



Integrated Health Resilience Program (IHRP),

Project no. 47862

BMZ no.202167088

KfW Procurement Number: -510538

2023

**Procurement Contract
(This Contract consists of ----pages)**

Date: 00 - 00- 2023

Product: -----

Brand Name: Protec

Contract Number: YF/----- 2023

Summary

This agreement is between **Yamaan Foundation for Health and Social Development** and ----- for the supply of **minimum ----- up to a maximum ----- of -----** to be delivered to Yemen over 36 months at:

000000-000000 unit/ FOB (supplier) Port @ Euro 00000 / unit

**000000-000000 unit/ FOB (supplier) Port @ Euro 00000 / unit
(approximately 12 months after 1st delivery)**

**000000-000000 unit/ FOB (supplier) Port @ Euro 00000 / unit
(approximately 12 months after 2nd delivery)**

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It is mandatory that Annexes attached are completed and returned to the Purchaser on contract signature.

LIST OF ABBREVIATIONS

EUR	EURO
CIP/FOB	Trade Terms published by the International Chamber of Commerce, Paris, commonly referred to as INCOTERMS”
GCC	General Conditions of Contract
ICH	International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use
IFB	Invitation for Bids
ITB	Instructions to Bidders
KfW	KfW Entwicklungsbank (formally Kreditanstalt für Wiederaufbau)
MPHP	Ministry of Public Health and Population
UNFPA	United Nations Population Fund
YF	Yamaan Foundation for Health and Social Development

Section I. General Conditions of Contract

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Section I. General Conditions of Contract¹

1. **Definitions**
- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) “KfW” means the KfW Entwicklungsbank;
 - (b) “Contract” means the Contract Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein;
 - (c) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto;
 - (d) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract;
 - (e) “Day” means calendar day;
 - (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract;
 - (g) “GC” means the General Conditions of Contract;
 - (h) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract;
 - (i) “Purchaser’s Country” is the country **specified in the Particular Conditions of Contract (PC)**;
 - (j) “Purchaser” means the entity purchasing the Goods and Related Services, as **specified in the PC**;
 - (k) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract;
 - (l) “PC” means the Particular Conditions of Contract;
 - (m) “Subcontractor” means any natural person, private or state entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier;
 - (n) “Supplier” means the natural person, private or state entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement;

¹ [NOTE TO SUPPLIER: Text in this Section shall not be modified. Please make any changes in the PC only]

(o) "The Named Place of Destination"/"Project Site," where applicable, means the place(s) **named in the PC**.

2. Contract Documents

2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

3. Fraud and Corruption

3.1 The KfW requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Appendix 1 to the PC.

4. Interpretation

4.1 If the context so requires it, singular means plural and vice versa.

4.2 Incoterms

(a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms;

(b) The terms CIP and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms **specified in the PC** and published by the International Chamber of Commerce in Paris, France.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

4.5 Nonwaiver

(a) Subject to GC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract;

(b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

- 4.6 Severability
- If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.
5. **Language**
- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language **specified in the PC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.
6. **Joint Venture, Consortium or Association**
- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser. The designated party to act as lead firm with full authority shall be **specified in the PC**.
7. **Eligibility**
- 7.1 All Goods and Related Services to be supplied under the Contract and financed by the KfW shall have their origin in any eligible source as **specified in the PC**. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
8. **Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address **specified in the PC**. The term "in writing" means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
9. **Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser's Country, unless otherwise **specified in the PC**.
10. **Settlement of Disputes**
- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

- 10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the PC**.
- 10.3 Notwithstanding any reference to arbitration herein,
- (a) The parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
 - (b) The Purchaser shall pay the Supplier any monies due the Supplier.
- 11. Inspections and Audit by the KfW**
- 11.1 The Supplier shall keep, and shall make all reasonable efforts to cause its Subcontractors to keep accurate and systematic accounts and records, in respect of the Goods in such form and details as will clearly identify relevant time changes and costs.
- 11.2 The Supplier shall permit, and shall cause its Subcontractors and consultants to permit, the KfW and/or persons appointed by the KfW to inspect the Supplier's offices and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the KfW if requested by the KfW.
- 12. Scope of Supply**
- 12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.
- 13. Delivery and Documents**
- 13.1 Subject to GC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are **specified in the PC**.
- 14. Supplier's Responsibilities**
- 14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GC Clause 12, and the Delivery and Completion Schedule, as per GC Clause 13.
- 15. Contract Price**
- 15.1 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments **authorized in the PC**.

- 16. Terms of Payment and Reimbursement**
- 16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as **specified in the PC**.
- 16.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
- 16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed.
- 16.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period **set forth in the PC**, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate **shown in the PC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
- 16.6 In the event of any reimbursement, guarantee or similar claimable payments and any insurance payments under this Contract, payment shall be effected as **specified in the PC**.
- 17. Taxes and Duties**
- 17.1 For goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country.
- 17.2 For goods manufactured within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country as **specified in the PC**, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.
- 18. Performance Security**
- 18.1 The Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount **specified in the PC**.
- 18.2 The proceeds of the Performance Security shall be payable to the Purchaser pursuant to GC 16.6 (reimbursement) as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

18.3 The Performance Security shall be denominated in the currency(ies) of the Contract, and shall be in one of the format **stipulated by the Purchaser in the PC**, or in another format acceptable to the Purchaser.

18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless **specified otherwise in the PC**.

19. Copyright

19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

20. Confidential Information

20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GC Clause 20.

20.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.

20.3 The obligation of a party under GC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:

- (a) The Purchaser or Supplier need to share with the KfW or other institutions participating in the financing of the Contract;
- (b) Now or hereafter enters the public domain through no fault of that party;
- (c) Can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

- (d) Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.4 The above provisions of GC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

21. Subcontracting

21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GC Clauses 3 and 7.

22. Specifications, Standards and Spare Parts

22.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VII, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.
- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GC Clause 33.

22.2 Spare Parts

- (a) The Supplier shall carry sufficient inventories to assure ex-stock supply of consumables and consumable spares. Other spare parts and components shall be supplied as promptly as possible but in any case within the number of days **specified in the PC** of placement of order.
- (b) The Supplier shall be for a period of years **specified in the PC** from the date of delivery and commissioning under obligation to supply spare parts. However, the

Supplier shall, in the event of termination of production of the spare parts:

- (i) Send an advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
- (ii) Furnish, following such termination, at no cost to the Purchaser, the blueprints, drawings and specifications of the spare parts, if and when requested.

- 23. Packing and Documents**
- 23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their named place of destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' named place of destination and the absence of heavy handling facilities at all points in transit.
- 23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, **specified in the PC**, and in any other instructions ordered by the Purchaser.
- 24. Insurance**
- 24.1 Unless otherwise **specified in the PC**, the Goods supplied under the Contract shall be fully insured - in the currency(ies) of the Contract from an eligible country - against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner **specified in the PC**.
- 25. Transportation**
- 25.1 Unless otherwise **specified in the PC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.
- 25.2 The Supplier may be required to provide any or all of the following services, including additional services, if any, **specified in PC**:
- (a) Performance or supervision of on-site assembly and/or start-up of the supplied Goods;
 - (b) Furnishing of tools required for assembly and/or maintenance of the supplied Goods;
 - (c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
 - (d) Performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties,

provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and

- (e) Training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

25.3 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

26. Inspections and Tests

26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are **specified in the PC**.

26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, and/or at the Goods' named place of destination, or in another place in the Purchaser's Country as **specified in the PC**. Subject to GC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.

26.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GC Sub-Clause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.

26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.

- 26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GC Sub-Clause 26.4.
- 26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.
- 27. Liquidated Damages**
- 27.1 Except as provided under GC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage **specified in the PC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage **specified in those PC**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GC Clause 35.
- 28. Warranty**
- 28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 28.2 Subject to GC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of named place of destination.
- 28.3 Unless otherwise **specified in the PC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the named place of destination **indicated in the PC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 28.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.

28.5 Upon receipt of such notice, the Supplier shall, within the period **specified in the PC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.

28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **PC**, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

29. Patent Indemnity

29.1 The Supplier shall, subject to the Purchaser's compliance with GC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) The installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
- (b) The sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.

29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

- 29.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.
- 30. Limitation of Liability**
- 30.1 Except in cases of criminal negligence or willful misconduct,
- (a) The Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
- (b) The aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the purchaser with respect to patent infringement
- 31. Change in Laws and Regulations**
- 31.1 Unless otherwise specified in the Contract, if after the date of twenty-eight (28) days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GC Clause 15.
- 32. Force Majeure**
- 32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not

foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

33. Change Orders and Contract Amendments

33.1 The Purchaser may at any time order the Supplier through notice in accordance GC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) Drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
- (b) The method of shipment or packing;
- (c) The place of delivery; and
- (d) The Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

34. Extensions of Time

34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GC Clause 13, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in

which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GC Clause 27, unless an extension of time is agreed upon, pursuant to GC Sub-Clause 34.1.

35. Termination

35.1 Termination for Default

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
 - (i) If the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GC Clause 34;
 - (ii) If the Supplier fails to perform any other obligation under the Contract; or
 - (iii) If the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GC Clause 35.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency

- (a) The Purchaser may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.

35.3 Termination for Convenience

- (a) The Purchaser, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the

Supplier under the Contract is terminated, and the date upon which such termination becomes effective;

- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
 - (i) To have any portion completed and delivered at the Contract terms and prices; and/or
 - (ii) To cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

36. Assignment

36.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

**37. Export
Restriction**

37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser and of the KfW that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.

Section II. Particular Conditions of Contract

The following Particular Conditions of Contract (PC) shall supplement and / or amend the General Conditions of Contract (GC). Whenever there is a conflict, the provisions herein shall prevail over those in the GC.

[The Purchaser shall select / insert the appropriate wording using the samples below or other acceptable wording, and delete the highlighted text in red italics.]

GC 1.1(i)	The Purchaser's country is: Yemen
GC 1.1(j)	The Purchaser is: Yamaan Foundation for Health and Social Development
GC 1.1 (o)	<p>The Named Place of Destination(s) is/are: FOB supplier's country</p> <p>FOB <i>[Insert name(s) and detailed information on the Supplier location(s)]</i></p>
GC 5.1	The governing and communication language shall be English.
GC 6.1	The designated party to act as lead firm with full authority is: <i>[Insert complete legal name of the lead firm if Supplier is acting as a consortium]</i>
GC 7.1	<p>Goods and services from countries under embargo from Germany, the European Union or the United Nations are not eligible.</p> <p>Goods and services from countries which are legally barred in the country of the contracting agency.</p>
GC 8.1	<p>For notices, the Purchaser's address shall be: Attention: Maha Alnajjar Street Address: Yamaan's Foundation Office <i>Al-Mansoura Area, 90 Street, Alsafina Round, Al-Qadi Trade Center, Office No.701</i> .City: Aden Country: Yemen Telephone: Tel: 00967735287117 Electronic mail address: maha.alnajjar@yamaan.org</p> <p>For notices, the Supplier's address shall be: Attention: <i>[Insert full name of person, if applicable]</i> Street Address: <i>[Insert street address and number]</i> City: <i>[Insert name of city or town]</i> ZIP Code: <i>[Insert postal ZIP code, if applicable]</i> Country: <i>[Insert name of country]</i> Telephone: <i>[Include telephone number, including country and city codes]</i> Electronic mail address: <i>[Insert e-mail address, if applicable]</i></p>

GC 9.1	The governing law shall be the law of: <i>England and Wales</i>
GC 10.2	<p>The rules of procedure for arbitration proceedings pursuant to GC Clause 10.2 shall be as follows:</p> <p><i>Clause 10.2 (a) shall be retained in the case of a Contract with a foreign Supplier and clause 10.2 (b) shall be retained in the case of a Contract with a national of the Purchaser's country.</i></p> <p>(a) Contract with foreign Supplier:</p> <p><i>International Chamber of Commerce</i></p> <p>GC 10.2—All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with said Rules.</p> <p>The appointing authority shall be the ICC Court.</p> <p>The number of arbitrators shall be one.</p> <p>The applicable law shall be the laws of England and Wales.</p> <p>The place of arbitration shall be London.</p> <p>The language shall be English.</p>
GC 13.1	<p>For Goods supplied from abroad:</p> <p>Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by cable or by electronic way previously agreed between the parties the full details of the shipment, including contract number, description of Goods, quantity, the mode of transport, the bill of lading number and date, place of loading, date of shipment, place of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:</p> <ul style="list-style-type: none"> (i) Original and three copies of the Supplier's invoice² showing Goods' and Related Services' description, quantity, unit price, total amount, number of packages, names of the exporter and the consignee; Goods and Related Services must be carefully described (accurate, specific, and complete description of merchandise); (ii) Original negotiable and three non-negotiable copies (stamped and dated according to the original) of the clean, on-board bill of lading marked "freight prepaid" or equivalent (air waybill, road waybill, FCR, CMR), showing gross and net weights, volume of measurement, marks and identification, name and address of importer of consignee; (iii) Original and three copies of the packing list identifying contents of each package; packing and weighing list shall describe accurately and in detail the contents of each package / case included in the shipment and give the net and gross weights; (iv) Original insurance certificate; (v) Original Manufacturer's or Supplier's warranty certificate; (vi) the Supplier's factory inspection report;

² If required for due process (e.g. customs clearance in the Purchaser's country), the invoice can be split into two invoices, one showing CIP values and the other local services (inland transportation, installation, training, etc.).

	<p>(vii) Certified certificate of origin: original and three copies; origin to be certified by the Chamber of Commerce in the supplier's country; and</p> <p>(viii) Any other document that may be required in specific cases.</p> <p>The above documents shall be received by the Purchaser at least one week before arrival of the Goods at the place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.</p>
GC 15.1	The prices charged for the Goods supplied and the related Services performed <i>shall not</i> be adjustable.
GC 16.1	<p>GC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>Methods of Payment:</p> <p>Payments shall be made using the KfW's "Direct Disbursement" procedure.</p> <p>Payment for Goods supplied from abroad:</p> <p>Payment of foreign currency portion shall be made in <i>Euro unless otherwise agreed</i> in the following manner:</p> <p>(i) On Delivery: the Contract Price of the Goods delivered and Related Services provided shall be paid through the payment method stipulated above within sixty (60) days from inspection of the Goods by the Purchaser (typically done after release of the goods from customs), upon (i) submission of documents specified in GC Clause 13, and (ii) presentation of the Purchaser's inspection certificate,</p>
GC 16.1	<p>Payment to the Supplier of the amounts due in each currency shall be made into the following bank accounts:</p> <p>[Insert bank account details at the time of contract signing]</p>
GC 16.5	GC 16.5 does not apply to this Contract, and no interest payments will be made.
GC 16.6	<p>Reimbursement payments shall be made to Yamaan Foundation to the following bank account:</p> <p>Account holder: Account number: Branch code (BLZ): Account number (IBAN): SWIFT/BIC:</p> <p>Payment to be made for the account of the <i>[Insert complete legal name of the Purchaser]</i> of <i>[Insert name of the Purchaser's Country]</i>.</p>
GC 17.3	The following taxes, duties and fees exemptions apply to the Contract: YF is not subject to any taxes and duties. YF has an exemption per an agreement with the Ministry of Health.
GC 18.1	The amount of the Performance Security shall be: Not applicable

GC 18.3	The Performance Security shall be in the form of: Not Required
GC 18.4	Discharge of the Performance Security shall take place: Not applicable
GC 19	<p>Add a new GC 19.2 and 19.3 as follows:</p> <p>19.2 The Purchaser hereby grants the Supplier a non-exclusive, non-sub-licensable to use the Purchaser's Trademark (as defined in Section VII) solely for and to the extent required for the provision of the Services and the delivery of the Goods to the Purchaser. This license shall terminate automatically on expiry or termination of the Contract.</p> <p>19.3 The Supplier acknowledges and agrees that ownership of the Trademark and the goodwill connected with it remain the property of the Purchaser. The Supplier shall not at any time:</p> <p>(a) sub-license, transfer or otherwise deal with the Trademark or do, or omit to do anything that could adversely affect its validity;</p> <p>(b) adopt, use, or apply to register any mark or device which incorporates or is confusingly familiar to, or is a simulation of, or competes with the Trademark.</p>
GC 22.2(a)	The number of days shall be: 15
GC 22.2 (b)	The number of years shall be: Not applicable
GC 23.2	<p>The packing, marking and documentation within and outside the packages shall be:</p> <p>All packaging including primary and secondary packaging and the shipping or master cartons must be of a strength and rigidity sufficient to protect the goods from light, moisture, extremes of temperature and mechanical damage during shipping and storage.</p> <p>Each mounting shall have the following information: (Yamaan will provide Brand name)</p> <ul style="list-style-type: none"> • Generic name • Yamaan brand name: Protec • Manufacturer's name • Country of manufacture • Medical device or drug registration numbers • Batch or lot identification code • Manufacturing date (month, year) • Expiration date (month, year) <p>Maximum gross weight of carton: 25kg</p>
GC 24.1	In line with FOB (port of discharge) Incoterms 2020, the seller accepts liability of damages and loss through to point of discharge when the goods are handed over to the appointed agents at the port.
GC 25.1	Responsibility for transportation of the Goods shall be as specified in the

	relevant Incoterms.
GC 25.2	Incidental services to be provided are: <i>None</i>
GC 26.1	The inspections and tests shall be: [Insert nature, frequency, procedures for carrying out the inspections and tests] _ <i>Note this will be updated based on the contracted commodity.</i>
GC 26.2	The Inspections and tests shall be conducted at: [Insert name(s) of location(s)] <i>Note this will be updated based on the contracted commodity.</i>
GC 27.1	The liquidated damages shall be: 0.5% per week
GC 27.1	The maximum amount of liquidated damages shall be: 10%
GC 28.3	For Goods which are not food and beverages, pharmaceutical products, dietary supplements or medical devices the following shall apply. For Goods which are food and beverages, pharmaceutical products, dietary supplements or medical devices the provisions of Section VII shall apply. The period of validity of the Warranty shall be: 24months from acceptance of the Goods or: 30 months from the date of shipment, whichever occurs earlier. For purposes of the Warranty, the named place(s) of destination(s) shall be: <i>Aden sea port Yemen</i>
GC 28.5 and GC 28.6	The period for repair or replacement shall be:60 days.

Attachment 1 to Particular Conditions of Contract

KfW Policy – Sanctionable Practice – Social and Environmental Responsibility

1) Sanctionable Practice

The PEA and the Contractors (including all members of a Joint Venture and proposed or engaged Subcontractors) must observe the highest standard of ethics during the Tender Process and performance of the Contract.

By signing the Declaration of Undertaking the Contractors declare that (i) they did not and will not engage in any Sanctionable Practice likely to influence the Tender Process and the corresponding Award of Contract to the PEA's detriment, and that (ii) in case of being awarded a Contract they will not engage in any Sanctionable Practice.

Moreover, KfW requires to include in the Contracts a provision pursuant to which Contractors must permit KfW and in case of financing by the European Union also to European institutions having competence under European law to inspect the respective accounts, records and documents relating to the Tender Process and the performance of the Contract , and to have them audited by auditors appointed by KfW.

KfW reserves the right to take any action it deems appropriate to check that these ethics rules are observed and reserves, in particular, the rights to:

- (a) reject an Offer for Award of Contract if during the Tender Process the Bidder who is recommended for the Award of Contract has engaged in Sanctionable Practice, directly or by means of an agent in view of being awarded the Contract;
- (b) declare misprocurement and exercise its rights on the ground of the Funding Agreement with the PEA relating to suspension of disbursements, early repayment and termination if, at any time, the PEA, Contractors or their legal representatives or Subcontractors have engaged in Sanctionable Practice during the Tender Process or performance of the Contract without the PEA having taken appropriate action in due time satisfactory to KfW to remedy the situation, including by failing to inform KfW at the time they knew of such practices.

KfW defines, for the purposes of this provision, the terms set forth below as follows:

Coercive Practice	The impairing or harming, or threatening to impair or harm, directly or indirectly, any person or the property of the person with a view to influencing improperly the actions of a person.
Collusive Practice	An arrangement between two or more persons designed to achieve an improper purpose, including influencing improperly the actions of another person.
Corrupt Practice	The promising, offering, giving, making, insisting on, receiving, accepting or soliciting, directly or indirectly, of any illegal payment or undue advantage of any nature, to or by any person, with the intention of influencing the actions of any person or causing any person to refrain from any action.
Fraudulent Practice	Any action or omission, including misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a person to obtain a financial benefit or to avoid an obligation.
Obstructive Practice	Means (i) deliberately destroying, falsifying, altering or concealing evidence material to the investigation or the making of false statements to investigators, in order to materially impede an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice, or threatening, harassing or intimidating any Person to prevent them from disclosing their knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) any act intended to materially impede the exercise of KfW's access to contractually required information in connection with an official investigation into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice.
Sanctionable Practice	Any Coercive Practice, Collusive Practice, Corrupt Practice, Fraudulent Practice or Obstructive Practice (as such terms are defined herein) which is unlawful under the Financing Agreement.

2) Social and Environmental Responsibility

Projects financed in whole or partly in the framework of Financial Cooperation have to ensure compliance with international Environmental, Social, Health and Safety (ESHS) standards (including issues of sexual exploitation and abuse and gender based violence) Contractors in KfW-financed projects shall consequently undertake in the respective Contracts to:

- (a) comply with and ensure that all their Subcontractors and major suppliers, i.e. for major supply items comply with international environmental and labour standards, consistent with applicable law and regulations in the country of implementation of the respective

Contract and the fundamental conventions of the International Labour Organisation³ (ILO) and international environmental treaties and;

- (b) implement any environmental and social risks mitigation measures, as identified in the environmental and social impact assessment (ESIA) and further detailed in the environmental and social management plan (ESMP) as far as these measures are relevant to the Contract and implement measures for the prevention of sexual exploitation and abuse and gender-based violence.

³ In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

Section III. Contract Forms

This Section contains forms which, once completed, will form part of the Contract.

Table of Forms

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Letter of Acceptance

[Use letterhead paper of the Purchaser]

[Insert date]

To: *[Insert name and address of the Supplier]*

Subject: **Notification of Award Contract No.** *[Insert contract number]*

This is to notify you that your Bid dated *[Insert date]* for execution of the *[Insert name of the contract and identification number, as given in the PC]* for the Accepted Contract Amount of *[Insert contract price in numbers and words including code and name of currency]*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by the undersigned Purchaser.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Institution: Yamaan Foundation for Health and Social Development _____

Attachment: Contract Agreement

COMPLETE AND SEND TO SUPPLIER WITH THE LETTER OF ACCEPTANCE FOR THEM TO SIGN AND RETURN

Contract Agreement

THIS AGREEMENT made

the *[Insert number]* day of *[Insert: month]*, *[Insert: year]*.

BETWEEN

- (1) *Yamaan Foundation for Health and Social Development*], a/an *[Insert description of type of legal entity]* incorporated under the laws of Yemen and having its principal place of business at *[Insert address of Purchaser]* (hereinafter called “the Purchaser”), and
- (2) *[Insert name of Supplier]*, a corporation incorporated under the laws of *[Insert: country of Supplier]* and having its principal place of business at *[Insert address of Supplier]* (hereinafter called “the Supplier”).

WHEREAS the Purchaser invited bids for certain Goods and ancillary services, viz., *[Insert brief description of Goods and Services]* and has accepted a Bid by the Supplier for the supply of those Goods and Services in the sum of *[Insert Contract Price in words and figures, expressed in the Contract currency(ies)]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
 - (a) The Letter of Acceptance;
 - (b) The Bid Submission Form and Appendix to Bid Submission Form (including the signed Declaration of Undertaking);
 - (c) The Addenda Nos. (if any);
 - (d) Particular Conditions of Contract, including Annex 1;
 - (e) General Conditions of Contract;
 - (f) The Specification (including Schedule of Requirements and Technical Specifications);
 - (g) The completed Bidding Forms (including Price Schedules); and
 - (h) Any other document listed in GC as forming part of the Contract.
3. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Purchaser to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
5. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of England and Wales on the day, month and year indicated above.

For and on behalf of the Purchaser⁴:

Signed: *[Insert signature]*

In the capacity of *[Insert title or other appropriate designation]*

In the presence of *[Insert identification of official witness]*

For and on behalf of the Supplier:

Signed: *[Insert signature of authorized representative(s) of the Supplier]*

In the capacity of *[Insert title or other appropriate designation]*

In the presence of *[Insert identification of official witness]*

⁴ In cases where the Purchaser is different from the Beneficiaries of the Contract, it may be advisable to have authorized representatives from the Beneficiary Institutions sign as witnesses, accepting the Goods to be supplied.

Section IV. Delivery Schedule

To be updated based on the contracted products

Section V. Specifications

To be updated based on the contracted product

Section VI. Schedule of Requirements

The following Specifications shall additionally apply to each delivery of Goods under the Contract which are food and beverages, pharmaceutical products, dietary supplements or medical devices:

Definitions for this section:

Applicable Laws means GMP (as defined below) and all laws, ordinance, codes, rules and regulations applicable to the manufacture, use, marketing, storage, packaging and delivery of the Goods that may be in effect from time to time in Yemen and [insert country of manufacture].

Certificate of Analysis means a document which is signed and dated by a duly authorised representative of the Supplier certifying that the Products are in compliance with the relevant specification, GMP and Applicable Laws.

Country of Origin means the place where the Goods were produced or manufactured.

GMP means all laws, guidelines and regulations applicable to the manufacturing, processing, testing, labelling, packaging and distributing of the Goods including, if the Goods are food and beverages, pharmaceutical products, dietary supplements or medical devices or medical products, current Good Manufacturing Practice as promulgated by the World Health Organisation (WHO) as may be amended or re-enacted from time to time.

Regulatory Authority means any applicable supra-national, federal, regional, state, provincial or local regulatory agency, department, bureaus, commissions, councils or other government entities regulating or otherwise exercising authority with respect to the manufacture, importation or distribution, use or sale of the Goods in each of the countries where the Goods are manufactured or distributed and Yemen.

Trademark means the Purchaser's registered trademark details of which are set out in the annex to this section.

1. Standards

1.1 The Goods shall be manufactured in a GMP compliant unit as per WHO guidelines and the manufacturing standards for the Goods shall have been accredited by WHO/UNFPA specifications and the relevant ISO standards. [insert others as required].

1.2 All premises used for the manufacture of Goods must hold a current licence to operate as a manufacturer in their regulatory setting.

1.3 Goods must also have a WHO certificate which fulfils the basic function of GMP and marketing authorisation. .[insert others as required]

1.4 All Goods must be provided with a certificate of Country of Origin and a Certificate of Analysis for each batch of finished product supplied.

1.5 The manufacturing license for the Goods must be issued by the relevant Ministry of Health or suitable certifying organisation and the premises where the Supplier makes the Goods must be open to visits from inspectors appointed by the Purchaser.

1.6 Each of the Supplier and the Purchaser will be responsible to do their part to ensure patient safety, to meet all local and national regulatory requirements and to comply generally with current international guidelines for Good Pharmacovigilance Practices as promulgated by the WHO.

2. Inspections and Tests

2.1 The Purchaser reserves the right to examine all Goods in the course of manufacturing and packaging and to take samples for independent analysis.

3. Warranties

3.1 The Supplier warrants that all Goods supplied under the Contract:

- (a) will be of fresh manufacture and have the maximum possible shelf life and comply with the description of the Goods in the Contract.
- (b) will arrive at the FOB port no more than three months into the shelf life of the Goods.
- (c) will show the expiry date on the invoice and on the shipping documentation.
- (d) will be of merchantable quality, fit for purpose and comply with the provisions of the regulatory approval for the Goods.
- (e) are not subject to recall by the applicable regulatory authority.
- (f) have been made, stored, packaged, labelled and controlled in accordance with this Agreement, all Applicable Laws and the standards required by the Regulatory Authority in the country to which the Goods will be delivered or for which it has been packaged and all necessary tests and analyses have been duly carried out in the course of the manufacturing of the Goods.
- (g) The Goods shall be free of any latent, patent or quantitative defect.
- (h) The Goods shall not, at the time of delivery to the Customer, contain any material or be manufactured, handled or stored in any way that would cause the Goods to be adulterated in any way.

4. Recalls and Claims

4.1 If any of the Goods are subject to a recall, the Supplier shall notify the Purchaser within fourteen (14) days and promptly replace the items covered by the recall at its own cost.

4.2 The Purchaser shall promptly notify the Supplier of any claims under 3.1 or 4.1 above.

4.3 Upon receipt of such notice the Supplier shall, with all reasonable speed, replace any Goods which fail to meet the requirements of 3.1 or 4.1 (**Defective Goods**) at no cost to the Purchaser and reimburse the Purchaser for any shipping costs incurred by the Purchaser in connection with those Goods. The Supplier shall remove or destroy the Defective Goods at the Supplier's cost.

4.4 If the Supplier fails to remove the Defective Goods within a reasonable time of notice under clause 4.3 above then the Purchaser may take such action as it deems necessary, at the Supplier's risk and cost and without prejudice to any other rights the Purchaser may have.

5. Trademark

The Supplier acknowledges the Purchaser's rights to the Trademark and the Customer's business and the goodwill connected with that, are and shall remain the property of the Purchaser at all times. The Supplier accepts that:

- (a) it is only permitted to use the Customer's Trademark for the purpose of fulfilling its obligations under the Contract and during the term of the Contract, and only as authorised by the Customer hereunder;
- (b) other than to that extent, it has and shall have no right to use or to allow others to use the Customer's Intellectual Property or any part of it.
- (c) it shall not use any trademarks, trade names or get-up which resemble the Customer's Trademarks, trade names or get-up, and which would therefore be likely to confuse or mislead the public or any section of the public;
- (d) it shall not do or omit to do, or authorize any third party to do or to omit to do, anything which could invalidate or be inconsistent with the Trademark.

Annex 1: Declaration of Undertaking

Reference name of the Application/Offer/Contract:

("Contract")⁵

To:

("Project Executing Agency")

1. We recognise and accept that KfW only finances projects of the Project Executing Agency ("PEA")⁶ subject to its own conditions which are set out in the Funding Agreement it has entered into with the PEA. As a matter of consequence, no legal relationship exists between KfW and our company, our Joint Venture or our Subcontractors under the Contract. The PEA retains exclusive responsibility for the preparation and implementation of the Tender Process and the performance of the Contract.
2. We hereby certify that neither we nor any of our board members or legal representatives nor any other member of our Joint Venture including Subcontractors under the Contract are in any of the following situations:
 - 2.1) being bankrupt, wound up or ceasing our activities, having our activities administered by courts, having entered into receivership, reorganisation or being in any analogous situation;
 - 2.2) convicted by a final judgement or a final administrative decision or subject to financial sanctions by the United Nations, the European Union or Germany for involvement in a criminal organisation, money laundering, terrorist-related offences, child labour or trafficking in human beings; this criterion of exclusion is also applicable to legal Persons, whose majority of shares are held or factually controlled by natural or legal Persons which themselves are subject to such convictions or sanctions;
 - 2.3) having been convicted by a final court decision or a final administrative decision by a court, the European Union, national authorities in the Partner Country or in Germany for Sanctionable Practice in connection with a Tender Process or the performance of a Contract or for an irregularity affecting the EU's financial interests (*in the event of such a conviction, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this conviction is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*);
 - 2.4) having been subject within the past five years to a Contract termination fully settled against us for significant or persistent failure to comply with our contractual obligations during such Contract performance, unless this termination was challenged and dispute resolution is still pending or has not confirmed a full settlement against us;
 - 2.5) not having fulfilled the applicable fiscal obligations with regard to the payment of taxes at the respective tax residence and in the country of origin of the PEA (*contractors based in Annex 1 countries (<https://www.consilium.europa.eu/de/policies/eu-list-of-non-cooperative-jurisdictions/>) must submit a fully completed and legally countersigned declaration of tax conformity (Appendix 1 to the Declaration of Undertaking) in addition to the Declaration of Undertaking at the time of award of the contract/contract review. This shall become an integral part of the contract. Failure to submit may result in exclusion from the awarding procedure. For contractors based in countries not listed as Annex 1 countries, only the Declaration of Undertaking must be submitted, and not the declaration of tax conformity*);
 - 2.6) being subject to an exclusion decision of the World Bank or any other multilateral development bank and being listed on the website <http://www.worldbank.org/debarr> or

⁵ Capitalised terms used, but not otherwise defined in this Declaration of Undertaking have the meaning given to such term in KfW's "Guidelines for the Procurement of Consulting Services, Works, Plant, Goods and Non-Consulting Services in Financial Cooperation with Partner Countries".

⁶ The PEA means the purchaser, the employer, the client, as the case may be, for the procurement of Consulting Services, Works, Plant, Goods or Non-Consulting Services.

respectively on the relevant list of any other multilateral development bank (*in the event of such exclusion, the Applicant or Bidder shall attach to this Declaration of Undertaking supporting information showing that this exclusion is not relevant in the context of this Contract and that adequate compliance measures have been taken in reaction*); or

- 2.7) being guilty of misrepresentation in supplying the information required as a condition of participation in the Tender.
3. We hereby certify that neither we, nor any of the members of our Joint Venture or any of our Subcontractors under the Contract are in any of the following situations of conflict of interest:
 - 3.1) being an affiliate controlled by the PEA or a shareholder controlling the PEA, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.2) having a business or family relationship with a PEA's staff involved in the Tender Process or the supervision of the resulting Contract, unless the stemming conflict of interest has been brought to the attention of KfW and resolved to its satisfaction;
 - 3.3) being controlled by or controlling another Applicant or Bidder, or being under common control with another Applicant or Bidder, or receiving from or granting subsidies directly or indirectly to another Applicant or Bidder, having the same legal representative as another Applicant or Bidder, maintaining direct or indirect contacts with another Applicant or Bidder which allows us to have or give access to information contained in the respective Applications or Offers, influencing them or influencing decisions of the PEA;
 - 3.4) being engaged in a Consulting Services activity, which, by its nature, may be in conflict with the assignments that we would carry out for the PEA;
 - 3.5) in the case of procurement of Works, Plant or Goods:
 - i. having prepared or having been associated with a Person who prepared specifications, drawings, calculations and other documentation to be used in the Tender Process of this Contract;
 - ii. having been recruited (or being proposed to be recruited) ourselves or any of our affiliates, to carry out works supervision or inspection for this Contract;
4. If we are a state-owned entity, and compete in a Tender Process, we certify that we have legal and financial autonomy and that we operate under commercial laws and regulations.
5. We undertake to bring to the attention of the PEA, which will inform KfW, any change in situation with regard to points 2 to 4 here above.
6. In the context of the Tender Process and performance of the corresponding Contract:
 - 6.1) neither we nor any of the members of our Joint Venture nor any of our Subcontractors under the Contract have engaged or will engage in any Sanctionable Practice during the Tender Process and in the case of being awarded a Contract will engage in any Sanctionable Practice during the performance of the Contract;
 - 6.2) neither we nor any of the members of our Joint Venture or any of our Subcontractors under the Contract shall acquire or supply any equipment nor operate in any sectors under an embargo of the United Nations, the European Union or Germany; and
 - 6.3) we commit ourselves to complying with and ensuring that our Subcontractors and major suppliers under the Contract comply with international environmental and labour standards, consistent with laws and regulations applicable in the country of implementation of the Contract and the fundamental conventions of the International Labour Organisation⁷ (ILO) and international environmental treaties. Moreover, we shall implement environmental and social risks mitigation measures when specified in the relevant environmental and social management plans or other similar documents

⁷ In case ILO conventions have not been fully ratified or implemented in the Employer's country the Applicant/Bidder/Contractor shall, to the satisfaction of the Employer and KfW, propose and implement appropriate measures in the spirit of the said ILO conventions with respect to a) workers grievances on working conditions and terms of employment, b) child labour, c) forced labour, d) worker's organisations and e) non-discrimination.

provided by the PEA and, in any case, implement measures to prevent sexual exploitation and abuse and gender based violence.

7. In the case of being awarded a Contract, we, as well as all members of our Joint Venture partners and Subcontractors under the Contract will, (i) upon request, provide information relating to the Tender Process and the performance of the Contract and (ii) permit the PEA and KfW or an agent appointed by either of them, and in the case of financing by the European Union also to European institutions having competence under European Union law, to inspect the respective accounts, records and documents, to permit on-the-spot checks and to ensure access to sites and the respective project.
8. In the case of being awarded a Contract, we, as well as all our Joint Venture partners and Subcontractors under the Contract undertake to preserve above mentioned records and documents in accordance with applicable law, but in any case, for at least six years from the date of fulfillment or termination of the Contract. Our financial transactions and financial statements shall be subject to auditing procedures in accordance with applicable law. Furthermore, we accept that our data (including personal data) generated in connection with the preparation and implementation of the Tender Process and the performance of the Contract are stored and processed according to the applicable law by the PEA and KfW.

Name: _____ In the capacity of: _____

Duly empowered to sign in the name and on behalf of⁸: _____

Signature:

Dated:

⁸ In the case of a JV, insert the name of the JV. The person who will sign the application, bid or proposal on behalf of the Applicant/Bidder shall attach a power of attorney from the Applicant/Bidder.

Declaration of tax conformity – binding confirmation for legal persons

Name of company

I hereby confirm with my signature that:

1. I am authorised to make this declaration on behalf of the above company;
2. the company properly pays all taxes in accordance with the tax laws of the country in which the company is domiciled;
3. the company is not currently nor has been in the past involved in any legal proceedings concerning the taxation of the company;
4. the company will duly pay taxes that may arise from the provision of contracted services;
5. all information and statements provided in advance are complete, accurate in terms of content and currently correct.

.....
(Place)

.....
(Date)

.....
(Name of the consultant)

.....
(Signature(s))

Declaration of tax conformity – binding confirmation for natural persons

I hereby confirm with my signature that:

1. I make this declaration in my name/on my own account;
2. I duly pay taxes that I am obliged to pay under the tax law of my country of residence;
3. I am not currently involved in tax law court proceedings, nor have I been in the past;
4. I will duly pay taxes that may arise from the provision of contracted services;
5. I have filled in all the information and statements of this confirmation in full, accurately in terms of content and that they are up to date at this time.

.....

(Place)

.....

(Date)

.....

(Name of the person)

.....
(Signature)

Annex 2: Manufacturer's Certificate of Quality

[Supplier's Letterhead]

[Date]

We hereby certify that all batches of _____ [insert product and formulation] included in our Commercial Invoice No. [insert] were manufactured according to British/US/International Pharmacopeia and were found to fully confirm to the technical specifications and standards of British/US/International Pharmacopeia as well as the Certificate of Analysis issued with each batch and were found to fully conform to the Technical Specifications and Standards set forth in Annex [insert Annex] of the Contract for the International Purchase and Supply of Goods Between Yamaan Foundation and [insert company name] effective as of [insert date]

The shipping lot numbers supplied and shipped are listed below:

[Insert lot numbers] [Insert quantity] units

For [insert Supplier's full legal name]

(Supplier)

[Signature]

Authorized Signature

Annex 3: Compliance

1. Fraud and Bribery

1.1 The Supplier represents and warrants that it is in compliance with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption, including, without limitation, the UK Bribery Act 2010, and undertakes that it will remain in compliance with all such laws, statutes, regulations and codes for the duration of this Agreement and shall procure the same from any persons associated with it and in each case, the Supplier:

(a) will not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 whether or not such activity, practice or conduct has been carried out in the UK;

(b) will not, directly or indirectly, offer, promise, pay, agree to pay, authorise payment of, give, accept or solicit, anything of value to or from a third party in order to secure or reward an improper benefit or improper performance of a function or activity; and

(c) do or not do any act that will cause or lead the Purchaser to be in breach of Applicable Laws related to anti-bribery, anti-corruption or fraud.

1.2 The term “anything of value” includes, without limitation, bribes, kickbacks, a financial advantage or any other benefit, whether in cash or in kind, and whether tangible or intangible.

2. Conflicts of Interest

2.1 The Supplier warrants and represents that it has no business, professional, personal or other interest, relationship or connection with any person employed or engaged by the Purchaser, or any director or member of the Purchaser that might conflict in any manner or degree with the performance of its obligations under this Agreement. The Supplier agrees that if any such actual or potential conflict of interest arises under this Agreement, the Supplier shall immediately inform the Purchaser in writing of such conflict. The Supplier will follow the Purchaser’s reasonable instructions to mitigate or manage or avoid such conflict.

3. Modern Slavery

3.1 The Supplier represents and warrants that it is in compliance with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes, and undertakes that it will remain in compliance with all such laws, statutes, regulations and codes for the duration of this Agreement.

3.2 The Supplier represents and warrants that neither the Supplier nor any of its officers, employees or other persons associated with it:

(a) have been convicted of any offence involving slavery or human trafficking; or

(b) have been or are the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of, or in connection with, slavery or human trafficking.

3.3 The Supplier shall implement due diligence procedures for its subcontractors to ensure that there is no slavery or human trafficking in its supply chains.

4. Money-Laundering and Terrorism

4.1 Neither the Supplier, nor any affiliate of the Supplier, is under investigation by any governmental, administrative or regulatory authority for, or has been charged with, or convicted of, money laundering or terrorist related activities.

4.2 The Supplier represents and warrants that it is in compliance with all applicable anti-terrorism and anti-money laundering laws, statutes, regulations and codes, and undertakes that it will remain in compliance with all such laws, statutes, regulations and codes for the duration of this Agreement.

4.3 The Supplier is not listed, and to the best of the Supplier's knowledge, no employee, officer or director of the Supplier is listed, on any terrorist or proscribed party list issued by any national or supranational government or organisation.

4.4 The Supplier shall not use for the purposes of this Agreement any subcontractor who is listed, or whose directors, officers or employees are listed, on any terrorist or proscribed party list issued by any national or supranational government or organisation.

5. General

5.1 The Supplier shall provide the Purchaser with all reasonable assistance to enable the Purchaser to monitor compliance with this Schedule including, without limitation, responding to reasonable requests made by the Purchaser for information on the Supplier's work practices, provide access to such information and evidence as the Purchaser shall reasonably require to assess compliance and allowing the Purchaser to inspect the Supplier's work premises and any housing provided by the Supplier to its employees or subcontractors.

5.2 The Supplier shall promptly provide the Purchaser with information about any breaches of any of this Schedule or any of the Applicable Laws or the Supplier's owned related policies by employees or contractors related to the Research and shall provide such reasonable information as requested by the Purchaser for the Purchaser to comply with its own legal and regulatory obligations and obligations to Funders to report such incidents.

5.3 Any breach of this Schedule is a material breach and which the Purchaser may consider as incapable of remedy. For the avoidance of doubt, if it becomes apparent to the Purchaser that a sub-contractor engaged by the Supplier in connection with this agreement is or may be involved in slavery or trafficking, this shall also be deemed a material breach.

Annex 4: Details of Customer's Trademark

The Supplier have permission to use the Customer's trademark e.g. on packaging



Annex 5: Packaging artwork

To be updated based on the contracted commodity

Annex 6: Supplier's offer

To be updated based on the contracted supplier