a party which acquires, or agrees to acquire, ownership (in case of goods), or benefit or usage (in case of services), in exchange for money or other consideration under a contract/purchase order.

Contracts, please refer to Section I: "Goods and Related Services," letter "B." Contract means a voluntary, deliberate, and legally binding agreement between two or more competent parties. A contractual relationship is evidenced by: (i) an offer; (ii) acceptance of the offer; and a (iii) valid (legal and valuable) consideration. Each party to a contract acquires rights and duties relative to the rights and duties of the other parties.

Code of Conduct means PFSCM's "Code of Conduct for Suppliers" which set forth PFSCM's standards and expectations with respect to key areas of corporate responsibility. It is PFSCM goal to work with suppliers and Suppliers to assure compliance with these requirements. It is available upon request.

Force majeure means unforeseeable circumstances that prevent a party from fulfilling a contract, it also refers to a clause that is included in contracts to remove liability for natural and unavoidable catastrophes that interrupt the expected course of events and restrict parties from fulfilling obligations.

Goods means an inherently useful tangible item produce from manufacturing activities. According to the UN Convention On Contract For the International Sale of Goods, the term 'goods' does not include (i) items bough for personal use; (ii) items bought at an auction or foreclosure sale.

Health Goods includes (i) pharmaceutical goods; (ii) durable and non-durable in-vitro diagnostic goods, microscopes and imaging equipment; (iii) vector control goods; and (iv) consumable/single use health goods (including condoms, insecticides, therapeutic nutritional support, general laboratory items and injection syringes) which are financed out of the program's funds.

Order Form means the document used to request merchandise, usually from a wholesaler, manufacturer.

Principal Recipient in respect of a Program means an entity nominated by the relevant Regional Coordinating Mechanism or Regional Organization to implement the program in accordance with the relevant Grant Agreement and delivered pursuant to the Framework Agreement.

Purchase Order means a buyer-generated document that authorizes a purchase transaction. When accepted by the seller, it becomes a contract binding on both parties. A purchase order sets forth descriptions, quantities, prices, discounts, payment terms, date of performance or shipment, other associated terms and conditions, and identifies a specific seller.

Suppliers means collectively, without limitation, all bidders, suppliers, agents, intermediaries, consultants, and contractors, who are not the Principal Recipient(s) or Sub-recipients but provide goods and services to a Program.

Quality Control means all the measures taken, including the setting of specification sampling, testing and analytical clearance, to ensure that starting material, intermediate, packaging material and FPPs conform to established specifications for identity, strength, purity and other characteristics.

Supplier means a party in the supply chain that makes goods and services available to companies or consumers. The term 'Supplier' typically is used to describe the entity that is paid for goods that are provided, rather than the manufacturer of the goods itself.

32. OFFSETS

Should Supplier fail to comply with the requirements of the Contract, Buyer reserves the right to deduct, or cause to be deducted, from any payment(s) otherwise due to Supplier all or part of any amount, whether in connection with this Contract or any other agreement, that Buyer determines is owed to Buyer by Supplier. Buyer will use this authority cautiously and fairly, providing advance written notice and an opportunity to comment whenever doing so is deemed practicable in Buyer's sole discretion (if prior notice is deemed impracticable, Buyer will give notice subsequently).

33. NON-WAIVER

Buyer's failure to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Contract or to exercise any right hereunder, shall not be construed as a waiver of the future performance of any such term, covenant or condition or the future exercise of such right.

34. SEVERABILITY

If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue in full force and effect as if this Contract had been executed with the affected provision eliminated.

35. SURVIVAL OF PROVISIONS

In addition to the rights and obligations, which survive as expressly, provided for elsewhere in this Contract, the other provisions, which by their nature should survive, shall survive and continue after any termination or cancellation of this Contract.

36. ASSIGNMENT

Supplier shall not assign or transfer, in whole or in part, any of its rights or the performance of its duties under this Contract, or any of the monies due or to become due hereunder, without Buyer's approval. Any assignment or transfer entered into by Supplier without such approval shall be null and void as against Buyer unless ratified by Buyer. Buyer reserves the unilateral right to assign the Contract, and any or all rights, obligations and claims there under or relating thereto, to the International Donor, at any time or from time to time during the Contract Term, without Supplier's consent but with written notice to Supplier.

37. LIMITATION ON DAMAGES

If a claim for damages or a right to any other form of relief, based on contract, indemnity, negligence or otherwise should arise in connection with this Contract, the claiming Party shall take all necessary measures to mitigate the damages or loss, to the extent that this can be accomplished without unreasonable cost or inconvenience. In no event shall any such claim or relief include or permit recovery of exemplary or consequential damages, however described. In no event shall Buyer be liable for consequential damages.

38. EXCLUSIVE AGREEMENT

This Contract is the exclusive agreement between Buyer and Supplier pertaining to the subject matter hereof. It supersedes all prior agreements, understandings, communications, negotiations and discussions, whether oral, written or electronic. No purported trade usage, custom, course of dealing or verbal statements of any kind shall be binding on Buyer.

39. ELIGIBLE RECIPIENTS OF GOODS

Recipients will be Not-for-Profit programs. Recipient programs include programs funded by International Donors (such as but not limited to U.S. Government, Global Fund), public sector entities (Ministries of Health), and private sector not-for-profit organizations (faith based organizations). Eligible Recipients establishing collaborative relationships or contracts with Buyer may order through Buyer or independently under the same Terms and Conditions as set forth in this Contract.

40. SUPPLIERS WHO ARE NOT THE MANUFACTURERS OF THE GOODS

Suppliers who are not also the Manufacturers of the Goods being supplied shall fully comply with the requirements of the Contract themselves. In addition, they shall also be responsible for requiring the actual Manufacturers to comply with the extent specified in the Contract or otherwise as necessary to ensure the Supplier's own compliance.

41. FORCE MAJEURE

Neither party shall be liable for default when non-performance is caused by an occurrence beyond the reasonable control of such party and without its fault or negligence such as fires, floods, epidemics, quarantine restrictions, strikes, blockage, embargo, boycott, riot, civil commotion, mob violence, war (whether declared or not), invasion, revolution, insurrection, sabotage, lock-outs, unusually severe weather, other natural disasters, government acts, or other acts of a similar nature or force, and delays of common carriers which prevent or delay the execution of its obligations under this Contract without it being able to remedy, remove, or reasonably mitigate regarding such events. The affected party shall notify the other party in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the other party of the cessation of such occurrence.

If a Force Majeure event causes a material failure or delay in the performance of the Delivery Order for more than thirty (30) consecutive days, then Buyer may, at its option, and in addition to any rights Buyer may have, procure such Goods from an alternative source until Supplier is again able to perform in accordance with the contract terms.

42. COMBATTING TRAFFICKING IN PERSONS

(a) The United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organized crime. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, was adopted by General Assembly resolution 55/25 and entered into force on 25 December 2003. This document is the first global legally binding instrument with an agreed definition on trafficking in persons. This Protocol supplements the UN Convention against Transnational Organized Crime (hereinafter "Palermo Protocol") and recognizes the connection between vulnerability and human trafficking. The United Nations Convention on the Rights of the Child sets forth the main framework for the protection and safeguarding of children, in particular, the 'right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous…. Or to be harmful to the child's health or physical, mental, spiritual, moral or social development." This mandate which applies to all the UN's Funds, Programs, Specialized Agencies, Other Entities and Bodies , also includes the need to protect the child from 'all forms of sexual exploitation and sexual abuse.' This is also incorporated into the United Nations Development Programme (UNDP) /Global Fund and Health Implementation projects.

(b) The PFSCM has incorporated the Ten Principles of the UN Global Compact into its policies and procedures that allows our organization to establish a sound culture of integrity by meting fundamental responsibilities in the areas of human rights, labour, environment, and anti-corruption, as stated in our commitment letter wherein the PFSM reaffirms its commitment "to making the UN Global Compact and its principles part of our strategy, culture, and day-to-day operations by incorporated them throughout the standard operating procedures (SOPs) which guide our supply chain management activities."

(c) The "Modern Slavery Act of 2015" issued by the UK Parliament seeks to "amalgamate existing criminal offences relating to modern slavery (including slavery, servitude, forced and compulsory labour and human trafficking)," while increasing the protection provided to victims, including a provision of child trafficking advocates. This Act –which comprises business and supply chains- aims at actively promoting the adoption by its suppliers of robust policies for the protection and safeguarding of children and the prevention and prohibition of sexual exploitation and sexual abuse of children. All partners, trustees, consultants, contractors, volunteers, interns, partner agencies, sub-grantees, community workers and visitors to its funded projects are expected to abide by said policy.

(d) The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Supplier, Supplier employees, and their agents shall not—

- Engage in severe forms of trafficking in persons during the period of performance of this Subcontract;
- Procure commercial sex acts during the period of performance of this Subcontract;
- Use forced labour in the performance of this Subcontract;
- Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority.

- **(i)** Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work; **(ii)** Charge employees recruitment fees;
- Supplier shall notify its employees of the supra-national organizations or governments (e.g., UNICEF, UNHCR, The Global Found and United States Government's zero tolerance policy), the actions that will be taken against employees for violations of this policy (including, but not limited to, removal from this Subcontract, reduction in benefits, or termination of employment), and take appropriate action, up to and including termination, against employees or Suppliers that violate this policy.

The Supplier's failure to comply with the requirements of this clause may result in termination of this Subcontract for default or cause, in accordance with the Termination/Cancellation section of this Subcontract.

43. CHILD SAFEGUARDING PROVISIONS

(a) Through the adoption of "Child Safeguarding Standards and Child Protection Policy," PFSCM has included general guidelines to all activities intended to prevent and respond to abuse, exploitation or neglect of children. The adoption of these standards are designed to complement the PFSCM's Counter Trafficking in Persons Policy. The organization agrees to abide by the following child safeguarding core principles:

(i) 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;

(ii) Prohibit all personnel from engaging in child abuse, exploitation, or neglect;

(iii) Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations;

(iv) 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;

(v) Promote child-safe screening procedures for personnel, pa1ticularly personnel whose work brings them in direct contact with children; and,

(vi) 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.

(b) The following definitions apply for purposes of this provision: **(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, labour, 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)** 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. **(4)** Sexual Abuse: Constitutes fondling a child's genitals, penetration, incest, rape, sodomy, indecent exposure, and exploitation through prostitution or the production of pornographic materials**. (5)** 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