

AGREEMENT

between

THE GOVERNMENT OF [_____]

and

THE WORLD HEALTH ORGANIZATION

**FOR THE PROCUREMENT OF SUPPLIES AND THE PROVISION OF
RELATED SERVICES**

THIS AGREEMENT (together with all Annexes hereto, this “Agreement”) is entered into between THE GOVERNMENT OF [_____] by and through its Ministry of [], having its address at [] (the “Government”) and the WORLD HEALTH ORGANIZATION, a specialized agency of the United Nations whose headquarters is located at 20 Avenue Appia, 1211 Geneva 27, Switzerland, (“WHO”, together with the Government the “Parties” and each a “Party”).

WHEREAS

A. WHO and the Government have concluded a Basic Agreement dated [] “Basic Agreement” [_____] 1964.

B. WHO is permitted under WHO Financial Decision of the Executive Board from 24th January 1964 EB33.R44, to furnish procurement services, enter into arrangements with Governments Health Administration, other organizations in the United Nations system, and governmental and non-governmental organizations, and to undertake activities on their behalf for the purchase of supplies, equipment and medicines and provision of services where such supplies and services are required for purposes related to WHO activities and consistent with the aims and policies of WHO.

C. The Government, working with its development partners including the World Health Organization and the International Development IDA (the “IDA”), or International Bank for Reconstruction and Development (“IBRD”), has designed and is implementing a project to [brief statement of project’s outcomes] (the “Project”), and has asked WHO, to procure the supplies listed in Annex I to this Agreement (the “Supplies” and each category of Supplies a “Supply Item”) on behalf of the Government for use in connection with the Project, and to provide the services if any listed in Annex VIII to this Agreement (the “Services”), in connection with the procurement of Supplies. WHO has agreed to procure the Supplies and provide the Services if any on behalf of the Government, in accordance with this Agreement.

D. The Government has received a [enter one: credit/ loan] (the “Development Credit/Loan”) from the [enter one: IDA/ IBRD] pursuant to an agreement dated [date of the Development Credit/Loan Agreement] (the “Development Credit/Loan Agreement”) towards the cost of the Supplies, and the Services if any.

E. The Global Drug Facility (GDF) is an integral part of the STOP TB Partnership which is hosted and administered by the WHO STOP TB Department. All procurement carried out by WHO/GDF will be done in accordance with WHO's procurement rules and regulations through this Agreement which WHO will sign with the Government.

NOW THEREFORE, the Parties agree as follows:

ARTICLE I
AGREEMENT DOCUMENTS; DEFINITIONS

1. The agreement documents include this Agreement and the following:
 - Annex I The Supplies, including technical requirements for the Supplies and projected quantities and estimated time of shipment
 - Annex II Schedule of WHO Procurement Support Costs for Procurement of Supplies
 - Annex III Elements to be included in Procurement Requests
 - Annex IV Elements to be included in Pro Forma Invoice
 - Annex V Template for Payment Request
 - Annex VI Template for Acceptable Document
 - Annex VII Template for Financial Utilization Reports
 - Annex VIII The Services
2. In this Agreement, the following terms shall have the following meanings:
 - a. Contingency means a separately identified amount equal to ten percent (10%) of the estimated cost of procuring the Supplies as set out in the Pro Forma Invoice to which it relates, to be used by WHO as a contingency against changes in the cost of the Supplies (including by reason of currency fluctuations) and the cost of related Services if any, between the date of that Pro Forma Invoice and the date on which payment for the Supplies or related Services referred to in that Pro Forma Invoice is due.
 - b. Delivery Schedule means the preliminary delivery schedule for each Supply Item and Services if any as set out in the relevant Pro Forma Invoice.

- c.** Final Accounts means the accounts prepared pursuant to Article VI, paragraph 4 of this Agreement.
- d.** Freight and Insurance Cost means the cost of shipping the Supplies from their place of dispatch to the Port of Entry (packing and terminal services inclusive) and insurance, and the cost of insuring the Supplies in transit in accordance with this Agreement.
- e.** Payment Request means the document referred to in Article IV, paragraph 7.
- f.** Place of Delivery means the delivery location, specified in a Pro Forma Invoice following consultation between WHO and the Government, at which the Supplies will be delivered.
- g.** Pro Forma Invoice means the document referred to in Article IV, paragraph 5 setting out the information listed in Annex IV, provided by WHO to the Government in response to a Procurement Request delivered by the Government.
- h.** Procurement Request means the document referred to in Article IV, paragraph 3.
- i.** Program Support Costs (“PSC”) means the WHO charge for undertaking the requested procurement of Supplies calculated in accordance with the schedule of WHO Standard Program Support Costs set out in Annex II.
- j.** Release Certificate means the document referred to in Article V, paragraph 8 (c) (iii), issued by the national regulatory authorities of the place where the vaccine to which it relates is manufactured confirming that the national regulatory authority has completed its quality control tests on the vaccines in question and authorizing the release of those vaccines for use.
- k.** Services means the services related to the supply of goods listed in Annex VIII.
- l.** Supplies means the supplies listed in Annex I.
- m.** Supply Item means an individual product type or category which the Government requests, by way of a Procurement Request, WHO to procure for it.

ARTICLE II
SCOPE AND GENERAL TERMS OF AGREEMENT

1. WHO agrees:
 - a. to procure Supplies set out in the Pro Forma Invoice accepted by the Government, in conformity with the applicable technical specifications (including warranty periods remaining upon dispatch from the Supplier to the consignee) and in the quantities set out in each such Pro Forma Invoice,
 - b. to arrange for delivery of the Supplies referred to in Article II, paragraph 1(a) in accordance with the delivery information specified in the applicable Pro Forma Invoice agreed between WHO and the Government, and
 - c. to provide the Services, if any, in accordance with this Agreement.
2. The Government agrees, in consideration of the procurement of the Supplies and the provision of Services, if any:
 - a. to make timely and complete payment to WHO of all amounts owing under this Agreement, and
 - b. to provide such support in connection with the procurement of the Supplies as WHO and the Government may agree, and the provision of the Services, if any, in accordance with this Agreement and any amendments thereto.

ARTICLE III
PAYMENT OF AMOUNTS OWING UNDER
THIS AGREEMENT; TOTAL FUNDING CEILING; CONTINGENCY

1. The Government will be responsible for payment of all amounts owing under this Agreement.
2. The Government intends to apply a portion of the proceeds of the Development Credit/Loan, up to an amount of [Enter USD [amount in words] [amount in figures]] (the "Total Funding Ceiling"), to eligible payments under this Agreement. The Total Funding Ceiling is WHO's good faith best estimate as of the date of that estimate of (a) the total cost of procuring the entire quantity of Supplies contemplated under this Agreement at the same time and reasonably close to the date of the estimate; (b) the freight and insurance costs and PSC calculated based on that estimate; (c) the total cost of providing the Services if any; and (d) an additional amount of ten per cent (10%) of the amounts referred to in (a) and (c) as a contingency against price, transport and exchange rate fluctuations.
3. It is understood that (a) disbursements up to the Total Funding Ceiling will be made by the Bank on behalf of the Government; (b) disbursement by the IDA/ IBRD will be made only at the request of the Government and upon approval by the Bank; (c) such disbursements will be subject, in all respects, to the terms and conditions of the

Development Credit/Loan Agreement; and (d) no party other than the Government shall derive any rights from the Development Credit/ Loan Agreement or have any claim to the Development Credit /Loan proceeds.

4. The Government's decision to use all or part of the Development Credit/Loan to make payment of amounts owing under this Agreement in no way affects the Government's obligation to make timely and complete payment of all amounts owing under this Agreement.

ARTICLE IV
FINANCIAL MATTERS PRIOR TO COMMENCEMENT OF PROCUREMENT

Step 1: Government Files Blanket Withdrawal Application Equal to the Total Funding Ceiling

1. As soon as both the Government and WHO have signed this Agreement, the Government will send to the IDA/ IBRD, with a copy to WHO, a blanket withdrawal application for an amount equal to the Total Funding Ceiling. The blanket withdrawal application will instruct the IDA/ IBRD to make direct payment to WHO of all amounts requested by WHO in accordance with this Agreement up to the Total Funding Ceiling and to do so (a) by wire transfer of United States dollars in immediately available funds; (b) within ten (10) working days (in Washington DC) of receiving a request for payment; and (c) to such account as WHO may nominate.

a. The Government will further instruct the IDA/IBRD that when making such transfers it is to notify WHO, Contracting and Procurement Services by e-mail at procurement@who.int, acriviadisp@who.int ; of the following: (a) the amount transferred; (b) the value date of the transfer; (c) that the transfer is from the IDA/ IBRD for posting to the Account referred to in the Payment Request ; and (d) the date of the Payment Request and the control number shown on the relevant Pro Forma Invoice.

2. The Government will notify WHO as soon as it receives notice from the IDA/ IBRD that this blanket withdrawal application has been received by the IDA/ IBRD in good order and accepted by the IDA/ IBRD.

Step 2: Government Issues Procurement Requests; Delivery Schedules

3. From time to time thereafter, the Government will send to WHO, a written request (a "Procurement Request") to undertake the procurement and delivery of Supplies under this Agreement. A Procurement Request may refer to more than one Supply Item. Elements to be included in a Procurement Request are set out in Annex III to this Agreement.

4. The Government will make reasonable efforts to align the timing of Procurement Requests with the timetable set out in Annex I.

Step 3: WHO Issues Pro Forma Invoices

5. WHO will review each Procurement Request received from the Government and will send to the Government in response, a written estimate of the cost of procuring the Supplies referred to in that Procurement Request (a “Pro Forma Invoice”) including the relevant Delivery Schedule(s). WHO will use reasonable efforts to provide a Pro Forma Invoice within ten (10) working days (in Geneva) of receiving a Procurement Request. Elements to be included in a Pro Forma Invoice are set out in Annex IV to this Agreement.

a. The estimated cost of procuring the Supplies set out in the Pro Forma Invoice will be calculated based on the specifications set forth in Annex I, the quantities and consignee details set forth in the Procurement Request to which the Pro Forma Invoice relates, the method of delivery as determined by WHO, and the Place of Delivery agreed between the Government and WHO.

b. The estimated cost of procuring the Supplies will include: (i) the estimated freight and insurance; and (ii) the estimated applicable PSC for procuring the Supplies and Services, if any listed in the relevant Procurement Request, calculated in accordance with WHO’s standard schedule of PSC, a copy of which is set out in Annex II to this Agreement.

c. The Pro Forma Invoice will set out the actual Contingency applicable to the relevant Procurement Request.

d. Each Pro Forma Invoice will specify the period of time for which it is valid and may be accepted by the Government.

e. The Pro Forma Invoice will set out the Delivery Schedule for the Supplies to which it relates.

f. If, because a Procurement Request relates to more than one Supply Item the corresponding Pro Forma Invoice relates to more than one Supply Item, then: (i) the estimated applicable PSC set out in the Pro Forma Invoice will be the aggregate of the estimated PSC that would be payable in respect of each individual Supply Item and Services, if any; (ii) the Contingency set out in the Pro Forma Invoice will be the aggregate of the Contingencies that would be payable in respect of each individual Supply Item and Services, if any; (iii) the estimated Delivery Schedule will include all the delivery schedules of Supply Items included in such Pro Forma Invoice; and (iv) the Pro Forma Invoice will specify the period of time for which the estimated cost of procuring each individual Supply Item set out in the Pro Forma Invoice is valid and may be accepted by the Government.

Step 4: Government Reviews and Accepts the Pro Forma Invoice

6. Within the validity period specified for in a Pro Forma Invoice the Government will advise WHO in writing whether it accepts that Pro Forma Invoice or not. If, because a Procurement Request relates to more than one Supply Item the corresponding Pro Forma Invoice relates to more than one Supply Item, then the Government will advise WHO in writing whether it accepts all or only part of such Pro Forma Invoice.

Step 5: WHO Delivers Payment Request

7. Within ten (10) working days of receipt by WHO of the Government's written acceptance of the pro Forma Invoice, WHO will send the IDA/IBRD on behalf of the Government a payment request (each a "Payment Request") covering the full amount set out in the Pro Forma Invoice. The template for a Payment Request is set out in Annex V to this Agreement.

8. If, because a Procurement Request relates to more than one Supply Item the corresponding Pro Forma Invoice relates to more than one Supply Item, the Payment Request will cover the amount relating to the Supply Items referred to in such Pro Forma Invoice that the Government wishes WHO to procure (including the applicable PSC and Contingency).

Step 6: The IDA/ IBRD Disburses Funds to WHO

9. WHO will maintain a separate identifiable ledger account ("PATEO [name of country] [name of project]"), through which all WHO receipts and disbursements for the purposes of procuring the Supplies and, if relevant, providing services, will be channeled.

10. In accordance with the instructions in the blanket withdrawal application referred to in Article IV, paragraph 1 above, the IDA/IBRD will pay to WHO the full amount set out in each Payment Request, by wire transfer of United States dollars in immediately available funds, within ten (10) working days (in Washington DC) of receiving it and will do so to the WHO account designated in the Payment Request.

Step 7: WHO Initiates Procurement Action

11. Upon receipt of the full amount set out in a Payment Request, WHO will initiate the procurement action necessary to procure the Supplies covered by the Payment Request.

12. The Parties recall that under its financial regulations and rules WHO may only enter into a binding financial obligation if it has the full amount of funds required to satisfy that obligation and that this requirement will be relevant in calculating the amounts set out in each Payment Request. WHO will not be required to initiate or continue procurement actions for the Supplies and, as applicable, initiate or continue providing the Services, while any amounts specified in the corresponding Payment Request delivered to the IDA/ IBRD are unpaid.

ARTICLE V

PROCUREMENT AND DELIVERY OF SUPPLIES

Procurement of Supplies

1. The Supplies will be procured, shipped and delivered in accordance with the terms of this Agreement and WHO's regulations, rules, procedures and administrative instructions for procurement (including its financial regulations and rules that include the requirement that any interest derived by WHO from placement of funds disbursed

to WHO in accordance with this agreement shall be credited to the benefit of the Government under this Agreement).

2. In order to keep costs within the Total Funding Ceiling, the Government authorizes WHO to adjust the total quantity of the Supplies in order to offset (a) any increase in the price of the Supplies as set out in the Pro Forma Invoice resulting from price changes by the supplier(s) or service provider(s), or from currency exchange fluctuations or other incidental costs related to the Supply financed under this Agreement, and (b) any increase in the amount owed for the delivery of the Supplies. The Parties recognize that cost overruns may nevertheless occur and that this provision shall therefore be without prejudice to the Government's principal obligation to bear the costs of the transaction in accordance with the terms of this Agreement.

Consignee

3. Each Pro Forma Invoice will specify the consignee of the Supplies, following agreement between WHO and the Government.

4. Upon shipment of the Supplies, WHO will send copies of the relevant shipping documents and required product quality assurance documents (such as Certificate of Analysis), as determined by WHO in consultation with the Government, to the specified consignee. WHO will make reasonable efforts to provide these documents at least seven (7) working days prior to the arrival of the Supplies; provided, however, that in the case of Supplies shipped via air WHO will make reasonable efforts to provide these documents reasonably in advance of arrival. The relevant shipping documents will normally include the following:

- a. Copies of suppliers' invoices which include Supplies description, quantity, unit price, and total amount.
- b. Copies of the bill of lading, or copies of railway consignment note, road consignment note, truck or air waybill, or multimodal transport document.
- c. Copies of the packing list identifying contents of each package.
- d. Copy of Clean Report of Findings and Certificate of Analysis.
- e. Pharmaceuticals shipped directly from the supplier will be accompanied by a Certificate of Origin where feasible.

Insurance

5. Supplies will be delivered [*DDP or DDU*]to (*name Place of Delivery*).

Place of Delivery

6. WHO will arrange for the Supplies referred to in each Pro Forma Invoice to be shipped to the Place of Delivery or as otherwise specified in the Pro Forma Invoice, using the WHO's forwarding arrangements. The Place of Delivery will be determined through consultation between WHO and the Government.

7. WHO will inform the Government of any potential or actual delivery delay, including its likely duration and its cause(s), as soon as WHO obtains information on such delay. WHO will make good faith efforts to ensure that any actual delivery delays are minimised.

Special Provisions relating to Delivery of Vaccines

8. The following additional provisions apply if the Supplies include vaccines:

a. Purchase orders for vaccines procured in accordance with this Agreement shall, pursuant to WHO's standard contracting practices, specify that upon dispatch by the supplier such vaccines shall have a minimum shelf life of not less than the standard established by WHO or as otherwise set out in the relevant Pro Forma Invoice following agreement with the Government.

b. Vaccines will be shipped by air.

c. In addition to documents listed in Article V, paragraph 4(a)-(e) above, WHO will provide the following documents and information to the specified consignee by email or fax prior to the arrival of each lot of vaccines at the Place of Delivery: (i) flight details; (ii) copy of the supplier's certificate of origin; and, when applicable, (iii) Release Certificate(s) issued by the relevant National Regulatory Authority for the vaccine lot supplied.

d. Unless specified otherwise in the packing list because of particular packing needs, one (1) set of the documents listed hereafter will be attached to the consignment and another set of these documents will be placed inside shipping carton no. 1: (i) Air Way Bill; (ii) all supplier's invoices for that shipment; (iii) packing list(s); and, when applicable, (iv) Release Certificate(s) issued by the relevant National Regulatory Authority for the vaccine lot supplied.

9. The following provisions will apply to Delivery of Pharmaceuticals:

a. Purchase orders for pharmaceuticals procured in accordance with this Agreement shall, pursuant to WHO's standard contracting practices, specify that upon dispatch by the supplier such pharmaceuticals shall have a minimum shelf life of not less than the standard established by WHO or as otherwise set out in the relevant Pro Forma Invoice following agreement between WHO and the Government.

b. WHO will provide the specified consignee with the relevant shipping documents in line with Article V paragraph 4 above.

Acceptance Document

10. Upon arrival of the Supplies at the Place of Delivery the Government will promptly prepare an acceptance document and will retain it in the Government file relating to this Agreement. A template for this acceptance document is set out in Annex VI to this Agreement. The Government will make a copy of such document available to WHO upon request.

Customs Clearance

11. The Government will facilitate customs clearance for reception and will distribute all purchases to their final destination unless agreed otherwise in this Agreement.

ARTICLE VI
REPORTING; FINANCIAL MATTERS
FOLLOWING PROCUREMENT AND DELIVERY

Reporting

1. WHO will furnish a financial utilisation report (a “Financial Utilisation Report”) confirmed by the Chief of Accounts [or his/her designee] to the Government with a copy to the IDA/IBRD, for each six months of the term of this Agreement, relating to the periods: (a) 1 January to 30 June, and (b) 1 July to 31 December. The Financial Utilization Report will be due within forty-five calendar (45 days) of the end of the reporting period to which it relates. The Financial Utilization Report will be expressed in US dollars. The exchange rate used for converting expenditures in other currencies will be the UN Operational Rate of Exchange.

2. The template for a Financial Utilisation Report is set out in Annex VII to this Agreement. The Financial Utilization Report will set out (a) the total amount of funds received in the WHO PATEO [*name of country*] [*name of project*] Account ; (b) expenditures in connection with Supplies (including Freight and Insurance, Customs clearance and associated charges), during the reporting period and, if applicable, expenditures in connection with the related Services (including associated fees and other charges); and (c) the balance in the WHO Account at the end of the reporting period.

3. Upon request from the Government following consultations between WHO and the Government, WHO may furnish to the Government a supplement to any particular Financial Utilisation Report (a “Supplemental Status Report”), setting out the purchase orders placed by WHO during the reporting period in respect of this Agreement, including (a) the respective order numbers; (b) quantity ordered; (c) the selected supplier; and (d) the accumulated quantities of the Supplies delivered.

Financial Matters after Procurement and Delivery

4. Final Accounts will be delivered in accordance with the following paragraphs:

a. WHO will prepare a statement of account to be forwarded to the Government, covering the total cost under this Agreement, and will include any variation in the cost of the Supplies, including penalties and credits due to decrease in price or quantities. This statement will be provided within three (3) months after the final delivery of Supplies if any under this Agreement and the final disbursement/actual charge by WHO under this Agreement.

b. The statement of account will be expressed in US dollars. The UN Operational Rate of Exchange will apply to all currency conversions under this Agreement.

c. In the event that the statement of account indicates a balance of funds in favor of the Government, the Government shall consult with the IDA/IBRD and provide payment instruction to WHO with respect to such balance. Payments will be made within thirty (30) days of WHO receiving the relevant

payment instructions with necessary bank account details from the Government.

d. In the event that the statement of account indicates a balance remaining in favor of WHO and notwithstanding any agreed specific payment arrangement such as payment by a third party, the Government will be responsible for ensuring payment of such amounts within thirty (30) days of receipt of the statement of account.

e. WHO shall retain until at least three (3) years after the delivery of particular Supplies funded by funds provided in response to any individual Payment Request, all records (contracts, orders, invoices, bills, receipts and other documents) relating to such particular Supplies or Services.

5. In this Article VI, “expenditures” includes both: disbursements/actual charges and commitments.

ARTICLE VII SERVICES TO BE PROVIDED BY WHO

1. WHO will provide the Services referred to in Annex VIII of this Agreement, for the fees and charges and in accordance with the terms and conditions set out in Annex VIII.

2. In the event that WHO is providing Services under this Agreement, the following provisions shall apply:

a. the request for particular Services will be set out in a Procurement Request, which will include a description of the scope of the Services and the completion date;

b. the cost of Services will be reflected in the Pro Forma Invoice provided in response to such Procurement Request and will be calculated based on the nature of Services, the personnel requirements (including staff time and any additional expertise that may need to be secured) for providing the Services;

c. the relevant Payment Request will include amounts in connection with the Services and payment will be made in accordance with Article IV above; and

d. where the Services require that the Government obtains or assists with obtaining permits, licenses and other official approvals or that the Government furnishes powers of attorney or other authorizations to WHO, the Government will cooperate in a timely and expeditious manner.

ARTICLE VIII TRANSPARENCY

1. WHO PATEO [*name of country*] [*name of project*]Accounts relating to this Agreement shall be subject exclusively to internal and external audit in accordance with WHO's Financial Regulations and Rules. The Parties recall that WHO's financial books and records are routinely audited in accordance with the internal and external auditing procedures laid down in WHO's financial regulations and rules, and that the external auditors are appointed by and report to the World Health Assembly, of which the Government is a member. The external auditors' certification of accounts and audit report is made available to the World Health Assembly on a biennial basis. Throughout the term of this Agreement, WHO will provide a copy of the financial report and audited financial statements of WHO within ten (10) calendar days of these becoming public documents by reason of being presented to the World Health Assembly.

2. (a) In the event that the Government or WHO or the IDA/ IBRD becomes aware of information that indicates the need for further scrutiny of the procurement or delivery of the Supplies or providing of the Services (including non-frivolous allegations that reasonably indicate the possibility that corrupt, fraudulent, coercive or collusive practices may have occurred), the entity that has become aware of such information will promptly notify the other two.

(b) This information will be brought promptly to the attention of the appropriate official or officials at the Government, the IDA/ IBRD and WHO, (which in the case of WHO is the Comptroller and the WHO Director of Internal Oversight Services).

(c) Following consultation with the Government and the IDA/IBRD, WHO will, to the extent the information relates to actions within the authority or accountability of WHO, take timely and appropriate action in accordance with its applicable regulations, rules, and administrative instructions, to investigate this information. For greater clarity on this matter, the Parties agree and acknowledge that WHO shall have no authority to investigate information relating to possible corrupt, fraudulent, coercive or collusive practices by Government officials or by officials or consultants of the IDA/IBRD.

(d) To the extent such investigation confirms that corrupt, fraudulent, collusive or coercive practices have occurred and to the extent that remedial action is within the authority of WHO, WHO will take timely and appropriate action in response to the findings of such investigation, in accordance with its accountability and oversight framework and established procedures, including its Financial Regulations and Rules, where applicable.

(e) To the extent consistent with WHO's accountability and oversight framework and established procedures, WHO will keep the Government and the IDA/ IBRD regularly informed by agreed means of actions taken pursuant to this Article VIII, paragraph 2, and the results of the implementation of such actions, including where relevant, details of any recovered amounts. Such recovered amounts, if any, shall be applied in the calculation of the Final Accounts referred to in Article VI, paragraph 4 above, or if such amounts are recovered after the date of the Final Account, the Government will consult with the IDA/IBRD and provide payment instructions to WHO with respect to such amounts.

(f) For the purposes of this Agreement, the following definitions shall apply:

(i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

(ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

(iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

(iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

3. In the event that the Government or the IDA/IBRD reasonably believes that WHO has not complied with the requirements of Article VIII, paragraph 2 above, the Government or the IDA/IBRD may request direct consultations at a senior level between the IDA/IBRD, the Government and WHO in order to obtain assurances, in a manner consistent with WHO’s oversight and accountability framework and respecting appropriate confidentiality, that WHO’s oversight and accountability mechanisms have been or will be fully applied. Such direct consultations may result in an understanding between the Government, the IDA/IBRD, and WHO, on any further actions to be taken and the timeframe for such actions.

4. The Government confirms that no official of WHO has received or will be offered by the Government any benefit arising from this Agreement. WHO confirms the same to the Government. The Parties agree that any breach of this provision is a breach of an essential term of this Agreement.

5. The Parties agree and acknowledge that nothing in this Article VIII shall be deemed to waive or otherwise limit any right or authority of the IDA/IBRD or any other entity of the World Bank Group as set out in Section 1.14 of the Guidelines: Procurement under IBRD Loans and IDA Credits (“Procurement Guidelines”) and Section 1.22 of the Guidelines: Selection and Employment of Consultants by World Bank Borrowers (“Consultant Guidelines”), incorporated by reference in the Development Credit/Loan Agreement, to investigate allegations or other information relating to possible corrupt, fraudulent, coercive, collusive or obstructive practices by any third party, or to sanction or take remedial action against any such party which the World Bank Group has determined to have engaged in such practices; provided however that in this Article VIII paragraph 5, “third party” does not include WHO. To the extent consistent with WHO’s oversight framework and established procedures, and if requested by the IDA/IBRD, WHO shall cooperate with the IDA/IBRD or such other entity in the conduct of such investigations.

6. (a) WHO, in its Pro Forma invoice to the Government and prior to the issuance of any purchase order under that Pro Forma invoice, will request the Government to inform WHO whether any supplier named in such Pro Forma invoice is under a sanction of debarment or temporary suspension by World Bank Group. WHO will give due regard to such sanction, as so disclosed, when issuing purchase orders in connection with the procurement or delivery of Supplies or the provision of Services if any under this Agreement.

(b) If WHO proposes to issue a purchase order in connection with the procurement or delivery of Supplies or the provision of Services if any under this Agreement with a party which has disclosed to WHO to be under sanction by the World Bank Group, the following procedure will apply: (i) WHO will so inform the Government, with a copy to the IDA/IBRD, before signing such purchase order; (ii) the Government and the IDA/IBRD then may request direct consultations at a senior level between the IDA/IBRD, the Government and WHO to discuss WHO's decision; and (iii) the IDA/IBRD may thereafter inform WHO by notice, with a copy to the Government, that funds disbursed to it under Article IV, paragraph 10 of this Agreement may not be used to fund such purchase order.

(c) Any funds received by WHO from the IDA/IBRD under Article IV, paragraph 10 of this Agreement that were to be used to fund a purchase order in respect of which the IDA/IBRD has exercised its rights under Article VIII, paragraph 6(b)(iii) above, shall be used to defray the amounts requested by WHO in any subsequent Payment Request, if any, or will be treated as a balance in favour of the Government in the calculation of the Final Accounts and treated in accordance with Article VI, paragraph 4(c) of this Agreement.

ARTICLE IX WARRANTIES; LIABILITY AND CLAIMS

Warranties

1. WHO will pass on to the Government any warranty offered by the manufacturer or supplier used by WHO or any other relevant service provider used by WHO. WHO will not accept the return of any purchases procured on behalf of the Government.

2. WHO will procure the Supplies under terms which will include all warranties that are appropriate in the circumstances and that expressly enable the Government to benefit directly from such warranties. WHO will inform the Government of the relevant terms and conditions of such warranties and require the suppliers to provide copies of the relevant warranties as part of the shipment documentation accompanying the Supplies.

Liability and Claims

3. Claims against WHO arising out of or related to the procurement of the Supplies shall be dealt with in accordance with the provisions of the Basic Agreement; provided, however, that claims related to commercial contracts asserted by parties with which WHO has a signed contract will be handled in accordance with the terms of such contract.

4. WHO does not assume liability with regard to any claims arising out of or relating to or connected with this Agreement, including but not limited to those arising out of or relating to any defect in the quality or quantity of Supplies, the delivery of the Supplies, the use of the Supplies, the provision of Services, or otherwise, unless caused by WHO's failure to facilitate the procurement if any with reasonable diligence. WHO will under no circumstances be liable for any incidental, indirect or consequential damages or for lost revenues or profits arising as a result of WHO's procuring the Supplies, or performance of its obligations or exercise of its rights under this Agreement. WHO's total liability in any event will not exceed the value of the procurement of Supplies and the provision of Services, if any, with respect to which a claim is made.

5. WHO accepts no liability for any third party claims arising out of or related to this Agreement, including but not limited to those arising out of or relating to any defect in the quality or quantity of Supplies, the delivery of the Supplies, the use of the Supplies, the provision of Services, if any, or otherwise, unless caused by WHO's failure to execute the procurement. The Government indemnifies and will deal with, defend and hold WHO harmless in connection with any third party claim or other cause of action arising out of or relating to this Agreement. In case of dispute on the technical conformity or quality of the WHO-approved vaccines and pharmaceuticals, the Parties accept final assessment by an independent laboratory acceptable to the WHO Department of Essential Medicines and Pharmaceutical Policies.

6. The Government will be responsible for asserting all claims available to it either (a) automatically, pursuant to purchase contracts entered into by WHO; or (b) as a result of the terms under which WHO, has procured the Supplies. WHO will provide all reasonable assistance to the Government in connection with such claims; provided however that WHO and the Government shall first reach agreement as to any costs to be incurred in that respect (including but not limited to counsel's fees or court costs).

7. Any compensation received by WHO from manufacturers, suppliers or shippers arising out of or related to contractual or other liability of such manufacturers, suppliers or shippers in connection with the procurement and delivery of the Supplies and the provisions of Services, shall be for the Government's account and shall be dealt with by WHO in accordance with the Government's instructions.

Force Majeure

8. Either Party prevented by force majeure from fulfilling its obligations shall not be deemed in breach of such obligations. The said Party shall use all reasonable efforts to mitigate consequences of force majeure. At the same time, the Parties shall consult with each other on modalities of further execution of the Agreement. Force majeure as used in this Agreement is defined as natural catastrophes such as but not limited to earthquakes, floods, cyclonic or volcanic activity; war (whether declared or not), invasion, act of foreign enemies, rebellion, terrorism, revolution, insurrection, military

or usurped power, civil war, riot, commotion, disorder; ionising radiation or contaminations by radio-activity; other acts of a similar nature or force.

ARTICLE X

INTERPRETATION; PRIVILEGES AND IMMUNITIES; SETTLEMENT OF DISPUTES BETWEEN THE PARTIES

1. This Agreement shall be interpreted in a manner that ensures it is consistent with the 1947 Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations and its Annex VII, (the “General Convention”) as well as the Basic Agreement.

2. Nothing contained in or relating to this Agreement shall be deemed a waiver, express or implied, of any of the privileges and immunities of the WHO under the General Convention, the Basic Agreement, or otherwise.

3. The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of or in connection with this Agreement or the interpretation thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the United Nations Commission on International Trade Law (“UNCITRAL”) Conciliation Rules as in force on the date of this Agreement or according to such other procedure as may be agreed between the Parties.

4. Any dispute, controversy or claim between the Parties arising out of or in connection with this Agreement or the interpretation thereof which cannot be settled amicably within ninety (90) days after receipt by one Party of the other Party’s request for such amicable settlement may be submitted by either Party for settlement in accordance with the Rules of Procedure for Arbitration of UNCITRAL as in force on the date of this Agreement.

ARTICLE XI

TERM AND TERMINATION

1. This Agreement will become effective on the date it is signed by both Parties, and will remain effective until [_____] unless otherwise extended by written agreement between the Parties or terminated sooner in accordance with this Agreement. This Agreement may be terminated by either Party upon sixty (60) days’ written notice to the other.

2. Upon receipt by one Party of the other Party’s written notice of termination of this Agreement, the Parties will take all reasonable and necessary measures to conclude the implementation of this Agreement and wind up their activities (including through the preparation of Final Accounts) in an orderly manner and so as not to disrupt implementation of the Project. Without limiting the generality of the foregoing,

a. WHO shall return to the Government unanswered all Procurement Requests which have been received but not responded to;

- b. WHO shall not be required to initiate a Payment Request in relation to any Pro Forma Invoice which has been accepted but for which a Payment Request has not been issued;
 - c. WHO shall not be required to issue purchase orders or otherwise enter into binding purchase agreements in connection with any Pro Forma Invoice for which a Payment Request has been delivered and in relation to which payment has been received by WHO; and
 - d. WHO shall prepare Final Accounts in accordance with Article VI, paragraph 4 of this Agreement as promptly as possible (taking into account, among other things, the timing of invoices relating to freight and insurance charges).
3. The provisions of this Agreement will survive expiration or termination to the extent necessary to permit an orderly settlement of accounts between the Parties.

Article XII

AMENDMENTS AND MODIFICATIONS; NOTICES; CONFIDENTIALITY AND PUBLIC RELATIONS

Amendments and Modifications

1. This Agreement may be altered, modified or amended only by written instrument duly executed by both Parties.
2. Amendments to, or cancellation of, or reduction in quantities of Supplies, in connection with binding agreements already entered into by WHO at the time such amendment, cancellation, reduction or change is proposed, may only be undertaken with the consent of WHO. The Government will be responsible for payment in advance of any resulting costs (including but not limited to any penalties imposed by suppliers).

Notices

3. Any notice or request required or permitted to be given under this Agreement shall be given in writing and delivered by email or by facsimile transmission. The following addresses are specified for purposes of this Agreement:

For the Government:

For WHO: Contract and Procurement Services
Attention: Mr. Paul-Athanase Acriviadis
World Health Organization
20, Avenue Appia
CH 1211 Geneva 27
Switzerland
Email: procurement@who.int, and acriviadisp@who.int
Fax: +41 22 791 4196

A notice will be deemed “received” twenty-four (24) hours after it is given.

Public Relations and Confidentiality

4. Without the prior written consent of the other, neither Party shall, in any statement or material of an advertising or promotional nature refer to the relationship of the other Party pursuant to this Agreement, or to the relationship of the other Party to the Product. The use of one Party’s emblem by the other party is subject to the other Party’s prior approval in writing.

5. The Parties shall keep confidential any documents, data or other information furnished to each other. The Parties may, however, disclose such information to their subcontractors or partners, as may reasonably be required to execute this Agreement, and provided that the subcontractors or partners shall be bound by similar confidentiality requirements.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

The Government of []	WHO, the World Health Organization
By: _____	By: _____
Name: []	Name:
Title: []	Title: Regional Director
Date : []	Date : []

ANNEX I

THE SUPPLIES

- Description of the Supplies, including technical information, including relevant warranties
- Estimated quantities of Supplies, likely total cost of procuring the entire quantity of Supplies.
- Required product quality assurance documents (such as Certificate of Analysis), special packaging or artwork requirements, etc.
- Preliminary Place of Delivery.
- Estimated Freight and Insurance Costs.
- Estimated PSC.
- Estimated Contingency.
- Preliminary Delivery Schedule.

ANNEX II
WHO STANDARD PROGRAM SUPPORT COSTS ("PSC") FOR
PROCUREMENT OF SUPPLIES TO THE BENEFIT OF A GOVERNMENT
INSTITUTION

Product	PSC

ANNEX III
ELEMENTS TO BE INCLUDED IN PROCUREMENT REQUESTS

The following elements should be included in a Procurement Request:

Supplies:

- Description of the requested Supply Item, including technical information, such as minimum shelf life and relevant warranties
- Estimated Supply Item quantity
- Requested Delivery Schedule, the preferred mode of transport, Place of Delivery , Consignee and other related delivery information

II. Services:

- Description of Services
- Requested Commencement date and Completion date

ANNEX IV
ELEMENTS TO BE INCLUDED IN PRO FORMA INVOICES

The following elements will be included in a Pro Forma Invoice:

I. Supplies:

Description of each Supply Item, including technical information such as minimum shelf life and relevant warranties.

- a. Supplier name and origin Country of origin of the Supplies):
- b. Estimated Supply Item quantity, unit of measure, unit cost, sub-total cost.
- c. Delivery Schedule, terms of Delivery (CIP or CIF), mode of transport, Place of Delivery Consignee, and other related delivery information
“..including a port of entry such as an international airport, major seaport or train or train terminal (“Port of Entry”).
- d. Validity period of the Pro Forma Invoice for each Supply Item.

II. Services:

- a. Description of Services.
- b. Estimated cost.
- c. Commencement date.
- d. Completion date.
- e. Validity period of the Pro Forma Invoice for the Services.

III. Elements Common to Supplies and Services

- a. Pro Forma Invoice Number.
- b. Administrative Reference
- c. Contingency.
- d. [Freight and Insurance Cost].
- e. PSC.
- f. Total Pro Forma Invoice.

**ANNEX V
TEMPLATE FOR PAYMENT REQUEST**

Name of Project: [_____]
Credit/Loan: [# #]

DDD,DDD.CC	Amount to be paid, in US dollars, expressed in figures
1. Total amount of funds received from the Government of _____	
2. Total amount committed by WHO for supplies provided to the Government of _____ (name of country) 2.a. Purchase of supplies 2.b. WHO standard PSC 2.c. Freight and Insurance 2.d. Any other agreed-upon charges and procurement related services) 2.e. Total	
3. Balance available in the account	
4. A. Estimated amount to be expended by WHO for supplies to be provided to the Government of ____ (name of country) 4.a. Purchase of supplies 4.b. WHO standard PSC 4.c. Freight and Insurance 4.d. Any other agreed-upon charges and procurement related services) B. Contingency C. Total	
5. Present requirement of funds from the Government of ____ (name of country) PLEASE PAY	

Signature: _____
 Name: _____
 Title: _____
 Date: _____

By bank wire transfer:			
Account name:			
Bank name:			
Bank account no.:	Account no. w/IBAN	Swift address:	Bank Address:
WHO/ Reference:			

ANNEX VI
TEMPLATE FOR ACCEPTANCE DOCUMENT

Date: []
Attention: WHO/GDF
Cc: International Bank for Reconstruction and Development

This Notice confirms receipt of the following Supplies:

Airway Bill No. []
Purchase Order Number/WH Identifier: []

We find these Supplies to be in apparent good order and in accordance with the conditions of the related procurement request.

Signature

Title

**ANNEX VII
TEMPLATE FOR FINANCIAL UTILISATION REPORTS**

(WHO letterhead)

World Bank Template	
References	:
Customer No.	:
Date	:

GSM / PATEO References:

Funds Received/ Transferred	Amount in USD
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Total Funds Received/ Transferred

Disbursements

Material	Description	Quantity	Amount in USD
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Total Disbursed Supplies

PSC

Freight and Insurance

Total Disbursements/charges

Unexpended/cash balance in your favor

Commitments

Material	Description	Quantity	Amount in USD
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Total (Estimated) Committed Supplies and Services

Committed (Estimated) Freight and Insurance

Total (Estimated) Commitments*

Balance

Prepared by:	Certified by:
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* Commitments represent estimated amounts which are subject to change as additional Purchase Orders are placed. Final actual expenditures may also vary due to foreign exchange rate fluctuations.

ANNEX VIII

THE SERVICES

- Description of the Services, including Terms of Reference.
- Estimated date of commencement, if known.
- Estimated cost of the Services [(including all relevant fees and other charges)] plus PSC and Contingency].
- Estimated date of completion.