Note: This document is an indicative form of the Strategic Partnership Agreement that, if selected, Bidder in the Pharmaceutical Products Request for Proposals (RFP) will be required to enter into with the Global Fund in order to become a Panel Supplier.

This document is subject to change and refinement.

REQUEST FOR PROPOSALS (RFP) TGF-D-00014
Schedule C1
Strategic Partnership Agreement

The Global Fund to Fight AIDS, Tuberculosis and Malaria

and

(Supplier Name)

Strategic Partnership Framework Agreement

in relation to Pharmaceutical Products

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Strategic Partnership Framework Agreement

Parties:

The Parties to this Agreement are:

1. The Global Fund to Fight AIDS, Tuberculosis and Malaria with its headquarters at Chemin du Pommier 40, 1218 Grand-Saconnex, Geneva, Switzerland (the ***Global Fund***); and
2. (Supplier Name) with its registered office at [●] (the ***Supplier***).

Hereinafter referred to together as the "Parties" or individually as the "Party".

Recitals:

(A) The Global Fund is an international financing institution created to raise and disburse funds to support large-scale prevention, treatment, and care programs for HIV/AIDS, tuberculosis, and malaria.

(B) The Global Fund has established a pooled procurement mechanism whereby Principal Recipients may procure certain Health Products through Procurement Services Agents (PSAs) selected by the Global Fund (the ***Pooled Procurement Mechanism***), including through the Global Fund's e-purchasing platform (wambo.org).

(C) The Global Fund has established a financing mechanism by which the Global Fund disburses donor funding (either through a distinct funding channel earmarked for this purpose or through the Global Fund's core grant funding) to suppliers of ACTs on behalf of participating private sector First Line Buyers (FLB) in Host Countries (the ***Co-Payment Mechanism*** *or* ***CPM***).

(D) The Global Fund has established a Rapid Supply Mechanism (RSM) to increase its capability to respond to urgent demands for critical Health Products, including antiretroviral medicines, to its grant recipient countries (the ***Rapid Supply Mechanism***) as further described in Annex 3.

(E) As part of the Global Fund's Pharmaceutical Products Procurement Strategy 2023-2025 (described in RFP: TGF-D-00014 and on the Global Fund website, available at https://www.theglobalfund.org/en/business-opportunities/solicitations/), the Global Fund has decided to enter into Framework Agreements with certain Suppliers.

(F) With respect to the procurement of Pharmaceutical Products, the Global Fund launched a competitive process with eligible suppliers through the Request for Proposals (RFP) RFP: TGF-D-00014 (the "**Pharmaceutical Products RFP**") for antimalarial medicines, ARVs and other medicines used in HIV programs, and through that process the Supplier was selected as an eligible Panel supplier.

(G) The Parties enter into this Agreement to set out, among other things, the terms and conditions on which (1) the Supplier will perform the role of a Panel supplier, supplying Pharmaceutical Products to eligible buyers, including pursuant to the Pooled Procurement Mechanism, the Co-Payment Mechanism and the Rapid Supply Mechanism; and (2) the Global Fund may agree to allocate, and or/underwrite a committed volume of these medicines as relevant, to be procured from the Supplier, primarily through these mechanisms.

In consideration of the mutual promises and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

In this Agreement, the following words and expressions have the following meanings:

Actual Delivery Date means the date the Supplier has the required products and complete documentation accepted by the PSA.

ACTs means artemisinin-based combination therapies.

Additional Buyer means the following persons to which the Supplier shall sell Covered Products at the Pricing set forth in this Agreement, as divided into two categories: (1) any Principal Recipients procuring Covered Products through a means other than the PPM with Global Fund grant funds; and (2) any Principal Recipients procuring Covered Products with funds other than Global Fund grant funds, and any other persons including Global Fund's partners as agreed to by the Global Fund and the Supplier, and identified in Annex 6.

Additional Products has the meaning given in Section 3.3.

Affiliate means in relation to any Person, any Subsidiary or Parent of that Person and any subsidiary of any such Parent, and any person acting on behalf of any such Person (including an agent, sub-contractor, or consultant) with regard to the performance of an obligation contained within this Agreement, in each case from time to time.

Agreement means this Strategic Partnership Framework Agreement.

Allocated Volume means the volume of products allocated by the Global Fund to the Supplier for manufacturing at the Pricing, for which there is no underwritten financial commitment.

Allocation Period has the meaning given in Section 5.1.3.

Antimalarial medicines are finished pharmaceutical products used to treat, prevent and reduce the transmissibility of malaria.

API means Active Pharmaceutical Ingredient.

Applicable Laws means any federal, national, supranational, state, and local laws, rules, regulations (including those of a professional body), ordinances, administrative statutes, codes, orders, or requirements of any country or jurisdiction applicable to the Supplier, the Global Fund, or an Affiliate of the Supplier or the Global Fund, as the context may require.

Artemisinin Manufacturers means manufacturers, both Extractors and semi-synthetic manufacturers producing artemisinin.

ARVs means antiretroviral medicines, which are finished pharmaceutical products used to treat, prevent and reduce the transmissibility of HIV.

Authorized Officer has the meaning given in Section 19.10.

Base Price means the price for Covered Products offered by the Supplier under this Agreement, without any discounts.

Books and Records has the meaning given in Section 15.2.1.

Buyer means PSA, First Line Buyers, PAHO, Committed Volume Buyer, and any Additional Buyer, as applicable.

Capacity means the Global Fund's current best estimate of the Supplier's capacity to manufacture Pharmaceutical Products within one defined region, without the requirement to make any further investment either in plant or through the engagement of additional sub-contractors or increasing the capacity of current sub-contractors, as it is specified by the Supplier in its bid documents for the Pharmaceutical Products RFP, and as it is re-confirmed at the start of each quarter during the Term.

Change of Control means a change of control of a firm, with "control" being defined as the power to exercise a direct or indirect decisive influence over the management or policies of a firm,

including its commercial strategy, whether through the ownership of voting securities, by contract, or otherwise. Any person who owns beneficially, either directly or through one or more controlled firms, more than 25 percent of the voting securities of any firm is presumed to control the firm.

Code of Conduct for Suppliers means the Global Fund's *Code of Conduct for Suppliers*, as amended from time to time and available on the Global Fund's website at: http://www.theglobalfund.org/en/governance-policies/.

Committed Delivery Date means the delivery date, confirmed by the Supplier following the receipt of a Supplier Purchase Order issued by the PSA.

Committed Volume means the volume of Covered Products that the Global Fund undertakes to underwrite financially, and for which the Supplier agrees to provide to Committed Volume Buyers, during the period specified herein at the prices specified herein.

Committed Volume Buyer means any party that makes a purchase of Covered Products pursuant to the terms of this Agreement and as a draw-down of the Global Fund's Committed Volume under this Agreement. As of the Effective Date, the Committed Volume Buyers are the PSA for PPM orders, First Line Buyers named in any Confirmation of Co-payment for CPM, and PAHO. However, the Parties agree that the Global Fund may nominate additional Committed Volume Buyer(s) during the Term by written notice to the Supplier.

Conditions On Use means the conditions on use of the Co-Payment Logo set out in part 2 of Annex 1 of this Agreement.

Confidential Information means all information given to a Party (or any of its Representatives) by the other Party (or any of its Representatives), or otherwise acquired by such Persons in the performance of or in relation to this Agreement, including any information regarding products, advertising, distribution, marketing, strategic plans, costs, productivity or technological advances (and, for the avoidance of doubt, such information includes written information and information transferred or obtained orally, visually, electronically or by any other means which is or can be reduced to writing).

Confirmation of Co-payment has the meaning given in Annex 1 Part 4

Confirmed Order has the meaning given in Section 6.3.2.

Contract Review has the meaning given in Section 9.1.1.

Co-Payment Amount means, for each Covered Product, the US Dollar amount per unit of such Covered Product, as specified for the country and the relevant Product Formulation (Individual Pack), expressed as a percentage of the overall unit cost.

Co-Payment Request means a request for Co-Payment, compliant with the requirements set forth in Annex 1 Part 4.

Co-Payment Mechanism or Private Sector Co-payment Mechanism (CPM) means a program managed by the Global Fund to increase access to quality-assured ACTs through private sector distribution channels in participating countries (More information is available here: https://www.theglobalfund.org/en/sourcing-management/procurement-tools/)

Co-Payment Mechanism Logo means the logo and markings determined by the Global Fund and notified to the Supplier for use in connection with the Co-Payment Mechanism.

Co-Payment Mechanism Terms and Conditions means the Terms and Conditions for purchases of Covered Products pursuant to this Agreement through the Co-Payment Mechanism, as set forth in Annex 1 Part 5, and as may be non-materially amended from time to time by the Global Fund during the Term via written notice to the Supplier.

Co-Payment Mechanism Tracking Mark has the meaning given in Annex 1 Part 1

Core Volume has the meaning given in Section 5.1.1.

Covered Product(s) means Pharmaceutical Products to be supplied by the Supplier to Buyers pursuant to this Agreement and as further detailed in Schedules A, B and C.

Covered Product Manufacturing Location(s) means the physical location(s) and plant(s) at which the Supplier will manufacture the Covered Products.

Default has the meaning given in Section 16.6.

Defective Products mean any Covered Products that fail to meet quality requirement (faulty manufacture, product deterioration, detection of falsification, non-compliance with the marketing authorization or product specification file, or any other serious quality problems) which may result in the recall of the product or an abnormal restriction in the supply.

Discounted Price means the price offered by the Supplier for Supplier Purchase Orders placed ten (10) weeks or more in advance before Required Delivery Date, or in some cases Supplier offers Covered Products from stock with discounted price, lower than their regular price for specific orders.

Effective Date means the date this Agreement has been signed by both Parties. If each Party has signed on a different date, then the later date shall be the Effective Date.

Environmental Health and Safety (EHS) Audit means an audit of Artemisinin Manufacturers against environmental health and safety considerations conducted by a third party selected by Global Fund.

ERP means an independent Expert Review Panel composed of external technical experts that reviews the potential risks/ benefits associated with the use of a product that is not yet WHO-prequalified or SRA authorized and makes recommendation to the Global Fund for procurement. The ERP is further described in the Quality Assurance Policy.

Extractors means Artemisinin Manufacturers who use vegetal *Artemisia annua* leaves as starting material. These are manufacturers of artemisinin who (a) organize plantations with dedicated fields; (b) carry out extraction processes themselves from vegetal Artemisia annua leaves; and (c) demonstrate an ability to maintain a secure supply of raw materials.

FCA means Incoterm Free Carrier.

First Line Buyer means any first line buyer of ACTs for distribution and/or sale in the private sector (for-profit or not-for-profit) in a Host Country, including importers and distributors, that have been determined to be eligible for participation in the Co-payment Mechanism. For the avoidance of doubt, the term First Line Buyer also includes international and national procurement agents, non-governmental organizations (NGOs), or wholesalers procuring ACTs for distribution and/or sale in the private sector in a Host Country.

First Line Buyer Statement has the meaning given in Annex 1 Part 3.

First Point of Entry means the point of first delivery of the Covered Products, as specified by the Buyer in the relevant Supplier Purchase Order.

FOB means Incoterm Free on Board.

Force Majeure event means an event beyond the control of the Global Fund or the Supplier, which by its nature could not have been foreseen by the Global Fund or the Supplier, or, if it could have been foreseen, was unavoidable, and includes, without limitation, acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) or armed hostilities or other national or international calamity, one or more acts of terrorism or failure of energy sources, significant

decrease of Global Fund's donors' contributions, significant currency fluctuations, financial crises, significantly increased financial or economic exposure howsoever arising.

Fraud and Abuse includes "corrupt practices", "fraudulent practices", "coercive practices", "collusive practices", "anti-competitive practices", "abusive practices", "obstructive practices", "retaliation", "money laundering" and "financing of terrorism" as all defined by the Code of Conduct for Suppliers and/or by the Global Fund Policy to Combat Fraud and Corruption (available at: https://www.theglobalfund.org/media/6960/core_combatfraudcorruption_policy_en.pdf?u=636602523070000000).

Health Products means: (i) pharmaceutical products; (ii) durable and non-durable in vitro diagnostic products, microscopes and imaging equipment; (iii) mosquito nets; and (iv) consumable/single use health products (including condoms, insecticides, therapeutic nutritional support, general laboratory items and injection syringes), which are financed out of Global Fund grant funds or as may be otherwise defined in the Guide to the Global Fund Policies on Procurement and Supply Management of Health Products and set out at https://www.theglobalfund.org/en/sourcing-management/

Host Countries means the countries eligible for Co-Payment Mechanism support, as approved by the Global Fund from time to time in its sole discretion. As at the Effective Date, these countries are Democratic Republic of Congo, Tanzania (mainland), and Uganda. The Global Fund will notify the Supplier in writing of any changes to the Host Countries during the Term.

Incoterms means the International Commercial Terms 2020 as defined by the International Chamber of Commerce and which define the responsibilities of sellers and buyers for the delivery of goods under sales contracts.

Individual Pack means a box or wallet of ACTs containing a single course of treatment intended for a single patient.

Lead Time means the time between the date a Supplier confirms a Supplier Purchase Order issued to it by the PSA (Purchase Order Confirmation Date) and the Committed Delivery Date.

Loss has the meaning given in Section 11.1.

National Drug Regulatory Authority or ***NDRA*** means the official drug regulatory authority of a country.

Non-Compliance Notice has the meaning given in Annex 1 Part 1.

Non-Conforming Products means any product that does not match either the commercial or technical specifications either in this Agreement or in any individual Supplier Purchase Order(s) pursuant to this Agreement.

Other Persons has the meaning given in Section 3.5.3.

Overall Volume has the meaning given in Section 5.1.1.

Pan-America Health Organization (PAHO) means the international public health agency whose mission is to lead strategic collaborative efforts among its Member States and other partners to improve health and quality of life in the Region of the Americas, which also serves as the Regional Office for the Americas of the World Health Organization, and that is a Committed Volume Buyer under this Agreement.

PAHO Terms and Conditions means the terms and conditions set forth in Annex 2 of this Agreement and applicable to purchase orders placed by PAHO for purchases of Covered Products pursuant to this Agreement.

Panel Artemisinin Manufacturers means Artemisinin Manufacturers selected after satisfactory EHS Audit, to be eligible sources of artemisinin for finished pharmaceutical products that the Global Fund will procure from Panel suppliers, as set forth in Annex 5.

Panel supplier means a supplier of Pharmaceutical Products, which has entered into a Strategic Partnership Framework Agreement with the Global Fund to supply Pharmaceutical Products per RFP no. RFP: TGF-D-100014, including the Supplier.

Parent means a Person which, in relation to another Person, holds a majority of the voting rights in the Person; has the right to appoint or remove a majority of its board of directors (or equivalent); has the right to exercise a dominant influence over the Person by virtue of provisions contained in the Person's memorandum or articles (or equivalent) or by virtue of a control contract; or controls alone, or pursuant to an agreement with others, a majority of the voting rights in the Person, in each case, whether directly or indirectly through one or more subsidiaries.

Performance Review has the meaning given in Section 9.1.2.

Person means any individual, firm, company, joint venture, association, partnership, trust, government, or any other similar entity in any jurisdiction.

Pharmaceuticals Products means antimalarial medicines and/or antiretroviral and other selected medicines used in HIV programs.

Pharmaceutical Products RFP has the definition given in the Recitals.

Pooled Procurement Mechanism or ***PPM*** has the meaning given in the Recitals.

Price & Quality Reporting *or* ***PQR*** means an online database of the Global Fund that collects data on purchases made by Global Fund-supported programs.

Pricing has the meaning given in Section 3.1.

Principal Recipient means a person that receives grant funds from the Global Fund to implement a relevant program.

Procurement Services Agent or ***PSA*** means the Procurement Services Agent selected by the Global Fund to act as an agent on behalf of Principal Recipients in the procurement of Health Products through the Pooled Procurement Mechanism. As of the Effective Date, the PSA for Pharmaceutical Products to be procured for PPM pursuant to this Agreement is Stichting Iplussolutions. If the PSA changes during the Term, the Global Fund will immediately inform the Supplier of such change and share the new PSA's terms and conditions.

Product Attributes has the meaning given in Section 9.7.1.

Product Formulation means an active pharmaceutical ingredient (or combination of ingredients) and dosage form. For the avoidance of doubt, there may be a number of different Covered Products for each Product Formulation.

Promised Delivery Date means the date indicated in the Confirmation of Co-payment as the date by when the goods will have taken into possession by the First Line Buyer following shipment arranged by the Supplier.

PSA Agreement means the agreement between the PSA and the Global Fund pursuant to which the PSA implements the Pooled Procurement Mechanism by acting as agent of Global Fund Principal Recipients in the procurement of Health Products.

PSA Terms and Conditions means the terms and conditions of the Procurement Services Agent applicable for purchases of Covered Products pursuant to this Agreement, as available at:www… *The PSA Terms and Conditions will be published shortly on the PSA's website; For the purpose of the Pharmaceutical Products RFP, the PSA Terms and Conditions are shared separately*

Quality Assurance Policy means the applicable Global Fund Quality Assurance Policy for Pharmaceutical Products as set out on the Global Fund website at

https://www.theglobalfund.org/en/sourcing-management/quality-assurance/medicines/ and as amended from time to time.

Rapid Supply Mechanism (RSM): has the meaning given in the recitals, and is further described in Section 7.

Representatives means, in relation to a person, its respective Affiliates and the directors, partners, officers and employees of that person and/or of its respective Affiliates.

Required Delivery Date means the delivery date indicated in the Supplier Purchase Order issued by the PSA.

Reserve Pool has the meaning given in Section 5.1.1.

Royalty Price means the price offered by the Supplier that is Incoterm EXW price plus a percentage of royalty (exclusivity of rights, Intellectual property rights) calculated based on how much profit margin the intellectual property contributes to their revenue.

Shelf Life means the period from the date of manufacture of the relevant Covered Product to the expiry date (as specified by the manufacturer), during which full compliance of the Covered Products with the manufacturer's standards is guaranteed by the manufacturer.

Strategic Project means a project proposed by the Supplier during the Pharmaceutical Products RFP process and approved by the Global Fund as a project that is in line with the Procurement Strategy and bringing value to the Global Fund's market shaping approach, which must be implemented and documented by the Supplier during the Term.

Stringent Drug Regulatory Authority or ***SRA*** has the meaning given in the Quality Assurance Policy.

Subsidiary means any person in relation to which another person is its Parent.

Supplier Purchase Order means an agreement between a Buyer and the Supplier for the procurement and delivery of Covered Products.

Taxation, ***Tax*** or ***Taxes*** shall mean all forms of taxation whether direct or indirect and whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value, value added tax or other reference and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, excises, tariffs, contributions and levies (including social security contributions and any other payroll taxes), imposed in any relevant jurisdiction (whether imposed by way of a withholding or deduction for or on account of tax or otherwise) and in respect of any person and all penalties, charges, costs and interest relating thereto.

Term has the meaning given in Section 16.1.

Vendor Managed Inventory means a volume of raw materials or finished products held by the Supplier at their cost and under their management to fulfil the requirements of the Rapid Supply Mechanism.

wambo.org is the electronic purchasing platform through which PPM transactions are to be processed. More information is available at https://www.theglobalfund.org/en/wambo/.

wambo.org Pilot's Participants are governments and non-government development organizations with access to the Pooled Procurement Mechanism through their participation to Global Fund's wambo.org pilot, as established by the Global Fund's Board decision GF/B42/DP05 and using funds other than Global Fund's grant funds for the procurement of health products available in wambo.org.

WHO means the World Health Organization.

WHO or SRA Good Manufacturing Practices (GMP) Requirements means the current good manufacturing practices applied and certified by WHO or by the applicable SRA (as the case may be), which ensure that pharmaceutical products are consistently produced and controlled according to quality standards appropriate to their intended use.

WHO Prequalification Program means the program managed by WHO which prequalifies (a) medicines that are considered to be acceptable for procurement by the United Nations and specialized agencies; and (b) quality control laboratories for medicines.

Year One means 2023.

Year Two means 2024.

Year Three means 2025.

2. AGREEMENT SCOPE AND STRUCTURE

2.1 This Agreement between the Global Fund and the Supplier, which has been selected as a Panel supplier as a result of Pharmaceutical Products RFP: TGF-D-00014, sets the terms and conditions under which the Supplier shall supply the Covered Products via the PPM, RSM, CPM and other channels, as applicable, to Buyers, and the obligations of both Parties. This Agreement applies to the Parties only to the extent expressly provided herein; for example, if the Supplier only supplies Covered Products for PPM, the provisions of this Agreement relating to the RSM are not applicable; or if Covered Products only consist of ARVs, the provisions related to the Antimalarial medicines are not applicable either. This Agreement shall prevail over any specific terms and conditions agreed upon between the Supplier and Buyers (including PSA Terms and Conditions and PAHO Terms and Conditions), which shall prevail over any Confirmed Orders issued under such specific terms and conditions unless expressly agreed upon between the Supplier and the Buyer and as long as the relevant Confirmed Order is in accordance with the Agreement.

2.2 Covered Products and Location(s) of Production. The Covered Products and Location(s) of Production are set forth in Schedule A.

3. PRICING OF SUPPLIER PRODUCTS

3.1 Pricing. The Pricing for the Covered Products refers to the Base Price, the Discounted Price or the Royalty Price, as applicable, and as set forth in Schedule B.

3.2 Terms of Agreement Pricing. Pricing set forth in Schedule B shall also apply to any Additional Buyers under terms and conditions similar to the terms and conditions of this Agreement, and to the PSA Terms and Conditions and PAHO Terms and Conditions.

3.3 Pricing for Additional Products. If the Global Fund requests the Supplier to provide under this Agreement additional products for which there is not an agreed price at the time of such request (***Additional Products***), the Parties acknowledge and agree that:

3.3.1 The proposed pricing of those Additional Products will be based on the established costs of manufacture and raw materials and additional information as agreed to between the Parties;

3.3.2 The Global Fund may act on its sole discretion in deciding whether to agree to the proposed pricing for such Additional Products; and

3.3.3 If the Parties are unable to agree on pricing for those Additional Products, the Global Fund reserves the right to enter into an agreement with another Person for supply of those Additional Products.

3.4 Pricing Requirements: Most Favored Nation.

3.4.1 The Supplier shall offer the Pricing as follows:

a) All of the benefits and terms granted by the Supplier with respect to the Pricing are at least as favorable as the benefits and terms granted by the Supplier to

any current or future buyer of Covered Products on terms equivalent to those supplied under this Agreement;

b) Should the Supplier enter into any subsequent agreement with any other buyer during the Term under terms and conditions similar to those of the Agreement, which provides for the supply of Covered Products at pricing, benefits or terms more favorable than the Pricing: (1) The Supplier shall notify the Global Fund promptly of the existence of any such more favorable pricing with other buyers and (2) this Agreement shall be deemed to be modified to provide those more favorable benefits or terms, with immediate effect even though an amendment to reflect the change will be subsequently signed by the Parties.

c) Should the Supplier submit an offer as part of a third-party tender, for the supply of Covered Products, at pricing, benefits or terms more favorable than the Pricing, the Supplier shall notify the Global Fund within seven (7) calendar days.

3.5 Technical Aspects of Agreement Pricing. The following terms and conditions will apply to all Pricing arrangements and purchases of Covered Products under this Agreement:

3.5.1 Incoterms

a) The standard shipping terms quoted shall be EX-Works Incoterms 2020. The Global Fund reserves the right to request alternative Incoterms to meet specific programmatic or geographic requirements, and the Supplier agrees to act in good faith to meet any such alternative terms.

b) The Incoterm for delivery for particular purchases of Covered Products pursuant to the Agreement, including purchases by the PSA under the Pooled Procurement Mechanism, will be specified in the relevant Supplier Purchase Order, and any price difference from the EX-Works price for that revised Incoterm will be reflected in the purchase agreement between the Supplier and the Buyer and will be invoiced appropriately to the relevant party based on the actual applicable Incoterm.

3.5.2 All financial values relating to this Agreement shall be denominated in United States Dollars.

3.5.3 Similar Volume Commitment-Based Arrangements with Other Persons. The Global Fund may refer to the Supplier other donor-funded organizations ("Other Persons") and expects the Supplier to use commercially reasonable efforts to enter into framework agreements on terms similar to those in this Agreement with these Other Persons. The Parties agree that utilization of the terms and provisions of this Agreement in such arrangements with Other Persons, subject to prior approval of both Parties, shall not constitute a violation of this Agreement, including any confidentiality obligation contained herein.

3.5.4 Price Adjustment Mechanism.

a) Prices shall be reviewed annually as part of the Contract Review process in Section 9. Any such amendment to the Pricing will follow the procedures described in Section 17 (Amendment).

b) Any changes to the Covered Products during the Term must be effected through an amendment to Schedule A and Schedule B. The Parties acknowledge that Additional Products may be added to Schedule A and Schedule B during the Term through such an amendment.

c) Following the annual review, prices may be adjusted either upwards or downwards based on (1) the principle of an equitable sharing of risk between the Parties, and (2) in accordance with the specific criteria shown below. Any adjustment will commence as early as practicable following the agreement of both Parties. There will be no retroactive application of any price adjustment.

d) Any price adjustment shall take the form of a change to the unit cost of the product, unless agreed otherwise between the Parties, but in any case, shall be in the form of an amendment in accordance with Section 17 of this Agreement.

e) The following are the price adjustment criteria for a price increase:

i. A significant change to raw material costs where the Supplier can demonstrate and prove that it has taken adequate steps to mitigate the risk, where any change is supported by documentary evidence across the supply base, and where there is evidence of risk sharing;

ii. A significant un-forecasted change in the exchange rate prevailing between the currency in the country of formulation and the US dollar, which is beyond what would normally be managed through hedging or other financial instruments; or

iii. Any other unexpected and extraordinary occurrence, which puts the financial viability of the Supplier at risk or its ability to supplier the Covered Products.

f) The following are the price adjustment criteria for a price decrease:

i. Changes to the cost of goods sold as a result of improved efficiency in the supply chain and manufacturing process, or other input costs;

ii. Significant change in the exchange rate between the currency of the country of formulation and the US dollar where the strengthening of the dollar creates a significant reduction in the cost of goods sold; The alleviation of any external applied costs in the form of Taxes or duties; or

iii. Revisions based on the Most Favored Nation principle under Section 3.4 above.

g) Where the review determines that there are cases for both increases and decreases, both Parties shall strive to agree to a position that is mutually acceptable and that adequately reflects the sharing of risk.

h) If the Parties do not agree on the proposed increase or decrease, the Global Fund may alter or cancel the allocation to the Supplier

4. PRODUCT, PACKAGING, REGULATORY AND QUALITY ASSURANCE REQUIREMENTS

4.1 Product Requirements. The Supplier represents and warrants that all Covered Products supplied under this Agreement meet these criteria; and the Global Fund will only authorize the Buyer(s) to procure Covered Products (through the PPM, RSM, CPM or any other means) that meet the following criteria:

4.1.1 The Covered Products comply with the Global Fund Quality Assurance Policy for Pharmaceutical Products (https://www.theglobalfund.org/en/sourcing-management/quality-assurance/medicines/)

4.1.2 The Covered Products comply with the quality standards established as articulated in the Guide to the Global Fund Policies on Procurement and Supply Management of Health Products (https://www.theglobalfund.org/media/5873/psm_procurementsupplymanagement_guidelines_en.pdf)

4.1.3 The Covered Products comply with this Section 4 as subsequently confirmed on the relevant Supplier Purchase Order.

4.1.4 For Covered Products to be supplied through the Co-payment Mechanism, additional requirements are specified in Annex 1.

4.1.5 For any Covered Product that is eligible as a result of being permitted for use based on the recommendation of the ERP, the Supplier understands that upon expiry of the

relevant ERP-advised period of permitted use, the Covered Product will no longer be eligible for procurement under this Agreement.

4.2 Packaging Requirements.

4.2.1 Packing for Shipment. The Supplier shall pack, store and mark the Covered Products in compliance with the requirements of this Agreement as well as all Applicable Laws and sound international commercial practice for such Covered Products. All Covered Products 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 packaging 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. The Supplier shall mark each item of export and import packaging with a description of the Covered Products and shall enclose a packing list in a secure and durable envelope. Damage and/or loss resulting from improper packing, export, import, storage, marking, and preparation for shipment shall be at the Supplier's risk and expense.

4.2.2 Packaging and Labelling Requirements. The Supplier shall ensure that all Covered Products supplied under this Agreement comply with the following packaging and labelling requirements:

a) The packaging, labelling and accompanying material for each Covered Product shall be in compliance with any Applicable Laws, and with the materials and labels approved by the WHO prequalification Program or an SRA during the assessment of said products or as permitted for use based on the recommendation of the ERP (as the case may be) as well as sound international practices for the packaging and labelling of such Covered Product.

b) The Covered Product packaging and related specifications for each Covered Product shall be in compliance with the approval of the WHO Prequalification Program, or the approval of the relevant SRA, or as permitted for use based on the recommendation of the ERP (as the case may be).

c) Covered Products shall be packaged in closed and sealed primary or secondary packaging, ensuring that the containers adequately protect Covered Products while they are in transit, stored in warehouses or on pharmacy shelves under conditions expected to prevail in the relevant countries.

4.2.3 Additional packaging requirements for Covered Products to be supplied through the Co-payment Mechanism, for example, with respect to the C0-payment Mechanism Logo, are specified in Annex 1.

4.2.4 Packaging for shipment. Further to the specifications detailed in this Section 4, the Supplier shall comply with the shipping instructions shared by the Buyer when the Supplier Purchase Order is placed. The Supplier shall ensure that Covered Products are handled under its responsibilities following good storage, handling and distribution and provide assurance that special transport conditions are adequately forwarded to the PSA and/other Importers or supply chain Services providers.

4.3 Supplier Product Registration. The Supplier shall use all its reasonable commercial endeavors to enable timely registration of Covered Products (including the Minimum Packaging and Labelling, including the Co-Payment Mechanism Logo, if applicable) with the NDRA of relevant countries. The Supplier shall be responsible for all costs related to

such registration. Upon request by the Global Fund, the Supplier shall provide to the Global Fund an update on the status of the NDRA registration of any Covered Product.

4.4 Quality Assurance Requirements and Related Obligations of the Supplier.

4.4.1 *Responsible person***.** The Supplier shall designate a responsible person in charge of communication with the Global Fund on quality related issues as set forth in this Agreement.

4.4.2 The Supplier shall, and shall cause any third-party manufacturer to, comply with the quality requirements and standards set out in the Quality Assurance Policy, the requirements of the relevant NDRA and any Applicable Laws with respect to the manufacture and transport of Covered Products.

4.4.3 *WHO Prequalification, SRA Authorization and ERP Recommendation*.

a) As Covered Products will be pre-qualified by WHO or approved by a SRA, the Supplier shall ensure that all Covered Products strictly comply with the WHO Prequalification Program or of the relevant SRA (as the case may be) approved products (same manufacturing site, same APIs, same manufacturing process, same specifications, same packaging material), WHO or SRA Good Manufacturing Practices (GMP) Requirements (as the case may be) and requirements relating to quality, safety and efficacy of the relevant Covered Product.

b) In the case of Covered Products that have been permitted for use based on the recommendation of the ERP, the Supplier shall ensure that all Covered Products supplied under this Agreement comply with the requirements of the manufacturer's standards as provided to the ERP, including, WHO or SRA GMP Requirements (as the case may be) and requirements relating to quality, safety, and efficacy of the relevant Covered Product.

c) The Supplier shall manufacture, control and release each batch of Covered Products in accordance with the content and terms of WHO Prequalification and/or SRA authorization for use or based on the recommendation of the ERP. The Supplier shall provide to the Global Fund a copy of the WHO Prequalification approval or SRA approval, including the relevant annexes for labelling/packaging, products specifications.

d) After WHO Prequalification and/or SRA approval, the Supplier shall notify the Global Fund in writing of any regulatory change to the initial prequalification or authorization for use such as any change in API source, packaging/labelling, stability and/or specifications that may materially adversely impact the quality of the product.

4.4.4 *GMP Standard*.

a) The Supplier shall manufacture, control and release, store and distribute Covered Products in accordance with the current internationally recognized (WHO and SRA) Good Manufacturing Practices (GMP) and Good Distribution Practice (GDP).

b) Each batch of Covered Products should be tested as per the approved specifications and released by the qualified person of the Supplier.

c) The Supplier shall notify the Global Fund in writing of any regulatory event related to the initial manufacturing authorization (e.g. withdrawal, suspension, restrictions) that may materially adversely impact the quality of Covered Products.

4.4.5 *Quality Audit.*

a) *Audit rights:* Upon written notice to the Supplier and not less than seven (7) calendar days' written notice, the Global Fund or its agent shall have the right to carry out on-site quality audits of the Supplier and its Affiliates.

b) *Audit Terms and Conditions*: The Global Fund shall have the right to conduct such quality audit at any time during the Term. Such quality audit will be during normal business hours, may be conducted by the Global Fund (including its Office of the Inspector General) or by an agent of the Global Fund, will be at the expense of the Global Fund, and will be carried out in a manner that does not unreasonably interfere with the normal conduct of the Supplier's business.

c) The Supplier shall permit all reasonable access, without limitation, to the manufacturing, packaging, warehousing and laboratory areas related to the production, control, storage and distribution of the Covered Product(s), including pertinent documentation. The Supplier shall use all its reasonable commercial endeavors to ensure that its Affiliates, cooperate with the Global Fund and its agents in the conduct of such quality audit, including by making staff available to answer questions, providing reasonable use of facilities to assist with the inspection and producing originals of documents if deemed relevant by the Global Fund.

d) *Audit results and follow-up:* The results of the quality audit and the observation(s) shall be sent to the Supplier by means of a written report. The Supplier must ensure a satisfactory follow up to the observations made during the quality audit performed by the Global Fund, and take corrective actions mutually agreed upon by the Parties.

e) *Supplier Audits and Undertakings*: In addition, the Supplier shall audit any subcontractor in accordance with the Supplier's internal audit policies, and shall permit the Global Fund to review any such audit report in connection with the Global Fund's audits as contemplated above. The Supplier shall use all its reasonable commercial endeavors to obtain the consent of any such subcontractor for the Global Fund to participate in any quality audit conducted by the Supplier, or to conduct its own quality audit of such subcontractor.

4.4.6 *Regulatory authority inspection.*

a) The Supplier shall allow foreign and local governmental authorities to inspect facilities, operations and quality systems, as it is necessary to facilitate, obtain or maintain the registration in the countries where the Supplier or its Affiliates, licensees or distributors, as the case may be, desire to sell the Covered Product(s).

b) The Supplier shall provide upon request made by the Global Fund, and through a confidentiality agreement if this is required, inspection/audit reports established by any national/local regulatory body, which include also plan of corrective actions.

c) The Supplier shall inform the Global Fund of any planned inspections of the WHO Prequalification or any UN organization, SRA or NDRA.

d) The Supplier shall within two (2) weeks provide the results of the inspections of SRA, WHO Prequalification or other NDRA member of internationally recognized institutions (e.g. Pharmaceutical Inspection Cooperation Scheme) including any follow–up and exchange of documentation such as plan of corrective actions.

e) The Supplier shall immediately notify the Global Fund in writing of any regulatory or GMP violations (e.g. Food and Drug Administration (FDA) Warning Letter, WHO Pre-qualification Team Notice of Concern or Notice of suspension) identified during authority GMP inspections and impacting the quality of the

Covered Product(s) intended to be shipped and/or potentially affecting the ability of the Supplier to produce or ship the Covered Products.

4.4.7 *Retention of samples.* The Supplier shall store Covered Product(s) retention samples (for finished products and active ingredient), sufficient to perform at least two (2) full specification analyses, in containers that are equivalent to or more protective than the commercial packaging. Samples are to be retained for one (1) year after the expiry date of the batch assigned by the Supplier or for three (3) years after distribution, whichever is the longer retention of records/documentation.

4.4.8 *Global Fund Quality control*

a) *Process*: The Supplier shall provide, upon request by the Global Fund, samples of any Covered Products ordered under this Agreement for the purpose of having quality control tests of such Covered Products undertaken at Global Fund contracted laboratories.

b) *Confidentiality*: The Supplier acknowledges that any laboratory engaged in accordance with this Section 4.4.8 shall, in accordance with standard industry practice or as otherwise agreed between the Supplier and the Global Fund, be obliged to respect the confidentiality and non-disclosure clauses of this Agreement.

c) *Costs*: Responsibility for any costs incurred in conducting quality control testing pursuant to this Section 4.4.8 shall be determined by prior written agreement between the Supplier and the Global Fund.

d) *Notification*. If a Covered Product is found to be a Defective Product following quality control testing pursuant to this Section 4.4.8, the Global Fund shall notify the Supplier of that determination for further investigation.

4.4.9 *Retention of records.*

a) The Supplier shall store the original master batch records, the executed batch records, and all other original documentation that is related to the manufacture of Covered Products and that is required to be maintained under GMP, protected from destruction and unauthorized access, for one (1) year after the expiry date of the batch assigned by the Supplier or for three (3) years after distribution, whichever is the longer.

b) The Supplier and its Affiliates shall make readily available upon request by the Global Fund, the records providing the traceability data regarding the distribution of the Covered Products shipped such as batch numbers, quantities, name of destination, location of the destination, etc. The records shall be shared within fourteen (14) calendar days, except in cases of Non-Conforming Product, Defective Products, recall and falsified products, for which the required timeframe of Sections 4.4.10b and 4.4.10f apply.

4.4.10 *Defective Product and recall.*

a) The Supplier shall inform the Global Fund if any received complaint on quality defect may also have a material impact on batches supplied (i.e., the complaint constitutes a potential risk to patients' health or safety).

b) Within seven (7) calendar days of the Supplier becoming aware of it, the Supplier shall inform the Global Fund of any quality issue that may result in a recall of supplied product(s) or finished drug product made thereof.

c) It is the primary responsibility of the Supplier to make the decision on product recalls and to implement it. However, in exceptional circumstances where the health or safety of patients may be impaired, the Global Fund may require the

Supplier to recall the products and/or take appropriate action to remove the Covered Product from sale or use.

d) In case of product recall of Covered Products already supplied under this Agreement, the Supplier shall inform and consult with the Global Fund on how the recall would proceed.

e) Upon request made by the Global Fund, the Supplier will report upon closure of the recall and on its efficacy.

f) Within seven (7) calendar days of the Supplier becoming aware of it, the Supplier will inform the Global Fund of any sale or distribution of counterfeits of Covered Products in any country.

4.4.11 *Non-Conforming Products.* In case of Defective Products or Non-Conforming Products observed by the Supplier, only after shipment of batches of the Covered Product(s), the Supplier shall within five (5) calendar days and appropriately notify the Global Fund who may then request additional information. The Supplier shall conduct a deviation investigation, identify and apply corrective and preventive action.

4.4.12 The Supplier acknowledges and agrees that, at Global Fund's determination, if the Covered Products raise lack of efficacy, actual or potential quality or safety concerns, the Global Fund has the full right to prohibit Principal Recipients to use Global Fund's grant funds to purchase the said Covered Products. Prohibition to Principal Recipients is generally communicated through Quality Assurance Notices issued by the Global Fund and published on the Global Fund's website.

4.4.13 *Specification and analytical method.*

a) Pharmacopoeia. Covered Products shall comply with the Supplier's specifications and validated methods as approved by the WHO Prequalification Program, or the relevant SRA or as permitted for use based on the recommendation of the ERP.

b) Upon request and through a confidentiality agreement if this is required, the Supplier shall provide to the Global Fund the current approved specifications by the WHO Prequalification Programme, the relevant SRA, or as permitted for use based on the recommendation of the ERP and any in-house methods, including validation reports, used for testing according to the agreed specifications (where there are no compendia methods).

c) Upon request, the Supplier shall provide to the Global Fund reasonable quantities of any non-compendia, commercially not available reference standards necessary to perform the tests included in the product specifications.

4.4.14 *Shelf Life*. Covered Products shall comply with the shelf life approved by the WHO Prequalification program or by the relevant SRA and for the remaining shelf life with the requirements of the relevant Buyer as agreed between the Supplier and the Buyer and as specified in the relevant Supplier Purchase Order. The Supplier guarantees that the quality of the Covered Products will remain the same until the end of the shelf life if stored in a dry space, protected from light, and at storage temperatures conforming to the Supplier Product requirements.

4.4.15 *Pharmacovigilance.*

a) The Supplier shall have permanently and continuously at its disposal an appropriately qualified person responsible for pharmacovigilance and in particular in charge of the establishment and maintenance of a pharmacovigilance system. All suspected serious adverse reactions shall be submitted to the relevant competent authorities.

b) For ERP products, all suspected serious adverse reactions should be communicated to the Global Fund.

c) Immediately after the Supplier has become aware of it, the Supplier shall inform the Global Fund of any serious health or safety issue for patients such as adverse reactions/events that might influence the evaluation of the benefits and risks of the Covered Products.

d) The Supplier shall implement the risk management plan as approved by regulatory / WHO PQ.

e) The Supplier shall provide upon request of the Global Fund and through a confidentiality agreement if required, any update regarding the implementation of the risk management plan.

4.4.16 *Sales.* The Supplier shall provide upon request made by the Global Fund, all data relating to the volume of sales of the Covered Products under this Agreement.

4.5 Defective Covered Products

In case of Defective Products, or non-compliance with the Quality Assurance Policy and other quality requirements and related standards as per the Guide to the Global Fund Policies on Procurement and Supply Management of Health Products, or other quality concerns with regard to the Covered Products, the Global Fund shall have the right, at Global Fund's discretion, to request the Supplier to quarantine and/or recall of Covered Products, and obtain replacement or reimbursement of such Covered Products. If, as a result of such situation and in case impacted Covered Products have already been purchased or delivered, the Global Fund has to purchase substitute products at pricing higher than Covered Products Pricing, and/or has to organize a delivery by air freight as opposed to sea freight because of urgency, the Supplier shall compensate the Global Fund for any additional costs.

In case of disagreement between the Supplier and the PSA, the Principal Recipient, or the Global Fund, on the Defective Products or non-compliance, the Covered Products concerned shall be tested by a Quality Control laboratory compliant with quality assurance requirements as stated in the Quality Assurance Policy to be selected by mutual agreement between the Supplier and the Global Fund. The Parties agree that the results of the tests performed by the third-party Quality Control laboratory shall not be challenged by the Parties.

4.6 Monitoring and Enforcement of Product Requirements and Quality Standards

Unless the Global Fund instructs the Supplier otherwise, the PSA shall be responsible for monitoring and enforcing the Supplier's compliance with the requirements of this Section 4, and the Supplier will cooperate with such monitoring and enforcing activities.

5. ALLOCATED AND COMMITTED VOLUMES

5.1 General Principles and Definitions

5.1.1 The forecasted overall demand from Principal Recipients, First Line Buyers and other Committed Volume Buyers for Covered Products will be used to determine the overall volume (the ***Overall Volume***). This Overall Volume to be allocated across all Panel suppliers shall in turn be divided into two elements:

a) The ***Reserve Pool*** is a portion of the Overall Volume which may be temporarily reserved, and established under one of the following provisions:

1. Provision 1: The introduction of new products or suppliers with the percentage set aside, and the period for which it is set aside determined by the Global Fund. This provision will only be enacted at the start of the initial allocation or subsequent allocation periods. Where there is no obvious new entrant or new product, no Reserve Pool will be created.
2. Provision 2: The necessity to re-allocate products for any reason including but not limited to: non-performance by one or more of the Panel suppliers, inability to supply, major price increase, Force Majeure event or an increase in demand within the allocation period. The Global Fund may enact and re-allocate products under this provision at any time during the initial allocation or subsequent allocation periods.

b) The ***Core Volume*** is the balance of the Overall Volume excluding the Reserve Pool.

5.1.2 The Allocated Volume shall therefore comprise the following:

a) At the beginning of an allocation process, Panel suppliers' share of the Core Volume.

b) At any point during the allocation period, Panel suppliers' share of the Core Volume plus any additional volume allocated to them from the Reserve Pool or minus any volume transferred to the Reserve Pool under the parameters in Section 5.1.1.a.

5.1.3 The Term of the Agreement shall be divided into the following Allocation Periods:

- ***Year One*** means calendar year 2023.
- ***Year Two*** means calendar year 2024.
- ***Year Three*** means calendar year 2025.

5.2 Initial Allocations

5.2.1 The following process was employed to determine the Allocated Volume for the initial allocation period (Year One) under the Agreement as set forth in Schedule C:

a) Following the tender evaluation process, the Global Fund allocated volumes to each of the selected Panel suppliers. This allocation was algorithm-based and considered the following factors:

i. Evaluated scores from the Pharmaceutical Products RFP; and
ii. Assessment of implementation risks including, but not limited to: quality; price; product and registration constraints; and long lead-times; available capacity and geographical logistical constraints; limited footprint of First Line Buyers (CPM); progress in fulfilling orders for which Confirmation of Co-payment were issued to the Supplier (CPM).

5.3 Allocations in Subsequent Periods

5.3.1 The Global Fund will determine the particular process for making offers of Allocated Volume to each Panel supplier for subsequent Allocation Periods. Such process is expected to be similar to that used for the Allocated Volume for the initial period as stated in Section 5.2 of this Agreement, with the following differences:

a) Only existing Panel suppliers will be eligible to participate, and no new tender will be issued; however, should a Panel supplier have been removed from the panel for whatever reason or a new Panel supplier added, the algorithm will be adjusted to reflect that fact.

b) Scores pertaining to some, or all of the technical and commercial elements evaluated in the Pharmaceutical Products RFP will be updated.

i. Technical elements

- Product coverage
- Country coverage
- On time in Full delivery
- Supply security and visibility
- Projects to deliver on strategic objectives
- Africa Footprint

ii. Commercial elements

- Base Price and Total Landed Cost

c) Any additional discount that has been implemented because of changes to the terms and conditions of this Agreement will be applied to the price.

d) Any new additional cost reduction identified during the course of the year as part of the collaboration of the Parties will be applied to the price.

e) Annual assessment of implementation risks including, but not limited to: quality; price; product and registration constraints; long lead-times; available capacity and geographical logistical constraints; uptake of technologies which includes the use of SSA material for artemisinin-contained Covered Products; limited footprint of First Line Buyers (CPM); progress in fulfilling orders for which Confirmation of Co-payment were issued to the Supplier (CPM).

f) The Global Fund may exercise its right to rollover outstanding volumes from the initial acquisition period to subsequent periods.

g) Notwithstanding the foregoing, the Global Fund may alter, amend, or revise the process for determining the subsequent period offers that it makes to any Panel supplier(s) at its sole and complete discretion.

h) Subsequent period volumes (and any future Allocated Volumes) shall be formally implemented and operationalized through an amendment of this Agreement, including Schedule C.

i) Nothing in this Agreement shall be deemed to imply that the Global Fund owns, or bears the risk of ownership of, any inventory of Covered Products.

5.3.2 The Global Fund expects to determine the subsequent period volume allocations after the review of the previous year's performance, usually during quarter 1.

5.3.3 The Global Fund is under no obligation to allocate any particular volume to the Supplier for subsequent periods. If the Supplier rejects a subsequent period Allocated Volume offer from the Global Fund, the Parties acknowledge and agree that the Global Fund may allocate that volume, at its discretion, through the Reserve Pool.

5.3.4 The Global Fund reserves the right to reduce Supplier's Allocated Volume, and thus potentially Supplier's Committed Volume, if it is found that the Supplier has received additional points because of its deliberate overstatement of its ability to deliver on strategic objectives.

5.4 The Reserve Pool and Re-Allocation within Allocation Periods.

5.4.1 The Global Fund reserves the right to alter or remove all or a portion of the Allocated Volume and transfer it to the Reserve Pool for re-allocation at any time during either the initial or subsequent Allocation Periods for any of the following reasons, as determined by the Global Fund, in its sole discretion, and communicated to the Supplier by the Global Fund:

a) The Supplier's inability to deliver against forecast lead times for any reason, including a Force Majeure event, or the lapse or non-existence of any necessary regulatory approval or certification;

b) Non-compliance with the regulatory standards of the WHO Pre-Qualification Program or the relevant SRA (as the case may be) or a NDRA for a country to which the products are supplied;

c) Non-compliance of the Covered Products, per the standards articulated in Section 4 (and Annex 1, if applicable);

d) Any concern or notification expressed by any international, national, or local regulatory body regarding past, future or current quality issues;

e) A change in the WHO-recommended treatment regimens whose enactment will materially impact the demand profile for Covered Products within the Allocation Period;

f) The Supplier's failure to meet agreed benchmark delivery performance standards, as defined in Section 9;

g) Significant deviation from the market price for a product across all Panel suppliers;

h) A price increase that is not fully or partially substantiated by material evidence, as required under Section 3.5.4 e);

i) On recommendation from the Global Fund's Office of the Inspector General (OIG), or as a result of a decision of the Global Fund's Sanctions Panel that the Supplier is prohibited from supplying goods or services for Global Fund programs;

j) On the occurrence of any unforeseen event, including a Force Majeure event, which the Global Fund determines establishes a tangible risk that the supply or price continuity cannot be maintained; or

k) The Supplier's uncured material breach(es) of this Agreement, or violation of the Code of Conduct for Suppliers.

5.4.2 Rapid Supply Mechanism volumes to respond to urgent requirements may be allocated to the Panel supplier who can be most responsive to the urgent need, including total time taken to deliver Covered Products to the requesting country.

5.4.3 The Supplier agrees to accept such alteration or amendment of the Allocated Volume, as determined by the Global Fund, and to enter into all modifications to this Agreement necessary to operationalize it, including modifications to Schedule C.

5.5 If, during either an initial or subsequent Allocation Period, the Global Fund identifies additional volumes that can be allocated to Panel suppliers, the Global Fund may offer such increased allocations to Panel suppliers through the Reserve Pool at its sole discretion, and the Supplier agrees to implement any increase offered to it by the Global Fund, provided that it is commercially feasible. In making such an allocation decision, the Global Fund expects to apply the allocation modalities described in Sections 5.2 and 5.3. Any allocation shall be effected through an amendment of Schedule C.

5.6 Committed Volume Amount, Supply, and Invoicing.

5.6.1 The amount of Committed Volume for the Supplier is set forth in Schedule C. If the Committed Volume stated in Schedule C covers a period of time that is less than the Term, then the Committed Volume shall only apply for the duration stated in Schedule C rather than the entire Term. The Global Fund has no obligation with respect to any amount of Covered Products in excess of the Committed Volume.

5.6.2 For artemisinin–containing products, the Committed Volume will be linked to the length of the contracts between Panel suppliers and Panel Artemisinin Manufacturers (directly or indirectly through API suppliers), as further detailed in Section 8.5.

5.6.3 The Supplier shall supply Covered Products in the amount specified in Schedule C during the period specified therein.

5.6.4 The Supplier shall not invoice the Committed Volume in advance of the period contained in Schedule C without the prior approval of the Global Fund. If the Supplier elects to manufacture Covered Products in advance of specific Supplier Purchase Orders, then it does so at its own risk.

5.6.5 The Committed Volume is composed of the quantity that will be procured through the Committed Volume Buyers, which shall, absent any contrary instruction from the Global Fund to the Supplier, be procured by the PSA for PPM orders, by First Line Buyers for CPM orders, or by PAHO, as applicable.

5.7 Amendments to the Committed Volume. The Global Fund reserves the right to alter or remove all or a portion of the Committed Volume for any of the following reasons, as determined by the Global Fund, in its sole discretion, and communicated to the Supplier by the Global Fund:

5.7.1 The Supplier's inability to deliver against agreed lead times for any reason, including a Force Majeure event, or the lapse or non-existence of any necessary regulatory approval or certification;

5.7.2 Non-compliance with the regulatory standards of the WHO pre-Qualification Program or the relevant SRA (as the case may be) or a NDRA for a country to which the products are supplied;

5.7.3 Any concern or notification expressed by any international, national or local regulatory body regarding past, future, or current quality issues;

5.7.4 A change in the WHO-recommended treatment regimens whose enactment will materially impact the demand profile for Covered Products within the commitment period;

5.7.5 The Supplier's failure to meet agreed benchmark delivery performance standards, as defined in Section 9;

5.7.6 Non-compliance of the Covered Products, per the standards articulated in Section 4 (and Annex 1, if applicable);

5.7.7 Significant deviation from the market price for a product across all Panel suppliers;

5.7.8 A price increase that is not substantiated by material evidence, as required under Section 3.5.4 e);

5.7.9 On recommendation from the Global Fund's Office of the Inspector General (OIG), or as a result of a decision of the Global Fund's Sanctions Panel that the Supplier is prohibited from supplying goods or services for Global Fund programs;

5.7.10 On the occurrence of any unforeseen event, including a Force Majeure event, which the Global Fund determines establishes a tangible risk that the supply or price continuity cannot be maintained;

5.7.11 The Supplier's uncured material breach(es) of this Agreement, or violation of the Code of Conduct for Suppliers; or

5.7.12 For Covered Products to be supplied through CPM, the additional reasons specified in Section 6B.

5.8 Committed Volume: Specific Terms and Conditions

5.8.1 Committed Volume Arrangements and Draw-Downs.

a) Generally: Unless the Global Fund provides notice to the Supplier that another Committed Volume Buyer will be acting in a particular transaction, the PSA, acting as an agent on behalf of Global Fund Principal Recipients under the Pooled Procurement Mechanism, any First Line Buyer named in any Confirmation of Co-payment issued to a Supplier for CPM, and PAHO will purchase Covered Products, pursuant to this Agreement, as Committed Volume Buyers.

b) PSA and PAHO as Committed Volume Buyers: When the PSA or PAHO is acting in such a role as a Committed Volume Buyer, the transaction arrangements will be as follows:

Each Confirmed Order will reduce the outstanding amount of the Committed Volume, if any, at the time the Confirmed Order is established, to the extent of the amount of the Confirmed Order or the outstanding amount of the Committed Volume at that time, whichever is greater.

c) First Line Buyer as Committed Volume Buyer through CPM:

Each order for which a Confirmation of Co-payment has been issued will reduce the outstanding amount of the Committed Volume, if any, at the time the Confirmation of Co-payment is issued to the Supplier, to the extent of the quantities of treatment doses approved for co-payment or the outstanding amount of the Committed Volume at that time, whichever is greater.

d) Other Person as Committed Volume Buyer: When a person other than the PSA, First Line Buyer, or PAHO is acting as a Committed Volume Buyer, the transaction arrangements will be substantially similar to those set forth in Section 5.8.1.b.

5.9 The Global Fund's Roles and Responsibilities with Respect to the Committed Volume.

5.9.1 The Committed Volume is underwritten by the Global Fund pursuant to the terms of this Agreement.

5.9.2 If at the end of the applicable Committed Volume period as set forth in Schedule C, Confirmed Orders have not been established for an amount of Covered Products at least equal to the Committed Volume applicable during that period, the Global Fund will cause the purchase of a quantity of Covered Products from the Supplier:

a) In the amount of (A) the Committed Volume for that period, less (B) the amount of Confirmed PPM Orders plus Confirmation of Co-payment where applicable, issued to the Supplier for that period;

b) At the price then applicable for such quantity of Committed Volume (whether the Base Price or any Discounted Price);

c) Through a means of the Global Fund's determination (including, if it elects, through the PSA or another entity or another mechanism (such as the RSM)).

5.9.3 The Global Fund will provide instructions to the Supplier on the specifications and delivery measures for those Covered Products purchased pursuant to this Section 5.9, with such delivery expected to be scheduled in the first quarter of the period following the conclusion of the Committed Volume period, and the Supplier agrees to comply with those instructions, to the extent commercially feasible, and inform the Global Fund when it cannot so comply.

5.10 The Supplier's Roles and Responsibilities with Respect to the Committed Volume. As the Supplier's delivery of a Supplier Purchase Order is a necessary step in each Confirmed Order and Confirmation of Co-payment where applicable, and the Global Fund's obligation with respect to the Committed Volume is measured by the amount of Confirmed Orders and Confirmation of Co-payment where applicable, the Supplier shall not reject or refuse any

Committed Volume Buyer's request for, or acceptance of, a Supplier Purchase Order that conforms to the terms of this Agreement, and if it does, the Global Fund shall deduct that amount from the Committed Volume and reallocate that amount at its discretion.

5.11 Rollover of Outstanding Committed Volume. Notwithstanding any contrary provision in this Agreement, if at the end of the applicable Committed Volume period as set forth in Schedule C, Confirmed Orders have not been established for an amount of Covered Products at least equal to the Committed Volume applicable during that period, the Global Fund shall have the right to rollover any outstanding amount of such Committed Volume to the succeeding period, so that the Committed Volume for the current period is reduced accordingly, while the Committed Volume for the succeeding period is increased proportionately.

6. ORDERING PROCESS

A) POOLED PROCUREMENT MECHANISM: ORDER PROCESS

6.1 PSA as Purchaser

Absent instruction to the contrary from the Global Fund to the Supplier, purchases of Covered Products under the Pooled Procurement Mechanism will be made by the PSA, as agent of, and on behalf of, the relevant Global Fund Principal Recipient, pursuant to the Pooled Procurement Mechanism, the terms of this Agreement and the PSA Agreement. The PSA may also place orders on behalf of wambo.org Pilot Participants.

6.2 Mandatory PSA Terms and Conditions

All purchases of Covered Products by the PSA from the Supplier pursuant to this Agreement shall be pursuant to the PSA Terms and Conditions. Absent instruction to the contrary from the Global Fund to the Supplier for any purchase transaction, the Supplier shall only sell Covered Products to the PSA pursuant to this Agreement and the PSA Terms and Conditions.

6.3 Summary of Operational Arrangements

This following section summarizes the respective roles of the Global Fund, the PSA, the Supplier, and the relevant Principal Recipient(s) (or wambo.org Pilot Participants, where applicable) under this Pooled Procurement Mechanism. This summary is provided for information only and is a description of the arrangements in place as of the Effective Date, which are subject to change at the Global Fund's discretion, subject to the terms of this Agreement.

6.3.1 *Supplier Allocation*: The Global Fund will translate the overall volume for a specific product into planned specific allocations for defined volumes of defined specifications to Panel suppliers associated with specific Principal Recipients and Global Fund grants. During implementation, the PSA will generate the associated Supplier Purchase Orders that will be placed pursuant to the PSA Terms and Conditions, which have been agreed upon in advance by the Global Fund and the PSA.

6.3.2 *Contractual Arrangement between PSA and Supplier*: Acting on behalf of a Principal Recipient (or wambo.org Pilot Participants, where applicable), the PSA will establish a legally binding contract in the form of a confirmed order (a "Confirmed Order") with a Panel supplier in the procurement and delivery of the relevant products.

6.3.3 *Order Placement and Management*: In managing the order placement process through the PPM, the PSA will:

a) seek guidance/input from the Global Fund regarding the appropriate Panel supplier(s) for each applicable purchase (in line with agreed processes with the Global Fund);

b) place orders on behalf of the Principal Recipient (or wambo.org Pilot Participants, where applicable) with the appropriate Panel supplier pursuant to the terms of this Agreement and the PSA Agreement;

c) notify the Principal Recipient (or wambo.org Pilot Participants, where applicable) of the applicable delivery due date and other reporting requirements, including as set forth in this Agreement and the PSA Agreement. The Panel supplier(s) will confirm to the PSA, on receipt of the Supplier Purchase Order from the PSA, when the first shipments will be available for inspection and the final price;

d) manage the execution of the orders with the selected Panel supplier(s), including tracking the purchase volume and reporting to the Global Fund on the status of the PPM volume to Panel suppliers;

e) establish and maintain required shipping, insurance, and freighting agreements with relevant agents, and process and manage associated orders according to Principal Recipient needs (or wambo.org Pilot Participants' needs, where applicable); and

f) coordinate the required pre-shipment inspection and quality testing, if required.

6.3.4 *Invoice Payment*: The PSA will be responsible for the timely and appropriate payment of invoices from Panel suppliers, according to the PSA Terms and Conditions.

6.4 Supplier Monitoring and Reporting. The PSA will:

6.4.1 monitor, manage performance of individual Supplier Purchase Orders and report on the performance of Panel suppliers to the Global Fund;

6.4.2 report to the Global Fund on purchases made pursuant to this Agreement; and

6.4.3 input data to the Global Fund Price & Quality Reporting (PQR) system.

6.5 Legal Status of the PSA

Unless the Global Fund expressly notifies the Supplier otherwise, the PSA shall act solely as an agent of each applicable Principal Recipient (or wambo.org Pilot Participant, where applicable), shall obtain written instructions or consent from the Principal Recipient (or wambo.org Pilot Participant, where applicable) in relation to all material activities conducted by the PSA, and shall not represent or have the power to legally obligate the Global Fund.

6.6 Limitation

For the avoidance of doubt, the matters detailed in Sections 6.3 and 6.4 of this Agreement are only for the information of the Parties. Unless otherwise stated in this Agreement, the Global Fund shall not be liable or responsible in any way for managing these matters (including paying for them or procuring them or ensuring that any of them are obtained in a timely fashion).

6 B) CO-PAYMENT MECHANISM

6.7 This section shall only apply in the event if the Covered Products include ACT and if the Supplier participates in the Co-payment Mechanism. To the extent Covered Products will be supplied through the Co-payment Mechanism, the Supplier shall also comply with the provisions of this Section 6B and Annex 1.

6.8 In support of the objectives of the CPM, the Supplier undertakes not to sell or market finished pharmaceutical products that are oral artemisinin monotherapies for the treatment of patients in any country.

6.9 Grant of License. All Covered Products supplied under this Agreement through the Co-Payment Mechanism shall be marked with the Co-Payment Mechanism Logo. If the Supplier is a Panel supplier for ACTs, to be supplied through the Co-payment Mechanism, the Global Fund will grant to such Supplier a license for the Co-Payment Mechanism Logo, pursuant to the terms and conditions set forth in Annex 1, including the Conditions On Use.

6.10 Specific Conditions relating to Co-Payment Mechanism Allocated and Committed Volumes. The following terms and conditions apply to the Co-Payment Mechanism Allocated and Committed Volumes, in addition to those set forth in Section 6A.

6.10.1 *Modifications of Co-Payment Mechanism Allocated and Committed Volumes*: In addition to the provisions of Section 6A, with respect to the Global Fund's amendment of the Allocated and Committed Volumes, the Global Fund reserves the right to amend the Co-Payment Mechanism Allocated and Committed Volumes upon the occurrence of any of the following events, at its sole discretion, upon written notice to the Supplier:

a) Changes to the Host Countries, including due to inclusion of new countries or existing countries withdrawing from the Co-Payment Mechanism;

b) Changes to the demand levers applied by Host Countries which have a material impact on the volume or mix of Covered Products that are subsidized through the Co-Payment Mechanism, including changes to the level of subsidy percentage, allocations by treatment type, or any other lever shown at Schedule F;

c) Any new condition placed on the Co-Payment Mechanism by Host Countries that requires a re-profiling of the Co-Payment Mechanism Allocated and Committed Volumes, including specific requirements regarding First Line Buyers or other distribution channels;

d) Any change to the funding requirements of any Global Fund donor, including agencies financing the Co-Payment Mechanism directly, relating to the availability of funding for the Co-Payment Mechanism;

e) The terms and conditions of the Grant Agreements under which Host Countries fund the Co-Payment Mechanism through grant funding, including the Principal Recipient's revision or modification of the underlying scope of the program or conditions on funding disbursements;

f) On receipt of a Co-Payment Request where the charge for freight and insurance differs by more than 3% from the freight rates from the proposal submitted in response to Pharmaceutical Products RFP, unless this variance has been approved by the Global Fund;

g) Lack of alignment between the call off by the Supplier and the validated Co-Payment Mechanism Committed Volume, except where previously agreed in advance by the Parties;

h) If a Host Country does not approve the requests for co-payment proposed for approval as part of the CPM order approval process; or

i) The Supplier's non-compliance with the communicated Co-Payment Request submission deadline.

6.10.2 *Application of Modifications*: Where any proposed change has an impact on the overall commitment profile for the Supplier, the Parties will first collaborate, to the extent possible, to adjust the profile to align with the new requirements; if the

Global Fund determines that such collaboration or adjustment is not possible or does not yield a satisfactory result, the Global Fund reserves the right to adjust the Allocated and Committed Volumes in relation to Covered Products intended to CPM (including by re-allocating existing commitment amounts to other Panel suppliers) at its discretion via written notice to the Supplier.

6.10.3 *Non-Adherence to Co-payment request submission and approval cycle*: If the Supplier does not adhere to a deadline for the submission of co-payment order requests (as described in Annex 1 Part 4), the Global Fund will adjust downward the Committed Volume in relation to Covered Products intended to CPM in the amount of the planned round via written notice to the Supplier, and the amount of downward adjustment will not be carried forward.

6. C) PAHO STRAEGIC FUND: ORDER PROCESS

THIS SECTION ONLY APPLIES TO THE SUPPLIER TO THE EXTENT COVERED PRODUCTS INCLUDE ANTIRETROVIRAL MEDICINES AND OTHER MEDICINES USED IN HIV PROGRAMS

6.11 Procurement of Covered Products by PAHO under this Agreement is done in accordance with the PAHO Strategic Fund terms (more information available at : http://www.paho.org/hq/index.php?option=com_content&view=article&id=12177&Itemid=1694&lang=en). Before the start of the new allocation period, PAHO will seek guidance and input from the Global Fund regarding the appropriate Panel supplier(s). PAHO's order are subject to PAHO's Terms and Conditions, as set forth in Annex 2. The Global Fund shall not be liable or responsible in any way for managing the orders placed by PAHO, including paying for the purchased Covered Products, procuring them or ensuring that any of them are obtained in a timely fashion. The Global Fund shall not be liable or responsible in any way whatsoever for any act, omission, representation, obligation or debts attributable to PAHO.

7. RAPID SUPPLY MECHANISM

7.1 Generally. The Global Fund has established its Rapid Supply Mechanism to increase the Global Fund's capacity to respond to urgent demands for critical Health Products, including ACTs, for its grant recipient countries, through Vendor Managed Inventory.

7.2 Eligibility for additional volume. Panel suppliers that agree to contribute to a Rapid Supply Mechanism by making available one twelfth of their annual allocated volume (or another volume specified by the Supplier) for pick up within fourteen (14) calendar days after order placement for Covered Products specified in the Annex 3 may be eligible to access additional volumes during the course of implementation. A Panel supplier's ability to deliver against promised volumes will be monitored and may positively or negatively impact subsequent year allocations.

7.3 Pricing. Covered Products to be offered by the Supplier through the Rapid Supply Mechanism will be at Base Prices.

7.4 Additional details. For those Panel suppliers that expressed willingness to contribute to a Rapid Supply Mechanism through Vendor Managed Inventory and are retained as contributors to the Rapid Supply Mechanism, the agreed monthly volumes for Covered Products to be made available for pick up within fourteen (14) calendar days after order placement are specified in Annex 3.

8. ARTEMISININ SUPPLY MANAGEMENT

THIS SECTION ONLY APPLIES TO THE SUPPLIER TO THE EXTENT COVERED PRODUCTS CONTAIN ARTEMISININ.

8.1 The Supplier acknowledges the detailed objectives of the Global Fund's strategy for the procurement of antimalarial medicines, including, in particular, the following:

8.1.1 Maintain a sustainable and predictable supply of all needed antimalarial medicines by supporting improvements to supply chain integrity of artemisinin-containing products by de-risking the artemisinin supply, facilitating uptake of alternative technologies and promoting good business practices throughout the supply chain by encouraging the establishment of long-term agreements; and

8.1.2 Mitigate quality and regulatory risks by addressing product quality and safety issues and by addressing manufacturing Environmental Health and Safety issues linked to the supply of artemisinin.

8.2 In support of these objectives, the Supplier agrees to only source artemisinin from Panel Artemisinin Manufacturers listed in Annex 5 for Covered Products and to report periodically to the Global Fund on the Supplier's contributions to the achievement of the detailed objectives above.

8.3 Elements to be reported periodically to the Global Fund include, at a minimum, the following:

8.3.1 *Traceability of production site and batch number of artemisinin:* The Supplier will inform the Global Fund of any updates regarding its approach for ensuring the traceability of the production site and batch number of artemisinin included in its Covered Products supplied through this Agreement;

8.3.2 *Business relationships with Panel Artemisinin Manufacturers:* For each Panel Artemisinin Manufacturer in the Supplier's supply chain, the Supplier agrees to share the nature of the relationship with any Panel Artemisinin Manufacturer in its supply chain (including whether direct or indirect through an API supplier), the contract duration (in years or months) with each Panel Artemisinin Manufacturer, the allocation of volume (as a percentage) across Panel Artemisinin Manufacturers and FOB Incoterm Price (in USD/kg) for each as well as any actions taken by the Supplier to help ensure continued compliance over time by the Panel Artemisinin Manufacturer with EHS standards;

8.3.3 *Use of semi-synthetic artemisinin:* The Supplier will provide updates regarding the timeline to begin using semi-synthetic artemisinin, including information regarding filing of regulatory variation and status of agreements, if any, with semi-synthetic manufacturers as well as the share (as a percentage) of total artemisinin constituted by semi-synthetic artemisinin.

8.4 The Supplier acknowledges that the Global Fund reserves the right to verify any information provided to it by the Supplier regarding artemisinin supply management.

8.5 The Supplier acknowledges that under certain circumstances, to secure the supply of artemisinin, the Global Fund may decide to intervene with Panel Artemisinin Manufacturers. For allocation purposes, Panel Suppliers working with Panel Artemisinin Manufacturers under three (3)- year contracts will be prioritized over those under two (2)-year contracts, which will be prioritized over those under one (1)-year contracts. Within the same priority band, Panel Artemisinin Manufacturers with the lowest ceiling prices will have higher priority within the band.

8.6 With the aim of de-risking the artemisinin supply and facilitating the uptake of alternative technologies which includes the use of SSA material, the Global Fund expects the Panel suppliers to use SSA material for up to 20% of their artemisinin requirements, if the price of SSA is at or below the average vegetal price and uptake by Panel suppliers is limited. The Global Fund reserves the right, in its sole discretion, to consider as a risk, any Panel suppliers not using SSA where conditions are met, and this will be reflected in the risk assessment prior to annual allocation. The Global Fund will ensure any semi-synthetic

manufacturer is able to provide adequate technical support for finished pharmaceutical product and active pharmaceutical ingredient manufacturers to fulfil requirements of regulatory variations.

9 SUPPLIER CONTRACT MANAGEMENT AND PERFORMANCE MONITORING

9.1 General. The contract management system and performance management system in this Agreement have been designed to ensure that a flexible and rigorous process is in place to manage any changes that may occur during the Term of this Agreement, to manage the performance of the Supplier, for transactions of all Committed Volume Buyers and Additional Buyers and to support a collaborative working relationship. The process consists of two activities:

9.1.1 Regular Contract Review that is a process, including meetings, pursuant to which the Global Fund monitors progress and determine necessary changes, which shall be implemented through amendment(s) to this Agreement, as required; and

9.1.2 Regular Performance Review that is a process, including meetings, pursuant to which the Global Fund measures key performance indicators from the Global Fund, the PSA, and the Supplier.

9.2 Supplier Cooperation. The Supplier shall cooperate and participate in both activities as requested by the Global Fund, and provide the information, including but not limited to the following:

- Operational updates, which may have an impact on delivery performance
- Supplier's updated manufacturing capacity: The Global Fund reserves the right to audit declared capacities either itself or through the services of a third party.
- Progress update on the implementation of agreed Strategic Projects, if relevant, including but not limited to any challenges which may impact timelines
- Company update/presentation: update and market trends
- Pricing offered to other clients in new contracts and bids in response to tenders in accordance with Section 3.4.
- Upstream visibility of sources of API and Key Starting Materials for key formulations identified by the Global Fund

Upon prior written approval of the Supplier, the Global Fund may share some of the information provided during the Contract & Performance Reviews with other large buyers for the purpose of coordination where there may be supply constraints identified by the Global Fund and subject to a confidentiality agreement between the Global Fund and the relevant large buyer.

9.3 Timing of Contract & Performance Reviews. The Global Fund expects to conduct Contract & Performance Reviews of the Supplier each quarter of the relevant calendar years.

9.4 Anticipated Scope of Contract & Performance Reviews. The Contract Reviews have the following purposes:

9.4.1 To review initial allocations of Allocated Volume and Committed Volume and any subsequent allocations (although the allocation process itself will occur outside Contract Reviews);

9.4.2 To provide as much visibility as possible of forthcoming demand;

9.4.3 To review the Pricing performance with regard to additional discounts (although this process may be enacted without a Contract Review);

9.4.4 To review Supplier and Buyer performance indicators and implement any actions coming from this, as further described in Section 10.6; and

9.4.5 To review the terms of this Agreement and permit Party to put forward a proposal for amendment.

9.5 Subsequent Year Contract Reviews. In addition to the above-stated procedures, after completion of Year One, for each subsequent year, the Global Fund expects to present, if applicable, the Year Two Allocated and Committed Volumes, as determined by the Global Fund. Similarly, after completion of the second year of implementation, the Global Fund expects to present, if applicable, the Year Three Allocated and Committed Volumes, as determined by the Global Fund. The same process is expected to be followed for subsequent years, if any.

9.6 Performance Monitoring: The Supplier's performance will be monitored through a management system designed to ensure compliance to the Agreement, performance indicators and simultaneously to support continuous improvement. The management system varies depending on the procurement channel.

9.6.1 **For PPM**, the performance management system includes the following two processes:

(a) Process 1: Delivery performance: measured by comparing the Committed Delivery Date(s) with the Actual Delivery Date(s), as follows:

i. The PSA will issue Supplier Purchase Orders for the delivery of products based on the Required Delivery Date and the Principal Recipient (or the wambo.org Pilot Participant, where applicable) requirements.

ii. The Supplier is required to confirm the Required Delivery Date or a realistic alternative that meets the Principal Recipient's requirements (or the wambo.org Pilot Participant's requirements, where applicable) within five (5) calendar days of receipt of the Supplier Purchase Order. Committed Delivery Dates more than two weeks after the Required Delivery Date on Supplier Purchase Order will constitute a lack of capacity and may trigger the re-allocation process as defined in Section 5, unless there are external mitigating circumstances that may include, but shall not be limited to, insufficient lead time or lack of packaging data. The confirmed delivery date shall be regarded as the Committed Delivery Date.

iii. Performance Measurement is based on the principle of comparing the number of shipments delivered 'On Time In Full' (OTIF) against the total number of shipments made. The measurement point shall be the point at which the Supplier has fulfilled their obligations to the PSA in regard to production and providing a complete and correct set of export documentation for the Supplier Purchase Order.

iv. 'On time' is defined as the Committed Delivery Date and up to five (5) calendar days thereafter.

v. 'In Full' is defined as the complete volume of products as defined in the Supplier Purchase Order and Committed Delivery Date(s). Therefore, a delivery where 50% of the volume is delivered on time and 50% is delivered late shall constitute a late delivery. Please note volumes delivered within a 2 percent shortfall of the Supplier Purchase Order will still be considered as 'In Full'.

vi. In the event of large shipments, the Supplier may schedule more than one Committed Delivery Date and where this occurs each shipment shall be measured separately.

vii. The Global Fund will monitor the delivery performance for all Covered Products.

viii. Target: The target performance benchmark for Covered Products assessed under this process is 90% of delivered orders On Time In Full, and may be reviewed by the Global Fund on an annual basis, and the Global Fund reserves the right to commence re-allocation of up to 100% of the Supplier's allocated and committed volumes upon failure to meet this benchmark during one period of measurement as defined in Section 9.3. The re-allocation process is defined in Section 5.

(b) Process 2: PSA Supplier Survey

The PSA will assess the Supplier on the following points.

i. Responsiveness: time taken to confirm orders, accuracy of order confirmation, timely sharing of export documents, accuracy of export documents;

ii. Collaboration: pro-actively communicating delays, offering alternative solutions, forthcoming with value adding value;

iii. Logistics: good readiness for pick-up, packaging & palletisation, labelling, export procedures, order completeness;

iv. Monthly vendor calls: timely feedback on data overview, quality of feedback on data overview, vendor participation in the calls, follow-up on the calls, communication on anticipated challenges.

Supplier's annual rating, based on the PSA's assessment, will be communicated to the Global Fund. In case of low rating, the Global Fund reserves the right, at its sole discretion, to consider the procurement from the Supplier as a risk which will be reflected in the risk assessment prior to the annual allocation.

9.6.2 **For PAHO**, Delivery Performance Management is applicable to all orders placed by PAHO. Delivery performance will be measured by comparing the Committed Delivery Date(s) with the Actual Delivery Date(s) of delivery using a process similar to the process described above, as agreed between the Global Fund and PAHO.

9.6.3 **For CPM,** Delivery Performance Management is applicable to all Confirmations of Co-payment issued to the Supplier. Delivery performance is measured by comparing the Promised Delivery Date(s) for each Confirmation of Co-payment with the final actual date(s) of delivery when the full quantity of the order was delivered, for a specified period of time. Data is extracted from the Global Fund system and is sent to the Supplier for review and for input where indicated.

9.7 Collaboration on GS1 Gobal Data Synchronization Network

9.7.1 The Global Fund is facilitating work to enable product supply chains for low- and middle- income countries to access and use product identification data based on global standards in order to support improved supply chain efficiency and security ("**Purpose**"). In support of this Purpose, the Global Fund is leveraging the GS1 Global Data Synchronization Network ("**GDSN**") to source master data from the Supplier used to identify Health Products related to HIV/TB/malaria health programs as listed in Annex 4 ("**Product Attributes**") in order to make that standardized data available for managing products in global and national supply chains.

9.7.2 The Suppliers shall provide and maintain all Product Attributes by uploading all related data to a GDSN-certified source data pool that the Global Fund will subscribe to access and synchronize.

9.7.3 The Global Fund wishes to make publicly available for the Purpose the Product Attributes. To achieve the Purpose, the Supplier hereby grants to the Global Fund and to the PSA a royalty-free, fully paid-up license to access, use, copy, disclose, display, disseminate, publish, sublicense under the same terms, and otherwise make generally and publicly available for use for the Purpose Supplier's Product Attributes listed in Annex 4 as provided by the Supplier through the GDSN (or alternate mechanisms).

9.7.4 This license is perpetual unless the Supplier provides written notice of termination, in which case the Global Fund's licensed rights, and any rights provided to others under the conditions noted, terminate thirty (30) calendar days following the Global Fund's receipt of the notice of termination. The Global Fund and the PSA shall have no liability for the use of Product Attributes by others, except to the extent the Global Fund has violated the conditions of its license. Except as otherwise expressly stated in this Agreement, the Global Fund acknowledges that all proprietary rights in and to the Supplier's Product Attributes shall be and remain with the Supplier.

10. SUPPLIER CONDUCT AND ACKNOWLEDGEMENTS

10.1 Supplier Conduct. For all activities conducted pursuant to this Agreement, the Supplier shall:

10.1.1 comply with, and conduct its activities that involve the Global Fund, including pursuant to this Agreement, in compliance with the Code of Conduct for Suppliers;

10.1.2 comply with all Applicable Laws, including applicable laws of the countries for which Covered Products are procured, delivered, and used (including procurement laws, regulations, and procedures applicable to the relevant Global Fund Principal Recipients); and

10.1.3 not induce any Person to breach any Global Fund policy (including the Code of Conduct for Suppliers or the Policy on Conflict of Interest) or any laws, including Applicable Laws of the countries for which Covered Products are procured, delivered, and used (including procurement laws, regulations, and procedures applicable to the relevant Global Fund Principal Recipients).

10.2 Supplier Acknowledgements. The Supplier acknowledges and agrees to the following:

10.2.1 The investigative, decision-making, and sanctions policies and processes of the Global Fund, including the activities of its Inspector General and the Code of Conduct for Supplier, and consideration of any findings of Fraud and Abuse by the Global Fund Sanctions Panel should the Global Fund in its sole discretion choose to refer the matter to the Sanctions Panel, can and will apply to (i) the Pharmaceutical Products RFP, (ii) this Agreement, and (iii) any other matter relating to procurement of the Covered Products with Global Fund resources, and these processes may include, without limitation, public disclosure at the Global Fund's full discretion of any findings and/or decisions; and

10.2.1 The Global Fund has full discretion to audit or investigate any potential Fraud and Abuse, whether occurring in the past, present, or future, associated with the procurement of the Covered Products with Global Fund resources, and the Global Fund at its full discretion may publish the findings of such investigations; through participation in the Pharmaceutical Products RFP, the Supplier acknowledges these processes and will not challenge in any setting the investigation by the Global Fund of potential Fraud and Abuse associated with procurement of the Covered Products with Global Fund resources, the dissemination of investigation

findings and the responses undertaken by the Global Fund to findings of Fraud and Abuse, in all cases whether occurring in the past, present, or future.

10.3 Business Conduct. The Global Fund's Pharmaceutical Products Procurement Strategy 2023-2025 includes detailed objectives which relate to promoting integrity and good business practices throughout the supply chain:

10.3.1 The Supplier shall support the Global Fund's objective of raising business conduct standards across all Global Fund suppliers by participating in regular business conduct evaluation of key elements of the Supplier's manufacturing process and/or that of their sub-contractors. These evaluations will focus on business conduct, integrity, employment and labor standards and relations, health and safety, and environmental matters and participation shall include providing access to site, personnel and relevant documentation.

10.3.2 The Supplier agrees to implement improvement actions, as defined between the Parties to an agreed timescale following any identification of such need.

10.4 Prohibited Activities. The Supplier shall not engage in any Fraud and Abuse, or Prohibited Activities. The Supplier shall maintain and enforce standards of conduct to govern the performance of it and its Affiliates' directors, officers and employees who are involved in the performance of activities under this Agreement to ensure that such persons do not engage in any Fraud and Abuse, or Prohibited Activities. Prohibited Activities include if such person:

10.4.1 participates in the selection, award or administration of a contract, in which the person, members of the person's immediate family or his or her business partners, or organizations controlled by or substantially involving such person, has or have a financial interest;

10.4.2 participates in transactions involving persons, organizations or other entities with which or whom that person is negotiating or has any arrangement concerning prospective employment;

10.4.3 offers, gives, solicits or receives, directly or indirectly, gratuities, favours, gifts or anything else of value to influence the action of any person involved in the procurement process or contract execution;

10.4.4 misrepresents or omits facts in order to influence the procurement process or the execution of a contract;

10.4.5 engages in a scheme or arrangement between two or more suppliers, with or without the knowledge of the Supplier, designed to establish bid prices at artificial, non-competitive levels; or

10.4.6 participates in any other illegal or corrupt practice.

10.5 Disclosure of Fraud and Abuse, Prohibited Activities and Conflicts of Interest. If the Supplier has knowledge or becomes aware of any:

10.5.1 actual, potential, or perceived conflict between the financial or other interests of any of it or its Affiliates' directors, officers and employees and that Person's duties under this Agreement; or

10.5.2 any actual, alleged, or suspected Fraud and Abuse or Prohibited Activity,

The Supplier shall immediately disclose the actual, potential or perceived conflict of interest / Fraud and Abuse or Prohibited Activity directly to the Global Fund.

11 LIABILITY AND INDEMNITY

11.1 General Indemnification by the Supplier. The Supplier shall indemnify and hold harmless the Global Fund (and its Representatives) on demand from and against any and all direct damages, liabilities, claims, losses, costs, charges, judgments, disputes and expenses (including reasonable legal fees) (***Loss***) that are sustained, suffered or incurred by the Global Fund (or its Representatives), that result or arise from or are connected in any way with:

11.1.1 the performance by the Supplier or any of its Affiliates or any of their Representatives under this Agreement (including a breach of this Agreement or any Supplier Purchase Order);

11.1.2 any third-party product liability claim in relation to any Covered Product;

11.1.3 any Defective Products in any Covered Product;

11.1.4 any Non-Conforming Products in any Covered Product;

11.1.5 any non-compliance by the Supplier or any of its Affiliates or any of their Representatives with any technical requirements applicable to any Covered Product;

11.1.6 any use by the Supplier (and/or relevant sub-licensee) of the Global Fund Logo or the Co-Payment Mechanism logo; and/or

11.1.7 any claim of infringement or violation of a patent, design, trade-name, trademark, trade secret, or other intellectual property right of any third party.

11.2 Prior Consent Required. The Supplier shall not settle any matter covered by the indemnity contained in Section 11.1 in a manner that affects the rights of, or imposes any obligations on the Global Fund, without first obtaining the written approval of the Global Fund.

11.3 Limited Scope of Liability. Neither Party hereto will be liable for indirect, incidental, consequential, special, exemplary, or punitive damages arising out of this Agreement or the exercise of its rights hereunder, or for lost profits arising from or relating to any breach of this Agreement, regardless of any notice of such damages.

11.4 Global Fund Not Responsible for Third Party Claims. The Global Fund shall not be responsible for any third-party Loss which may arise in connection with, or as a result of, the conduct of the Supplier or any of its Affiliates or any of their Representatives, which are not directly caused by the negligence, fraud, or willful misconduct of the Global Fund.

11.5 Disclaimers. The Global Fund gives no guarantee, representation, or warranty to any Person in connection with this Agreement, any Covered Product, or any Supplier Purchase Order, and the Global Fund does not accept responsibility or liability in any way in respect of any of these matters, unless expressly provided in this Agreement, in which case only to such extent as provided.

12 INSURANCE

12.1 Supplier Insurance Obligations. During the Term, and thereafter for a period for the later of either (i) three (3) years after the Term or (ii) three (3) years after delivery of the last Covered Product supplied by the Supplier during the Term, the Supplier shall, and shall ensure that each of its Affiliates shall, maintain in force insurances policies that are in accordance with sound international commercial practice for Persons engaged in businesses substantially similar to that of the Supplier (including product and third party liability insurance) and which cover relevant risks.

12.2 Access to Policy Details. Within ten (10) calendar days of the Global Fund's written request, the Supplier shall promptly provide the Global Fund with copies of the insurance

copy certificates and details of policies referred to in Section 12.1. Alternatively, the Supplier can provide an annual certificate to the Global Fund of its compliance with Section 12.1 above.

12.3 Material Policy Changes. The Supplier shall immediately notify the Global Fund in writing if any insurance policy required by this Agreement is (or will be) cancelled or its terms are (or will be) subject to any material change.

12.4 Liability. The Supplier's liability under this Agreement shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Section 12.1.

13 REPRESENTATIONS AND WARRANTIES

13.1 General Representations and Warranties. Each Party represents and warrants to the other Party during the Term that:

13.1.1 Such Party is validly incorporated or established, as applicable, in existence and duly registered under the laws of its jurisdiction of incorporation and it has full power to conduct its business and activities as conducted at the Effective Date of this Agreement;

13.1.2 The execution, delivery and performance of this Agreement by such Party shall have been duly authorized by all necessary action on the part of such Party, including all corporate authorizations and all other governmental, statutory, regulatory or other consents, licenses, authorizations, waivers or exemptions required to empower it to enter into and perform its obligations under this Agreement;

13.1.3 This Agreement, when executed and delivered by such Party in accordance with its terms, will be a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, and subject to any legal rights, privileges, or immunities accorded to the Party in any jurisdiction(s); and

13.1.4 Such Party's execution, delivery and performance of this Agreement shall not constitute a violation, breach or default under any constitutional document, contract, instrument, obligation or agreement to which it is a Party or by which it is bound, and will not conflict with or violate any Applicable Laws, rule, regulation, judgment, order, decree of any governmental agency or court having jurisdiction over it or its assets or property.

13.2 Supplier Warranties. The Supplier represents, warrants and covenants to the Global Fund during the Term of this Agreement (and, with respect to each Covered Product supplied under this Agreement, for no less than three (3) years from the first usage of that Covered Product) that:

13.2.1 Covered Products delivered under this Agreement are merchantable and fit for use for the particular purpose for which the Covered Products are ordinarily used;

13.2.2 The Supplier's performance of this Agreement and supply of each Covered Product shall:

a) conform to the requirements of this Agreement and the relevant Supplier Purchase Order;

b) be produced and processed in compliance with the WHO or SRA GMP Requirements (as the case may be) and accreditation and applicable requirements for that accreditation;

c) be produced and processed in compliance with all Applicable Laws;

d) comply with the Code of Conduct for Suppliers;

e) comply with the Supplier's standard operating procedures; and

f) be free from defects in design, materials or workmanship;

13.2.3 The supply of each Covered Product shall be transferred to the buyer free and clear of any liens, claims, encumbrances or security interest of any kind;

13.2.4 The Supplier's performance of this Agreement, including the manufacture, labeling and packaging of the Covered Products by the Supplier, does not infringe any patent of any third party or constitute a misappropriation of the trade secrets or other intellectual property rights of any third party;

13.2.5 The Supplier will comply with all applicable customs administration and control laws and regulations of any applicable jurisdiction, as may be applicable to the export, import, resale or other disposition of any Covered Products purchased from the Supplier in accordance with the actual Incoterm of the Supplier Purchase Order;

13.2.6 The Supplier has obtained and will maintain all licenses, permissions, authorizations (public or private) and consents or waivers required for carrying on its obligations under this Agreement effectively in the places and in the manner in which it is carried on pursuant to this Agreement and in accordance with all Applicable Laws in each case, these approvals are in full force and effect, are not limited in duration or subject to any materially unusual or onerous conditions, and have been complied with in all material respects; and

13.2.8 The Supplier acknowledges that each Principal Recipient is required to comply with the applicable grant agreement between the Global Fund and the Principal Recipient (in force from time to time) and the relevant policies and procedures of the Global Fund (including the product selection requirements in the Global Fund Quality Assurance Policy), and the Supplier shall not take any action to induce or cause a breach or violation of that grant agreement or those policies and procedures.

14 CONFIDENTIALITY, PUBLIC ANNOUNCEMENTS, USE OF GLOBAL FUND LOGO

14.1 Confidentiality Obligation. In consideration for, and as a condition of, one Party agreeing to provide Confidential Information to the other Party, each Party shall promptly (and shall ensure that each of its Representatives shall) maintain Confidential Information in confidence and not use or disclose that Confidential Information to any Person except as this Agreement (including this Section 14) permits, or with the prior written approval of the other Party.

14.2 Disclosure to Representatives. Each Party undertakes that it shall only and shall use all its reasonable commercial endeavours to ensure that its Affiliates shall only, disclose Confidential Information to Representatives if it is reasonably required for purposes connected with this Agreement or, with respect to the Global Fund, its sourcing activities and internal governance requirements, and only if the Representatives are informed of the confidential nature of the Confidential Information. Each Party shall remain responsible for any failure by any of its Representatives to treat such Confidential Information as required under this Section 14.

14.3 Disclosure of Agreement Terms to Implement the Agreement. Notwithstanding anything contained herein to the contrary, each of the Parties may disclose the terms of this Agreement to other Persons as needed to implement the arrangements and programs

contained in this Agreement, provided such other Persons retain such information on a similar confidentiality basis. This may include disclosure to Committed Volume Buyers, Principal Recipients, First Line Buyers, Additional Buyers, wambo.org Pilot Participants, Global Fund Staff members, Supplier Staff members, and other organizations involved in pharmaceutical products procurement for public health or humanitarian purposes.

14.4 Permitted Disclosure. This Section 14 shall not prevent disclosure by a Party or its Representatives to the extent that it can demonstrate that the:

14.4.1 disclosure is of Confidential Information which was lawfully in the possession of that Party or any of its Representatives (in either case as evidenced by written records) without any obligation of secrecy or confidentiality prior to its being received or held;

14.4.2 disclosure is of Confidential Information which has previously become publicly available other than through that Party's fault (or that of its Representatives);

14.4.3 disclosure is of Confidential Information which was independently developed by the disclosing Party;

14.4.4 disclosure is required by law, rule or regulation (including the rules of a professional body), stock exchange or any regulatory, judiciary, administrative or governmental authority (including any tax authority or anti-trust body) having applicable jurisdiction (provided that the disclosing Party shall if permitted by law first inform, at the disclosing Party's own cost and expense, the other Party of its intention to disclose such information and take into account the reasonable comments of the other Party and take all reasonable steps to preserve the confidentiality of the information);

14.4.5 disclosure is permitted under this Agreement; or

14.4.6 disclosure is legally required for the purpose of any arbitral or judicial proceedings arising out of or in connection with this Agreement.

14.5 Permitted Disclosure by the Global Fund. The Supplier acknowledges that the Global Fund may disclose the following information in relation to this Agreement, the Pooled Procurement Mechanism and the Co-Payment Mechanism, including through means of disclosure of communications to Global Fund Board, Committee, and Advisory Group Members, employees, and Constituencies; posting such information on the Global Fund's website; reporting such information through the Global Fund's price and quality reporting system ("PQR"); or through any other media:

14.5.1 The Base Price; Discounted Price; Royalty Price; and

14.5.2 The material terms on which the Covered Products are provided and delivered under this Agreement.

14.6 Notwithstanding the foregoing, information provided by the Supplier to the Global Fund as required under Sections 4.4.6 and 4.4.10 a and b shall be treated with extra care, shall only be disclosed internally on a need-to-know basis, and shall not be disclosed to any third party, to the extent the retention of this information may not have any adverse effect on the health or safety of patients. Pricing information related to new contracts and bids provided by the Supplier to the Global Fund pursuant to Section 3.4.1 shall only be disclosed to a restricted group of Global Fund's employees, for the only purpose of monitoring Supplier's compliance with Section 3.4.

14.7 Survival of Obligations. The obligations of confidentiality set out in this Section 14 shall survive termination or expiration of this Agreement for a period of ten (10) years.

14.8 Public Announcements. Unless otherwise permitted under this Agreement, neither Party shall issue any press release or make any public announcement or statement regarding

this Agreement, or the Party's relationship with the other Party without the prior written approval of the other Party, which shall not be unreasonably withheld or delayed.

14.9 Use of Global Fund Name and Logo. The Supplier shall not, and shall ensure that its Affiliates do not, use the Global Fund name or logo on any material, Covered Product or other product.

15 SUPPLIER REPORTING AND RECORD-KEEPING, AUDITS

15.1 Notice to the Global Fund. The Supplier shall within fourteen (14) calendar days notify the Global Fund in writing of any of the following events or circumstances which come to the Supplier's knowledge (except where a shorter time frame is applicable as described in Section 4):

15.1.1 a change in legal structure, financial or other condition of the Supplier, including a Change of Control, which may affect the Supplier's ability to perform its obligations under this Agreement;

15.1.2 an event or circumstance, including any regulatory reporting matters, that may materially impact:

a) the health or safety of patients using Covered Products;

b) the sale or distribution of counterfeits of Covered Products in any country;

c) the sale or distribution of Covered Products in any country, including a recall of Covered Products, a material shortage of Covered Products, or any other circumstances that may prevent the Supplier from supplying Covered Products under this Agreement; or

d) the Global Fund's reputation, including any acts or omissions of a Committed Volume Buyer, First Line Buyer, Additional Buyer, or another third party that the Supplier is aware of and that the Supplier believes may materially compromise the objectives of the Global Fund including:

i. actual, alleged or suspected Fraud and Abuse involving any party; or

ii. any actual, suspected or threatened infringement or any other form of attack, allegation, prejudice or claim against any trademarks or trade names of the Global Fund.

15.2 Record-Keeping and Audits.

15.2.1 *Record Keeping*: The Supplier shall, and shall use all its reasonable commercial endeavors to ensure that its Affiliates, maintain accounting books, records, documents and other evidence relating to this Agreement, including the supply of Covered Products , all Supplier Purchase Orders, insurance contracts, invoices and shipping and delivery documentation (***Books and Records***). The Supplier must keep those Books and Records it its possession for at least the later of either (i) three (3) years after the Term or (ii) three (3) years after delivery of the last Covered Product supplied by the Supplier during the Term, or for such longer period, if any, required to resolve any claims or audit enquiries, or if required by the Global Fund by written notice to the Supplier (the "Retention Period").

15.2.2 *Audit Right*: Upon written notice to the Supplier, the Global Fund shall have the right to perform one (1) audit of the Books and Records of the Supplier and its Affiliates under this Section 15.2 in each calendar year of the Term. However, if the Global Fund has indications that the award or performance of the Agreement may be compromised by Fraud and Abuse, this limitation will not apply.

15.2.3 *Audit Terms and Conditions*: The Global Fund shall have the right to conduct such audit at any time during the Retention Period as described above,

upon prior written notice to the Supplier of fourteen (14) calendar days prior to the start of the audit. Such audit will be during normal business hours, may be conducted by the Global Fund (including its Office of the Inspector General) or by an agent of the Global Fund, will be at the expense of the Global Fund, and will be carried out in a manner that does not unreasonably interfere with the normal conduct of the Supplier's business. The Supplier shall, and shall use all its reasonable commercial endeavors to ensure that its Affiliates, cooperate with the Global Fund and its agents in the conduct of such audit, including by making staff available to answer questions, providing reasonable use of facilities to assist with the audit and producing originals of documents if deemed relevant by the Global Fund.

15.2.4 *Supplier Audits and Undertakings*: In addition, the Supplier shall be responsible for auditing any unaffiliated subcontractor for such compliance in accordance with the Supplier's internal audit policies, and shall permit the Global Fund to review any such audit report in connection with the Global Fund's audits as contemplated above. The Supplier shall use all its reasonable commercial endeavors to obtain the consent of any such subcontractor for the Global Fund to participate in any audit conducted by the Supplier, or to conduct its own audit of such subcontractor.

15.3 Additional Record-Keeping Obligations. The recordkeeping provisions contained in this Section 15 are in addition to, and complementary of, the recordkeeping provisions in Sections 4 and 9. The Supplier shall comply with all record keeping obligations in this Agreement.

15.4 Investigations. In case of investigation conducted by the Global Fund, including by the Office of the Inspector General, the Supplier shall cooperate with the Global Fund and comply with any reasonable request in connections with such activities aiming at detecting, preventing and responding to Fraud and Abuse.

16 TERM, EXPIRATION, TERMINATION, AND SURVIVAL

16.1 Term. The initial term of this Agreement shall commence on the Effective Date and remain in effect until 31 December 2025 (the ***Term***), unless otherwise terminated as expressly provided under the terms of this Agreement.

16.2 Renewal Term. This Agreement may be renewed by mutual agreement of the Parties for additional periods. In no event shall the total duration of this Agreement, including any such renewal terms, exceed five (5) calendar years.

16.3 Termination by the Global Fund for Convenience. The Global Fund may terminate this Agreement in its sole discretion at any time upon no less than six (6) months prior written notice to the Supplier. Any termination by the Global Fund pursuant to this Section 16.3 shall be without liability, except for the amount of any Committed Volume outstanding during the year of termination, for which the Global Fund will remain responsible per the terms of this Agreement.

16.4 Termination by the Supplier for convenience. The Supplier may terminate this Agreement in its sole discretion at any time upon no less than six (6) months prior written notice to the Global Fund. However, the Supplier shall fulfil Confirmed Orders outstanding at the date of actual termination. For those Confirmed Orders, the terms and conditions of this Agreement shall remain valid until all obligations related the Confirmed Orders have been fully fulfilled. In case of termination by the Supplier for convenience, the outstanding Committed Volume for the year shall be reduced pro rata to the remaining period until the end of the calendar year or the actual termination date, whichever comes first.

16.5 Termination by the Global Fund due to Specified Events. The Global Fund shall have the right, but not the obligation, to terminate this Agreement with immediate effect by written notice to the Supplier in the event of any of the following:

16.5.1 A Change of Control of the Supplier;

16.5.2 The occurrence of a Force Majeure event which has a material effect on the Supplier's ability to perform under this Agreement or the need for the Global Fund or its Principal Recipients to procure Health Products under this Agreement; or

16.5.3 The Supplier's breach of Section 10, including (i) a finding by the Global Fund's Office of the Inspector General that the Supplier has engaged in Fraud and Abuse, or Prohibited Activities or (ii) a finding by the Global Fund's Sanctions Panel that the Supplier has materially violated the Supplier Code of Conduct.

16.6 Termination by Either Party due to the other Party's Uncured Default. If one Party (the ***Breaching Party***) breaches or fails to observe or perform any representation, warranty, guarantee, covenant or obligation under this Agreement in material manner ("***Material Breach"***), the other Party (the ***Nonbreaching Party***) may provide a written notice of Material Breach to the Breaching Party, providing thirty (30) calendar days for the Breaching Party to cure such Material Breach, if such Material Breach can be cured. If the Material Breach is not cured in accordance with the provisions of this Section 16.6 ("***Default"***), this Agreement shall, absent written agreement to the contrary by the Nonbreaching Party, terminate upon the expiry of the thirty (30) calendar day cure period, without the requirement of the Nonbreaching Party to provide any additional notice to the Breaching Party.

16.7 Termination by either Party due to a Financial Event of the other Party. Either Party may terminate this Agreement by giving notice in writing to the other Party, stating the effective date of such termination, if:

16.7.1 the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or mature or admits inability to pay its debts;

16.7.2 the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

16.7.3 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party;

16.7.4 a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) calendar days;

16.7.5 application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party;

16.7.6 a floating charge holder over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver;

16.7.7 a Person becomes entitled to appoint a receiver over the assets of the other Party, or a receiver is appointed over the assets of the other Party; or

16.7.8 any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Sections (16.7.1) through (16.7.7) above.

16.8 Consequences and Results of Termination.

16.8.1 With the exception of Section 16.3 (Termination by the Global Fund for Convenience), if the Global Fund terminates this Agreement pursuant to the terms of this Section 16, all obligations and liabilities of the Global Fund under this Agreement, including regarding to any outstanding Committed Volume, shall be deemed to be met, committed, and satisfied, with no outstanding claim or liability for the Global Fund effective as of the date of the Supplier's receipt of the Global Fund's notice of termination.

16.8.2 Nothing contained herein shall be construed to limit the Global Fund's ability to pursue any remedy available in law or in equity with respect to any breach of this Agreement by the Supplier.

16.9 Global Fund's Remedies upon Supplier's Uncured Default.

16.9.1 If this Agreement is terminated due to Supplier's breach, the Global Fund, Principal Recipients, First Line Buyers, PAHO or any Committed Volume Buyer may be required to purchase substitute Pharmaceutical Products from other suppliers for the remainder of the Term, including at rates which do not reflect the volume discounts and other Pricing terms of this Agreement.

16.9.2 In the event of purchase of substitute Pharmaceutical Products as per Section 16.9.1 above, the Supplier shall pay the monetary compensation to the Global Fund, Principal Recipients, First Line Buyers, PAHO or any Committed Volume Buyer as relevant, as follows: for each such substitute Pharmaceutical Products procured by the Global Fund, by Principal Recipients (whether through the Pooled Procurement Mechanism or otherwise), First Line Buyers PAHO or any Committed Volume Buyer, the difference between the cost paid for the substitute Pharmaceutical Products and the cost of an equivalent Covered Product per the terms of this Agreement.

16.9.3 The remedy described in Section 16.9.2 shall be limited to a total quantity of substitute Pharmaceutical Products equal to the amount of the Committed Volume for which Confirmed Orders and/or CPM Confirmations of Co-payment have not been established as of the time of effective termination of the Agreement.

16.10 Effect of Expiry/Termination. The following provisions are applicable to or address the expiry or termination of this Agreement.

16.10.1 *Transition Period:* Upon the expiry or termination of this Agreement, at the Global Fund's request, the Supplier shall continue to supply Covered Products on the terms of this Agreement for a transition period of up to six (6) months, at then-established prices.

16.10.2 *Confidentiality:* Upon the expiry or termination of this Agreement, and following expiry of the transition period referred to above, if applicable, each Party shall promptly return to the other Party all Confidential Information of the other Party or confirm in writing to the other Party that it has destroyed all such Confidential Information in its possession (except to the extent that retention of any such confidential information is required for audit purposes or under Applicable Laws).

16.10.3 *Liability:* Except as otherwise stated herein, expiry or termination of this Agreement for any reason shall not release either Party from any liability which at such time has already accrued or which thereafter accrues from a breach or Default prior to such expiration or termination, nor affect in any way the survival of any other right, duty or obligation of either Party which is expressly stated elsewhere in this Agreement to survive such termination or expiry. In the case of a termination by either Party under this Section, the Nonbreaching Party may pursue any remedy available in law or in equity with respect to such breach, subject to the terms detailed.

16.10.4 *Survival:* The following Sections shall survive the expiration or termination of this Agreement, including, as applicable, in accordance with the respective terms thereof: 11 (Liability and Indemnity); 12 (Insurance); 13 (Representations and Warranties); 14 (Confidentiality, Public Announcements and Use of Global Fund Logo); 15 (Supplier Reporting and Record-Keeping, Audits); 16 (Term, Expiration,

Termination, and Survival); 18 (Governing Law and Dispute Resolution); and 19 (General).

17 AMENDMENT

17.1 No amendment of this Agreement shall be valid unless it is in writing and duly executed by or on behalf of both Parties. There are two forms of amendment to this Agreement, as follows:

17.1.1 *Operational amendments* are revisions to Schedule A, Schedule B and Schedule C, (including changes to Covered Products, Volume Commitments, and pricing,). These operational amendments will be enacted through (1) an updated version of the relevant Schedule(s) which is signed by an Authorized Officer of each Party and which is effective as of the date stated therein, or (2) an approval by the Authorized Officer of each Party in the Global Fund's digital platform of the revised Schedule(s) or items contained in the Schedules; the approval of both Parties will constitute a legally binding agreement of the changes to the Agreement. The Supplier may be authorized to propose any revision to the Schedules or items contained in the Schedules directly into the Global Fund's digital platform; in such a case, the change request and subsequent electronic approval by the Global Fund of such change request, will constitute a legally binding agreement of the changes.

17.1.2 *Contractual amendments* are amendments to the body of this Agreement and to Annexes 1 to 6. They will be enacted through a formal amendment to the Agreement which is signed by an Authorized Officer of each Party, effective as of the date stated therein, under the conditions of Section 19.16.

18. GOVERNING LAW AND DISPUTE RESOLUTION

18.1 Governing Law. Any matter relating to the interpretation or application of this Agreement which is not covered by its terms shall be resolved by reference to the UNIDROIT Principles of International Commercial Contracts (2016).

18.2 Executive Resolution. If any dispute, controversy or claim arises out of or in connection with this Agreement, including the breach, termination or invalidity thereof, the Parties agree that before submitting such dispute to arbitration as set out in Section 18.3 below, Representatives of each Party shall, for a period of thirty (30) calendar days after such dispute is formally submitted to either of such Representatives in writing, attempt in good faith to negotiate the resolution of the dispute.

18.3 Arbitration. Subject to Section 18.2 above, all disputes shall be finally settled by arbitration under the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules in force at the time of the Dispute. There shall be one arbitrator. The appointment authority for such arbitrator shall be the International Chamber of Commerce International Court of Arbitration. The place of arbitration shall be Geneva, Switzerland. The language to be used in the arbitral proceedings shall be English. The Parties shall accept the arbitral award as final.

19. GENERAL

19.1 Relationship of the Parties. The relationship of the Global Fund and the Supplier established by this Agreement is that of independent contractors, and nothing contained herein shall be construed to:

19.1.1 give either Party any right or authority to create or assume any obligation or make any representation of any kind on behalf of the other; or

19.1.2 constitute the Parties as partners, joint venture participants, fiduciaries, co-owners or otherwise as participants in a joint or common undertaking.

19.2 Further Assurances. Each of the Parties shall perform (or procure the performance of) all further acts and things and execute and deliver (or procure the execution and delivery of) such further documents, as may be required by law or as may be necessary or reasonably required to implement and give effect to this Agreement.

19.3 Performance by Affiliates. Each of the Supplier and the Global Fund acknowledges that certain obligations of the Supplier under this Agreement may be performed by Affiliates of the Supplier. The Supplier shall inform the Global Fund of any Affiliates (including subcontractors) performing obligations under this Agreement. Global Fund reserves the reasonable right to object to the use of any Affiliate. The Supplier shall remain responsible for the performance of its obligations under this Agreement, including performance by any of its Affiliates of such obligations. Any Affiliate of the Supplier which performs any of the Supplier's obligations under this Agreement will be deemed to have accepted and be bound by the relevant terms and conditions of this Agreement, including, without limitation, the dispute resolution procedures set out in Section 18.

19.4 No Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the Parties hereto, their Affiliates and their respective successors and permitted assigns. Except as otherwise stated in this Agreement, nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever.

19.5 Entire Agreement. It is the mutual desire and intent of the Parties to provide certainty as to their respective future rights and remedies against each other by defining the extent of their mutual undertakings as provided herein. The Parties have, in this Agreement (including the Schedules), incorporated all representations, warranties, covenants, commitments and understandings on which they have relied in entering into this Agreement, and, except as provided for herein, neither Party makes any covenant or other commitment to the other concerning its future action. Accordingly, this Agreement (including the Schedules):

19.5.1 constitutes the entire agreement and understanding between the Parties with respect to the subject matter and there are no promises, representations, conditions, provisions or terms related thereto other than those set out in this Agreement; and

19.5.2 supersedes all previous understandings, agreements, and representations between the Parties, written or oral.

19.6 Assignment. Except with the prior written consent of the Global Fund, the Supplier shall not assign, transfer, charge, or otherwise deal with all or any of its rights under this Agreement. Any attempted assignment in violation of this Section 19.6 shall be null and void and of no effect. No assignment shall relieve the assigning Party of its obligations hereunder.

19.7 Severability. Each of the provisions of this Agreement is severable. If any such provision is deemed invalid or unenforceable by applicable law, it shall have no effect in that respect, the Parties shall use all reasonable endeavors to replace it in that respect with a valid and enforceable substitute provision the effect of which is as close to its intended effect as possible, and any such invalidity, in whole or in part, will not affect the validity of any other of its provisions.

19.8 No Waiver of Privileges and Immunities. Nothing in or related to this Agreement may be construed as a waiver, express or implied, of the privileges and immunities accorded to the Global Fund under (i) international law, including international customary law, any international conventions, treaties or agreements, (ii) any national laws, including but not limited to the United States of America's International Organizations Immunities Act (22 United States Code 288), (ii) the Headquarters Agreement between the Global Fund and the Swiss Federal Council dated 13 December 2004, or (iv) the Agreement on Privileges and Immunities of the Global Fund to Fight AIDS, Tuberculosis and Malaria.

19.9 Conflict with other Agreements. If there is any conflict between the terms of this Agreement and any other agreement, including the Supplier Purchase Order, this Agreement shall prevail unless both Parties are either also parties to that other agreement or otherwise expressly agree in writing that such other agreement shall override this Agreement in that respect.

19.10 Authorized Officer. The Supplier represents that the following person(s) (each an ***Authorized Officer***) are authorized to both (i) execute this Agreement (including any modification or amendment thereto), and (ii) give notices under this Agreement, for and on behalf of the Supplier:

[Mr] [Ms] [Name], [Title]

19.11 Notices.

19.11.1 Any notice in connection with this Agreement shall be in writing in English and delivered by hand, registered post or courier using an internationally recognized courier company. A notice shall be effective upon receipt and shall be deemed to have been received at the time of delivery, if delivered by hand, registered post or courier.

19.11.2 If notices are given by the Supplier by email, the Supplier must deliver the original notice to the Global Fund as described above and agrees to keep the Global Fund indemnified against any direct loss of any nature whatsoever arising to the Global Fund as a result of acting upon email instructions. The Global Fund may rely conclusively and shall incur no liability in respect of any action taken upon any notice, consent, request, instructions or other instrument believed in good faith to be genuine or to be signed by an Authorized Officer (as defined above) or other properly authorized person on behalf of the Supplier.

19.12 Address Details. The addresses of the Parties for the purpose of Section 19.11 are as set out below, unless altered by written notice to the other Party in accordance with the terms of this Agreement:

The Global Fund	**Address:** The Global Fund to Fight AIDS, Tuberculosis and Malaria Chemin du Pommier 40, 1218 Le Grand-Saconnex, Geneva, Switzerland For the attention of: Head, Supply Operations Department And a copy to: General Counsel	**Telephone:** Tel: + 41-58-791-1700
The Supplier	**Address:** [●] For the attention of: [●] And a copy to [●]	**Telephone:** Tel: [●]

19.13 Failure to Exercise. No failure or delay by either Party in exercising any right or remedy provided by law or under this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any further exercise of it or the exercise of any other remedy. Remedies provided herein are cumulative and not exclusive of any remedies provided at law.

19.14 Interpretation. The following rules apply to this Agreement:

19.14.1 References to:

a) Sections, Annexes or Schedules are, unless otherwise specified, references to sections of, and annexes or schedules to, this Agreement;

b) any statutory or other legislative provision shall be construed as including any statutory or legislative modification or re-enactment thereof, or any provision enacted in substitution therefor;

c) any agreement or instrument shall include such agreement or instrument as it may from time to time be amended, supplemented or substituted;

d) references to dollars, US dollars, USD or $ are references to the lawful currency from time to time of the United States of America;

e) the words “includes” and “including” shall be construed without limitation; and

f) month are references to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month (and references to “months” shall be construed accordingly) or, if there is no such numerically corresponding day in that month, ending on the last day of that month;

19.14.2 headings are for ease of reference only; and

19.14.3 where the context so admits, words importing the singular number only shall include the plural and vice versa, and words importing neuter gender shall include the masculine or feminine gender.

19.15 Costs. Except as otherwise provided in this Agreement, each Party shall be responsible for its own costs, charges and other expenses (including all legal, accounting and other advisory fees) incurred in connection with the negotiation, execution and performance of this Agreement, including any such expenses incurred by their Affiliates.

19.16 Counterparts. This Agreement may be executed in any number of counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of an executed counterpart signature page of this Agreement by email (as a PDF attachment) shall be as effective as delivery of a manually executed counterpart of this Agreement. The Parties also recognize electronic signature of this Agreement as valid and as having the same legally binding effect as signature in any other manner described herein.

[*Remainder of page intentionally left blank. Signatures follow.*]

IN WITNESS WHEREOF, the Global Fund and the Supplier have caused this Agreement to be executed by their respective officers thereunto duly authorized.

Executed for and on behalf of the Global Fund to Fight AIDS, Tuberculosis and Malaria:	**Executed for and on behalf of (Supplier)**
Signature: _____	Signature: _____
Hui Yang: _____	Name: _____
Head, Supply Operations Department: _____	Title: _____
Date: _____	Date: _____

SCHEDULE A

Covered Products, Covered Product Manufacturing Locations

FOR AMENDMENTS:

Amendment to Schedule A Number ……
Agreed between the Parties

For the Global Fund	For the Supplier
Signed……..	Signed…….
Name……	Name……

This amendment replaces any previous versions of Schedule A

SCHEDULE B

Pricing

FOR AMENDMENTS:

Amendment to Schedule B Number ……
Agreed between the Parties

For the Global Fund For the Supplier

Signed……..
Signed…….

Name……
Name……

This amendment replaces any previous versions of Schedule B

SCHEDULE C

Allocated and Committed Volumes

FOR AMENDMENTS:

Amendment to Schedule C Number ……
Agreed between the Parties

For the Global Fund	For the Supplier
Signed……..	Signed…….
Name……	Name……

This amendment replaces any previous versions of Schedule C

ANNEX 1
Special Conditions for Participation to the Co-Payment Mechanism

THIS ANNEX 1 ONLY APPLIES TO THE SUPPLIER TO THE EXTENT COVERED PRODUCTS INCLUDE ARTEMISININ-BASED COMBINATION THERAPIES AND THE SUPPLIER PARTICIPATE TO THE CO-PAYMENT MECHANISM

Part 1: Co-Payment Mechanism Eligibility, Packaging, Labelling and Quality Assurance Requirements

1.1 Scope of this Section. In addition to the requirements of Section 4, the provisions of this Annex 1 apply to Covered Products procured pursuant to this Agreement through the Co-Payment Mechanism.

1.2 Shelf Life. Covered Products shall comply with the Shelf Life requirements of the relevant First Line Buyer as agreed between the Supplier and the First Line Buyer and as specified in the relevant order. The Supplier guarantees that Covered Products supplied under this Agreement will retain full Shelf Life if stored in a dry space, protected from light and at storage temperatures conforming to the Covered Product requirements.

1.3 Packaging. Each primary or secondary packaging shall include a Co-Payment Mechanism tracking mark (barcode, symbol or numerical code), as mutually agreed between the Global Fund and the Supplier (the ***Co-Payment Mechanism Tracking Mark***).

1.3.1 The Supplier shall ensure the readability and usefulness of packaging, instructions and any patient leaflets included with the packaging and labelling of the Covered Products.

1.3.2 The Supplier shall ensure that primary and secondary packaging of each Covered Product is marked with the Co-Payment Mechanism Logo in accordance with the terms of the license granted by the Global Fund to the Supplier to use the Co-Payment Mechanism Logo under this Agreement.

1.4 First Line Buyer Customization and Packaging Requirements. In accordance with Section 4 and this Annex 1, the Supplier may prepare packaging and labelling of the Covered Products as agreed upon between the First Line Buyer and Supplier, accounting for any special requirements of the First Line Buyer (if any). All such special requirements shall be at the cost of the First Line Buyer, and the Global Fund shall not be responsible for any additional costs associated with such special requirements.

1.5 First Line Buyer Quality Control.

1.5.1 *Process*: The Supplier shall provide, upon request by the First Line Buyer, samples of any Covered Products ordered under this Agreement to the First Line Buyer or an authorized representative of the First Line Buyer for the purpose of having quality control tests of such Covered Products undertaken at:

a) NDRA laboratories or NDRA Recognized Laboratories (provided that such laboratory is either pre-qualified by the WHO Prequalification Program or accredited in accordance with the ISO/IEC 17025 standard);

b) WHO Prequalified Program laboratories; or

c) Global Fund contracted laboratories.

1.5.2 *Confidentiality*: The Supplier acknowledges that any laboratory engaged in accordance with this Annex 1 Section 1.5 shall, in accordance with standard industry practice or as otherwise agreed between the Supplier and the First Line Buyer, be under a duty of confidentiality and non-disclosure in relation to any Confidential Information belonging to the Supplier.

1.5.3 *Costs*: Responsibility for any costs incurred in conducting quality control testing pursuant to this Annex 1 Section 1.5 shall be determined by prior written agreement between the First Line Buyer and the Supplier.

1.6 Global Fund Quality Control.

1.6.1 *Acknowledgement*: The Supplier acknowledges that the Global Fund is entitled to conduct, through an engaged laboratory, a randomized quality control testing of all Covered Products prior to shipping of the Covered Products.

1.6.2 *Samples*: The Supplier shall promptly provide, upon request by the Global Fund, samples of any Covered Products ordered under this Agreement to the Global Fund or its authorized representative for the purpose of having quality control tests of such Covered Products undertaken at an independent laboratory engaged by the Global Fund. When the Supplier informs the Global Fund that a quantity of co-paid products of an order confirmed for co-payment (whether in its entirety or in part) is ready for shipment, the Global Fund will notify the Supplier if the Covered Products to be supplied under the related Supplier Purchase Order will be subject to sampling and testing. The Supplier shall promptly notify the First Line Buyer of any quality control testing required by the Global Fund and inform the First Line Buyer and the Global Fund about any changes to the time schedule for delivering the Covered Products, taking into consideration the period of quality control testing and issuance of the results, to the extent that such information is provided to the Supplier.

1.6.3 *Transport conditions*: The Supplier shall ensure that Covered Products will only be transported in accordance with the terms of the relevant Supplier Purchase Order and related Confirmation of Co-Payment after receiving written approval from the Global Fund Quality Assurance Officer (or his/her designee) in consideration of the status of quality control procedures.

1.6.4 *Confidentiality*: The Global Fund notes that any laboratory engaged in accordance with this Annex 1 Section 1.6 shall be under a duty of confidentiality and non-disclosure in relation to any Confidential Information belonging to the Supplier.

1.6.5 *Costs*: The Host Country shall be responsible for the payment of any costs incurred in the pre-shipment inspection, batch sampling, and/or quality control testing of the Covered Product.

1.7 Quality Problems.

1.7.1 If a Covered Product is found to be a Defective Product following quality control testing pursuant to this Annex 1 Section 1.6, the engaged laboratory shall perform an investigation in relation to the batch of Defective Product to confirm that there has been no laboratory testing error.

1.7.2 Following an investigation in accordance with this Annex 1 Section 1.7.1, if a determination is made by such laboratory that such Covered Product is a Defective Product, the Global Fund shall notify the Supplier of that determination by issuing a notice to the Supplier (a ***Non-Compliance Notice***).

1.7.3 Within five (5) calendar days of the date of issue of the Non-Compliance Notice (or such later date agreed by the Global Fund) (the ***Supplier Response Date***), the Supplier shall notify the Global Fund by delivering a notice (a ***Supplier Election***) to the Global Fund indicating whether or not the Supplier has elected to:

a) replace the Defective Product in accordance with this Annex 1 Section 1.7.6. If the Supplier fails to provide a Supplier Election by the Supplier Response Date, then it shall be deemed that the Supplier has irrevocably elected to replace the Defective Product in accordance with Section 1.7.6; or

b) dispute the Non-Compliance Notice.

1.7.4 If the Supplier elects to dispute the Non-Compliance Notice in accordance with this Annex 1 Section 1.7.3.b, then the Supplier shall provide, within seven (7) calendar days of the date of the Supplier Election (or such later date agreed by the Global Fund) to the Global Fund and the engaged laboratory, an investigation report conducted solely by the Supplier in relation to the compliance of the Covered Product (a ***Supplier Investigation Report***).

1.7.5 If the finding of the Supplier Investigation Report is that the Covered Product is in compliance, the same sample of Covered Product shall be re-tested, by the same laboratory as referred to in this Annex 1 Section 1.6, and if reasonably requested by the Supplier and agreed by the laboratory, such re-testing shall occur in the presence of the Supplier or its Representative. If the result of such re-testing is that the laboratory determines that the Covered Product is a Defective Product, then such determination shall be conclusive and binding on each Party, and the Supplier must replace the Defective Product in accordance with this Annex 1 Section 1.7.6.

1.7.6 If the Supplier has elected, is deemed to have elected, or is required to replace a Defective Product, the Supplier shall within a reasonable period replace the Defective Product without cost to the First Line Buyer or the Global Fund. The Supplier shall inform the Global Fund and the First Line Buyer promptly upon completing such replacement.

1.7.7 The Global Fund reserves the right to withhold payment of the Co-Payment Amount (or any other costs incurred pursuant to the terms of this Agreement) to the Supplier if the Covered Product in question is determined to be a Defective Product or is subject to a dispute concerning quality control tests.

1.7.8 The Global Fund Quality Assurance team may assist with the resolution of any dispute relating to Global Fund quality control test results.

1.7.9 In the event that a quality control test conducted pursuant to this Section 1.7 results in a finding of non-compliance, the First Line Buyer and the Supplier shall resolve the matter in accordance with such procedure as agreed between the First Line Buyer and Supplier and set out in the Supplier Purchase Order.

1.8 Disclosure of Test Results. The Global Fund may disclose the results of quality control test results to any person or the public after it has notified the Supplier of the results and the Supplier has either not elected to dispute the results, or any such dispute has been resolved. The Global Fund is not liable for any loss, cost, expense or liability incurred by the Supplier as a result of such disclosure, but undertakes that such disclosure will in all instances be conducted in conformity with the applicable internal policies and procedures of the Global Fund.

Part 2. Co-Payment Mechanism Logo License: Grant, Terms, and Conditions On Use

2.1 Grant of License. For the purpose of this Agreement, the Global Fund hereby grants to the Supplier a non-exclusive, royalty-free, revocable, non-sublicensable (except in accordance with these terms and conditions), non-transferable license during the Term to use the Co-Payment Mechanism Logo on and in relation to the Covered Products supplied under this Agreement in the Host Countries through the Co-Payment Mechanism, subject to the terms of this Agreement.

2.2 Sublicense. The Supplier shall be entitled to sublicense the Co-Payment Mechanism Logo to its Affiliates if and only to the extent that such Affiliates are directly involved in the manufacture or supply of Covered Products under this Agreement and provided that: (i) such Affiliates agree to be bound by the terms of the license granted under this Agreement; and (ii) the Supplier shall remain liable for the acts and omissions of its Affiliates in regard to their conduct and use of the Co-Payment Mechanism Logo.

2.3 Conditions. The Supplier shall comply, and shall ensure that its Affiliates comply, with the Conditions On Use. Prior to their first distribution, the Supplier shall provide the Global Fund with samples of all Covered Products and materials (including any advertising, marketing, or promotional materials) on or in relation to which the Co-Payment Mechanism Logo is used for written approval by the Global Fund.

2.4 Scope. The license granted herein shall not be construed as conferring any right, title, or interest in or to the Co-Payment Mechanism Logo (other than the license and right to use the Co-Payment Mechanism Logo in accordance with this Agreement). All rights in and to the Co-Payment Mechanism Logo which are not expressly granted to the Supplier under this Agreement are and shall be reserved to the Global Fund.

2.5 Supplier Logo Requirements. The Supplier shall not sell, distribute, or otherwise dispose of any Covered Product and/or materials which the Global Fund determines do not comply with the license granted under this Agreement (including the Conditions On Use and Brand Guidelines).

2.6 Supplier Acknowledgements and Agreements with Respect to Co-Payment Mechanism Logo. The Supplier acknowledges and agrees that:

a) To the extent the license of the Co-Payment Mechanism Logo granted under this Agreement relates to territories in which the Global Fund has not registered the Co-Payment Mechanism Logo, the Global Fund only licenses the unregistered right, title and interest in the Co-Payment Mechanism Logo;

b) All intellectual property and other rights, title and interest and goodwill in the Co-Payment Mechanism Logo are the exclusive property of the Global Fund;

c) It shall not acquire, nor claim, any right, title or interest in or to any of the Co-Payment Mechanism Logo or the goodwill attaching to the Co-Payment Mechanism Logo by virtue of this Agreement or its use of the Co-Payment Mechanism Logo, other than the rights specifically granted to it under this Agreement;

d) All goodwill arising from use of the Co-Payment Mechanism Logo by the Supplier and/or any relevant sub-licensee before, during or after the Term shall accrue and belong and shall be assigned to the Global Fund, and the Supplier shall, at the Global Fund's request and cost, promptly execute all documents required by the Global Fund to confirm this;

e) The Co-Payment Mechanism Logo is valid and enforceable as between the Global Fund and the Supplier and it will not challenge or contest the Global Fund's ownership of the Co-Payment Mechanism Logo or challenge or contest the validity of the license granted under this Agreement; and

f) Upon expiration or termination of the license relating to the Co-Payment Mechanism Logo under this Agreement, the Supplier and/or any relevant sub-licensee shall retain no right, title, interest, or goodwill in or to the Co-Payment Mechanism Logo

2.7 Co-Payment Mechanism Logo Registration. The Global Fund shall be responsible, at its own discretion and cost, to obtain and/or maintain registrations for the Co-Payment Mechanism Logo in the Host Countries and other relevant jurisdictions. Nothing in this Agreement shall be construed so as to require the Global Fund to obtain and/or maintain registrations for the Co-Payment Mechanism Logo or any other trademarks. The Supplier shall, at the Global Fund's cost, provide all assistance (including preparing evidence of the Supplier's use of the Co-Payment Mechanism Logo) reasonably required by the Global Fund to enable the Global Fund to prepare, file and prosecute any new trademark applications for the Co-Payment Mechanism Logo in any jurisdiction.

2.8 Co-Payment Mechanism Logo Recordation. If this license of the Co-Payment Mechanism Logo to the Supplier is required to be recorded in any registry in any jurisdiction in which the Supplier is using the Co-Payment Mechanism Logo, the Global Fund shall be responsible and take all necessary steps required for the recordal of the license granted to it under this Agreement in any relevant registries in any relevant jurisdiction, once informed by the Supplier of the obligation to take such action. Any such recordal may be cancelled by the Global Fund on the termination or expiry of this Agreement. The Supplier shall assist the Global Fund at the Global Fund's cost as necessary to achieve such cancellation.

2.9 Verification. On reasonable prior notice from the Global Fund, the Supplier shall permit the Global Fund (or its nominated Representative) to enter the Supplier's premises to verify that the Supplier is complying with its obligations regarding the use of the Co-Payment Mechanism Logo and the license granted in relation to it under this Agreement (including the Conditions On Use and Brand Guidelines). Brand Guidelines will be provided by the Global Fund to the Supplier after confirmation of its participation to the Co-Payment Mechanism.

2.10 Termination of Logo. Upon expiry or termination of this Agreement and following any applicable termination period, the license of the Co-Payment Mechanism Logo by the Global Fund to the Supplier under this Agreement shall immediately cease, and the Supplier shall immediately: (i) cease all use of the Co-Payment Mechanism Logo; (ii) notify the Global Fund of the total inventory of Covered Products bearing the Co-Payment Mechanism Logo that have not been sold or committed, and not distribute or sell such inventory without the prior written consent of the Global Fund; and (iii) as may be requested by the Global Fund (at the expense of the Supplier), deliver to the Global Fund (or to any person nominated by the Global Fund) all materials, in electronic or hard copy form, under its control on which any of the Co-Payment Mechanism Logo has been used by the Supplier, and/or destroy or cause to be destroyed any such materials, and certify in writing to the Global Fund that this has been done.

2.11 Conditions On Use. The ***Conditions On Use*** of the Co-Payment Logo are that the Supplier shall, and shall ensure that its Affiliates shall:

a. use the Co-Payment Mechanism Logo only in a manner which conforms to these Conditions On Use, the Agreement and the Brand Guidelines and the reasonable directions and standards notified to it by the Global Fund from time to time. No other

use of the Co-Payment Mechanism Logo shall be made or permitted without the Global Fund's prior written approval;

b. ensure that all representations of the Co-Payment Mechanism Logo used are exact copies of those provided by the Global Fund, or shall be first submitted to the Global Fund for approval;

c. not use the Co-Payment Mechanism Logo on any product other than the Covered Products supplied under this Agreement;

d. consult with the Global Fund as to the form and content of all marketing, advertising and promotional materials in which the Co-Payment Mechanism Logo appears, and not use or distribute any of these materials unless the Global Fund has first approved them in writing;

e. include on all Covered Products and materials on which any of the Co-Payment Mechanism Logo appears a statement that the Co-Payment Mechanism Logo is owned by the Global Fund and, if applicable, is the registered trademark of the Global Fund, as specified further in the Brand Guidelines;

f. ensure that its use of the Co-Payment Mechanism Logo complies with all Applicable Laws, regulations and industry requirements and standards in force within the relevant Host Country and the countries of manufacture of the Covered Products, including those set forth by any competent national and/or international drug regulatory authority;

g. not use, register or attempt to register any trademarks or a company, business or trading names or domain names which are identical or similar to (or which incorporate) the Co-Payment Mechanism Logo, any aspect of it, or any other trademarks or trade names of the Global Fund, without the Global Fund's prior written consent;

h. not do anything which could, in the Global Fund's reasonable opinion, bring the Co-Payment Mechanism Logo, the Co-Payment Mechanism or the Global Fund into disrepute or which could otherwise damage, demean or dilute the Global Fund's interest in, or the goodwill attaching to, the Co-Payment Mechanism Logo or any other trademarks or trade names of the Global Fund;

i. not use the Co-Payment Mechanism Logo in a manner which could, in the Global Fund's reasonable opinion, result in any of them becoming generic or in the Global Fund's rights in them becoming diluted, or which could otherwise prejudice or invalidate a registration or application for registration of the Co-Payment Mechanism Logo or any other trademarks or trade names of the Global Fund; and

j. not without the Global Fund's prior written consent, directly or indirectly place the Co-Payment Mechanism Logo near or use the Co-Payment Mechanism Logo in conjunction with any other trademarks or trade names of the Global Fund, which may result in any person associating the Co-Payment Mechanism Logo with the Global Fund or any other trademarks or trade names of the Global Fund.

Part 3. Form of First Line Buyer Statement

3.1 For a First Line Buyer based in a Host Country:

The undersigned First Line Buyer confirms to the Global Fund that:

a) The First Line Buyer is based in a Host Country;

b) The First Line Buyer has all regulatory licenses, waivers, or other governmental approvals, if required and as relevant, to import, sell, market, store and distribute the Covered Products in a Host Country and that such licenses, waivers, and approvals are valid and in good order; and

c) The First Line Buyer has a currently valid, fully executed First Line Buyer Agreement with the Host Country Principal Recipient for the relevant Global Fund grant.

3.2 For a First Line Buyer that is not based in a Host Country but arranges the distribution and/or sale of the Products to any other person in a Host Country:

The undersigned First Line Buyer confirms to the Global Fund that:

a) The First Line Buyer is not based in a Host Country but arranges the distribution and/or sale of the Covered Products to any other person in a Host Country (that other person being a ***Second Line Buyer***);

b) The First Line Buyer has all regulatory licenses, waivers or other governmental approvals, if required and as relevant, to export or import the Covered Products to the relevant Host Country and all such licenses, waivers, and approvals are valid and in good order and the First Line Buyer has confirmation that the relevant Second Line Buyer in the Host Country has the necessary licenses, waivers, and governmental approvals, if required and as relevant, to import, export, store, sell, market, and distribute the Covered Products in the Host Country; and

c) The First Line Buyer has a currently valid, fully executed First Line Buyer Agreement with the Host Country Principal Recipient for the relevant Global Fund grant.

Part 4: Co-payment Mechanism Orders and Confirmation of Co-payment

4.1 Co-Payment Requests: Timing. Unless it communicates otherwise to the Supplier, the Global Fund will establish a Co-Payment Request submission deadline as early in each calendar year as possible, following confirmation from the Host Country on the parameters for the round. The Global Fund will inform the Supplier in writing or email no less than ten (10) calendar days in advance of each Co-Payment Request submission deadline, including the confirmed parameters for the round.

4.2 Co-Payment Requests: Supplier Documentation. For each Co-Payment Request that the Supplier submits, the Supplier shall provide by email to the Global Fund an electronic copy of each of the following:

4.2.1 A completed document (a ***Co-Payment Request***), which is the Supplier's completed version of a template Co-Payment Request prepared and provided to the Supplier by the Global Fund (and updated periodically by the Global Fund to reflect any revisions in Co-Payment Percentages) which specifies:

a) the agreed unit price (including the Minimum Packaging and Labelling Requirements in accordance with Section 4 and this Annex 1 but excluding any special customization and packaging required by the First Line Buyer) of each Covered Product for the relevant Product Formulation, dosage and form;

b) the International Nonproprietary Name (INN), Dosage Strength, Dosage Form, Formulation, Pack type (Individual) and quantity of each Covered Product proposed to be ordered by the First Line Buyer;

c) the First Line Buyer Information, including name and address, the Supplier Purchase Order Number, the First Point of Entry Address, and the Method of Shipment (i.e. whether Air, Sea or Overland).

d) for each Covered Product proposed to be ordered by the First Line Buyer, the total Co-Payment Amount for such Covered Product that would be payable by the Global Fund under the proposed Supplier Purchase Order (as automatically calculated on the Form based on the country where the First Line Buyer is based and the specific product information);

e) the total estimated reasonable shipping, carriage, insurance and related transportation costs (***Shipping and Insurance Costs***) to the First Point of Entry (entered on two separate lines on the Form labelled as "Freight" and "Insurance");

f) for each Covered Product proposed to be ordered by the First Line Buyer the cost of any special customization and packaging required by the First Line Buyer;

g) the total estimated Shipping and Insurance Costs from the First Point of Entry to the designated delivery point (if applicable); and

h) the Promised Delivery Date for delivery to the First Point of Entry and to the designated delivery point (if applicable), as agreed with the First Line Buyer;

4.2.2 A copy of the proposed Supplier Purchase Order from the First Line Buyer;

4.2.3 An executed statement from the First Line Buyer in favor of the Global Fund containing the relevant confirmations attached as Annex 1 Part 3, depending on whether the First Line Buyer is based in a Host Country or is not based in a Host Country, but arranges the distribution and/or sale of the Covered Products to any other person in a Host Country (a ***First Line Buyer Statement***) confirming that licenses, waivers and other approvals valid at the time of the signing of the First Line Buyer Agreement with the Host Country remain valid.

4.2.4 For the avoidance of any doubt, and notwithstanding the issue of a Confirmation of Co-Payment under this Annex 1 Section 4.2, the matters referred to in this Annex 1 Section 4.2.1 are only for the benefit and information of the Global Fund, and the Global Fund will not be liable or responsible in any way for these matters (including paying for them or procuring any of them), and the First Line Buyer(s) and Supplier are responsible to align the distribution of product formulations and the maximum quantity per First Line Buyer, according to the country demand levers, where applicable.

4.3 Global Fund's Acceptance of Co-Payment Requests.

4.3.1 The Supplier understands and acknowledges that the Global Fund will only accept a Co-Payment Request if all of the documents set out in this Annex 1 Section 4.2 have been received by the deadline established by the Global Fund and to the satisfaction of the Global Fund.

4.3.2 If the documents are not satisfactory, a rejection notification will be sent to the Supplier by email from the Global Fund together with details of the reasons for rejection.

4.3.3 At the Global Fund's request, the Supplier shall provide to the Global Fund by post a copy of all of the documents set out in this Annex 1 Section 4.2, until informed otherwise in writing by the Global Fund.

4.4 Global Fund's Confirmation of Co-Payment Requests.

4.4.1 *Decision:* Within thirty (30) calendar days after receipt by the Global Fund of the documents set out in this Annex 1 Section 4.2, the Global Fund shall provide by email to the Supplier notice confirming whether it:

a) has confirmed the Co-Payment Request and shall pay the specified Co-Payment Amount, and the Shipping and Insurance Costs, for the Covered Products in the Co-Payment Request (such confirmed Co-Payment Request, a ***Confirmation of Co-Payment***), upon receipt of an invoice and proof of delivery with the confirmation that the First Line Buyer took possession of the co-paid Covered Products within the relevant grant implementation period; or

b) has confirmed a revised Co-Payment Request (e.g., revised quantities) requiring that the Supplier re-submit a revised Co-Payment Request Form with a Supplier Purchase Order and First Line Buyer Statement;

c) is exercising its sole discretion to reject the Co-Payment Request; or

d) requires additional time for communications with the Principal Recipient before being able to communicate the decision of a, b or c above.

4.4.2 *Global Fund's Discretion*: The decision whether or not to confirm a Co-Payment Request shall be made by the Global Fund in its sole discretion, with input from the relevant Principal Recipient. Such decision may be based on factors including Supplier eligibility, product eligibility, First Line Buyer eligibility, the availability of funds and any other factors that the Global Fund and Principal Recipient deem relevant.

4.5 Duration of Purchase Order. In order to be eligible for a Confirmation of Co-Payment, the duration of the proposed Supplier Purchase Order shall not exceed eleven (11) months, unless otherwise granted in writing by the Global Fund.

4.6 Supply of Products. For each Supplier Purchase Order concluded between the Supplier and a First Line Buyer, the Supplier shall arrange the supply and delivery of Covered Products to the relevant First Line Buyer in accordance with the terms and conditions of this Agreement, the Supplier Purchase Order, and the related Confirmation of Co-Payment.

4.7 Sales Pursuant to Co-Payment Mechanism Terms and Conditions. All purchases of Covered Products by First Line Buyers from the Supplier pursuant to this Agreement shall be pursuant to and under the Co-Payment Mechanism Terms and Conditions (Part 5).

Part 5: Co-Payment Mechanism Terms and Conditions

All purchases of Covered Products by First Line Buyers from the Supplier shall be pursuant to and under these Co-Payment Mechanism Terms and Conditions

1. INSURANCE AND DELIVERY TERMS

1.1 Insurance. The amount of coverage for insurance of the Covered Products ordered under a Supplier Purchase Order that must be arranged by the Supplier shall be for an amount of loss and damage at least 110% of the total FOB or FCA Unit price, as the case may be, specified in the Supplier Purchase Order and related Confirmation of Co-Payment. Coverage shall be from the Supplier's facility in the country of manufacture to the designated delivery point specified in the Supplier Purchase Order and related Confirmation of Co-Payment. At least until and including the First Point of Entry, the relevant insurance policy shall be in favour of the Supplier as the insured and the relevant Buyer and the Global Fund as co-beneficiaries. From the First Point of Entry to the designated delivery point, the relevant insurance policy shall be on such terms as mutually acceptable to the Supplier and the Buyer.

1.2 Reasonable Shipping and Insurance Charges.

(a) The Supplier agrees to make all its reasonable commercial endeavours to secure best market prices on arms' length terms from reputable carriers and insurers for Shipping and Insurance Costs relating to transport or transfer of the Covered Products, which meet the requirements of the Buyers and are consistent with customary and appropriate international practices and standards and this Agreement.

(b) If, at any time during the performance of this Agreement, the Global Fund, in its sole discretion, determines the Shipping and Insurance Costs set out in an applicable Co-Payment Request to be in excess of customary and appropriate market norms for such services or otherwise not in accordance with Section 1.2 (a) of this Annex 1 Part 5, the Global Fund shall notify the Supplier and the Supplier shall use all its reasonable commercial endeavours to negotiate better terms for Shipping and Insurance Costs.

(c) The Global Fund reserves the right to refuse to confirm a Co-Payment Request if it believes the estimated prices for Shipping and Insurance Costs of the Covered Products are unreasonable or not in accordance with this Section 1.2.

1.3 Increased Shipping and Insurance Costs. If actual Shipping and Insurance Costs are expected to exceed the initially estimated costs specified in the Confirmation of Co-Payment by more than 10%, the Supplier shall obtain reconfirmation from the Global Fund for such costs before incurring the expenditure. In such instances, the Global Fund will confirm to the Supplier in writing within ten (10) calendar days' after receipt of notice from the Supplier of such increased costs whether or not it will accept the cost increase for Shipping and Insurance Costs for the relevant Confirmation of Co-Payment.

1.4 Delivery.

(a) The Supplier shall be responsible for arranging shipping and insurance to the Buyer's designated delivery point specified in the relevant Supplier Purchase Order and related Confirmation of Co-Payment. Delivery shall be effected by the Supplier on the due date specified in the relevant Supplier Purchase Order and related Confirmation of Co-Payment. The Global Fund agrees to pay for such Shipping and Insurance Costs to the First Point of Entry. The Supplier acknowledges, and shall ensure that the Buyer is aware, that the Global Fund is not responsible for any costs and liability for the delivery of the Covered Products from the First Point of Entry to the designated delivery point.

(b) Deliveries of Covered Products shall be made in accordance with the delivery schedule set out in the relevant Supplier Purchase Order and related Confirmation of Co-Payment provided in accordance with Annex 1 & Part 4. For the avoidance of doubt, the Supplier shall not make deliveries of Covered Products in advance of the delivery schedule set out in such Supplier Purchase Order and related Confirmation of Co-Payment without the prior written approval of the Buyer.

1.5 Title and Risk of Loss or Damage. Title to Covered Products, and risk of loss or damage to Covered Products, supplied under this Agreement shall pass to the Buyer upon the terms agreed between the Buyer and Supplier in the relevant Supplier Purchase Order, provided that, when title to Covered Products supplied under this Agreement passes to the Buyer, such title is good and clear title to the Covered Products, free of all security interests (including liens, encumbrances and retention of title arrangements). The Supplier shall ensure that the terms of the shipping and transfer of title of Covered Products and related insurance are consistent with this Section 1.5 and the other terms of the Agreement.

1.6 Late Delivery. The Supplier shall be solely responsible for any delays, loss or damage of the Covered Products that occur during transit to the First Point of Entry. Responsibility and liability for delay, loss or damage of the Covered Products which occurs during storage at the First Point of Entry or transit from the First Point of Entry to the designated delivery point shall be as agreed between the Supplier and the Buyer in the relevant Supplier Purchase Order. If the Covered Products are not delivered to the First Point of Entry in a timely manner in all respects in accordance with the relevant Supplier Purchase Order and related Confirmation of Co-Payment, the Supplier shall reimburse the Buyer and the Global Fund for any loss or expense incurred by the Buyer and the Global Fund that may result. If delivery of Covered Products to the First Point of Entry is not completed by the required date, due to any default or delay of the Supplier (including any default by the Supplier's sub-contractors or freight forwarders), the Global Fund shall be entitled to deduct from payments otherwise due to the Supplier additional costs (if any) of sampling, testing, and inspection caused by such default or delay. If the Covered Products are not delivered to the First Point of Entry within the relevant grant implementation period, the Global Fund shall not process the Co-Payment and the Supplier may only receive the First Line Buyer portion of the Co-Payment.

1.7 Clearance, Customs and Documentation.
(a) Unless otherwise agreed with the Buyer, the Supplier shall be responsible for all customs and transport clearances for delivery to and including the First Point of Entry and for all costs and risks relating to payment of all Taxes and other official charges assessed on exportation from the country of manufacture and shipment. The Supplier acknowledges, and shall ensure that the Buyer is aware that, the Global Fund is not responsible for any customs and transport clearances for the delivery of the Covered Products from the First Point of Entry to the designated delivery point.

(b) The Supplier shall provide to the Buyer, prior to delivery of Covered Products, all documents required for importation and customs clearance of those Covered Products (e.g. airway bills, bills of lading, packing lists, certificates of analysis, the relevant WHO or SRA GMP Requirements certification of the manufacturer, certificate of origin, and any other required documents).

(c) The Supplier acknowledges that the Buyer shall be responsible for, and shall ensure that the Buyer is aware that the Buyer is responsible for (unless otherwise agreed between the Buyer and the Supplier as stated in the applicable Purchase Order):

(i) obtaining all necessary licenses, approvals, permits and other authorisations (including national requirements for legalisation of documents) from the relevant national authorities of the relevant countries;

(ii) notwithstanding Section 1.7(a) of this this Annex 1 Part 5, effectuating the required customs clearance; and

(iii) paying all fees, levies, demurrage charges, local tariffs, duties and other Taxes required in connection with the importation of Covered Products.

The Supplier shall provide all reasonable assistance towards performance of the Buyer's responsibilities referred to in this Section 1.7(c).

(d) The Supplier acknowledges, and shall ensure that the Buyer is aware, that the Global Fund shall not be responsible for any customs clearance and shall not be responsible for any duties, excises, tariffs or other similar Taxes in relation to the supply or delivery of any Covered Product under this Agreement.

1.8 Responsibility. The Supplier shall ensure that agreement is reached with the Buyer and specified in the relevant Supplier Purchase Order regarding responsibility for the costs, liabilities and delivery of the Covered Products from the First Point of Entry to the designated delivery point (if applicable), and customs clearance, duties, excises, tariffs and other similar Taxes in relation to the supply and delivery of Covered Products under such Supplier Purchase Order.

2. PRICING TERMS, INVOICING AND PAYMENT

2.1 Pricing Terms. The Global Fund shall pay to the Supplier the relevant Co-Payment Amounts and the related Shipping and Insurance Costs for each Unit of the Covered Product(s) supplied as specified in the applicable Confirmation of Co-Payment in accordance with this Agreement.

2.2 Invoicing. The Supplier shall separately invoice the Buyer and the Global Fund.

(a) The Supplier's invoice to the Global Fund shall include the following information:

(i) the Supplier's name, invoice date and delivery date;

(ii) Confirmation of Co-Payment number;

(iii) description of the Covered Products delivered;

(iv) applicable FOB or FCA Unit price, as the case may be, quantity delivered and total price (consistent with the Confirmation of Co-Payment);

(v) total Co-Payment Amounts due;

(vi) actual Shipping and Insurance Costs (separately itemised on one invoice); and

(vii) the Supplier's certification that the invoice is correct.

The invoice to the Global Fund shall be in a form acceptable to the Global Fund (as determined in the Global Fund's sole discretion) and all currency amounts shall be expressed in US dollars. At the Global Fund's request, the Supplier will provide additional supporting information (including, packing lists and carrier or insurance invoices indicating the actual carriage and insurance costs incurred).

(b) The Supplier's invoice to the Buyer may take any form agreed between the Supplier and the Buyer but shall include, at a minimum, the following information: (i) the portion of the FOB or FCA Unit price, as the case may be, payable by the Buyer; (ii) the cost of any special customisation and packaging required by the Buyer (if applicable); (iii) customs

and other Taxes payable by the Buyer (if applicable); and (iv) the actual cost of delivery from the First Point of Entry to the designated delivery point (if applicable). Upon the Global Fund's request, the Supplier shall provide to the Global Fund a copy of any invoice issued to the Buyer in respect of a Supplier Purchase Order made under this Agreement.

2.3 Submission of Invoices. The Supplier shall submit to the Global Fund an electronic copy of each invoice to the Global Fund (in accordance with the requirements of Section 2.2 of this this Annex 1 Part 5) together with proof of delivery of the Covered Products (in a form satisfactory to the Global Fund) including a statement by the First Line Buyer confirming that the First Line Buyer took possession of the goods within the grant implementation period. The submission shall be made through the Global Fund's iSupplier portal (details of which will be provided by the Global Fund to the Supplier). The Global Fund shall have the right to also request that the Supplier provide a copy of all such documents to the Global Fund, which upon that request, shall be promptly sent by the Supplier by post to the following address:

The Global Fund to Fight AIDS, Tuberculosis and Malaria
Financial Services Department
Chemin du Pommier, 40
1218 Grand-Sacconnex, Geneva
Switzerland

2.4 Global Fund Payment Terms.

(a) For each Confirmation of Co-Payment, the Global Fund shall promptly review invoices and supporting documentation submitted with the invoice to determine whether they are consistent with the Confirmation of Co-Payment (including any further approval granted by the Global Fund, such as in relation to increased Shipping and Insurance Costs). Provided that the Global Fund determines that the Supplier's invoice is acceptable and that the required supporting documents are in order, including the proof that the First Line Buyer took possession of the goods within the relevant grant implementation period,the Supplier's invoice shall be paid by the Global Fund within thirty (30) calendar days of the Global Fund's receipt of the Supplier's invoice and proof of delivery of Covered Products.

(b) Invoices determined not to be consistent with the Confirmation of Co-Payment or any relevant approvals due to the existence of deficiencies will be returned to the Supplier within fourteen (14) calendar days after submission, with major deficiencies noted for correction. In the event that an invoice is submitted which is partly proper and partly not proper, the Global Fund 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.

(c) Payment by the Global Fund to the Supplier in connection with any Covered Products will not constitute and will not be deemed as being acceptance of the Covered Products by the Global Fund and/or the Buyer.

2.5 Currency. All pricing, payments, credits, allowances and other monetary adjustments under this Agreement, including payments made by or to a party under this Agreement in connection with a Co-Payment Request and related Confirmation of Co-Payment, will be in US dollars. The Supplier acknowledges that all payments due from the Global Fund under this Agreement shall be made from Switzerland.

2.6 Buyer Rebate. To the extent that the Supplier, for any reason, provides a partial or complete refund, discount, rebate or other related amount to the Buyer in respect of any Covered Products supplied under this Agreement, the Supplier shall promptly notify the Global Fund and refund to the Global Fund a *pro rata* amount representing the portion of the Co-Payment Amounts and Shipping and Insurance Costs paid by the Global Fund for such Covered Products.

2.7 Right of Set-off. To the extent that this Agreement provides for the Supplier to pay any refund or other amount to the Global Fund, the Global Fund shall have the right, in its sole discretion, to require the Supplier to provide prompt payment of such amount or elect to offset such amount against future payments to be made by the Global Fund to the Supplier. All refunds and other payments from the Supplier to the Global Fund shall be free from set-off or any other deductions made by the Supplier.

3. ACCEPTANCE, DEFECTIVE AND NON-CONFORMING PRODUCTS

3.1 Acceptance. The Supplier agrees that the Buyer shall have reasonable time after receipt of the Covered Products at the designated delivery point, as agreed upon between the Supplier and Buyer, to inspect (such inspection including visual inspection, quality control, inventory or otherwise) the Covered Products and to accept the Covered Products delivered or to refuse acceptance of Defective or Non-Conforming Products. Acceptance of Covered Products by the Buyer will follow inspection (such inspection including visual inspection, quality control, inventory or otherwise) and confirmation that the Covered Products delivered conform to the requirements of this Agreement, the relevant Supplier Purchase Order and the related Confirmation of Co-Payment.

3.2 Rejection and Cure. The Supplier acknowledges to the Global Fund that if a shipment of Covered Products or any portion of a shipment of Covered Products does not conform in all respects to the requirements of this Agreement, the relevant Supplier Purchase Order and related Confirmation of Co-Payment (including, the warranties specified in Section 14 of the Agreement) at any time during the relevant warranty period for such Covered Products, then the Buyer shall have the right, subject to any procedures required in Annex 1 Sections 1.5, 1.6 and/or 1.7 (if applicable) and any other procedures agreed between the Supplier and the Buyer in the relevant Supplier Purchase Order:

(a) to reject Defective or Non-Conforming Products and require a full refund;

(b) to reject the Defective or Non-Conforming Products and require prompt replacement at the Supplier's sole expense (including further shipping and insurance costs); or

(c) to retain the Defective or Non-Conforming Products at an equitably adjusted price.

3.3 Return of Defective or Non-Conforming Products. Defective or Non-Conforming Products may be held for the Supplier's disposition or may be returned by the Buyer to the Supplier, at the Supplier's expense.

3.4 Notice. The Supplier shall notify the Global Fund in writing promptly following receipt by the Supplier of notice from the Buyer of rejection of any Covered Products supplied under this Agreement, detailing the reasons for the rejection and the cure option selected by the Buyer.

3.5 Refund. If the Buyer opts to reject the Defective or Non-Conforming Products and require a full refund, then the Global Fund shall not be required to pay to the Supplier any amounts for such Defective or Non-Conforming Products under the relevant Confirmation of Co-Payment or, if the Global Fund has already made payment under the relevant Confirmation of Co-Payment, the Supplier shall reimburse to the Global Fund the full amount of the Co-Payment Amounts made in respect of such Defective or Non-Conforming Products together with a proportionate amount of the Shipping and Insurance Costs. If the Buyer opts to retain the Defective or Non-Conforming Products at a reduced price, the Co-Payment Amounts and Shipping and Insurance Costs due in respect of such Defective or Non-Conforming Products shall be reduced by a proportionate amount or, if the Global Fund has already made payment under the relevant Confirmation of Co-Payment, the Supplier shall reimburse the Global Fund a proportionate amount for the Co-

Payment Amounts and the Shipping and Insurance Costs paid by the Global Fund for such Defective or Non-Conforming Products. Any reimbursement to the Global Fund under this Section 3.5 shall be due and payable within thirty (30) calendar days after the date of the Supplier's notice to the Global Fund of the Buyer's rejection or retention of the Defective or Non-Conforming Products.

3.6 Additional Remedies Available to the Global Fund. In addition to the remedies set out in Sections 3.2, 3.3 and 3.5 of this Annex 1 Part 5, and without prejudice to any remedies available at law or under the terms of the Agreement:

(a) to the extent that the Supplier receives any compensation or other amount paid by a third party to the Supplier for any Defective or Non-Conforming Product, the Supplier shall, within thirty (30) calendar days after receipt by the Supplier of such amounts, refund to the Global Fund an amount equal to the greater of:

   i. all Co-Payment Amounts and the Shipping and Insurance Costs paid by the Global Fund for such Defective or Non-Conforming Products; and

   ii. the actual total loss, damage or liability suffered by or claimed against the Global Fund arising out of or related to such Defective or Non-Conforming Products; and

(b) to the extent that the Supplier is found liable by a court to be responsible for any Loss or enters into a settlement agreement with a Buyer or otherwise agrees to pay to the Buyer any amounts to compensate the Buyer for any Defective or Non-Conforming Products or other liability to Buyer, arising out of this Agreement, the Supplier shall, within thirty (30) calendar days after such determination, refund to the Global Fund an amount equal to the greater of:
   i. all Co-Payment Amounts and the Shipping and Insurance Costs paid by the Global Fund for such Defective or Non-Conforming Products; and

   ii. the actual total loss, damage or liability suffered by or claimed against the Global Fund arising out of or related to such Defective or Non-Conforming Products.

3.7 Covered Product Recall. The Supplier shall be responsible for the cost and expense of any recall of Covered Products resulting from Supplier's supply of Defective or Non-Conforming Products and refund to the Global Fund any payment for such Covered Products. In addition, the Supplier is responsible for the prompt replacement of such substitute Covered Products and/or payment of the costs incurred by the Global Fund and the Buyer in connection with the replacement of such Covered Products.

4. CANCELLATION, AMENDMENT, BUYER EVENT

4.1 Cancellation of Orders. The Supplier shall promptly notify the Global Fund in writing of any full or partial cancellation of a Supplier Purchase Order. If a Supplier Purchase Order is cancelled after the Global Fund has made a payment to the Supplier under the related Confirmation of Co-Payment, the Supplier shall refund to the Global Fund the amount paid by the Global Fund under such Confirmation of Co-Payment. The refund shall be made within sixty (60) calendar days of the cancellation date, unless the Global Fund agrees otherwise.

4.2.1 Amendment of Orders.

(a) The Supplier shall promptly notify the Global Fund in writing of any proposed material amendment to a Supplier Purchase Order, including a change in the delivery schedule or in the quantity of Covered Products to be supplied or an increase above 10% of the estimated Shipping and Insurance Costs.

(b) In accordance with Section 1.3 of this Annex 1 Part 5, in the event of a proposed amendment that would result in increased costs for Covered Products or an increase above 10% of the estimated Shipping and Insurance Costs, the Supplier shall obtain reconfirmation from the Global Fund for such costs before incurring the expenditure. In such instances, the Global Fund will confirm to the Supplier in writing within five (5) calendar days after receipt of notice from the Supplier of such increased costs whether or not it will accept the costs for the relevant Confirmation of Co-Payment.

(c) If a Purchase Order is amended after the Global Fund has made a payment to the Supplier for the related Confirmation of Co-Payment and as a result the total estimated cost payable by the Global Fund under such Confirmation of Co-Payment is reduced or if, after a Confirmation of Co-Payment is fulfilled, the actual cost as indicated in the final invoice is less than the cost estimated in the Confirmation of Co-Payment, the Supplier shall return to the Global Fund any amount which the Global Fund has paid in excess of the total amount due for the relevant Confirmation of Co-Payment. The refund shall be made within sixty (60) calendar days, unless the Global Fund agrees otherwise.

4.3 Notice of Other Buyer Events. The Supplier shall promptly notify the Global Fund in writing of the following:

(a) a Buyer's failure to pay the residual portion of the FOB or FCA Unit price, as the case may be, for the Covered Products or any other costs due and payable by the Buyer in relation to the supply of Covered Products under this Agreement;

(b) any dispute that the Supplier has with a Buyer or any other party in relation to Covered Products supplied or to be supplied under this Agreement (including the terms of any settlement of a claim by the Buyer); or

(c) any insurance claims by the Supplier or claims by the Supplier against a third party concerning the Covered Products.

4.4 The Supplier shall not make any admissions in respect of any actual, suspected or threatened infringement or any other form of attack, allegation, prejudice or claim against the Co-Payment Mechanism Logo or any trademarks or trade names of the Global Fund, other than to the Global Fund and shall, in each case, provide the Global Fund with all relevant information in its possession. The Global Fund shall decide in its absolute discretion whether or not to take action, and what action to take, in respect of any of the matters referred to in this section and shall have exclusive control over any resulting claims, actions and proceedings. At the Global Fund's request and expense, the Supplier shall provide any assistance which the Global Fund requires (including bringing proceedings or lending its name to any proceedings brought by the Global Fund) in connection with any of the matters referred to in this Section 4.4. Any award of costs or damages or other compensation payment recovered in connection with any of those matters shall be for the account of the Global Fund.

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ANNEX 2

PAHO Terms and Conditions

THIS ANNEX 2 ONLY APPLIES TO THE SUPPLIER TO THE EXTENT COVERED PRODUCTS INCLUDE ARVS AND OTHER MEDICINES USED IN HIV PROGRAMS

The Supplier must register with UNGM and confirm adherence to UN Supplier Code of Conduct, which may be found at this link: http://www.un.org/depts/ptd/pdf/conduct_english.pdf.

GENERAL TERMS AND CONDITIONS: CONTRACTS FOR GOODS AND/OR SERVICES

1. LEGAL STATUS OF THE PARTIES/RESPONSIBILITY FOR EMPLOYEES: The Contractor shall be considered as having the legal status of an independent contractor to PAHO. The Contractor's personnel and sub-contractors shall not be considered in any respect to be the employees or agents of PAHO and shall have no right or authority, express or implied, to commit or otherwise obligate PAHO to a third party in any way. The Contractor shall be responsible for the professional and technical competence of the personnel it assigns to perform services under the Contract and will select reliable and competent individuals who will be able to effectively perform the obligations under the Contract and who, while doing so, will respect the local laws and customs and conform to a high standard of moral and ethical conduct.

2. STANDARD OF PERFORMANCE: The Contractor agrees that the goods and/or services provided under this Contract shall conform to the highest professional standards. The Contractor shall conform to all applicable laws, regulations and ordinances promulgated by the government of the country in which the goods or services are provided. Further, the Contractor agrees to utilize any information and/or documents obtained from or provided by PAHO for the purpose of the Contract exclusively for the activities agreed upon between PAHO and the Contractor.

3. ASSIGNMENT: The Contractor shall not assign, transfer, pledge or make other disposition of this Contract, or any part thereof, or of any of the Contractor's rights or obligations hereunder, without the prior written authorization of PAHO. In addition, the assignee or transferee must agree in writing to be bound by all terms and conditions of this Contract.

4. SUBCONTRACTING: The Contractor shall first obtain the written approval of PAHO before subcontracting to a third party any of the Contractor's responsibilities under this Contract. PAHO's approval shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

5. PURCHASE OF GOODS: If the Contract involves, in whole or in part, the purchase of goods, the following conditions shall apply unless specifically stated otherwise in the Contract:

5.1. PACKAGING OF THE GOODS: The Contractor shall package the goods for delivery in accordance with the highest standards of packaging for the type and quantities and modes of transport of the goods. The goods shall be packed and marked in a proper manner in accordance with the shipping instructions attached to the Contract or, otherwise, as customarily done in the trade, and in accordance with any requirements imposed by applicable law, including regulations for the transportation of hazardous materials, or by the transporters and manufacturers of the goods as per International Standards

5.2. EXPORT LICENSING: The Contractor shall be responsible for obtaining any export licenses required with respect to the goods, products, or technologies, including software that is sold, delivered, licensed or otherwise provided to PAHO or its designee under the Contract. The Contractor shall procure any such license in an expeditious manner.

5.3. TRANSPORTATION AND FREIGHT: Unless otherwise specified in the Contract, the Contractor shall be solely liable for making all transport arrangements and for payment of freight and insurance costs for the shipment and delivery of the goods in accordance with the requirements of the Contract. The Contractor shall ensure that PAHO or its designee receives all necessary transport documents in a timely manner so as to enable PAHO or its designee to take delivery of the goods in accordance with the requirements of the Contract.

5.4. DELIVERY OF GOODS: The Contractor shall hand over or make available the goods, and PAHO or its designee shall receive the goods, at the place and time designated under the Contract for their delivery. The Contractor shall provide to PAHO or its designee such shipment documentation (including, without limitation, bills of lading, airway bills, and commercial invoices) as are specified in the Contract or, otherwise, as are customarily utilized in the trade. All manuals, instructions, displays and any other information relevant to the goods shall be in the English language unless otherwise specified herein. The entire risk of loss, damage to, or destruction of the goods shall be borne exclusively by the Contractor until physical delivery of the goods to PAHO or its designee in accordance with the terms of the Contract. Delivery of the goods shall not be deemed in itself as constituting acceptance of the goods by PAHO.

5.5. INSPECTION OF GOODS: If the Contract provides that the goods may be inspected prior to delivery, the Contractor shall notify PAHO or its designee when the goods are ready for pre-delivery inspection. Notwithstanding any pre-delivery inspection, PAHO or its designated inspection agents may also inspect the goods upon delivery in order to confirm that the goods conform to applicable specifications or other requirements of the Contract.

5.6. ACCEPTANCE OF GOODS: Under no circumstances shall PAHO or its designee be required to accept any goods that do not conform to the specifications or requirements of the Contract. PAHO or its designee may condition its acceptance of the goods upon the successful completion of acceptance tests as may be specified in the Contract or otherwise agreed in writing by the Parties. In no case shall PAHO or its designee be obligated to accept any goods unless and until PAHO or its designee has had a reasonable opportunity to inspect the goods following delivery. If the Contract specifies that PAHO or its designee shall provide a written acceptance of the goods, the goods shall not be deemed accepted unless and until PAHO or its designee in fact provides such written acceptance. In no case shall payment by PAHO, in and of itself, constitute acceptance of the goods.

5.7. REJECTION OF GOODS: Notwithstanding any other rights or remedies available to PAHO under the Contract, if any of the goods are defective or otherwise do not conform to the specifications or other requirements of the Contract, PAHO or its designee, at their sole option, may reject or refuse to accept the goods. Within thirty (30) days following receipt of notice from PAHO of such rejection or refusal to accept the goods, the Contractor shall, at PAHO's sole discretion and at no additional expense to PAHO, either:

5.7.1. provide a full refund upon return of the goods, or a partial refund upon a return of a portion of the goods, by PAHO or its designee;

5.7.2. repair the goods in a manner that would enable the goods to conform to the specifications or other requirements of the Contract; or

5.7.3. replace the goods with goods that meet the specifications of the Contract.

5.8. In the event that PAHO or its designee elects to return any of the goods for the reasons specified in this Article, PAHO may procure the goods from another source. In addition to any other rights or remedies available to PAHO under the Contract, including, but not limited to, the right to terminate the Contract, the Contractor shall be liable for any additional cost beyond the balance of the Contract price resulting from any such procurement, including, inter alia, the costs of engaging in such procurement. Likewise, the Contractor shall pay all costs relating to the repair or return of the defective goods as well as the costs relating to the storage of any such defective goods and for the delivery of any replacement goods to PAHO or its designee.

6. WARRANTIES: In addition to and without limiting any other warranties, remedies or rights of PAHO stated in or arising under the Contract, the Contractor warrants and represents that:

6.1. The goods, including all packaging and packing thereof, and/or Services to be provided under the Contract conform to the specifications of the Contract, are fit for the purposes for which they are

ordinarily used and for any purposes expressly made known in writing in the Contract, and shall be of even quality, free from faults and defects in design, material, manufacturer and workmanship;

6.2. If the Contractor is not the original manufacturer of the goods to be provided under the Contract, the Contractor shall provide PAHO or its designee with the benefit of all manufacturers' warranties in addition to any other warranties required to be provided under the Contract;

6.3. The goods and/or services are of the quality, quantity and description required by the Contract, including when subjected to conditions prevailing in the place of final destination;

6.4. The goods and/or services are free from any right of claim by any third-party, including claims of infringement of any intellectual property rights, including, but not limited to, patents, copyright and trade secrets;

6.5. All goods are new and unused;

6.6. All warranties will remain fully valid following any delivery of goods and/or services for a period of not less than one
(1) year following acceptance of the goods and/or services by PAHO or its designee in accordance with the Contract;

6.7. During any period in which the Contractor's warranties are effective, upon notice by PAHO or its designee that the goods and/or services do not conform to the requirements of the Contract, the Contractor shall promptly and at its own expense:

6.7.1. correct the non-conformities,

6.7.2. replace defective goods with goods of the same or better quality, or

6.7.3. fully reimburse PAHO for the purchase price paid for the defective goods or services, and remove defective goods if applicable.

6.7.4. The Contractor shall remain responsive to the needs of PAHO or its designee for any services that may be required in connection with any of the Contractor's warranties under the Contract.

7. TITLE: The Contractor warrants and represents that the goods delivered under the Contract are unencumbered by any third party's title or other property rights, including, but not limited to, any liens or security interests. Unless otherwise expressly provided in the Contract, title in and to the goods shall pass from the Contractor to PAHO or its designee upon delivery of the goods and their acceptance by PAHO or its designee in accordance with the requirements of the Contract.

8. INTELLECTUAL PROPERTY: All rights, including title, copyright and patent rights in any material produced under the terms of this Contract shall be vested in PAHO or its designee, which shall be entitled to modify or change the materials as it deems fit. The Contractor acknowledges and agrees that such materials constitute works made for hire for PAHO and that the use or supply to PAHO of the goods or services rendered under this Contract does not infringe any patent, copyright, design, trade name or trademark.

9. INDEMNIFICATION: The Contractor shall indemnify, defend and hold PAHO harmless from any actions or claims brought against PAHO pertaining to the alleged infringement of a patent, copyright, design, trade name, or trademark arising in connection with the goods or services provided hereunder. The Contractor shall also indemnify, hold and save harmless and defend at its own expense PAHO, its officers, agents, servants and employees from and against all suits, claims, demands and liability of any nature or kind, including costs and expenses arising out of acts or omissions of the Contractor or the Contractor's employees, servants or agents in the performance of this Contract.

10.FAILURE TO PERFORM: If the Contractor fails to deliver the goods or perform any of the services for any reason, including failure to obtain the necessary export licenses by the delivery date(s) specified in the Contract, PAHO may, after giving the Contractor reasonable notice to perform and without prejudice to any other rights or remedies under this Contract, exercise one or more of the following rights:

10.1. procure all or part of the goods and/or services from other sources and hold the Contractor responsible for any excess cost occasioned thereby;

10.2. refuse to accept delivery of all or parts of the goods and/or services;

10.3. terminate the Contract.

11. PAYMENT TIMING: PAHO shall normally, unless otherwise specified in this Contract and subject to certification by the PAHO/WHO Project Officer of satisfactory completion of said services, make payment within thirty (30) days of receipt of (a) the Vendor's invoice and (b) copies of the customary shipping documents and other documents specified in the Contract, whichever
(a) or (b) is later.

12. LIQUIDATED DAMAGES: Tick if NOT applicable
PAHO can claim liquidated damages from the Contractor and deduct 0.5% of the value of the Contract for each day of delay, up to a maximum of 10% of the value of the Contract, for late delivery of goods and/or services or for goods and/or services which do not meet the agreed specifications and are therefore rejected by PAHO or its designee. The payment or deduction of such liquidated damages shall not relieve the Contractor from any of its other obligations or liabilities under the Contract.

13. INSURANCE: Tick if NOT applicable
The Contractor shall provide and thereafter maintain insurance against all risks with respect to its property and any equipment used for the execution of this Contract. The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance with respect to its employees to cover claims for personal injury or death in connection with this Contract. The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third- party claims for death or bodily injury arising from or in connection with the provisions of service under this Contract and to cover the loss of or damage to property arising from or in connection with the provision of services under this Contract (including due to the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors). Such insurance policy(ies) shall be made out in the joint names of PAHO and the Contractor, and shall include rights of subrogation. The Contractor shall provide PAHO with a copy of all policy(ies) upon request.

14. CONFIDENTIALITY: "Confidential Information" is any information concerning or relating to the property, business or affairs of PAHO that is furnished to the Contractor or available to the Contractor because of this Contract. The Contractor shall treat all documents, correspondence, decisions and orders concerning the Contract as confidential and restricted in nature and shall not divulge or allow access to them by any unauthorized person. The Contractor may not communicate at any time to any other person, Government or authority external to PAHO any information known to it by reason of its association with PAHO which has not been made public, without PAHO"s written authorization. In addition, the Contractor shall not at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

15. PUBLICITY, ADVERTISING, AND USE OF THE PAHO NAME, EMBLEM, OR SEAL: The Contractor shall not use the name, emblem or official seal of PAHO for any purpose other than as expressly authorized in writing by PAHO. The Contractor shall not advertise or otherwise make public that it is furnishing goods or services to PAHO without specific written permission from PAHO in each instance. The provisions of this paragraph shall survive completion of the Contract.

16. MODIFICATION: Neither party may change, modify or revise any aspect of this Contract unless the amendment is made in writing and signed by an authorized PAHO contracting officer and the Contractor.

17. FORCE MAJEURE: Notwithstanding Article 10, neither party shall be held responsible for delay, impossibility, or impracticability in fulfilling the terms of the Contract due to force majeure, which includes but is not limited to: war, riot, civil disorder, earthquake, fire, explosion, flood or other adverse weather conditions, strikes, confiscation or any other factors beyond its control, including but not limited to extraordinary measures taken by a government that adversely affect routine commercial

transactions. The failure of the Contractor or PAHO to fulfill any of their obligations hereunder shall not be considered a breach of, or default under this Contract, insofar as such liability arises from an event of force majeure, provided that the affected party notifies the other and takes all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

18. TERMINATION: This Contract may be terminated by PAHO upon written notice delivered to the Contractor at least fifteen
(15) days prior to the effective date of termination. In the case of goods being manufactured or packaged to PAHO specifications, the contract may be terminated with at least 45 days written notice from the effective

date of termination. In the event of termination, PAHO will compensate the Contractor for goods accepted by PAHO or services provided to PAHO and deemed by PAHO to be satisfactory.

19.SETTLEMENT OF DISPUTES: PAHO and the Contractor shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to this Contract. Unless any such dispute, controversy or claim between the parties arising out of or relating to this Contract or the breach, termination or invalidity thereof is settled amicably within sixty
(60) days after receipt by one Party of the other party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then in effect. The arbitral tribunal shall have no authority to award punitive damages. Any arbitration award rendered as a result of such arbitration shall be considered to be the final adjudication of any such controversy, claim or dispute and shall bind the parties.

20. PRIVILEGES AND IMMUNITIES: Nothing contained in this Contract shall be deemed a waiver, express or implied, of any immunity from suit, judicial process, confiscation, taxation, or any other immunity or privilege which PAHO may enjoy, whether pursuant to treaty, convention, law, order or decree of an international or national character or otherwise, or in accordance with international customary law.

21. TAX EXEMPTION: PAHO is exempt from payments of sales, use and excise taxes, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for official use. PAHO may deduct from an invoice any such tax, duties or charges to which it may be entitled by reason of its privileges and immunities.

22. ANTI-TERRORISM: The Contractor certifies that it is not an individual or entity appearing on the New Consolidated List established and maintained by the United Nations Security Council's 1267 Committee. Contractor shall use best efforts to ensure that no funds provided under this Contract will be used to benefit, directly or indirectly, individuals or entities associated with terrorism.

23. PAHO OFFICIAL NOT TO BENEFIT: The Contractor warrants that no PAHO staff shall be permitted to any share or part of the Contract or any benefit that may otherwise arise therefrom. PAHO officials may not accept any type of gift or any offer of hospitality beyond that of nominal value. PAHO expects its Contractors not to offer any benefit such as free goods or services or a work position or sales opportunity to any current or former PAHO staff member in order to facilitate the supplier's business relationship with PAHO.

24. SELF-DEALING: The Contractor may not bid to supply goods or services to PAHO that may be directly or indirectly related to the goods or services provided under this Contract.

25. SEVERABILITY: Any provision of this Contract prohibited by the laws of any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, without invalidating the remaining provisions of this Contract

ANNEX 3

Vendor Managed Inventory in Support of the Rapid Supply Mechanism

This Annex is applicable to the Supplier to the extent the Supplier has been selected by the Global Fund to support the Rapid Supply Mechanism (RSM)

1. ADDITIONAL DEFINITIONS

- **First In First Out**: Means a stock management technique whereby the first items placed into stock are first items removed thereby ensuring continual stock rotation.
- **Rapid Supply Mechanism or RSM**: Means the Global Fund's process for enabling the fulfilment of orders to meet emergency or unexpected demand.
- **Raw Material:** Means the materials that make up a finished product and for the purposes of the Agreement may include part processed products.
- **Replenishment Time**: Has the meaning as defined in Section 4.2 of this Annex
- **Response Time**: Has the meaning as defined in Section 4.1 of this Annex
- **RSM Order**: Means a specific purchase order raised to enact the RSM process
- **Stock Profile**: Means the specific products and volumes to be held by the Supplier as part of the Agreement as either finished product or the equivalent in raw material.
- **Vendor Managed Inventory or VMI**: For the purposes of the Agreement means a volume of raw materials or finished products held by the Supplier at their cost and under their management to fulfil the requirements of the Rapid Supply Mechanism.

2. SCOPE AND OBJECTIVES

2.1 This Annex is applicable to Suppliers who have been selected by the Global Fund to support the RSM through the holding of Vendor Managed Inventory (VMI), which when, converted to finished product, will be used to fulfil short term orders which may be required to meet emergency or unexpected demand.

2.2 The products required to fulfil this facility and the specific volumes (or the raw material equivalent) will be agreed by the Parties and the terms of this Annex only apply to those agreed products.

3. STOCK PROFILE

3.1 The Supplier shall hold, at their own cost, except for the provisions in Section 7 of this Annex, the Stock Profile defined in Section 1 of this Annex, and shall maintain this inventory for the use of the Global Fund.

3.2 Inventory may be held either as finished product or unpacked finished product or as raw materials provided that, if it is held as raw material, production lead times are sufficiently short and there is available stock to meet the response time detailed in Section 4.1 below.

3.3 On receipt of an RSM Order the Supplier shall either convert the raw materials to finished product or make finished product available for shipping in line with the targeted response times in Section 4.1 below.

3.4 The Supplier may modify the stock profile defined to optimize their own procurement and manufacturing processes subject to the terms shown below:

a. Total stocks held do not exceed the Stock Profile by more than 10%

b. The Stock Profile is the minimum stock held as vendor-managed inventory.

3.5 To facilitate shipping to as many potential recipients as possible, packaging requirements shall be simplified and the packaging requirements for finished products as defined within the Stock Profile identified, as "general packaging" shall be as follows: standard packaging no customized labelling.

3.6 The Supplier shall at all times ensure that the shelf life of the VMI is maintained at the highest possible level commensurate with the on-going demand for the product and that the remaining shelf life exceeds 85% of the specified initial value.

3.7 This is to be achieved by the adherence to strict inventory management based on the principles of 'First–in, First-out' (FIFO) and any degradation of shelf life causing a liability through either the receipt of product by a Principal Recipient with short shelf life remaining or the inability to ship product owing to short shelf life remaining caused by a deviation from these principles shall reside solely with the Supplier.

3.8 Section 7 below shall apply for products where the maintenance of FIFO is not possible owing to intermittent demand.

3.9 The Supplier is required to maintain the Stock Profile up to the end of the Term of the Agreement. Potentially this may result in some liability for the Supplier even for high demand products. In that event the Global fund undertakes to procure the remaining inventory as part of the PPM process or to permit the Supplier to sell the product to alternative buyers.

4. RESPONSE AND REPLENISHMENT TIMES

4.1 The Response time is defined as the period of time between receipt of an RSM Order and the time the first batch of product has completed all stages of the manufacturing process and is ready for shipment regardless of whether the inventory is stored as finished product or raw materials. The targeted time for all products as defined in the Stock Profile shall be fourteen (14) calendar days.

4.2 The Replenishment Time is the period of time between the receipt of an RSM Order and the time taken to replenish the Stock Profile to the defined levels in Section 1 of this Annex or as modified by the provisions of Section 3.3 above. The targeted Replenishment Time for all products shall be forty-two (42) calendar days.

4.3 If at any time during the term of the Agreement the Supplier is unable to meet either of these targeted times, it shall immediately bring such matter to the attention of the Global Fund.

4.4 Supplier performance against the Response Time shall be monitored as part of the delivery performance, in accordance with Section 9.6.1 of the Agreement, and the results of non-performance may impact future committed volumes as defined in the Agreement.

5. PRICING AND IMPACT ON COMMITTED VOLUMES

5.1 Products supplied against RSM Orders shall have the same Base Price as applicable at the same time for orders placed through the PPM order process, i.e. there shall be no uplift.

5.2 Unless otherwise agreed between the Parties, all RSM Orders shall count as draw-downs against the Committed Volumes in accordance with the process defined in Section 5 of the Agreement.

5.3 Stock that is written off under the provisions of Section 7 of this Annex shall also count as a draw down against a committed volume.

6. OPERATIONAL PROCEDURES

6.1 Upon the effectiveness of this Annex, the Supplier shall start building the Stock Profile and commence regular reporting as detailed in Section 8 below.

6.2 Order placement shall be undertaken by the Global Fund's appointed PSA for Pharmaceutical Products.

6.3 Procedures for order placement will be as defined in Section 6A of the Agreement, with the following modifications and additions.

a. The Supplier shall process no orders without written authorisation from the Global Fund Supply Operations Department to indicate that all financial processes have been carried out.

b. All Communications and Purchase Orders shall additionally be marked “RSM Order-Urgent Action Required’.

c. The Global Fund Supply Operations Department shall be copied on all communication.

7. CHANGE MANAGEMENT

7.1 The Global Fund shall review the required Stock Profile on a quarterly basis or whenever there is a change of regimen recommendation from the World Health Organisation.

7.2 If changes to the profile are required, the Global Fund shall notify the Supplier of those changes.

7.3 The Supplier shall manage changes by either reducing or increasing VMI for a specific product, and is expected to exhaust excess inventory through the normal PPM ordering process.

7.4 Where this is not possible, the Supplier shall notify the Global Fund and both Parties will work together to mitigate risks.

8. REPORTING REQUIREMENTS

8.1 The Supplier shall submit a report by the last of day of each calendar month in a standard form. One example is presented as Table 1 below.

Table 1: Stock profile

Product	**Pack Size**	**Proposed Volume to be made available for pick up within 14 days of Purchase Order placement (monthly, in packs)**

ANNEX 4

Product Attributes (GS1 Global Data Synchronization Network)

	Common Name	GDSN Tag
1	Item Id (GTIN)	globalTradeItemNumber
2	Product Description	tradeItemDescription and tradeItemDescription/ @languageCode
3	Packaging Layer/Hierarchy (UOM)	tradeItemUnitDescriptorCode
4	Target Market	targetMarketCountryCode
5	Brand Name	brandName
6	Functional Name	functionalName and functionalName/@languageCode
7	GPC Category (Brick) Code	gpcCategoryCode
8	Information Provider GLN	informationProviderOfTradeItem/gln
9	Start Availability Date	startAvailabilityDateTime
10	Effective Date	effectiveDateTime
11	Barcode Type	dataCarrierTypeCode
12	Base Unit Indicator	isTradeItemABaseUnit
13	Consumer Unit Indicator	isTradeItemAConsumerUnit
14	Dispatch Unit Indicator	isTradeItemADispatchUnit
15	Invoice Unit Indicator	isTradeItemAnInvoiceUnit
16	Ordering Unit Indicator	isTradeItemAnOrderableUnit
17	Variable Weight Trade Item	isTradeItemAVariableUnit
18	Child Item	gTIN (child) (nextLowerLevelTradeItemInformation)
19	Quantity of Children	quantityOfNextLowerLevelTradeItem
20	Total Quantity of Next Lower Level Trade Item	totalQuantityOfNextLowerLevelTradeItem
21	Height	height and height/@measurementUnitCode
22	Width	width and width/@measurementUnitCode
23	Depth	depth and depth/@measurementUnitCode
24	Volume	inBoxCubeDimension

		and volume/@measurementUnitCode
25	Gross Weight	grossWeight
26	Net Weight	netWeight and netWeight/@measurementUnitCode
27	Brand Owner Name	brandOwner/partyName
28	Brand Owner GLN	brandOwner/gln
29	Manufacturer Name	manufacturerOfTradeItem/partyName
30	Manufacturer GLN	manufacturerOfTradeItem/gln
	Manufacturer Address	manufacturerOfTradeItem/ partyAddress
31	Country of Origin	placeOfProductActivity/countryOfOrigin/countryCode
32	Product Description	tradeItemDescription and tradeItemDescription/@languageCode
33	Short Description	descriptionShort and descriptionShort/@languageCode
34	Additional Description	additionalTradeItemDescription and additionalTradeItemDescription/@languageCode
35	Shelf Life from Production	minimumTradeItemLifespanFromTimeOfProduction
36	Storage Temperature Type	temperatureQualifierCode = STORAGE_HANDLING
37	Storage Temperature Min	minimumTemperature and minimumTemperature/@measurementUnitCode
38	Storage Temperature Max	maximumTemperature and maximumTemperature/@measurementUnitCode
39	Is Dangerous Substance?	isDangerousSubstance
40	Dosage Form	dosageFormTypeCodeReference
41	Controlled Substance Indicator	doesItemContainAControlledSubstance and associated tags: contolledSubstanceCode controlledSubstanceName controlledSubstanceAmount controlledSubstanceAmount/@measurementUnitCode controlledSubstanceScheduleCodeReference
42	Market Authorization Agency	additionalTradeItemIdentificationTypeCode
43	Market Authorization Item Identification	additionalTradeItemIdentification
44	Market Authorization Type Code	regulatoryInformation/ regulationTypeCode
45	Market Authorization Permit Number	regulatoryPermitIdentification

46	Market Authorization Permit Start Date	permitStartDateTime
47	Market Authorization Permit End Date	permitEndDateTime
48	Market Authorization Status Description	regulationRestrictionsAndDescriptors
49	Market Authorization Status Description Language Code	regulationRestrictionsAndDescriptors/ @languageCode
50	Route of Administration Code Value	enumerationValue and associated tags: enumerationValueDescription enumerationValueDescription/@languageCode externalAgencyName externalCodeListName
51	Handling Instruction Code	handlingInstructionCodeReference
52	Is Regulated For Transportation?	safetyDataSheetInformation/ isRegulatedForTransportation
53	Is Acutely Hazardous Waste	hazardousWasteInformation/ isAcutelyHazardousWaste
54	UNSPSC Scheme	additionalTradeItemClassificationSystemCode and additionalTradeItemClassificationCodeValue
55	INN Scheme	additionalTradeItemClassificationSystemCode and additionalTradeItemClassificationCodeValue

ANNEX 5

Panel Artemisinin Manufacturers

ANNEX 6

Additional Buyers

Supplier Name	
Schedule Revision Number	
Effective Date	

2. Persons Eligible to Purchase Supplier Products at the Pricing

Full Name of Person	**Applicable date**

Agreed between the Parties

For the Global Fund

Signed……..

Name……

For the Supplier

Signed…….

Name……